



Legislative Fiscal Bureau

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July 7, 2015

TO: Members
Wisconsin Senate

FROM: Bob Lang, Director

SUBJECT: Senate Amendment 2 (LRBb0722/1) to SSA 1 to SB 21

Following is a summary of items of Senate Amendment 2 (LRBb0722/1) to SSA 1 to SB 21.

1. UW SYSTEM GPR FUNDING

Increase the UW System's GPR general program operations appropriation by \$25,000,000 in 2016-17. In addition, require the UW System to lapse \$25,000,000 from its GPR general program operations appropriation to the state's general fund on July 1, 2016.

[SA Items: 5 and 86]

2. OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAMS

Modify Joint Finance provisions to specify that the Commissioner or the MPS Superintendent could transfer operation and management of a school under their OSPP to a person operating any type of charter school, rather than limiting eligibility to only a person operating an independent charter school.

[SA Items: 69 thru 71]

3. STATEWIDE PRIVATE SCHOOL CHOICE PROGRAM -- SCHOOL ELIGIBILITY

Modify Joint Finance action to specify that the provision requiring a private school participating in the statewide private school choice program to have been in continual operation as a private school since May 1, 2013, would apply in the 2015-16 and 2016-17 school years only.

[SA Item: 64]

4. STATEWIDE PRIVATE SCHOOL CHOICE PROGRAM -- PUPIL LOTTERY

Modify Joint Finance action to specify that each private school participating in the statewide private school choice program would be required to report to DPI the number of pupils who have applied to attend the school under the choice program beginning in 2016, rather than 2015.

Specify that, in the 2016-17 and 2017-18 school years, if the total number of pupils residing in a district who apply to attend a private school under a choice program does not exceed the school district's pupil participation limit, DPI would be required to determine which pupils the private school could accept on a random basis, rather than each private school randomly selecting pupils.

[SA Items: 65 thru 67]

5. TEACHER AND ADMINISTRATOR CONTRACT RENEWALS

Delete Joint Finance action modifying the date by which a school board must give teachers or administrators, business managers, school principals, and assistant principals, written notice of renewal or refusal to renew the teacher or administrator's contract.

Under current law, for teachers, the deadline for written notice of contract renewal or refusal is May 15 of each year, and for school district administrators, business managers, school principals, and assistant principals, current law requires the employing school board to give written notice of either renewal of the contract or of refusal to renew the contract at least four months prior to the contract's expiration. Joint Finance action would specify that the deadline for written notice of renewal or refusal to renew the teacher or administrator's contract would be 15 days after the passage of the state budget in odd-numbered years, and May 15th in even-numbered years.

[SA Items: 63 and 68]

6. PENSION OBLIGATION BONDS -- AGENCY CHARGEBACKS

Modify current law that allows the Secretary of Administration to lapse or transfer moneys from state agencies to pay debt service on pension obligation bonds to also authorize the Secretary to require a direct payment to the general fund in lieu of a lapse or transfer. Modify the current definition of state agency to also include the following entities: (a) the Wisconsin Housing and Economic Development Authority; (b) the Wisconsin Health and Educational Facilities Authority; (c) the community development finance authority created before July 1, 1988; (d) the nonprofit corporation with which the Department of Workforce Development contracts under the 1989 statutes; (e) the University of Wisconsin Hospitals and Clinics Authority (UWHCA); (f) the Fox River Navigational System Authority; (g) the Wisconsin Aerospace Authority; and (h) the Wisconsin Economic Development Corporation.

Specify that for purposes of calculating the amount allocable to the UWHCA, require the Secretary to include any amount allocable to the former UW Hospital and Clinics Board, which was eliminated in 2011 Act 10, based on the number of employees at the UW Hospital and Clinics

Board on the day on which it was eliminated, as calculated by the Secretary.

[SA Item: 2]

7. SHARED SERVICES PROPOSAL -- TECHNICAL COLLEGE SYSTEM

Modify the substitute amendment provision requiring that the Department of Administration consult with certain state agencies and develop a plan for assuming responsibility for services relating to human resources, payroll, finance, budgeting, procurement, and information technology, to exclude the Technical College System Board from the list of agencies specified. [The following agencies would remain under consideration for the proposal: Board of Commissioners of Public Lands; Board on Aging and Long-Term Care; Board for People with Developmental Disabilities; Educational Communications Board; Department of Financial Institutions; Government Accountability Board; Higher Educational Aids Board; State Historical Society; Public Service Commission; Department of Safety and Professional Services; Office of the Secretary of State; State Fair Park Board; Department of Tourism; Office of the Governor; Office of the Lieutenant Governor; and Office of the State Treasurer.]

[SA Item: 83]

8. TREATMENT ALTERNATIVES AND DIVERSION PROGRAM

Delete the substitute amendment provisions which modify grantee selection criteria under the treatment alternatives and diversion (TAD) grant program.

Under the substitute amendment, the Department of Justice may not find a county ineligible for a TAD grant on the grounds that the county would utilize the grant to support a program that would provide alternatives to prosecution and incarceration for offenders of second offense operating a vehicle while intoxicated (OWI) statutes. The substitute amendment would also specify that when determining the counties to award TAD grants, DOJ would be prohibited from considering whether or not the county's program that accepts second offense OWI offenders either: (a) promotes public safety, reduces prison and jail populations, reduces prosecution and incarceration costs, reduces recidivism, or improves the welfare of participants' families by meeting the need of the participants; or (b) provides services that would be consistent with evidence-based practices in substance abuse and mental health treatment.

[SA Item: 76]

9. EXPUNGEMENT FROM DNA DATA BANK

Modify current law in order to allow an individual to request that his or her DNA analysis data be expunged from the DNA databank on that grounds that "any," rather than "all," of the following conditions that apply to the person are satisfied:

- All convictions, findings, or adjudications for which the individual was required to

submit a biological specimen have been reversed, set aside, or vacated;

- If the individual was required to provide a biological sample for being arrested or charged with a violent crime, then either: (a) all charges for which the person was required to provide the biological specimen have been dismissed; (b) the trial court adjudged the individual not guilty on all charges for which the person was required to provide a biological specimen; (c) at least one year has passed since the arrest and the individual has not been charged with a violent crime in connection with the arrest; or (d) the person was adjudged guilty of a violent crime, and all such convictions for a violent crime have been reversed, set aside, or vacated; or

- If the individual is a juvenile and the juvenile was required to submit a biological specimen because he or she was taken into custody or before a court for an offense which would be considered a violent crime if committed by an adult, then either: (a) all criminal complaints or delinquency petitions that allege the juvenile committed an offense that would be considered a violent crime if committed by an adult have been dismissed; (b) the juvenile was neither convicted nor adjudged delinquent by a trial court on all violations that would be considered a violent crime if committed by an adult; (c) at least one year has passed since the juvenile was taken into custody and no criminal complaint or delinquency petition has been filed alleging that the juvenile committed a violation, in connection with the juvenile being taken into custody, that would be a violent crime if committed by an adult; or (d) the juvenile was convicted or adjudged delinquent for a violation that would be a violent crime if committed by an adult in this state and that is in connection with the juvenile being taken into custody, and the conviction or delinquency adjudication has been reversed, set aside, or vacated.

[SA Item: 75]

10. INCORPORATION OF CERTAIN TOWNS CONTIGUOUS TO VILLAGES

Modify the substitute amendment provision related to new methods of incorporation for certain towns contiguous to third class cities, to apply to certain towns contiguous to villages meeting the criteria identified below. Towns meeting the criteria could incorporate as a village using the following procedure: (a) the town board must adopt a resolution calling for a referendum in the town on whether the town should become a village; and (b) a majority of the votes cast in the referendum must be in favor of becoming a village.

Specify the new incorporation method would apply to towns contiguous to villages meeting the following criteria: (a) the most recent federal decennial census shows that the resident population of the town exceeds 2,300; (b) the most recent data available from the Department of Revenue show that the equalized value for the town exceeds \$190,000,000; (c) the area of the town exceeds 40 square miles; (d) the town is contiguous to a village to which all of the following conditions apply: 1. the most recent federal decennial census shows that the resident population of the village is less than 300; 2. the area of the village is less than two square miles; and 3. the aggregate net tax rate of the village, as determined by the Department of Revenue is greater than 36 mills; and (e) the village identified in (d) and the town are located in a county for which the most recent federal decennial census shows that the resident population is less than 150,000.

As under the substitute amendment, the new procedures would sunset after June 30, 2020.

The provision would apply to the Town of Maine and the Village of Brokaw in Marathon County, and could apply to other towns and villages meeting the criteria.

[SA Items: 16 thru 29]

11. AUTOMATIC FIRE SPRINKLER SYSTEM CONTRACTORS AND JOURNEYMEN COUNCIL

Modify the substitute amendment provision to eliminate certain boards and councils identified as inactive to exclude from elimination the Automatic Fire Sprinkler System Contractors and Journeymen Council. The Council advises the Department of Safety and Professional Services regarding credentialing of automatic fire sprinkler fitters, contractors, and apprentices.

[SA Items: 1 and 74]

12. HIGH-DEDUCTIBLE HEALTH PLAN (HDHP) ALTERNATIVE FOR LOCAL PROTECTIVE SERVICE EMPLOYEES

Modify the substitute amendment provision related to HDHP coverage for local protective service employees to only apply to a first-class city, instead of applying to any local governmental unit. Under the provision, as amended, if a first-class city offers health care insurance to employees who are police officers, fire fighters, or emergency medical technicians, the first class city must also offer to the employees who are police officers, fire fighters, or emergency medical technicians, an HDHP that has identical design features to the HDHP offered to state employees.

[SA Items: 13 thru 15]

13. RETAIN LOCAL GOVERNMENT PROPERTY INSURANCE FUND

Delete provisions of the substitute amendment that would prohibit the sale of new policies under the local government property insurance fund, beginning on July 1, 2015, and the renewal of existing policies, beginning on January 1, 2018. Delete other provisions associated with the closeout of the property fund and delete a provision that would require the Insurance Commissioner to adopt policy rates and structure recommended by the local government property insurance fund Advisory Committee at its meeting on April 9, 2015. [The Commissioner adopted these rates, effective July 1, 2015.]

[SA Item: 80]

14. PREVAILING WAGE

Repeal the state prevailing wage law that applies to local projects of public works.

Retain the prohibition against local governmental units enacting or administering their own prevailing wage laws or similar ordinances.

Repeal all provisions directing the Department of Workforce Development (DWD) to determine prevailing wage rates and redefine "prevailing wage rate" for state projects to instead mean the applicable prevailing wage rate as determined by the U.S. Department of Labor under the federal Davis-Bacon Act.

Exempt from the state prevailing wage law laborers, workers, mechanics, or truck drivers that are employed to transport excavated material or mineral aggregate away from or to a project site of public works.

Eliminate various statutory provisions with respect to the prevailing wage law for projects other than state highway projects and provide the Department of Administration (DOA) with rule-making authority, including emergency rule authority, to enforce and administer the law other than for state highway projects which are administered by the Department of Transportation (DOT). Eliminate DWD's existing role in enforcing and administering the prevailing wage law and transfer that role to DOA.

Specify that DOA promulgate any rules that the Department determines are necessary to implement and ensure compliance with the state's prevailing wage law. Specify that if requested by any person performing prevailing wage work, DOA or DOT (as applicable) inspect the payroll records of any contractor, subcontractor, or agent performing work on a state prevailing wage project to ensure compliance with state law.

Eliminate the requirement that state agencies post prevailing wage rates and hours of labor on sites, for projects other than state highway projects.

Retain enforcement and oversight of the prevailing wage law on state highway projects by DOT. Move DOT prevailing wage provisions from the purview of the general employment statutes to be under DOT's general highway construction authority.

Specify that if a person who is not a DOA employee or the contracting state agency or who is not an employee of DWD that is conducting an investigation contacts an employee performing prevailing wage work for the purpose of investigating compliance with the prevailing wage law, the person shall provide a written statement to the employee stating that the person is not affiliated with DOA, the contracting state agency, or DWD and disclosing the principal source of funding for the investigation.

Delete provisions for liquidated damages and debarment in regard to state projects.

Specify that these provisions take effect on January 1, 2017, and apply to any request for bids issued on or after that date. If a project is not subject to bidding requirements, the amendment applies to a contract that is entered into on or after that date.

[SA Items: 3, 4, 12, 50, 55, 57 thru 62, 78, 79, 81, 82, 85, 90, and 92]

15. MODIFY DOR AUTHORITY TO ISSUE A RETAIL ALCOHOL PERMIT

Delete the substitute amendment provisions that would require DOR to meet certain requirements prior to issuing a retail beer or intoxicating liquor permit to an American Indian tribe in this state that has a reservation encompassing not less than 60,000 acres nor more than 70,000 acres.

[SA Items: 72 and 73]

16. MUNICIPAL PUBLIC BUILDING PLAN INFORMATION AND PUBLIC PLAN ROOMS

Specify that notwithstanding current law provisions relating to charging fees for public documents, if a municipality receives a request for public building plan information from a public plan room, the municipality would be required to provide the requested information by electronic copy, and without charging a fee, if all of the following apply:

a. The public building plan information relates to a structure or building constructed, or proposed to be constructed, by a municipality; and

b. The public plan room allows the public to register and inspect or copy the public building plan information that it obtains without charging a fee.

Require the municipality to provide the requested information even if the municipality contracts with another person to assist the municipality with public contracts, related construction projects, or the management and storage of public building plan information.

Specify that "public building plan information" would mean construction plans, designs, specifications, and related materials for construction work undertaken, or proposed to be undertaken, by a municipality pursuant to a public contract.

Specify that "public plan room" would mean a nonprofit organization that gathers and makes available to the public for inspection and copying public building plan information.

[SA Item: 51]

17. LOCAL GOVERNMENT LODGING ("ROOM") TAX

Modify the provision included in substitute amendment by delaying the following by one year: (a) from 2016 to 2017, the year in which the requirement that municipalities could retain the greater or 30% of current year revenues or an annual sliding scale of prior year amounts would first apply; (b) from January 1, 2015, to January 1, 2016, the date on which a municipal contract would have to be in effect in order to exempt revenues needed to fulfill the terms of the contract from the requirement under "a" (the reference to the contract being in effect on the effective date of the bill would be deleted); (c) from January 1, 2015, to January 1, 2016, the date on which a tourism entity that would be eligible to receive room tax revenues would have to be in existence and the

allowance that if no such organization exists in a municipality that the municipality may contract with such an organization if one is created in the municipality; (d) each of the sliding scale of prior year amounts used under "a"; and (e) from 2016 to 2017, the reporting requirements to provide information to the Department of Revenue.

[SA Items: 30 thru 45, 84, and 87]

18. EXTENSION OF WATER OR SEWER SERVICE BETWEEN MUNICIPALITIES

Modify the provision in the substitute amendment authorizing a municipality to request the extension of water or sewer service from another municipality as follows: (a) limit the provision to municipalities in a county bordered by Lake Michigan and the state of Illinois (Kenosha County); (b) delete the provision allowing the decision of the municipality that owns and operates the utility to be appealed to circuit court and instead authorize the appeal to be made to the Public Service Commission (PSC); (c) authorize the PSC to include in its decision conditions on the extension of service to ensure that costs resulting from the extension be borne by the users causing the cost and that the connection point selected by the municipality requesting the service is reasonable; and (d) allow either municipality involved in the PSC decision to appeal that decision to the Department of Natural Resources and require the Department to provide a determination within 45 days of receiving the appeal.

[SA Items: 46 thru 49]

19. PROPERTY TAX EXEMPTION FOR RENTED PERSONAL PROPERTY

Modify the two current law provisions exempting personal property held for rental for one month or less and for 364 days or less, by deleting the phrase "which is engaged in any business other than personal property rental" and substituting the phrase "and the owner is engaged in the rental of the property subject to the exemption to the other enterprise." Extend this treatment retroactively to property assessed on, or after, January 1, 2014. By deleting this provision, companies that engage in equipment rental and leasing, but also provide ancillary services, would become eligible for the exemption. However, it would not allow companies that own their equipment and pay personal property taxes on their equipment to become eligible for the exemption by creating a subsidiary company that leases or rents this equipment to the parent company.

[SA Items: 54, 88, and 91]

20. DUTIES AND POWERS OF THE COUNTY EXECUTIVE IN POPULOUS COUNTIES

Modify the provisions of the substitute amendment as follows:

- a. Delete the provisions that would otherwise do the following:

1. Authorize the county executive in a county with a population of 750,000 or more to have sole authority over the following administrative actions and specify that the actions may take effect without any review or approval of the county board: (1) procurement, including requests for proposals or information, negotiation, approval, amendment, execution, administration, and payment; (2) contracting, including negotiation, requests for proposals or information, approval, amendment, execution, administration, and payment; (3) administrative review of appeals of the denial in whole or in part of a contract award, an initial permit, license, right, privilege, or authority, except an alcohol beverage license, for which a person applies through the county; and (4) actions taken under the administrative manual of operating procedures related to the authority and powers granted to a county executive under state law and under county ordinances, and specify that the county executive's action shall prevail over the county board's action to the extent that the county executive's action and the county board's action conflict. Extend these limitations to a related provision under current law concerning persons seeking review by a local governing body of a determination of a local government. Prohibit the county board from enacting an ordinance or adopting a resolution or policy that conflicts or interferes in form or function with the statutory authority of a county executive.

2. Repeal the current law provisions and remove related language that require the board's Finance Committee to approve contracts of at least \$100,000 but not more than \$300,000 and the county board to approve any contract of more than \$300,000 in a county with a population of 750,000 or more. In addition, create a provision specifying that the county board has no role in the review of public contracts and that public contracts take effect without the approval of the county board.

b. Create a new provision that removes oversight by the county finance committee on contracts between \$100,000 and \$300,000 and by the county board on contracts of more than \$300,000 in certain instances. The committee or board would no longer have oversight in those areas where the Joint Finance provision extends authority to the county executive.

c. Change the boundary for land that is zoned a park and that is under the authority of the county executive, as opposed to the county board, by making the northern boundary East Michigan Street, rather than East Mason Street.

[SA Items: 6 thru 11, 52, and 53]

21. FREEWAY CONSTRUCTION COSTS RELATED TO METROPOLITAN SEWERAGE DISTRICTS IN FIRST CLASS CITIES

Add metropolitan sewerage districts including first class cities to the definition of municipal utility facilities, such that the state would pay 90% of the eligible costs of the relocation or replacement of any utility facilities in such districts required by the construction of any freeway undertaken by the Department. Specify that in order for such a district to be eligible for

reimbursement for such costs, any entry upon or occupation of any state freeway right-of-way after relocation or replacement of utility facilities by a metropolitan sewer district shall be done in a manner acceptable to the Department. Require that road alterations and traffic control actions taken by a district's commission be done in a manner which is acceptable to the Department. Specify that these changes would first apply to facility utility owners notified by the Department of impending work affecting utility property on January 1, 2016.

[SA Items: 56, 77, and 89]