



## Legislative Fiscal Bureau

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TO: Members  
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Summary of Provisions of LRB 6522/6

On December 21, the Governor announced that he had prepared two bills (LRB-6522/6 and LRB-6592/1) relating to a response to the COVID-19 pandemic.

Attached is a document, prepared by this office, which summarizes the provisions of LRB-6522/6. Among other things, the bill would increase GPR appropriations for 2020-21 by \$541 million.

In a separate document, the Legislative Fiscal Bureau has also prepared a summary of the provisions of the Governor's other bill (LRB-6592/1).

BL/bh  
Attachment

# Summary of Provisions

## LRB-6522/6

### ADMINISTRATION

#### 1. COVID-19 TESTING AND SURGE CAPACITY

GPR	\$403,000,000
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Create an annual GPR appropriation and provide \$403 million in 2020-21. Require the Department of Administration (DOA) to: (a) facilitate COVID-19 testing and diagnosis throughout the state; (b) operate alternate care facilities staffed by health care professionals for patients diagnosed with COVID-19; and (c) facilitate surge staffing resources for health care facilities throughout the state. The Department would allocate \$255 million to procure testing supplies and lab diagnostics, \$105 million to support hospital system surge capacity and operate alternate care facilities, and \$43 million to administer testing sites.

Currently, in coordination with the Department of Health Services and the Department of Military Affairs, DOA supports the operation of community testing sites, distribution of testing and lab supplies, and coordination of hospital system surge capacity resources, with operations supported by the federal Coronavirus Relief Fund.

[Bill Sections: 1 (as it relates to s. 20.505(1)(bk)), 3, and 9101(1)]

#### 2. USE OF ANNUAL LEAVE

Specify that a state employee may take annual leave within the first six months of the employee's probationary period upon initial appointment during the period beginning March 12, 2020, and ending June 30, 2021. Further, specify that if such an employee who has taken annual leave terminates his or her employment before earning annual leave equivalent to the amount of annual leave the employee has taken, the appointing authority would be required to deduct the cost of the unearned annual leave from the employee's final pay. The bill would extend the effective period of an identical provision included in 2019 Act 185, which expired May 10, 2020.

Under current law, an employee, with the approval of his or her appointing authority, may anticipate the annual leave which he or she could earn during the current calendar year, but no employee is eligible to take annual leave until he or she has completed the first six months of a probationary period for an original job appointment unless the employee uses annual leave that he or she accrued while serving in an unclassified position.

[Bill Section: 27]

## **FINANCIAL INSTITUTIONS**

### **1. NOTARIZATION POLICY FOR ESTATE PLANNING DOCUMENTS**

Authorize notary publics to perform communication technology notarization of estate planning documents (including wills, codicils, testamentary trusts, living trusts, or trust amendments for personal use) through June 30, 2021.

Under current law, a person seeking a notarization is generally required to physically appear before a notary public. Under 2019 Act 125, a notary public can use technology to notarize documents for persons under certain situations, but does not extend to estate planning documents.

[Bill Sections: 20 and 21]

## **GENERAL PROVISIONS**

### **1. IN PERSON APPEARANCE WAIVER**

Modify current law to specify that during the period beginning on the effective date of the bill and ending on June 30, 2021, the head or governing body of a state entity may waive a statutory or other requirement imposed, administered, or enforced by the state entity that an individual appear in person if the head or governing body finds that enforcing the requirement may increase the public health risk.

As under current law, the definition of a "state entity" would continue to mean any state agency, institution of higher education, association, society, or other body in state government, created or authorized to be created by the Constitution or any law that is entitled to expend moneys appropriated by law, including the Legislature, the Courts, and any authority.

Under 2019 Act 185, the head or governing body of a state entity may waive a requirement imposed, administered, or enforced by the state entity that an individual appear in person during the public health emergency declared on March 12, 2020, by Executive Order 72 if the head or governing body finds that the waiver assists in the state's response to the public health emergency or that enforcing the requirement may increase the public health risk.

The bill modifies the Act 185 provision such that: (a) the applicable time period for the in person appearance waiver would be from the date of enactment of the bill to June 30, 2021; (b) a "statutory or other requirement" may be waived rather than simply a "requirement"; and (c) the previous condition relating to the public health emergency is removed (that a waiver may be granted

if the waiver relates to assisting in the state's response for to a public health emergency).

[Bill Section: 25]

## **2. WAIVER OF INTEREST, PENALTIES, AND PAYMENTS -- STATE AGENCIES**

Permit, upon the effective date of the bill until June 30, 2021, any state agency to waive any interest, penalties, or payments owed by a debtor to the state.

Define "agency" as any office, department, institution of higher education, association, society, authority, or body in state government created by the constitution on state law. Exclude the Legislature and the Courts from the provision.

Define "debtor" as a person who owes a debt to an agency.

[Also, see "Revenue" for information on the treatment of taxes under this provision.]

[Bill Section: 26]

## **HEALTH SERVICES**

### **1. PANDEMIC RESPONSE**

GPR	\$63,000,000
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Provide \$63,000,000 in 2020-21 for the Department to expend on community testing, contact tracing, vaccinations, and public awareness related to the COVID-19 pandemic. Create an annual appropriation in the Division of Public Health for this purpose.

The administration indicates that this funding would be allocated as follows: (a) \$36,000,000 to expand contact tracing efforts and maintain support for 1,500 state and local contact tracers; (b) \$15,000,000 to support COVID-19 testing, in collaboration with the Department of Administration; (c) \$10,000,000 to fund costs to rapidly distribute COVID-19 vaccines; and (d) \$2,000,000 for public health guidance and awareness activities, including maintaining the current "You Stop the Spread" campaign that promotes hand-washing, mask-wearing, physical distancing, and staying home as much as possible.

[Bill Sections: 1 (as it relates to 20.435(1)(dw)) and 2]

### **2. AUTHORITY TO ISSUE ORDERS TO PROHIBIT EVICTIONS AND FORECLOSURES**

Authorize the Department to issue an order prohibiting the commencement of any action for eviction under Chapter 704 ("Landlords and Tenants") and Chapter 799 ("Procedure in Small Claims

Actions) and for foreclosures under Chapter 846 ("Real Estate Foreclosures") for any period before July 1, 2021. Provide that the order could be applicable statewide, or may be geographically limited.

[Bill Section: 23]

## **INSURANCE**

### **1. TELEHEALTH COVERAGE PARITY**

Prohibit any health insurance policy, state employee health plan, or self-insured health plan offered by a local government or school district from denying coverage, before July 1, 2021, of any treatment or service provided through telehealth if that treatment or service is covered by the policy or plan when provided in person by a health care provider. Specify that limited service health organizations, preferred provider plans, and defined network plans are subject to this provision.

Define "telehealth" as a practice of health care delivery, diagnosis, consultation, treatment, or transfer of medically relevant data by means of audio, video, or data communications that are used either during a patient visit or consultation or are used to transfer medically relevant data about a patient. Authorize the Office of the Commissioner of Insurance to promulgate any rules necessary to implement this provision.

[Bill Sections: 5 thru 7, 19, 22, 28, and 29]

## **PUBLIC INSTRUCTION**

### **1. SCHOOL AND SCHOOL DISTRICT ACCOUNTABILITY REPORTS**

Prohibit the Department of Public Instruction from publishing school and school district accountability reports in the 2021-22 school year.

Under current law, DPI is required to publish accountability reports annually no later than November 30. The report cards issued each fall are based on data from assessments administered the previous spring. 2019 Act 185 prohibited DPI from publishing school and school district accountability reports in the 2020-21 school year

[Bill Section: 17]

### **2. PUPIL ASSESSMENTS**

Specify that current law requiring assessments to be administered annually to pupils attending

school in a public school district, independent charter school, private choice school, or special needs scholarship program school would not apply in 2020-21. Current law requires pupils to be given an assessment of reading readiness in grades 4K-2, an annual reading test in the 3rd grade, and assessments adopted by the State Superintendent in the 4th, 8th, 9th, 10th, and 11th grades. 2019 Act 185 specified that pupil assessment requirements would not apply in the 2019-20 school year.

Specify that pupil performance on assessments in the 2020-21 school year could not be considered for the evaluation of teachers and principals under the statewide educator effectiveness system. A similar provision was included in 2019 Act 185 that applied in the 2019-20 school year.

Under current law, the educator effectiveness system must be based in part upon measures of pupil performance, including performance on state assessments.

[Bill Sections: 18 and 9134(1)]

## REVENUE

### 1. GRANTS TO SMALL BUSINESSES

GPR	\$75,000,000
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Create a new annual appropriation under Shared Revenue and Tax Relief and provide \$75,000,000 GPR in 2020-21 for the Department of Revenue (DOR) to provide grants to small businesses in Wisconsin in the manner prescribed by DOR.

[Bill Sections: 1 (as it relates to s. 20.835(2)(an)), 4, and 8]

### 2. WAIVE INTEREST, PENALTIES, AND PAYMENTS

Permit the Secretary of DOR to waive any interest, penalty, or payment owed to the Department, including a general fund tax payment, that accrues or becomes due beginning on the effective date of this bill and ending on June 30, 2021. The fiscal effect of this provision is unknown, as the provision is permissive rather than mandatory.

[Bill Section: 26]

## WORKFORCE DEVELOPMENT

### 1. UNEMPLOYMENT INSURANCE -- BENEFIT CHARGING FOR REIMBURSABLE EMPLOYERS

Specify that the DOA Secretary may transfer any amount from the unencumbered balance of

any appropriation of an executive branch agency to the Department of Workforce Development's (DWD) unemployment interest and penalty PR continuing appropriation account. Provide that the transfers made under this provision may not exceed the amount required to make payments resulting from the reimbursable employer benefit charging provisions included in 2019 Act 185.

Under 2019 Act 185, if an unemployment insurance (UI) benefits claim or work-share plan is related to a public health emergency, regular benefits for weeks occurring after March 12, 2020, and before December 31, 2020, must not be charged to an employer as normally provided. Instead, UI benefits for those weeks are charged to either: (a) the balancing account of the UI trust fund, for claims attributable to contribution employers subject to regular unemployment payroll taxes; or (b) DWD's interest and penalties account, for claims attributable to reimbursable employers that are not subject to contribution requirements.

Reimbursable employers, including almost all governmental units and certain nonprofit organizations, finance unemployment claims on a reimbursement basis as they are filed by employees. The Act 185 provision requires that payment for such claims come from DWD's UI interest and penalty revenues, if claims are determined to be related to the public health emergency. This provision does not apply in certain circumstances, including for any benefits paid or reimbursed by the federal government, such as the portion of any benefits reimbursed by the federal government for reimbursable employers.

DWD's interest and penalty appropriation account closed the 2019-20 fiscal year with a \$15.6 million continuing balance. DWD estimates an \$85 million liability to the interest and penalty appropriation for reimbursable benefit expenditures resulting from the provision of 2019 Act 185.

[Bill Section: 16]

## **2. UNEMPLOYMENT INSURANCE -- RECEIPT OF SOCIAL SECURITY DISABILITY INSURANCE BENEFITS**

Repeal the statutory provisions disallowing UI benefits to an individual for each week in the entire month in which the person receives a Social Security Disability Insurance (SSDI) payment. Delete the requirement that when a claimant files an initial or weekly claim for UI benefits that they must inform the Department whether they are receiving SSDI payments.

Under current law, a claimant cannot claim regular state UI benefits and SSDI payments concurrently. However, DWD and the U.S. Department of Labor have determined a claimant can receive SSDI payments and Pandemic Unemployment Assistance (PUA) at the same time.

[Bill Sections: 11, 13, 9350(2), and 9450(1)]

## **3. UNEMPLOYMENT INSURANCE -- WAITING WEEK**

Extend the waiver of the waiting week requirement under 2019 Act 185 through July 3, 2021. Currently, under Act 185, the waiting week requirement is waived from March 12, 2020, through February 7, 2021. Under Act 185, and continued under this provision, DWD must seek the maximum

amount of federal reimbursement for UI benefits that are payable for the first week of a claimant's benefit year as a result of the application of this provision. (The CARES Act provides 100% federal funding of the first week of regular UI benefits for states with no waiting week through December 26, 2020. For weeks ending after December 26, 2020, the Coronavirus Response and Relief Supplemental Appropriations Act, passed by Congress on December 21, 2020, would provide 50% federal funding of the first week of regular UI benefits for states with no waiting week through March 14, 2021)

Under current law, a UI claimant's waiting period is the first week of a claimant's benefit year for which the claimant is otherwise eligible for regular benefits. During a claimant's waiting period, no benefits are payable to the claimant. The waiting period does not affect a claimant's maximum benefit amount, which is 26 weeks of regular state benefits. However, claimants who do not reach the state's 26-week limit effectively receive one less week of benefits due to the waiting week requirement. A claimant must serve one waiting week per benefit year.

[Bill Section: 12]

#### **4. UNEMPLOYMENT INSURANCE -- WORK SEARCH WAIVERS**

Specify that DWD may promulgate rules for additional waivers of the requirements under current law that UI claimants register for work and search for work. Specify the waivers may apply to the period beginning on the effective date of the bill and ending on July 3, 2021. Provide that the Department may promulgate emergency rules without a finding of emergency.

Specify that a claimant may receive UI benefits for any week in which the claimant failed to comply with the registration for work or work search requirements, or failed to provide verification to DWD that the claimant complied with those requirements, if the Department has waived those requirements under emergency rules.

Emergency Order 7, as signed by the Governor on March 18, 2020, and retroactively effective to March 12, 2020, required DWD to consider a claimant to be available for suitable work during a public health emergency if the claimant is perceived by an employer as exhibiting COVID-19 symptoms preventing a return to work or the claimant is quarantined by a medical professional or under local, state or federal government direction or guidance. Further, one of the following must apply: (a) the employer has instructed the claimant to return to work after the employee no longer exhibits symptoms, after a set amount of time to see if the disease is present, or after the quarantine is over; (b) the employer has not provided clear instruction for the claimant to return to work; or (c) the claimant would be available for other work with another employer but for the perceived COVID-19 symptoms preventing a return to work or the quarantine. Emergency Order 7 also provided that during a week in which there is a public health emergency, the following apply: (a) no work is actually available within such a week; (b) an employee is not considered absent from work if the employee is perceived by an employer as exhibiting COVID-19 symptoms preventing a return to work or the employee is quarantined by a medical professional or under local, state or federal government direction or guidance; and (c) a public health emergency constitutes four work search actions for each claimant who files a claim for unemployment benefits. An emergency rule to implement the work search and work registration waiver provisions of Emergency Order 7 was

published on May 9, 2020. The emergency rule is currently in effect through February 2, 2021.

[Bill Section: 9150(1)]

## **5. UNEMPLOYMENT INSURANCE -- WORK SHARE**

Specify that the period or periods when a work-share plan will be in effect may not exceed a total of 12 months in any five-year period within the same work unit, as opposed to six months in any five-year period under current law. The extension to 12 months in any five-year period would be a permanent change to Wisconsin's work-share law.

Under current law, as specified in Act 185, for work-share plans submitted on or after April 17, 2020, and before December 31, 2020: (a) work-share plans must cover at least two positions that are filled on the effective date of the work-share program, rather than at least the greater of 20 positions or 10% of employees in a work unit under current law; (b) the maximum reduction in working hours under a work-share program may be either 60% of the normal hours per week of the employees included under a work-share plan, or any other maximum provided by federal law, whichever is greater, rather than the 50% reduction provided under current law; and (c) reduced working hours are to be apportioned equitably among employees in the work-share program.

Work-share programs, which are also called "short-term compensation programs" under federal law, are designed to provide a prorated unemployment benefit for employees of employers who voluntarily make an agreement with the state to reduce work hours instead of laying off workers. For states that have a federally approved work-share program, like Wisconsin, the Coronavirus Response and Relief Supplemental Appropriations Act provides 100% federally funded UI benefits through March 14, 2021. Wisconsin's work-share program is normally funded entirely through the employer's UI account.

[Bill Sections: 14, 15, and 9350(1)]

## **6. WORKER'S COMPENSATION BENEFITS**

Specify that, for worker's compensation benefits, where an injury to a critical worker is found to be caused by COVID-19, during the period beginning on the effective date of the bill, and ending on June 30, 2021, the injury is presumed to be caused by the individual's employment. Specify that an injury to a critical worker under this provision must be accompanied by a specific diagnosis of COVID-19 by a physician, or by a positive diagnostic test result for the disease. Further, specify that an injury to a critical worker under this provision may be rebutted by specific evidence that the injury was caused by exposure to COVID-19 outside of the individual's work for the employer. Require the DHS Secretary to define critical workers for the purposes of this provision.

Provide that certain benefits entitlements and conditions under current law for exposure to non-disabling toxic or hazardous materials would not apply to a critical worker whose injury claim is presumed to be caused by COVID-19 during the period specified in this provision.

In general, Wisconsin worker's compensation law allows compensation for cases of death or

injury in the course of one's employment. Current law defines "injury" as mental or physical harm to an employee caused by accident or disease. 2019 Act 185 provides, for the purposes of worker's compensation benefits, that an injury to a first responder found to be caused by COVID-19 during the public health emergency declared by the Governor on March 12, 2020, by Executive Order 72, and ending 30 days after the termination of the order, is presumed to be caused by the individual's employment. In applying the presumption: (a) the person must have been exposed to others with confirmed cases of COVID-19 in the course of employment; and (b) the person must have received a specific diagnosis of COVID-19 by a physician or by a positive COVID-19 test. A claim is subject to rebuttal by any specific evidence that the injury was caused by exposure to COVID-19 outside of the first responder's work for the employer. Act 185 defines "first responder" to mean an employee of, or volunteer for, an employer that provides firefighting, law enforcement, or medical treatment of COVID-19, and who has regular, direct contact with, or is regularly in close proximity to, patients or other members of the public requiring emergency services, within the scope of the individual's work for the employer.

[Bill Sections: 9, 10, and 24]