

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE AUTHORITY FOR STATE PUBLIC ENTITIES TO ENTER INTO PUBLIC-PRIVATE PARTNERSHIPS FOR PUBLIC PROJECTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Prime Sponsors: Sens. Rankin and Hansen
Representative McCluskie

JBC Analyst: Tom Dermody
Phone: 303-866-4963
Date Prepared: April 25, 2022

Appropriation Items of Note

Appropriation Already Added to Bill, Amendment in Packet

Cash Fund with Continuous Appropriation

General Fund Impact

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/18/22.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.003	Staff-prepared appropriation amendment

Current Appropriations Clause in Bill

The bill includes an appropriation clause that provides \$406,683 cash funds from the Unused State-owned Real Property Fund to the Department of Personnel for FY 2022-23 for the Public-private Collaboration Unit, which includes \$100,049 for the purchase of legal services and reappropriates those funds to the Department of Law. Additionally, the clause provides \$88,713 General Fund to the Department of Law for the provision of legal services to other state agencies. The provision also states that the appropriation is based on the assumption that the Department of Personnel will require an additional 3.0 FTE and the Department of Law will require an additional 1.1 FTE.

The Revised Fiscal Note (04/18/22) indicates that the Department of Personnel will require \$49,285 cash funds for the purchase of legal services in FY 2022-23 and that the Department of Law will not require additional General Fund in FY 2022-23. The cash funds for the purchase of legal services are continuously appropriated and, as a result, the Department of Personnel does not need an appropriation for those funds. However, the Department of Law does need the reappropriated funds spending authority for those continuously appropriated cash funds and will require an additional 0.3 FTE.

Description of Amendments in This Packet

J.003 Staff has prepared amendment **J.003** (attached) to change the existing clause to remove the appropriation of cash funds from the Unused State-owned Real Property Fund for legal services in FY 2022-23. The amendment provides \$49,285 reappropriated funds from the Unused State-owned Real Property Fund to the Department of Law for the provision legal services in FY 2022-23 and reduces the assumed FTE for the Department of Law to 0.3 FTE.

Points to Consider

General Fund Impact

The Joint Budget Committee (JBC) has proposed a budget package for FY 2022-23 based on the March 2022 Legislative Council Staff revenue forecast. The JBC has included as part of its FY 2022-23 budget package \$15.0 million General Fund to be appropriated for implementation of this bill.

Future Fiscal Impact

Section 4 of the reengrossed bill currently provides partial continuous spending authority to the Unused State-owned Property Fund for "appraisals, surveys, and property improvement, and for any operational costs to administer" Section 24-82-102.5, C.R.S., as well as for "public-private agreements...and any associated costs." The reengrossed bill requires that the standard operating expenses related to personal services and operating expenses for the Public-private Collaboration Unit be annually appropriated from the Fund. The House Business Affairs and Labor Committee Report (04/14/22) shifts the appropriations for the Public-private Collaboration Unit from the Unused State-owned Property Fund to the General Fund in FY 2023-24 and ongoing, increasing future General Fund obligations by at least \$343,578. In doing so, the Committee Report provides full continuous spending authority to the Unused State-owned Property Fund.

The Unused State-owned Property Fund will receive a transfer of \$15.0 million General Fund in FY 2022-23 through this bill and will generate revenue from public-private agreements in future years. Is it appropriate to **require** the General Assembly, starting in FY 2023-24, to appropriate General Fund to the Public-private Collaboration Unit, which is created to assist in the administration of public-private agreements?

Legislative Appropriation Authority

Continuous spending authority, also known as **continuous appropriations**, allows departments to

SB22-130

JBC Staff Analysis

spend money for statutorily specified purposes up to the amount of money in the fund without seeking annual legislative approval. An annual appropriation provides a limit on spending authority, while a continuous appropriation provides unlimited spending authority.

This method of funding moves these expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process. This bill changes the Unsued State-owned Property Fund from an annually appropriated fund to a continuously appropriated fund. Is it necessary for the Department of Personnel to **not** seek annual authority from the General Assembly to spend money from Unused State-owned Real Property Fund?