B

Senator Burke
Representative Jensen

1997-99 EXECUTIVE BUDGET BILL

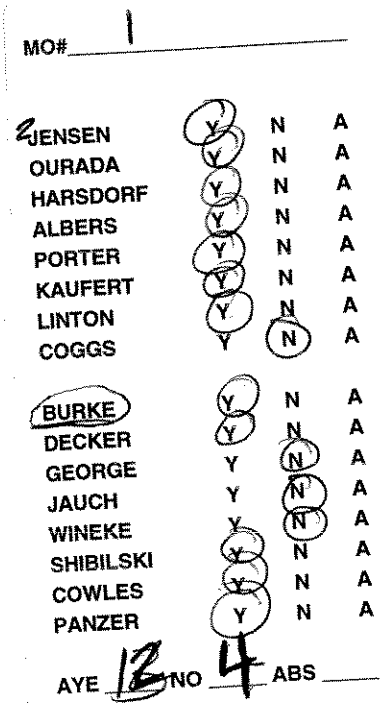
Motion:

Move to introduce LRB 2310 into the Assembly and LRB 2505 into the Senate.

Note:

Pursuant to s. 16.47(1m), the Joint Committee on Finance is required to introduce the Governor's budget bill, without change, into the Legislature.

The Governor's budget recommendations have been drafted into two identical bills--LRB 2310 and LRB 2505. This motion would have the Joint Committee on Finance introduce LRB 2310 into the Assembly and LRB 2505 into the Senate.



Motion #1

1997-99 BUDGET PAPERS

April 24, 1997

Paper #

Governor

405 Minor Policy and Technical Changes -- Association Dues

Lieutenant Governor

548 Minor Policy and Technical Changes -- Base Level Funding and Position Reductions

Employment Relations Commission

380 Base Level Position Reductions

Personnel Commission

Public Service Commission

690 Increased Public Intervenor Funding

691 Consumer Complaint and Inquiry System

692 Executive Assistants for All Public Service Commissioners

693 Increased Assessment of Wisconsin Railroads to Fund Railroad Crossing Safety Improvements

Elections Board

355 Campaign Finance Filing Fee

356 Funding for Data Base Software Conversion and Electronic Campaign Finance Report Electronic Filing Enhancement

State Treasurer

770 Unclaimed Property Program Printing and Advertising Costs

771 Minor Policy and Technical Changes

772 Staffing Modifications

Paper #

Board of Commissioners of Public Lands

185 Division of Trust Lands and Investments -- Treatment of Unencumbered Year-End Operating Balances

186 Division of Trust Lands and Investments -- Apportionment of Revenues from the Sale of Sunken Logs

Supreme Court

780 Circuit Court Automation Project

781 Information Technology

782 Law Library Book Inflation

783 Fees for the Sale of Court Documents

784 Personnel Specialist

785 District Court Administrative Staff -- Milwaukee County

Court of Appeals

340 Clerk of Court Staff

Circuit Courts

225 Circuit Court Interpreters

Board on Aging and Long-Term Care

190 Ombudsman and Volunteer Coordinator Positions

Adolescent Pregnancy Prevention and Pregnancy Services Board

160 Adolescent Pregnancy Prevention, Pregnancy and Parenting Services

Arts Board

180 Funding Reduction

Governor

(LFB Budget Summary Document: Page 241)

LFB Summary Item for Which an Issue Paper Has Been Prepared

Item #	Title
5	Minor Policy and Technical Changes -- Association Dues (Paper #405)

Senator Burke

OFFICE OF THE GOVERNOR

Conditions for the Release of Matching Funds
to the Wisconsin Sesquicentennial Commission
Revised to Authorize Releases Based on Pledged Contributions

Motion:

Move to modify the conditions under which the Joint Committee on Finance may provide a dollar-for-dollar match from its s. 20.865(4)(c) GPR-funded appropriation to the Wisconsin Sesquicentennial Commission for those gift and grant amounts actually received by the Commission. Authorize the Commission to receive GPR matching funds for any amount of funds pledged to it (but not yet received) for the purpose of requesting dollar-for-dollar matching from the Committee's supplementation appropriation. Further, include a technical statutory change to delete an incorrect reference to an appropriation account under the State Historical Society.

Note:

Under s. 13.101(3m) of the statutes, the Joint Committee on Finance may release funds from a GPR continuing appropriation for this purpose to makes supplementations to support the Commission's general program operations. A total of $1,250,000 GPR was appropriated for this purpose by 1995 Wisconsin Act 445. Under that Act, after the Commission had actually received an initial $250,000 in gifts and grants, the funds in the supplemental appropriation were authorized to be released by the Committee to the Commission's gifts and grants appropriation on a dollar-for-dollar matching basis upon the Commission's documentation that it has actually received an equivalent amount of funds as gifts or grants.

On March 27, 1997, the Committee released a total of $47,055 GPR to the Commission as a dollar-for-dollar match for funds which had been received by the Commission in excess of the initial $250,000 of donations it had already received.

This motion would allow the Commission to request and receive GPR matching funds from the Committee's supplemental appropriation for any additional pledged funding as if such funds had already been received.

A pledge to make a gift or grant, in and of itself, does not place the funding under the control of the Commission. This would not occur until the pledged amounts were actually received by the Commission.

This motion would also repeal an incorrect reference to gift and grant amounts received by the Commission under a State Historical Society gifts and grants appropriation.

[Change to Bill: $0]

MO# 400

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS 0

Representative Jensen

OFFICE OF THE GOVERNOR

Limitation on Total Amount of Revenues Available
to the Wisconsin Sesquicentennial Commission
from the Sale of Sesquicentennial License Plates

Motion:

Move to amend s. 341.14(6r)(bg)3.b. of the statutes to set an overall limitation of $2,700,000 on the total amount of net proceeds from the sale of sesquicentennial license plates which may be credited to the Wisconsin Sesquicentennial Commission's appropriation under s. 20.525(1)(qr) of the statutes.

Note:

Under current law, after deducting the total costs to DOT of designing, producing, promoting and distributing the Wisconsin sesquicentennial license plate, the remaining net proceeds are credited to the Commission's appropriation under s. 20.525(1)(qr) to support its general program operations. There is no limitation on the amount of net proceeds which may be credited to this appropriation.

This motion would cap the total amounts of net license plate proceeds which could be credited to this Commission appropriation at $2,700,000. The net proceeds in excess of this amount would remain undesignated in the transportation fund.

[Change to Bill: None]

MO# 410

1 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
2 DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS ___

Motion #410

MO# Paper #405

/ JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Minor Policy and Technical Changes -- Association Dues (Governor

[LFB Summary: Page 242, #5]

GOVERNOR

Increase the amounts estimated to be required to fund dues increases for the National Governors Association and the Midwestern Governors Conference by $11,900 GPR in 1997-98 and $15,700 GPR in 1998-99. Base level funding for these dues payments is $112,900 GPR.

MODIFICATION TO BILL

Reduce the amounts estimated to be required for dues payments for the National Governors Association and the Midwestern Governors Conference by $23,800 GPR in 1997-98 and $25,600 GPR in 1998-99.

Explanation: A total of $101,000 GPR in 1997-98 and $103,000 GPR in 1998-99 would be provided for dues payments under the modification. The National Governors Association has set its annual dues levels for Wisconsin at $100,900 in 1997-98 and at $102,900 in 1998-99. The Midwestern Governors Conference (which is affiliated with the Council of State Governments) has established annual dues of $100.

The current base level estimates include funding for dues payments to the National Governors Association-affiliated Council of Governors' Policy Advisors. However, this organization has been dissolved and no further dues will be assessed, according to the Association. The National Governors Association and the Midwestern governors Conference are the two organizations for which projected dues payments in 1997-99 have been identified by the Office.

Modification	GPR
1997-99 FUNDING (Change to Bill)	- $49,400

Prepared by: Tony Mason

GOVERNOR

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
1	Standard Budget Adjustments
2	Base Level Funding Reduction
3	National Governor's Association 1998 Annual Meeting in Milwaukee
4	Literacy Improvement Grants

LFB Summary Items for Introduction as Separate Legislation

Item #	Title
6	Pupil Academic Standards Development Council
7	Wisconsin Sesquicentennial Commission Membership

Lieutenant Governor

(LFB Budget Summary Document: Page 373)

LFB Summary Item for Which an Issue Paper Has Been Prepared

Item #	Title
2	Minor Policy and Technical Changes -- Base Level Funding and Position Reductions (Paper #548)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Minor Policy and Technical Changes -- Base Level Funding and Position Reductions (Lieutenant Governor)

[LFB Summary: Page 373, #2]

GOVERNOR

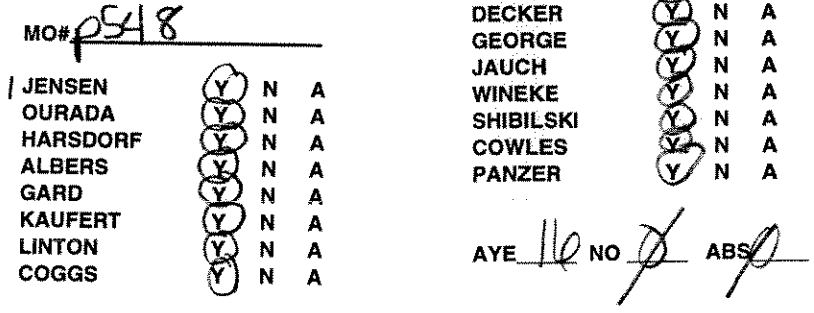
As part of base level funding and position reductions in the Office of the Lieutenant Governor, delete 0.25 FTE classified position authority and $6,300 GPR annually of associated salary and fringe benefits funding.

MODIFICATION TO BILL

Delete 0.25 FTE unclassified position authority and $6,300 GPR annually of associated salary and fringe benefits funding.

Explanation: All of the Office's 8.0 GPR base level positions are in the unclassified service. The modification provides that the recommended deletion of 0.25 FTE position authority be for an unclassified position in the Office.

Prepared by: Tony Mason



LIEUTENANT GOVERNOR

LFB Summary Item for Which No Issue Paper Has Been Prepared

Item #	Title
1	Standard Budget Adjustments

Employment Relations Commission

(LFB Budget Summary Document: Page 223)

LFB Summary Item for Which an Issue Paper Has Been Prepared

Item #	Title
2	Base Level Position Reductions (Paper #380)

Senator Decker

EMPLOYMENT RELATIONS COMMISSION

Base Level Position Reductions

Motion:

Move to delete the Governor's recommendation to eliminate $175,200 GPR annually of base level salary and fringe benefits funding and 3.0 GPR attorney positions and instead delete $46,000 PR and 1.0 PR vacant attorney position.

Note:

This motion would restore 3.0 GPR attorney positions and $175,200 GPR of associated funding which would be deleted under the bill. The motion would delete 1.0 PR vacant attorney position and associated funding of $46,000 PR annually.

[Change to Bill: $350,400 GPR, -$92,000 PR and 3.0 GPR, -1.0 PR positions]

MO# 1503

JENSEN	Y	(N)	A
OURADA	Y	(N)	A
HARSDORF	Y	(N)	A
ALBERS	Y	(N)	A
GARD	Y	(N)	A
KAUFERT	Y	(N)	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A
2 BURKE	(Y)	N	A
1 DECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	Y	(N)	A
PANZER	Y	(N)	A

FAIL

AYE 6 NO 6 ABS ___

Motion #1503

Senator George

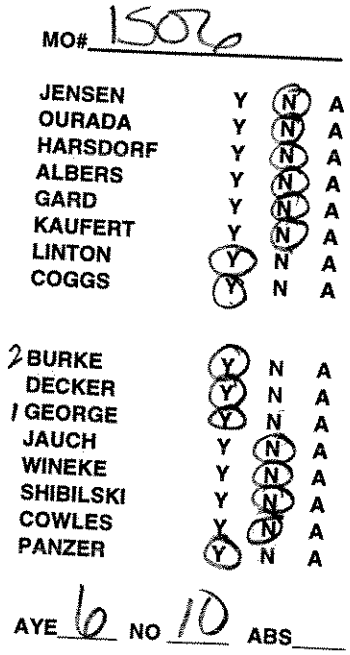
EMPLOYMENT RELATIONS COMMISSION

Transfer Office to Milwaukee

Motion:

Move to amend the bill to transfer the location of the Commission's office from Madison to Milwaukee.

[Change to Bill: $0]



To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Base Level Position Reductions (Employment Relations Commission)

[LFB Summary: Page 223, #2]

CURRENT LAW

The Wisconsin Employment Relations Commission (WERC) has base level salary and fringe benefits funding of $2,157,200 GPR and $319,400 PR annually and is authorized a total of 28.5 GPR and 5.0 PR positions.

GOVERNOR

Delete $175,200 GPR annually of base level salary and fringe benefits funding and 3.0 GPR attorney positions in the WERC.

DISCUSSION POINTS

1. Of the 33.5 FTE positions currently authorized for the WERC, 19.0 FTE positions are classified as attorneys, 3.0 FTE positions are classified as mediators and 3.0 FTE positions are the commissioners. The remaining 8.50 FTE positions are legal secretaries and administrative or program assistants. The 22.0 FTE attorney/mediator positions are the staff primarily responsible for processing the various types of labor relations cases which come to the Commission from employes, employe organizations and employers involving private, municipal and state employment. These proceedings include matters related to labor elections, referenda, mediation, grievance arbitrations and prohibited labor practices complaints. The majority of the Commission's caseload (89.0% based on 1995-96 experience) is from the public sector.

2. Prior to the enactment of 1995 Wisconsin Act 27 (the 1995-97 biennial budget act), virtually all mediation-type services provided by the WERC were made available at state expense to parties involved in labor disputes (the only fee charged was $25 for complaints alleging unfair labor practices, petitions for declaratory rulings and grievance arbitration proceedings). Act 27 required that WERC establish a fee for providing its mediation-related services and shifted a portion of the Commission's attorney and mediator staff from GPR to PR funding, beginning January 1, 1996. As a result, 15.0 FTE attorney positions and 2.0 FTE mediator positions are currently GPR-funded (with base level funding of $1,602,300 GPR annually) and 4.0 FTE attorney positions and 1.0 FTE mediator position are currently PR-funded (with base level expenditure authority of $319,400 PR annually). The Commission's PR positions are funded from the revenues generated by a $250 per case mediation fee which has been collected on most case filings since January 1, 1996.

3. The stated rationale for the Governor's recommendation to delete $175,200 GPR annually and 3.0 GPR attorney positions is that the Commission's caseload has declined significantly in the past year, and that the resulting decreased workload is no longer sufficient to justify retaining the full complement of 19.0 FTE attorney positions and 3.0 FTE mediator positions at the agency. The following table summarizes WERC's actual mediation caseload experience in the last four fiscal years.

WERC Mediation Caseload
(1993-94 through 1996-97)

Type of Case	1993-94	1994-95	1995-96	1996-97[a]
Mediation/Interest Arbitrations	654	548	502	287
Contract Grievance Arbitrations	741	698	608	464
Fair Labor Practice Complaints	177	178	159	160
Totals	1,572	1,424	1,269	911
% Change from Prior Year	---	-9.4%	-10.9%	-28.2%

[a]Projected annual caseload based on actual case filings through March 31, 1997.

4. The WERC believes that the following factors have contributed to the declining caseload (particularly mediation/interest arbitration cases) evidenced in the above table.

• Provisions of 1993 Wisconsin Act 16 established "qualified economic offer" provisions applicable to school district employers and their represented professional employes. School district employers may now avoid binding and compulsory arbitration on wages and fringe benefits if they offer their represented professional employes a wage and fringe benefits package meeting certain minimum percentage increase criteria. Most school

district employers now routinely make a qualified economic offer and thereby obviate the possibility of binding arbitration on wages and fringe benefits. As a result, the WERC may not even be involved in any preliminary mediation efforts between the parties.

• Provisions of Act 16 also established two-year contract terms for school district represented employes. These labor contracts now expire uniformly on June 30 of each odd-numbered year. Consequently, the WERC no longer has a flow of cases from school districts involving one-year contract terms or contracts which terminate at different times of the year, other than June 30 of each odd-numbered year.

• The imposition of a $250 filing fee for mediation and arbitration services appears to have had a significant impact on the number of case filings. The sharpest caseload decline in the above table was experienced in 1996-97, the year following the imposition of the fee.

5. The Governor's proposed deletion of 3.0 FTE of the agency's 22.0 FTE attorney/mediator positions represents a 13.6% reduction in such staff. While DOA has not provided any detailed rationale regarding how this specific level of staffing reduction was selected, the reduction is less than the projected 28.2% caseload decline between 1995-96 and 1996-97. However, the WERC argues that additional attorney/mediator position reductions would not be warranted based solely on such caseload volume considerations for the following reasons:

• While overall caseload has declined, the number of complex cases requiring extensive written decisions and a greater proportion of staff time has remained relatively constant. These types of cases are expected to continue to occupy a considerable amount of available staff time.

• Following a three-year transitional phase, all school district contracts involving represented professional employes will uniformly expire for the first time on June 30, 1997. It is unknown at this time whether qualified economic offers governing the next two fiscal years (1997-98 and 1998-99) will continue to be routinely agreed to by the parties or whether the Commission might experience an increase over the current level of requests for its mediation services during the summer and fall of 1997.

6. The staff reductions taken by the Governor do recognize a portion of the caseload reduction experienced by the WERC in the last two years. Further, since there is uncertainty whether 1997-98 caseload might increase over current projected levels for 1996-97, additional reductions in attorney/mediator staffing based solely on current caseload statistics may not be warranted at this time. Nonetheless, there are three other related staffing allocation questions which the Committee may wish to consider.

7. First, a question may be raised why the proposed reduction of the 3.0 FTE positions is applied solely to the GPR-funded attorney/mediator staff. The reductions in caseload

cited as the principal rationale for making the base level staffing deletions have been experienced by the total attorney/mediator staff, regardless of funding source. Presumably, the entire reduction was taken from the GPR-funded portion of the agency's budget to achieve larger GPR savings. However, it could be argued that the reduction should instead be applied uniformly across the entire staff, in proportion to the overall funding source splits for the attorney/mediator positions. Under this approach, the Committee could modify the Governor's recommendation by imposing a base level reduction of $134,900 GPR and $40,300 PR annually and by deleting position authority for 2.30 GPR positions and 0.7 PR positions.

8. Second, regardless of any action to shift a portion of the base level reductions to PR-funded functions in the agency, the Committee may also wish to review the degree to which the current fee structure is capable of supporting the existing authorized level of PR-funded staff. Currently, the Commission assesses filing fees of $250 on all mediation/interest arbitration matters and on grievance arbitrations. Fair labor practice complaints are assessed a filing fee of $25. Based on the projected caseload for the 1996-97 fiscal year, total revenues are estimated at $191,800 PR.

9. This projected revenue stream is insufficient to support existing base level expenditure authority of $319,400 PR and 5.0 PR positions. Currently, 1.0 PR attorney position has been vacant for over one year. This position, budgeted at $46,000 PR annually, has not been filled because the agency has insufficient revenues to support it. Further, even if that vacant position were deleted, it is unlikely that the Commission can support even the remaining 4.0 FTE attorney and mediator positions (currently budgeted at $273,400 PR). The Commission has managed to retain the incumbents in these positions by periodically shifting one or more of the employes in these positions to GPR funding as vacancies in GPR-funded positions have developed elsewhere in the agency.

10. Because of the current revenue stream insufficiency, it could be argued that no more than 2.5 PR positions at a total budget of $191,200 PR can realistically be supported. If the Committee acted to delete 2.5 PR existing attorney positions, a total of 2.5 PR positions (1.5 attorney and 1.0 mediator) budgeted at $191,200 PR would remain. This authorized expenditure level would be within the amount of revenues projected to be generated based on the current level of cases for which fees are assessed. Under this approach, if there is a sustainable increase in the total number of mediation requests after June 30, 1997, the agency could request an increase in the level of PR staff at that time. Such a request would have to provide evidence that workload justified such an increase and that the additional expenditure authority was supportable by a reliable revenue stream.

11. Third, if there is to be a reduction in attorney/mediator staff, the Committee may wish to consider whether there should also be an associated reduction in support staffing. The WERC currently has 8.50 FTE support staff, including 4.0 FTE legal secretaries, all GPR-funded. The legal secretary staff is allocated as follows: 1.0 FTE supports the three commissioners and the agency's chief counsel and 3.0 FTE support three legal teams, comprised of the remaining

21.0 attorney/mediator staff. The Governor's recommendation represents a 13.6% reduction in overall attorney/mediator staff (14.3%; if the agency's chief counsel position is excluded from the calculation). Under either calculation, a comparable reduction applied to direct legal secretary support would equate to an approximate 0.5 FTE reduction in such staffing support. If the additional 2.5 PR-funded attorney positions were also deleted, this action would represent an approximate 25% reduction in total attorney/mediator staff. A similar reduction applied to direct legal secretary support would equate to an approximate 1.0 FTE reduction in such staffing support.

12. The agency has indicated that it is difficult to attribute the recent workload reductions from the decline in case filings exclusively to any one of the existing three staff legal teams. Rather, it feels that the workload reductions have been experienced generally across all of the teams and, the agency argues, may not be sufficient on any one team to justify the deletion of any support staff. Further, the agency believes that the elimination of 0.5 FTE or 1.0 FTE legal secretary position could require a reconfiguration of existing staff legal teams, with an undetermined impact on agency operations. While these considerations may have merit, it should be noted that caseload reductions must ultimately exceed a threshold beyond which support staff reductions are warranted. If the Committee concludes that current caseload experience suggests that this threshold has now been reached, it may choose to apply a workload-related reduction to the number of authorized legal secretary positions in the agency. Alternatively, if the Committee determines that this threshold has not yet been reached, it may limit any workload-related position reductions to the agency's attorney/mediator staff.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.

2. Instead of the Governor's recommendation, delete $134,900 GPR and $40,300 PR and 2.3 GPR and 0.7 PR attorney positions.

Alternative 2	GPR	PR	TOTAL
1997-99 FUNDING (Change to Bill)	$80,600	- $80,600	$0
1998-99 POSITIONS (Change to Bill)	0.70	- 0.70	0.00

3. Delete $87,900 PR annually and 1.8 PR attorney positions. *[This Alternative may be adopted in addition to Alternative 2.]*

Alternative 3	PR
1997-99 FUNDING (Change to Bill)	- $175,800
1998-99 POSITIONS (Change to Bill)	- 1.80

4. Delete $128,200 PR annually and 2.5 PR attorney positions. *[This Alternative may be adopted in addition to Alternative 1.]*

Alternative 4	PR
1997-99 FUNDING (Change to Bill)	- $256,400
1998-99 POSITIONS (Change to Bill)	- 2.50

5. Delete $15,500 GPR annually and 0.5 GPR legal secretary position. *[This alternative may be adopted in addition to Alternatives 1 or 2.]*

Alternative 5	GPR
1997-99 FUNDING (Change to Bill)	- $31,000
1998-99 POSITIONS (Change to Bill)	- 0.50

6. Delete $31,000 GPR annually and 1.0 GPR legal secretary position. *[This alternative may be adopted only if Alternatives 3 or 4 are adopted.]*

Alternative 6	GPR
1997-99 FUNDING (Change to Bill)	- $62,000
1998-99 POSITIONS (Change to Bill)	- 1.00

7. Maintain current law.

Alternative 7	GPR
1997-99 FUNDING (Change to Bill)	$350,400
1998-99 POSITIONS (Change to Bill)	3.00

Prepared by: Tony Mason

MO#_____

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE_____ NO _____ ABS_____

EMPLOYMENT RELATIONS COMMISSION

LFB Summary Item for Which No Issue Paper Has Been Prepared

Item #	Title
1	Standard Budget Adjustments

LFB Summary Item for Introduction as Separate Legislation

Item #	Title
3	Arbitration Settlement Factors -- Milwaukee City Police

Personnel Commission

(LFB Budget Summary Document: Page 453)

No Issue Papers Have Been Prepared

PERSONNEL COMMISSION

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
1	Standard Budget Adjustments
2	Supplies and Services Cost Increases

Public Service Commission

(LFB Budget Summary Document: Page 496)

LFB Summary Items for Which Issue Papers Have Been Prepared

Item #	Title
2	Increased Public Intervenor Funding (Paper #690)
4	Consumer Complaint and Inquiry System (Paper #691)
6	Executive Assistants for All Public Service Commissioners (Paper #692)
7	Increased Assessment of Wisconsin Railroads to Fund Railroad crossing Safety Improvements (Paper #693)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Increased Public Intervenor Funding (PSC)

[LFB Summary: Page 496, #2]

CURRENT LAW

The Public Service Commission (PSC) has a separate, sum certain appropriation with base level funding of $250,000 PR annually to provide compensation to public intervenors who appear before the Commission. The appropriation is funded by direct and remainder assessments of public utilities.

GOVERNOR

Increase the public intervenor appropriation by $250,000 PR annually to provide total funding of $500,000 PR annually for intervenor participation before the Commission. The recommended additional funding would be provided on a one-time basis and would not become part of the Commission's base budget in the following biennium.

DISCUSSION POINTS

1. A separate appropriation to fund public intervenor appearances before the PSC has existed since the 1986-87 fiscal year, when 1985 Wisconsin Act 287 created the appropriation as part of a series of changes relating to the regulation of public utility holding companies. Prior to that time, public intervenor involvement before the PSC had been funded from the agency's general utility regulation appropriation.

2. The statutes and PSC administrative rules establish the eligibility criteria for intervenor compensation. Individuals may be compensated for the reasonable costs of participating in a proceeding, if the PSC finds that they are:

- Customers of the utility which is the subject of the proceeding, or persons whose substantial interests may be affected by the outcome of the proceeding. Public utilities are not eligible to receive intervenor financing as a participant.

- Persons who would find intervention in the proceeding to be a significant financial hardship without such compensation.

- Persons who represent an interest material to the proceeding which would not be adequately presented without the grant of compensation.

- Persons whose interests must be represented for a fair determination in the proceeding.

3. The PSC staff reviews each application for intervenor compensation to ensure that it meets these criteria before making a recommendation to the full Commission on funding the proposal. Requests that do not meet the criteria in whole or in part are typically denied or reduced in their scope. Since the annual total of all intervenor requests has historically exceeded available funding, the Commission has adopted a position of approving only those intervenor participations deemed essential to the establishment of the case record on which the Commission bases its decisions.

4. The following table summarizes the demand for intervenor financing in the four most recent fiscal years:

Public Intervenor Financing
(through March 31, 1997)

Fiscal Year	Appropriation	Total Intervenor Amounts Requested	Total Intervenor Amounts Approved
1993-94	$550,000	$1,094,200	$549,700
1994-95	250,000	408,400	249,600
1995-96	435,000[a]	578,500	435,000
1996-97	436,000[b]	800,400	436,000[c]

[a]Original appropriation of $250,000 was increased by $185,000 under a s. 16.515 request approved April 5, 1996.

[b]Original appropriation of $250,000 was increased by $186,000 under a s. 16.515 request approved March 21, 1997.

[c]Projected.

5. During the 1993-94 and the 1994-95 fiscal years, the total amounts approved by the Commission for intervenor participations was within the funding levels budgeted for this purpose. (The higher funding levels appropriated in 1993-94 reflected the need for increased intervenor participation as part of a particularly complex electric utility Advance Plan proceeding.) In the 1995-96 and the 1996-97 fiscal years, the PSC received approval under s. 16.515 procedures for increased expenditure authority ($185,000 PR in 1995-96 and $186,000 PR in 1996-97) sufficient for intervenor participations identified as "necessary and of the highest priority" on such matters as electric utility mergers, electric utility deregulation and restructuring dockets, nuclear power plant steam generator replacement issues, and biennial Advance Plan proceedings.

6. In a February 22, 1996, report to the Legislature on the status of electric utility restructuring proceedings, the Commission indicated that it would seek increased funding of $250,000 PR annually (to provide total funding of $500,000 PR annually) during the 1997-99 biennium in order to ensure meaningful intervenor involvement in electric utility restructuring and related issues. While any additional amounts provided for increased intervention activities would likely be fully expended (based on prior years' funding allocation experience), the Commission has not been able to provide any specific detail on the factors which were used to develop this $250,000 PR annual additional intervenor funding request.

7. An argument could be made that the actual funding needs for public intervenor participations before the Commission in 1997-98 and 1998-99 is more nearly likely to reflect the funding levels previously approved for these purposes in 1995-96 and 1996-97. A review of the public intervenor dockets in 1995-96 and 1996-97 finds that many of the intervenor participations during these years are already on matters substantially relating to electric utility deregulation, restructuring and merger issues. Further, the total funding provided in these years appears to have been sufficient to support those participations identified by the Commission as necessary and of the highest priority. The Committee could provide increased funding in each fiscal year of the next biennium at a level comparable to that provided in 1995-96 and 1996-97. Under this alternative, one-time additional funding of $185,500 PR annually (rather than $250,000 PR annually) would be provided, for total funding of $435,500 PR in each fiscal year of the next biennium.

8. Conversely, it could be argued that the type of restructuring being contemplated for the electric utility industry is of such a magnitude and complexity that past public intervenor funding experience may not be a suitable guide to future intervenor funding needs. If the Committee believes that because of the controversial nature of the issues associated with the restructuring effort that it is likely that an increased number of individuals and groups may petition to participate in the Commission's proceedings, it could approve the Governor's recommendation for additional one-time funding of $250,000 PR annually to support public intervenor participations during the next biennium.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.

2. Modify the Governor's recommendation by deleting $64,500 PR annually of one-time funding for public intervenor participations before the Public Service Commission.

Alternative 2	PR
1997-99 FUNDING (Change to Bill)	- $129,000

Prepared by: Tony Mason

MO# Alt 1 passed

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Consumer Complaint and Inquiry System (PSC)

[LFB Summary: Page 497, #4]

CURRENT LAW

Consumer complaints arising from public utility service and billing matters may be directed to the Public Service Commission (PSC) where they are handled by the consumer affairs unit in the agency's Division of Water, Compliance and Consumer Affairs. Complaints are currently taken down in writing and then entered by one of the unit's 6.0 FTE employes into a complaint tracking system. The Commission currently has base level supplies and services funding in its regulation of utilities appropriation of $1,255,400 PR annually.

GOVERNOR

Provide $20,000 PR in 1997-98 to support the design and development or the purchase of software for a new consumer complaint and inquiry system. The funding would be placed in unallotted reserve and would be released by DOA only in the event that the appropriate software to support a complaint tracking system cannot be found at other state agencies or at public utility commissions in other states.

DISCUSSION POINTS

1. The annual volume of consumer complaints received by the PSC has increased significantly in recent years, from 3,822 in calendar 1994, to 5,000 in calendar 1995 and to 7,072 in calendar 1996. The Commission indicates that utility deregulation and increasingly aggressive

utility bill collection practices have contributed to this increase in the number of consumer complaints.

2. The PSC's current consumer complaint tracking system was developed about 10 years ago for an environment in which there were seldom more than 2,000 complaints annually. The existing system is: (a) cumbersome (complaints received by telephone may not be entered into the system at the time they are received); (b) limited in the amount of data that may be entered; (c) cannot independently generate reports; and (d) not accessible to other Commission staff.

3. While there does not appear to be any question that the current system is outmoded and is in need of replacement, an issue may be raised with respect to how the Commission proposes to fund the replacement complaint tracking system.

4. The PSC plans to review the existing consumer complaint tracking systems currently being utilized by the consumer affairs units of the following entities: other Wisconsin state agencies, Wisconsin utility companies and the public utility regulatory bodies in other states. If a currently available system is determined to meet the Commission's requirements, or could be easily modified by in-house staff to meet the PSC's needs, the system would be acquired without cost, provided the software was in the public domain. Otherwise the necessary tracking system software would be purchased outright.

5. A total budget of $59,500 PR in 1997-98 has been developed for the consumer compliant tracking system replacement project, of which $39,500 PR (primarily for staff work associated with the project) would be committed from base level resources to support the review and assessment of other systems, any necessary data conversion and testing activities and staff training costs. The remaining $20,000 PR cost component of the project would be earmarked to support any required system software expenses and would come from the new funding recommended by the Governor but placed in unallotted reserve. These funds would be released to the agency by DOA in the event that the survey of available complaint tracking systems indicated an available system could not be modified to the Commission's needs and that a new system should be purchased.

6. Since it is not known at this time whether this system software acquisition cost will even need to be incurred, the Committee could choose to not appropriate funds for an expenditure contingency that may not actually occur. To the extent that the Commission would actually be unable to support the costs of a consumer complaint tracking system software package, if that option was ultimately chosen, the PSC could then submit a s. 16.515 request to the Committee, if necessary

7. However, it appears that the PSC would likely be able to fund any such required costs from its existing base level resources without having to resort to the s. 16.515 process. The Commission lapsed $28,300 PR in 1994-95 and $23,400 in 1995-96 of supplies and services

funding from its regulation of utilities appropriation. Further, these lapses occurred even after transfers of $239,400 PR in 1994-95 and $53,200 PR in 1995-96 originally appropriated for supplies and services to other cost categories. These amounts were apparently not needed for supplies and services and were subsequently transferred to other expenditure purposes under the appropriation. In the next biennium, the Commission would continue to have base level supplies and services funding comparable to the funding levels provided for such purposes in 1994-95 and 1995-96 when these lapses and transfers occurred. Thus, it could be argued that the Commission would have sufficient base level funding authority available to support any consumer complaint tracking system software costs should those costs be incurred.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.

2. Maintain current law.

Alternative 2	PR
1997-99 FUNDING (Change to Bill)	- $20,000

Prepared by: Tony Mason

MO# A+2 paper 691

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Executive Assistants for All Public Service Commissioners (PSC)

[LFB Summary: Page 500, #6]

CURRENT LAW

Subject to actual position authorization by the Legislature, current law authorizes only the chairperson of specifically enumerated state commissions to have a single executive assistant. These agencies are the Employment Relations Commission, the Gaming Board (formerly the Gaming Commission) and the Public Service Commission (PSC). No other multi-member Commissions have executive assistants under current law. Further, in no case does a commissioner other than the chair of a commission have an executive assistant.

GOVERNOR

Delete the statutory authority for only the PSC chairperson to appoint an unclassified executive assistant to perform such duties as the chairperson prescribes. Provide instead that all three commissioners may each appoint an unclassified executive assistant to perform such duties as each commissioner prescribes. Delete 2.0 PR classified positions in the agency and authorize 2.0 PR unclassified positions in order to provide position authorization for the two additional executive assistant positions. No additional salary and fringe benefits funding would be provided for the two new executive assistant positions since it is intended that base level salary and fringe benefits amounts from the deleted positions would be reallocated to help support the costs of the new positions.

DISCUSSION POINTS

1. The PSC did not request the creation of an additional 2.0 unclassified executive assistant positions for nonchair Commission members as part of its biennial budget submittal. The Commission has not developed any supplementary analysis which elaborates on the need for the additional executive assistant positions. However, the Department of Administration has indicated that the positions were proposed in the budget bill to enable nonchair commissioners to interface more effectively with Commission staff on regulatory case proceedings of increasing complexity.

2. As part of its 1979-81 biennial budget request, the then Commission sought executive assistants for each of its nonchair commissioners. At that time, the Legislature authorized the additional executive positions, but only as two-year project positions. However, a continuation of the positions beyond the 1979-81 biennium was not requested in the subsequent budget and the positions were allowed to expire.

3. When the PSC asked for the executive assistant positions for its nonchair commissioners during the 1979-81 biennium, two principal justifications were cited for that request. First, it was stated that all the commissioners were contending with a large and growing caseload. Second, it was indicated that the growing caseload also tended to be increasingly complex, with a concomitant rise in the number of transcripts, briefs and exhibits which had to be reviewed by each commissioner. Providing an executive assistant for each Commissioner, it was then argued, would serve to expedite Commission proceedings.

4. In reviewing the current proposal, the Committee may find it useful to consider whether these types of workload and case complexity considerations would now serve as justification for providing the additional executive assistant positions. Specifically, the Committee may wish to review:

• whether there has been a significant increase in the number of cases being brought before the Commission in recent years and the degree to which additional executive assistant positions could actually assist Commission members in reviewing a growing volume of complex case-related materials.

5. In addition, it may be useful to review the following additional considerations:

• whether there is existing staff at the PSC available to assist individual commissioners;

• whether there are any potential funding and staffing consequences as a result of reallocating base level resources to support additional executive assistant positions; and

• whether there might be other policy consequences associated with providing the additional executive assistant staffing, such as establishing a precedent for nonchair members of other multi-member commissions to also seek their own individual executive assistants.

6. *Workload Considerations.* This office has reviewed the volume of proceedings instituted and concluded before the Commission during the last three calendar years for which complete case data have been compiled. In general, there appears to be no indication of any rise in the total number of dockets being instituted before the Commission. This information is presented below.

Public Service Commission Proceedings
Dockets Instituted and Concluded by Calendar Year

Calendar Year	Dockets Instituted	Dockets Concluded
1993	619	567
1994	567	505
1995	572	525

7. *Potential Role of Executive Assistants in Managing Complex Cases.* Although the number of dockets instituted in recent years has remained stable (and has even declined from 1993 levels), there is little doubt that many of the issues coming before the Commission in recent years have been increasingly complex. Matters such as electric utility deregulation, electric utility mergers, continuing biennial Advance Plan proceedings affecting electric utilities, nuclear power plant waste storage issues, and the emergence of incentive-based regulation in the telecommunications industry are examples of highly complex proceedings requiring increased technical expertise on the part of the commissioners. These types of proceedings have also occasioned considerable public interest, resulting in significant increases in the size of the record that must be reviewed by each commissioner. All of these factors have contributed to a slowly growing case backlog at the Commission.

8. The argument has been advanced that an executive assistant position could be used by each commissioner to expedite the review and assimilation of staff-produced materials, as well as those items submitted by the parties to each case, by outside parties and by expert witnesses. While the assignment of executive assistants to each of the commissioners for the purpose of providing dedicated staff support might appear to be desirable, it should be noted that in its formal hearing process, the PSC operates as a quasi-judicial regulatory agency. The commissioners are expected to make findings of fact and conclusions of law. They must ultimately do so based on their own knowledge and familiarity with the matters before them. An executive assistant might aid the commissioner in research and analysis, however, each commissioner alone must ultimately be responsible for the decisions he or she reaches. Because

of this fact, it is not clear how much of a commissioner's responsibility for the mastering of the case materials could appropriately be assumed by an executive assistant.

9. Further, it may be noted that where executive assistant positions have been authorized in state government agencies, they have typically been provided to assist top administrative management of the agency (such as the Secretary of a cabinet department or the administrative chair of a commission) in handling daily administrative operations. In this capacity, the executive assistant may be assigned responsibilities for oversight of certain aspects of agency management, such as tracking legislation, reviewing agency fiscal estimates, monitoring agency budget development and responding to legislative and other public inquiries. Thus, the executive assistant in a cabinet agency or commission has normally been seen as a top-ranking member of the agency's management team, rather than as a position provided for personal staff support or dedicated analytical support to an individual cabinet Secretary or commission chair.

10. If the additional executive assistant positions for the nonchair members of the PSC are intended to be used to assist with the agency's administrative operations, it may be noted that the existing executive assistant for the chair of the PSC is already assigned principally to duties involving administrative planning, policy coordination and resource (budget and staff) allocation decisions rather than providing an interface between the Commission chair and staff on proceedings pending before the Commission. It would appear that providing any additional executive assistant positions to perform administrative functions in the agency would be duplicative.

11. *Availability of Existing Staff to Assist Commissioners.* Currently, the Office of the Commissioners has 9.0 FTE staff, in addition to the Commissioners. These positions include the existing executive assistant, the agency's chief counsel, the legislative liaison, 2.0 public information officers, the secretary to the Commission and 3.0 additional support staff. Other than for the existing executive assistant position and the clerical support staff, these individuals are not assigned specifically to individual commissioners. However, the Commission Chair indicates that additional staff from other divisions within the agency may be detailed to individual commissioners for as long as required in order to provide technical assistance on cases of great complexity. It could be argued, therefore, that the Commission already has in place a mechanism which can provide critical staffing assistance on an ad hoc basis to any member of the Commission. Further, that staff expertise may be provided directly to the commissioner, rather than having it communicated through the intermediary of an executive assistant. If there was a justified need for additional expert in-house assistance for the commissioners, that need could have been documented and addressed in a budget request from the Commission.

12. *Potential Consequences of Reallocating Base Level Resources.* The proposed new executive assistants would be assigned to executive salary group 3 (ESG 3). The current salary range for an ESG 3 position is from $51,456 to $77,949 annually. Although no new funding would be provided to the Commission for the new executive assistant positions, currently

budgeted amounts for the classified positions identified by the agency for deletion would be available for reallocation to support a portion of the costs of the new positions. The PSC's current expectation is that it would delete a public service engineer position and a public service engineer manager position (both in the agency's Electric Division). These positions are currently vacant due to staff turnover and would normally be recruited for immediately, given existing workload demands in the Division associated with electric industry deregulation issues. Available base level salary and fringe benefits funding for these positions is $134,200 PR annually.

13. While the actual salary which the new executive assistants might be paid is unknown, if the appointees to these positions were to be paid the same as the current executive assistant, for example, total annual salary and fringe benefits costs would amount to $167,400 PR. In this example, the additional amounts ($33,200 PR annually) required to fully fund the new executive assistant positions would have to be reallocated elsewhere from the Commission's base level resources.

14. Such a base level reallocation would be in addition to that which will be required to fund the agency's existing executive assistant position. This is because the Governor has also recommended deleting, as part of the agency's standard budget adjustments, $83,700 PR annually of base level salary and fringe benefits funding for the current executive assistant position. (The Governor's budget recommendations also deletes base level funding for all other agency executive assistants.) Further, it may be noted that the deletion of 2.0 classified positions and the reallocation of their salaries and fringe benefits funding for the new executive assistant positions effectively means that these two executive assistant positions have been funded under the bill. A question may be raised whether these new executive assistant positions should be funded, if the existing executive assistant position is not funded.

15. *Executive Assistants in Other Commissions.* The PSC, the Employment Relations Commission and the Gaming Board are the only multi-member commission-type bodies where the statutes provide for the appointment of an executive assistant to the chairperson. However, only the PSC and the Gaming Board actually have had such a position authorized by the Legislature. Further, the budget bill would delete this authority for the Gaming Board as part of the reorganization proposed for that body. Other multi-member commissions, such as the Labor and Industry Review Commission and the Personnel Commission, have no executive assistants provided to any of their commissioners. The argument can be made that if the Committee chooses to authorize executive assistants for each of the PSC commissioners, this action could prove to be a precedent for similar staffing requests by other commissions.

16. If, on balance, the Committee believes that providing additional executive assistants to the nonchair members of the PSC would assist them in dealing with an increasingly complex caseload, it could approve the Governor's recommendations. However, if the Committee finds that the preceding discussion of Commission workload, the potential uses of executive assistants, the availability of other staff at the Commission, budgetary consequences of the proposal and the potential for establishing a precedent leading to other executive assistant

requests have merit, the Committee could maintain current law, thereby retaining a single executive assistant assigned to the chair of the PSC.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.

2. Maintain current law. [This action would result in the deletion of 2.0 unclassified positions for the agency from the budget and the retention of 2.0 classified positions.]

Prepared by: Tony Mason

MO# P692 Alt#2

JENSEN	Y	(N)	A
OURADA	Y	(N)	A
HARSDORF	(Y)	N	A
ALBERS	Y	(N)	A
GARD	Y	(N)	A
KAUFERT	Y	(N)	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A
BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	Y	(N)	A
JAUCH	(Y)	N	A
WINEKE	Y	(N)	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A

AYE 9 NO 1 ABS____

PASS

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Increased Assessment of Wisconsin Railroads to Fund Railroad Crossing Safety Improvements (PSC)

[LFB Summary: Page 501, #7]

CURRENT LAW

The Office of the Commissioner of Railroads (OCR), which is attached administratively to the Public Service Commission, annually collects direct assessments attributable to its investigations of individual railroads and then levies a remainder assessment on all railroads operating in the state sufficient to cover the net remaining unfunded costs of the Office's operations. The assessments to fund the costs of OCR's operations constitute 90% of the amounts collected. An additional 10% is applied to all remainder (and direct) assessments and is deposited to the general fund to support the costs of state government administrative services provided to the OCR. The annual total of the remainder assessment plus the 10% surcharge currently may not exceed 1.75% of railroads' prior year gross operating revenues derived from intrastate operations.

OCR's total base level costs supported through direct and remainder assessments amount to $377,000 PR annually. GPR-Earned collections on this amount are $41,900 annually.

GOVERNOR

After calculating any direct assessments attributable to investigations of individual railroads, require OCR to levy, effective July 1, 1998, an additional annual assessment such that the total of all direct and indirect assessments is equal to 1.75% of railroads' prior year gross operating revenues derived from intrastate operations. Following the apportionment of these total

assessment revenues to fund OCR's operations and the 10% surcharge for the general fund, direct that the remaining balance be credited to a new PR-funded appropriation under the Department of Transportation (DOT) and be used to fund additional railroad crossing protection improvements. It is estimated that $198,600 PR would be credited to this new appropriation in 1998-99, based on current levels of railroad intrastate operating revenues and OCR's budgeted 1998-99 expenditure authority.

DISCUSSION POINTS

1. OCR, which has as its primary duty ensuring the safety of railroad crossings, and the DOT are the two state agencies involved in safety issues related to the more than 4,800 public, at-grade crossings in the state. OCR's current responsibilities (which include investigations of the adequacy of signage, safety and protective devices at railroad crossings of highways and the opening or alteration of new crossings) require investigations and the issuance of orders which are binding on the parties and may involve the commitment of funds for railroad crossing safety equipment installation.

2. Although each agency has railroad safety-related functions, DOT staff generally (though not exclusively) have responsibility for identifying safety needs at railroad crossings on the state highway system, and OCR staff are mostly (but not exclusively) concerned with railroad crossings on county and local roads. A January, 1996, review of these functions by the Legislative Audit Bureau determined that in recent years, DOT typically identifies about 10 crossings annually on the state highway system in need of safety equipment improvements and the OCR typically identifies 20 to 25 such crossings annually.

3. Whether a project is identified by DOT staff or OCR staff, crossing safety equipment installation costs are funded through DOT. Railroad companies are required to install the necessary safety equipment at a crossing. Claims for reimbursement of these costs are submitted to OCR for review and are then forwarded to DOT for 100% reimbursement from the following appropriations:

- $1,849,300 FED in base level federal funding designated by the Federal Highway Administration for railroad safety equipment [s. 20.395(2)(gx)]; and

- $450,000 SEG in base level state funding from the transportation fund for railroad safety equipment [s. 20.395(2)(gr)].

4. The budget bill would continue base level funding in each of these appropriations in each fiscal year of the 1997-99 biennium.

5. OCR typically directs the funding of railroad crossing safety equipment installation projects from the federal funds under the s. 20.395(2)(gx) appropriation. The projects supported

from this federal appropriation also require a 20% state match, supplied from the $450,000 of state funds available under the s. 20.395(2)(gr) appropriation. The OCR may also use this latter appropriation as the exclusive funding source for emergency and relatively small scale projects. Since the cost of safety equipment at a single crossing may range from minimal expense for signs, to $60,000 for the installation of warning lights and to more than $125,000 for flashing lights, multiple barrier gates and preemptive traffic light controls, many safety projects must be placed on a waiting list pending the availability of sufficient funds from the two appropriations cited above. As of February 1, 1997, OCR had 19 projects on its waiting list with estimated total project costs of $1.26 million.

6. The primary rationale for requiring the maximum annual assessment of 1.75% of railroad companies' gross revenues from Wisconsin operations is that the additional monies in excess of the amounts necessary to fund OCR's administrative costs could be used to fund an increased number of railroad crossing safety equipment installation projects, thereby helping to reduce current waiting list backlogs.

7. In deciding whether or not to provide for a required 1.75% maximum annual assessment, the Committee could consider the following issues:

• *Federal Preemption.* The Audit Bureau's review of DOT and OCR railroad crossing safety functions raised the possibility of requiring OCR's annual assessment to equal the current 1.75% assessment cap. However, the audit also noted that "[a]lthough it may appear reasonable to require railroad companies to provide a portion of the funding for safety equipment improvement, since railroad improvements reduce the railroad companies' potential accident liability, federal law prohibits the state from requiring railroad companies to provide funds for signal equipment installation." Federal Highway Administration regulations [23 CFR 646.210(a) and (b)(1)] provide that any federally assisted crossing improvements are "deemed to be of no ascertainable net benefit to railroads and *there shall be no required railroad share of such costs*" (emphasis added). Further, it is specified that any state laws "requiring railroads to share in the cost of work for the elimination of hazards at railroad-highway crossings shall not apply" to any federally aided projects. Thus, any monies derived from an increased assessment could not be used for any project in which there would be federal-state cost sharing. While such funds could presumably be used for projects funded exclusively with state funds, it is likely that based on current costs no more than two to three additional projects could be supported annually from the projected available revenues.

• *Purpose of the Current Assessment Mechanism.* Prior to the enactment of 1995 Wisconsin Act 27, the maximum annual assessment of railroad companies to support OCR's administrative costs was limited to 0.8% of railroads' prior year gross operating revenues derived from intrastate operations. Given OCR's budgeted expenditure authority at the time and the level of railroad revenues from Wisconsin operations, OCR was unable to assess sufficient funds to fully support its activities. During deliberations on the 1995-97 biennial budget, railroads with Wisconsin operations indicated a willingness to increase the assessment cap to 1.75% for the

purpose of supporting the direct operation of OCR. At least some railroads have indicated that it was their understanding that the increased assessment cap would be used only to support the costs of the operation of the Office. Presumably, they would not support the expanded use of a mandatory 1.75% assessment to fund a new railroad crossing safety equipment appropriation under DOT.

• *Impact on Water Carriers.* Current law defines "water carriers" (such as the intrastate passenger ferries serving Washington Island and Madeline Island) as railroads. These entities would, therefore, be subject to the increased mandatory assessment (they currently are assessed a proportionate share to support OCR's administrative costs) for the exclusive purpose of supporting railroad crossing safety improvements. Based on current annual intrastate operating revenues of these entities ($1.28 million), the proposed mandatory 1.75% assessment would result in an additional assessment of approximately $7,800 from these ferry lines for railroad crossing safety equipment projects.

8. It could be argued that the above issues constitute sufficient reason not to adopt the proposed expansion of the assessment mechanism. The Committee could delete the proposed language and the separate appropriation for this purpose in DOT. Under this alternative, GPR-Earned collections associated with OCR's budgeted administrative costs would also be reduced by $1,300 in 1997-98 and $10,500 in 1998-99.

9. However, if the Committee believes that the Governor's recommendation should be adopted to provide additional funding for at least those crossing safety equipment projects that are exclusively state funded, a modification should be adopted to enable OCR's administrative costs to be fully funded. As the provision in the budget bill is currently drafted, only 90% of OCR's administrative costs would be funded, with an additional 10% (representing the unfunded portion of OCR's costs) being deposited to the general fund. The assessment mechanism under the Governor's recommendation should be modified to provide a funding level sufficient to fully fund the Office's operations plus an additional 10% to provide for the required deposit to the general fund. Under this modification, a total of $141,300 (rather than $198,600) would be available to credit to the new PR-funded appropriation under the DOT for additional railroad crossing protection improvements. GPR-Earned collections associated with OCR's budgeted administrative costs would also be reduced by $1,300 in 1997-98 and increased by $5,200 in 1998-99.

ALTERNATIVES TO BILL

1. Modify the Governor's recommendation to provide an assessment mechanism sufficient to fully fund OCR's operations and provide for the required deposit to the general fund of an amount equal to 10% of the total required assessment. Further, adjust GPR-Earned collections associated with OCR's budgeted level of administrative costs by -$1,300 in 1997-98 and $5,200 in 1998-99.

Senator Cowles

PUBLIC SERVICE COMMISSION

Increased Staffing for the Office of the Commissioner of Railroads

Motion:

Move to provide $85,100 PR in 1997-98 and $100,100 PR in 1998-99 and 2.0 PR regulation compliance investigator positions and 0.5 PR program assistant position in the Office of the Commissioner of Railroads. Increase GPR-Earned estimates by $9,500 in 1997-98.

Note:

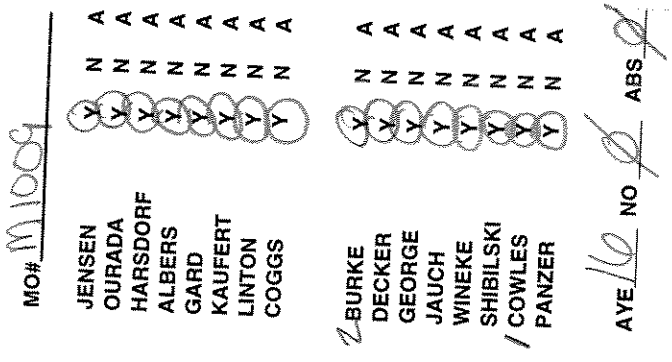
This motion would provide 2.0 FTE investigator positions at the Commission to undertake signal inspections and track and hazardous materials inspections. An existing 0.5 FTE program assistant position would be increased to a full-time position. Current base level funding for the Office of the Commissioner of Railroads is $377,000 PR and 5.5 PR positions annually.

Under the bill, effective July 1, 1998, railroads would be assessed an amount equal to 1.75% of their prior year revenues derived from intrastate operations. After deducting the costs of operation of the Office, the net remaining assessment amounts would be transferred to DOT to fund a new railroad crossing improvement appropriation. It is estimated under the bill that $198,600 PR would be transferred to that appropriation. This motion would reduce the estimated amount transferred by $100,100, to 98,500 PR.

The increased assessment required to support the additional positions for the Office in 1997-98 would result in additional GPR-Earned collections of $9,500. Since there would already be a mandatory 1.75% assessment under the bill in 1998-99, no additional assessment would result under this motion in that year. Consequently, there would be no change to GPR-Earned collections in that fiscal year under this motion.

[Change to Bill: $185,200 PR and 2.5 PR positions; $9,500 GPR Earned]

Motion #1009



Alternative 1	GPR
1997-99 REVENUE (Change to Bill)	$3,900

2. Maintain current law.

Alternative 2	GPR
1997-99 REVENUE (Change to Bill)	- $11,800

Prepared by: Tony Mason

MO# Alt #2 p1&3

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
1 SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 14 NO 2 ABS ___

PUBLIC SERVICE COMMISSION

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
1	Standard Budget Adjustments
3	Public Hearings Facilities Expansion
8	Fees for Commission Investigations and Public Hearings Transcripts

LFB Summary Item to be Addressed in a Subsequent Paper

Item #	Title
5	Modifications to the Current Status and Purposes of the Universal Service Fund