

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM John Ziegler, JBC Staff (x4956)
DATE June 19, 2019
SUBJECT Section 24-75-111, C.R.S.

Section 24-75-111., C.R.S., is the statute commonly referred to as the “1331 Request Statute”. It is called that because the legislation that created it was H.B. 98-1331. The statute was meant to provide a means of approving certain requests that were submitted while the General Assembly was not in session. As a basic overview, the statute allows requests from the various branches to be submitted to the Joint Budget Committee (JBC) when the General Assembly is not in session. The statute does not permit the JBC, or its staff, to initiate changes without a request. The following description is meant to be a *basic* overview of the statute. It is not meant to be all inclusive of the technical process outlined in the actual statute. Hence, the actual statute is attached for members’ review. The basic process for an operational request from a department which submits through OSPB is:

- Department submits request to OSPB to make appropriations in excess of the amount *authorized by an item of appropriation*.
- The overexpenditure *must be necessary due to unforeseen circumstances* arising while the General Assembly is not meeting.
- The request has been:
 - *Submitted to OSPB.*
 - *Approved by OSPB* in whole or in part.
 - *Submitted to the JBC by OSPB* once approved by OSPB.
 - *Approved by the JBC* in whole or in part by a majority vote.
 - *Forwarded to the State Controller by the JBC through written confirmation* of such approval by the JBC.
 - *Please note:* Similar language exists with technical differences for the Department of State, Department of Law, the Department of Treasury, the Judicial Branch, and the Legislative Branch. The primary difference is that these agencies may submit directly to the JBC without submitting to OSPB. Language also exists specific to capital construction requests and information technology requests. An outline of these items was not included for the sake of brevity.
- *Overexpenditures must be consistent with statutes.*
- The *Controller must restrict the following fiscal year’s appropriation.*
- The *JBC must introduce a supplemental appropriation for any approved request* for the fiscal year in which the overexpenditure occurs.
- *If the supplemental ultimately passes, the restriction by the Controller in the following fiscal year is lifted.*

24-75-111. Additional authority for controller to allow expenditures in excess of appropriations - limitations - appropriations for subsequent fiscal year restricted

(1) For fiscal years commencing on or after July 1, 1997, in addition to any overexpenditure allowed pursuant to section 24-75-109, the controller may allow any department, institution, or agency of the state, including any institution of higher education, to make an expenditure in excess of the amount authorized by an item of appropriation for such fiscal year if:

(a) The overexpenditure is for any purpose of a department, institution, or agency of the state; and

(b) The overexpenditure is necessary due to unforeseen circumstances arising while the general assembly is not meeting in regular or special session during which such overexpenditure can be legislatively addressed; and

(c) **(I)** If the overexpenditure is in regard to an operating budget item and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the overexpenditure, in whole or in part; and

(B) Upon approval by the office of state planning and budgeting, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(C) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(II) If the overexpenditure is in regard to an operating budget item and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(B) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(III) If the overexpenditure is in regard to a capital construction budget item and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the overexpenditure, in whole or in part; and

(B) Upon approval by the office of state planning and budgeting, the request for the overexpenditure has been submitted to the capital development committee of the general assembly for consideration; and

(C) Upon the issuance of a written recommendation regarding the overexpenditure by the capital development committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(D) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(IV) If the overexpenditure is in regard to a capital construction budget item and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the capital development committee of the general assembly for consideration; and

(B) Upon the issuance of a written recommendation regarding the overexpenditure by the capital development committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(C) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(V) If the overexpenditure is in regard to an information technology budget item and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the overexpenditure, in whole or in part; and

(B) Upon approval by the office of state planning and budgeting, the request for the overexpenditure has been submitted to the joint technology committee of the general assembly for consideration; and

(C) Upon the issuance of a written recommendation regarding the overexpenditure by the joint technology committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(D) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(VI) If the overexpenditure is in regard to an information technology budget item and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the joint technology committee of the general assembly for consideration; and

(B) Upon the issuance of a written recommendation regarding the overexpenditure by the joint technology committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

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- (C) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee.
- (2) Any department, institution, or agency of the state requesting an overexpenditure pursuant to subsection (1) of this section shall make the request in such form and shall include in the request such information as may be required by the office of state planning and budgeting, the capital development committee, the joint technology committee, and the joint budget committee, as applicable.
- (3) Overexpenditures allowed pursuant to subsection (1) of this section shall be subject to the following requirements:
- (a) Overexpenditures shall be consistent with all statutory provisions applicable to the program, function, or purpose for which the overexpenditure is made, including the provisions of appropriation acts.
- (b) No overexpenditure shall be allowed in excess of the unencumbered balance of the fund or account from which the overexpenditure is made as of the date of the overexpenditure.
- (4) (a) For any overexpenditure allowed by the controller in accordance with subsection (1) of this section that is in regard to an operating budget item, the controller shall restrict, in an amount equal to said overexpenditure, the corresponding item or items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure is allowed. For the purposes of determining such corresponding item or items of appropriation, the controller shall consider, in order of importance, the fund from which the overexpenditure was allowed, the department, institution, or agency that was allowed to make the overexpenditure, and the purpose for which the overexpenditure was allowed.
- (b) For any overexpenditure allowed by the controller in accordance with subsection (1) of this section that is in regard to a capital construction budget item, the controller shall restrict, in an amount equal to said overexpenditure, an item or items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure is allowed and that are made for the following purposes in the order specified: The capital construction budget item for which the overexpenditure was allowed; any other capital construction budget item of the department, institution, or agency that was allowed to make the overexpenditure; any operating budget item relating to the administration of the department, institution, or agency that was allowed to make the overexpenditure; and any other operating budget item of the department, institution, or agency that was allowed to make the overexpenditure. For the purposes of determining the item or items of appropriation for operating budget items to be restricted, the controller shall restrict the item or items of appropriation that would be the least disruptive to the operations of the department, institution, or agency.
- (c) For any overexpenditure allowed by the controller in accordance with subsection (1) of this section that is in regard to an information technology budget item, the controller shall restrict, in an amount equal to said overexpenditure, the items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure is allowed and that are made for the following purposes in the order specified: The information technology budget item for which the overexpenditure was allowed; any other information technology budget item of the department, institution, or agency that was allowed to make the overexpenditure; any operating budget item relating to the administration of the department, institution, or agency that was allowed to make the overexpenditure; and any other operating budget item of the department, institution, or agency that was allowed to make the overexpenditure. For the purposes of determining the items of appropriation for operating budget items to be restricted, the controller shall restrict the items of appropriation that would be the least disruptive to the operations of the department, institution, or agency.
- (d) The department, institution, or agency shall not be allowed to expend any amount restricted pursuant to this subsection (4) unless such restriction is released in accordance with subsection (5) of this section.
- (5) The joint budget committee of the general assembly shall introduce a supplemental appropriation for the fiscal year in which the overexpenditure occurred for the amount of any overexpenditure allowed pursuant to this section. If a supplemental appropriation is enacted for the overexpenditure or some portion thereof, the restriction on the succeeding fiscal year's appropriation shall be released in the amount of the supplemental appropriation enacted.
- (6) Overexpenditures allowed pursuant to the provisions of subsection (1) of this section and supplemental general fund appropriations enacted pursuant to subsection (5) of this section shall be considered appropriations for the fiscal year in which the overexpenditure was allowed and shall accordingly be subject to the limitations and requirements of section 24-75-201.1.