

2009 LRB-1897
Executive Budget Bill
Analysis Draft

“/P2” → “/P3”

INSERTS

42-A:1

DOA:.....Gauger - Contributory negligence

FOR 2009-11 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

CIRCUIT COURTS

X Under current law, ^athe court is required to instruct the jury on the law involved in the case before the jury. In addition, the court provides the jury with a complete set of written instructions that provide ^sthe burden of proof and the substantial law to be applied ^yto the case. This bill adds a requirement ^yin civil actions involving contributory negligence ^ythat the court explain to the jury the effect on awards and liabilities of the percentage of negligence found by the jury to be attributable to each party.

X Under current law, in a civil ^{the}action involving negligence, the injured party may recover damages resulting from negligence of another person if the injured party's negligence is not greater than the negligence of the person against whom recovery is sought. Currently, ^ythe negligence of the person seeking recovery is measured separately against the negligence of each person whose negligence caused the damages. If the causal negligence of the person against whom recovery is sought is less than 51 percent of the total negligence, that person's liability is limited to the percentage of negligence attributable to that person. Currently, if the person's causal negligence is 51 percent or more of the total negligence, that person is jointly and severally liable for the damages, which means that the person may be liable for all of the damages, reduced by the percentage of negligence attributable to the person

~~Analysis Form - 1919/P1X~~

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42 - A : 2

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seeking recovery. Current law also provides that if two or more parties act in concert, those parties are jointly and severally liable for all of the damages resulting from that action, except punitive damages. *eliminates*

This bill ~~removes~~ the provision regarding persons acting in concert, the provision that the negligence of the person seeking recovery is compared to each person who was negligent separately, the provision that the liability of a person who is less than 51 percent negligent is limited to that person's percentage of the total negligence, and the provision that the liability of a person whose causal negligence is 51 percent or more is jointly and severally liable. Instead, the bill allows ^{an} ~~a~~ person ~~injured~~ ^{injured} to recover damages if that person's negligence is not greater than the combined negligence of all of the person ^s against whom recovery is sought. The bill also provides that any person whose causal negligence is equal to or greater than the causal negligence of the person seeking recovery is jointly and severally liable for the damages awarded to the person seeking recovery.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 805.13 (4) of the statutes is amended to read:

805.13 (4) INSTRUCTION. The court shall instruct the jury before or after closing arguments of counsel. Failure to object to a material variance or omission between the instructions given and the instructions proposed does not constitute a waiver of error. The court shall provide the jury with one complete set of written instructions providing the burden of proof and the substantive law to be applied to the case to be decided. In a civil action involving contributory negligence, the court shall explain to the jury the effect on awards and liabilities of the percentage of negligence found by the jury to be attributable to each party.

SECTION 2. 895.045 (1) (title) of the statutes is repealed.

SECTION 3. 895.045 (1) of the statutes is renumbered 895.045 and amended to read:

895.045 Contributory negligence. Contributory negligence does not bar recovery in an action by any person or the person's legal representative to recover



50A

DOA:.....Skwarczek, BB0552 - Calculation of June 2009 and 2009-2011
state aid

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to: the budget.**

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

This bill directs DPI to use the federal funds received by the state pursuant to the American Recovery and Reinvestment Act of 2009 to make state aid payments to schools in June 2009 and in the 2009-10 and 2010-11 fiscal years. The bill lapses to the general fund \$109,000,000 in state school aids in the 2008-09 fiscal year.

The bill also directs the secretary of administration, in formulating the 2011-13 biennial budget bill, to assume that the base level of funding for general school aid in the 2011-13 fiscal biennium is the amount of general school aid appropriated in the 2010-11 fiscal year plus the amount of federal aid distributed as school aid in the 2010-11 fiscal year.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

82A

DOA:.....Miner, BB0265 - Great Lakes Compact and water use fees
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Under current law, DNR conducts activities related to the withdrawal and use of water in this state, including activities to implement the Great Lakes Water Resources Compact.

This bill establishes three fees, to be paid beginning in 2011, that DNR may use for activities related to water use, including activities to implement the Great Lakes Water Resources Compact. The first is an annual fee to be paid by a person with a water supply system anywhere in this state with the capacity to withdraw 100,000 gallons or more per day. The fee is \$125, except that DNR may modify the amount of the fee by rule.

The second fee is imposed on a person who withdraws more than 50,000,000 gallons of water from the Great Lakes basin in a year. DNR specifies the amount of this fee by rule.

Current law requires a person who intends to transfer (divert) water out of the Great Lakes basin to apply to DNR. The law provides that water may be diverted out of the basin only for the purpose of providing water to the public. The third water use fee established in the bill is a fee of \$5,000 that must be paid by a person applying for approval of a diversion out of the Great Lakes basin.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1643/6ins
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The Group Insurance Board

172 A

Insert Analysis:

RETIREMENT AND GROUP INSURANCE

Currently, (GIB) must contract on behalf of the state to provide health care coverage to state employees. Other public sector employers may also participate in other programs offered by GIB to provide health care coverage for their employees. ~~The~~ bill permits school districts to offer to all of its employees health care coverage under one of the plans for state employees.

Insert 2-1:

SECTION 1. 40.51 (6) of the statutes is renumbered 40.51 (6) (a).

SECTION 2. 40.51 (6) (b) of the statutes is created to read:

40.51 (6) (b) Beginning on January 1, 2010, a school district may offer to all of its employees health care coverage under one of the plans under par. (a). The group insurance board shall design the plans under par. (a) so as to permit school districts to provide health care coverage for their employees under the plans.

This

DOA:.....Hynek, BB0527 – Shared revenue reduction allocation

FOR 2009-11 BUDGET – NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

SHARED REVENUE

This bill reduces the amount of county and municipal aid payments in 2010 by ~~\$58,547,000~~ ^{1 percent}. The reduction in total payments is allocated to counties and municipalities in proportion to the equalized value of the property located in the county or municipality. In 2011, and in each subsequent year, the amount of the county and municipal aid payment that each county and municipality receives is the same as the amount received in 2010.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 79.02 (4) of the statutes is created to read:

3 79.02 (4) (a) For the payments in 2010, subject to par. (c) 1., the amount of the
4 payment to each county from the county and municipal aid account shall be reduced
5 by an amount determined as follows:

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P. 173

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189A

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1492/lins
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-1492/1

subhead
OTHER STATE
GOVERNMENT

Inset DP
Budget analysis insert

KJP
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2/6

This bill provides requirements for forming a legal relationship of domestic partnership. Under the bill, a domestic partnership may be formed by two individuals who are at least 18 years old, are not married or in another domestic partnership, share a common residence, are not be nearer of kin than second cousins, and are members of the same sex.

To form a domestic partnership, the individuals apply for a declaration of domestic partnership to the county clerk of the county in which at least one of them has resided for at least 30 days. Each applicant must submit proof of identification and exhibit to the clerk a certified copy of his or her birth certificate, as well as any other document affecting the domestic partnership status, such as a death certificate or a certificate of termination of domestic partnership. If the parties fulfill all of the requirements for forming a domestic partnership, the clerk issues a declaration of domestic partnership, which the parties must complete and submit to the register of deeds of the county in which they reside. The register of deeds must record the declaration and send the original to the state registrar of vital statistics.

To terminate a domestic partnership, at least one of the domestic partners must file with the county clerk a notice of termination of domestic partnership. If only one



189A:2

of the domestic partners signs the notice, he or she must also file an affidavit stating either of the following: ✓ 1) that he or she has served the other domestic partner with notice that he or she is going to file a notice of termination of domestic partnership; or 2) that he or she has been unable to locate the other domestic partner and has published a notice in a newspaper of general circulation in the county in which the latest common residence of the domestic partners is located. Upon receipt of a notice of termination, the clerk issues a certificate of termination of domestic partnership, which must be recorded in the office of the register of deeds, who sends the original to the state registrar of vital statistics. Termination of the domestic partnership is effective 90 days after the certificate of termination of domestic partnership is recorded in the office of the register of deeds. However, if one or both domestic partners enters into a marriage that is valid in the state, the domestic partnership is automatically terminated on the date of the marriage.

(end of insert )
189A

DOA:.....Byrnes, BB???? - Photo enforcement of speed and stoplight violations

FOR 2009-11 BUDGET - NOT READY FOR INTRODUCTION

INSERT 226 - ARG

1 AN ACT ... relating to: the budget.

Analysis by the Legislative Reference Bureau

-1921/1

TRANSPORTATION
DRIVERS AND MOTOR VEHICLES

Under current law, law enforcement officers are prohibited from using any radar device combined with photographic identification of a vehicle (photo radar speed detection) to determine compliance with motor vehicle speed limits. Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating certain traffic laws, including illegally passing a school bus or fire truck, illegally crossing a railroad crossing or controlled school crossing, and failing to yield the right-of-way to an emergency vehicle or a funeral procession.

This bill allows state and local law enforcement agencies to use photo radar speed detection to identify speed limit violations in highway work zones (work zone speed violations). The bill also allows DOT and local authorities to use traffic control photographic systems to identify motor vehicles that fail to stop at red traffic signals at intersections (red light violations). ~~The bill imposes liability~~ on the owner of a vehicle involved in a work zone speed violation detected through photo radar speed detection or involved in a red light violation detected by a traffic control photographic system. ~~If a traffic officer prepares a uniform traffic citation for such a violation within 72 hours after the violation and sends to the owner of the vehicle, by certified~~

msr.t 226 ARG

Subject to certain defenses, the bill allows liability to be imposed
(end ins 226 ARG)

233A

DOA:.....Byrnes, BB0453 - Increase driver abstract fee
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Insert

1 AN ACT ... relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

-1653/2

Insert
233A

Under current law, DOT must, upon request by any person, furnish an abstract of the operating record of any person. DOT must charge the following fees for searches of vehicle operators' records: \$5 for any file search, \$5 for any computerized search, and \$6 or a monthly rate determined by DOT for any search requested by telephone. Under this bill, DOT must charge \$2 for providing a paper copy of an abstract. Also under this bill, DOT is prohibited from charging the fee for a computerized search or for a search requested by telephone to any governmental unit.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

~~The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:~~

2 SECTION 1. 343.24 (2) (intro.) of the statutes is amended to read: