
JOINT BUDGET COMMITTEE



INTERIM SUPPLEMENTAL BUDGET REQUEST FY 2018-19

INFORMATION TECHNOLOGY PROJECTS

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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INTERIM SUPPLEMENTAL REQUESTS

INTERIM SUPPLEMENTAL #1 (FY 2018-19), INFORMATION TECHNOLOGY PROJECTS, DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, ELECTRONIC BIRTH REGISTRATION SYSTEM REPLACEMENT PROJECT

| | REQUEST | RECOMMENDATION |
|--|------------|----------------|
| TOTAL | \$0 | \$0 |
| Capital Construction Fund/General Fund | 0 | 0 |
| Cash Funds | 0 | 0 |
| Reappropriated Funds | 0 | 0 |
| Federal Funds | 0 | 0 |

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? **NO**
 [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**
 [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: Sections 24-75-111 and 24-75-111.5, C.R.S., include a requirement that the overexpenditure or nonmonetary adjustment is due to *unforeseen circumstances arising while the General Assembly is not meeting in regular or special session*. This request was submitted on June 2, 2021, while the General Assembly was in session. Notwithstanding the failure to meet this statutory requirement, JBC staff and the Department agree that this request – the request for an extension of spending authority – is the result of an unforeseen contingency.

DEPARTMENT REQUEST: The Department of Public Health and Environment requests an extension of spending authority, for an additional three years, for its FY 2018-19 Electronic Birth Registration System Replacement Project.

JTC RECOMMENDATION: The Joint Technology Committee recommends approval of an additional two years of spending authority.

STAFF RECOMMENDATION: Staff does not believe that this request satisfies the statutory interim supplemental criteria. However, if the Committee chooses to approve this request, staff recommends that the Committee approve an additional two years of spending authority.

STAFF ANALYSIS:

SECTION 24-75-111.5, C.R.S., NONMONETARY ADJUSTMENTS FOR CAPITAL CONSTRUCTION

In addition to Section 24-75-111, C.R.S., the statute guiding interim overexpenditures referred to as interim supplementals or 1331s, Section 24-75-111.5, C.R.S., provides additional authority for "nonmonetary adjustments" for capital construction and information technology projects (IT capital).

Subsection (1) defines and the introductory portion to subsection (2) conditions this additional authority as follows (emphasis added):

(1) For purposes of this section, "nonmonetary adjustment" means a change that does not affect the amount of the appropriation, including a name change, an extension of time for completion, a scope change, a transfer between departments, or other such similar changes.

*(2) For fiscal years commencing on or after July 1, 2015, the controller may allow any department, institution, or agency of the state, including any institution of higher education, to expend moneys differently from the authority granted by an item of appropriation for a capital construction budget item or an information technology capital project if the capital construction, controlled maintenance, capital renewal project, or information technology capital project that the appropriation was for **requires a nonmonetary adjustment for its timely continuation and the nonmonetary adjustment is due to unforeseen circumstances arising while the general assembly is not meeting in regular or special session during which such nonmonetary adjustment would be legislatively addressed, under the following circumstances:***

The remainder of the statute specifies procedures of approval for executive branch and independent agencies' building and IT capital budget items equivalent to Section 24-75-111, C.R.S.

This request was submitted by OSPB on June 2nd, while the General Assembly was still in session. The date of this submission appears to disqualify this request from consideration through the interim supplemental process based on the specification included in statute.

The request narrative identifies that this nonmonetary adjustment – an extension of spending authority – is due to the reallocation of resources toward the COVID-19 pandemic response during 2020, which delayed completion of this project. Regardless of the reason for the delay, it appears that a need for extended spending authority should have been recognized sooner than one month before spending authority was to expire.

Staff is concerned that the 1331 process might be used to address needs and "emergencies" or "urgencies" which could be addressed while the General Assembly is in session. Arguably, the complexity of this legislative session provides a reason for why a relatively minor issue like this might be delayed to be addressed during the interim – particularly over the last weeks of session. However, the statute does not provide for the complexity, busyness, higher priorities, or in the final weeks of the session. Additionally, staff believes that a need for an extension of spending authority was likely known and should have been communicated by figure setting, or even prior to the closing of the Long Bill.

The Committee may wish to consider this request for approval, under an interpretation that the 1331 process is rather, both generally and broadly intended to address budget-related problems outside of the legislative session, regardless of when the issue or knowledge of the issue arose. However, staff would request that the Committee, at the next opportunity, pursue legislation to clarify that intent to provide staff with clarity and consistency regarding how the Committee intends to proceed in future interim supplemental requests.

PROJECT SUMMARY

The Electronic Birth Registration System Replacement Project, approved for FY 2018-19, included a total appropriation of \$2,440,000, including \$745,000 General Fund and \$1,695,000 cash funds from

the Vital Statistics Records Cash Fund, and received three years of spending authority through June 30, 2021.

The project is intended to replace the Colorado Vital Information System, or COVIS, which is used to issue birth and death certificates. COVIS is on an annual renewal cycle with a third party vendor. The Department's Vital Records Program has been using COVIS since 2007 to issue birth certificates and collect and report on birth statistics, including birth defects, maternal and infant mortality, and the teen birth rate. This system also collects fees for the issuance of death certificates using data from the Electronic Death Reporting System (EDRS).

The Department states that due to the reallocation of resources toward the COVID-19 pandemic response and an unforeseen reduction in public demand for birth certificate issuance causing a decline in cash fund revenue, the Department is unable to complete the project by June 30, 2021.

POINTS OF CONSIDERATION

The Department points to a cash fund transfer to the General Fund for FY 2019-20, included as a balancing action in the 2020 session, as a reason for the inability to complete project by June 30, 2021. House Bill 20-1406, *Cash Fund Transfers to the General Fund*, included a \$180,000 transfer from the Vital Statistics Records Cash Fund to the General Fund.

This transfer represents just over 10 percent of the cash fund appropriation for this project, and it is staff's understanding that this transfer was not resisted by the Department in the 2020 budget cycle General Fund balancing actions. Additionally, had this cash fund revenue concern been communicated within the 2021 budget process, it is reasonable to assume that a repayment to the cash fund may have been considered.

The Department will be unable to complete this project without an extension of spending authority or a new appropriation. On that basis, the Department's request for extension is reasonable. However, the apparent lack of adequate attention to the cash fund revenue issue, the expiration of spending authority, and any related project completion activities by Department managers suggests that the urgency of an approval by the Joint Budget Committee at this time might encourage project and cash fund mismanagement in the future.

The Department's narrative identifies just under \$850,000 anticipated to be expended or encumbered as of June 30, 2021. This leaves just under \$1.6 million of the total appropriation remaining. The narrative also includes a projected ending fund balance of \$585,000 in the Vital Statistics Records Cash Fund at the end of FY 2020-21 (June 30, 2021). It appears this will take at least the next two years to generate the cash fund revenue necessary to complete this project.

It is staff's opinion that a supplemental to extend spending authority can be addressed at regular supplemental time in the 2022 legislative session, due to the Department's inaction on this project over the course of the 2021 session. Staff is not convinced that delaying this approval until January will excessively increase the delay, due to the fact that adequate cash fund revenue will be necessary for the Department to complete this project. This is not simply an appropriation need, it includes a need for cash fund revenue that will be generated over the next two years.
