

2011 DRAFTING REQUEST

Bill

Received: 02/14/2011

Received By: **jkuesel**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget**

By/Representing: **Frederick**

May Contact:

Drafter: **jkuesel**

Subject: **State Finance - claims agnst st
State Govt - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Frederick, BB0340 -

Topic:

Liability resulting from MN/WI interchange of employees and services

Instructions:

Per attached E mail, 2/14/11.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 02/15/2011	wjackson 02/15/2011		_____			
/1			phenry 02/15/2011	_____	lparisi 02/15/2011		

FE Sent For:

<END>

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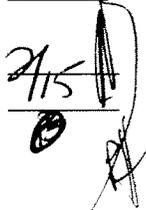
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12/11	jkuesel 2/12/11	1 WLj 2/15	2/15 ph	2/15 			

FE Sent For:

<END>

Kuesel, Jeffery

To: Hanaman, Cathlene
Cc: Frederick, Caitlin - DOA
Subject: RE: BB0340 (Liability resulting from MN/WI interchange of employees & services)

Cathlene,

Yes. I will try to work up something. I will enter it tonight but the drafting will need to wait until tomorrow. I need to find a copy of the Doyle executive order and go over it.

Jeff

From: Hanaman, Cathlene
Sent: Monday, February 14, 2011 1:22 PM
To: Kuesel, Jeffery
Subject: FW: BB0340 (Liability resulting from MN/WI interchange of employees & services)

Jeff:

Do you agree with Caitlin?

From: Frederick, Caitlin - DOA
Sent: Monday, February 14, 2011 11:52 AM
To: Kraus, Jennifer - DOA
Subject: RE: BB0340 (Liability resulting from MN/WI interchange of employees & services)

I was under the impression through initial conversations that a draft could be written up which omitted the specific executive order reference and instead refer to prospective signed agreements. Rolling Boeding indicated that agreements would be created at the time any cooperative purchasing or other interstate programs would occur.

From: Hanaman, Cathlene [<mailto:Cathlene.Hanaman@legis.wisconsin.gov>]
Sent: Monday, February 14, 2011 10:52 AM
To: Kraus, Jennifer - DOA
Subject: FW: BB0340 (Liability resulting from MN/WI interchange of employees & services)

From: Kuesel, Jeffery
Sent: Tuesday, February 08, 2011 1:25 PM
To: Hanaman, Cathlene
Cc: Hurley, Peggy
Subject: BB0340 (Liability resulting from MN/WI interchange of employees & services)

Cathlene,

I have talked with Caitlin Frederick about this request and I told her that I am not entering BB0340 because the draft hooks into an expired agreement between Gov. Doyle and Gov. Pawlenty. To address the liability issue, we first need a new agreement between the current governors of both states. Caitlin understands and is investigating to see if a new agreement between the current governors is being discussed.

I will hold onto the request in case there are any future developments.

Jeff



LFB:.....Renner – Liability, representation, and expenses under E.O. 272

**FOR 2009-11 BUDGET – NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 75**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1694, line 10: after that line insert:

3 “(2f) LIABILITY, REPRESENTATION, AND EXPENSES ARISING FROM AGREEMENTS WITH
4 MINNESOTA.

5 (a) For purposes of sections 893.80 and 895.46 of the statutes, any employee of
6 the state of Minnesota performing services for this state pursuant to an agreement
7 made under executive order number 272, dated January 13, 2009, is considered to
8 have the same status as an employee of this state performing the same services for
9 this state, and any employee of this state who performs services for the state of
10 Minnesota pursuant to such an agreement is considered to have the same status as
11 when performing the same services for this state in any action brought under the
12 laws of this state.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1448/?

JTK.....

Wly

Tue 2/15

DOA:.....Frederick, BB0340 - Liability resulting from MN/WI interchange of employees and services

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

LPS:
Please
check extra
spaces.

Do Not Gen

1 AN ACT ...; relating to: liability, legal representation and expenses resulting
2 from interchange of employees and services between this state and the state of
3 Minnesota.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, with limited exceptions, any person who brings a civil lawsuit against a state employee on account of any act growing out of or committed in the course of the employee's duties must give the attorney general notice of the claim within 120 days of the act giving rise to the lawsuit, and liability is limited to \$250,000. In addition, with certain limitations, this state must pay damages assessed against a state employee for acts committed while carrying out his or her duties as an employee within the scope of employment.

This bill provides that if this state enters into a valid agreement with the state of Minnesota providing for interchange of employees or services, any employee of the state of Minnesota who is named as a defendant in any civil lawsuit brought under Wisconsin law as a result of performing services for this state under such an agreement, and any employee of this state who is named as defendant as a result of performing services for the state of Minnesota under such an agreement is

*

a

3

considered to have the same status as when performing the same services for this state in any civil lawsuit brought under the laws of this state for purposes of notice of claim requirements and liability limitations. In addition, the bill provides that any employee of the state of Minnesota who is named as a defendant in a civil lawsuit and who is found liable as a result of performing services for this state under such an agreement shall be indemnified by this state to the same extent as an employee of this state performing the same services for this state under Wisconsin law. The bill also directs DOJ to represent any employee of the state of Minnesota who is named as a defendant in any civil lawsuit brought under Wisconsin law as a result of performing services for this state under such an agreement and any employee of this state who is named as a defendant as a result of performing services for the state of Minnesota under such an agreement in any civil lawsuit brought under Wisconsin law. In addition, the bill permits the attorney general to compromise and settle any such lawsuit in accordance with current law permitting such compromises and settlements.

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

SECTION 1. 165.25 (12) of the statutes is created to read:

165.25 (12) REPRESENTATION ARISING FROM AGREEMENTS WITH MINNESOTA. Represent any employee of the state of Minnesota who is named as a defendant in any civil action brought under the laws of this state as a result of performing services for this state under a valid agreement between this state and the state of Minnesota providing for interchange of employees or services and any employee of this state who is named as a defendant as a result of performing services for the state of Minnesota under such an agreement in any action brought under the laws of this state. Witness fees in any action specified in this subsection shall be paid in the same manner as provided in s. 885.07. The attorney general may compromise and settle any action specified in this subsection to the same extent as provided in s. ^{Sub.} ~~165.25~~ (6) (a).

SECTION 2. 893.82 (9) of the statutes is created to read:

893.82 (9) For purposes of this section, any employee of the state of Minnesota performing services for this state pursuant to a valid agreement between this state

1 and the state of Minnesota providing for interchange of employees or services is
2 considered to have the same status as an employee of this state performing the same
3 services for this state, and any employee of this state who performs services for the
4 state of Minnesota pursuant to such an agreement is considered to have the same
5 status as when performing the same services for this state in any action brought
6 under the laws of this state.

7 **SECTION 3.** 895.46 (10)[↓] of the statutes is created to read:

8 895.46 (10) Any employee of the state of Minnesota who is named as a
9 defendant and who is found liable as a result of performing services for this state
10 under a valid agreement between this state and the state of Minnesota providing for
11 interchange of employees or services shall be indemnified by this state to the same
12 extent as an employee of this state performing the same services for this state
13 pursuant to this section.

14 (END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1448/1
JTK:wlj:ph

DOA:.....Frederick, BB0340 - Liability resulting from MN/WI interchange
of employees and services

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT** ...; **relating to:** liability, legal representation and expenses resulting from
2 interchange of employees and services between this state and the state of
3 Minnesota.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, with limited exceptions, any person who brings a civil lawsuit against a state employee on account of any act growing out of or committed in the course of the employee's duties must give the attorney general notice of the claim within 120 days of the act giving rise to the lawsuit, and liability is limited to \$250,000. In addition, with certain limitations, this state must pay damages assessed against a state employee for acts committed while carrying out his or her duties as an employee within the scope of employment.

This bill provides that if this state enters into a valid agreement with the state of Minnesota providing for interchange of employees or services, any employee of the state of Minnesota who is named as a defendant in any civil lawsuit brought under Wisconsin law as a result of performing services for this state under such an agreement and any employee of this state who is named as a defendant as a result of performing services for the state of Minnesota under such an agreement, is

considered to have the same status as when performing the same services for this state in any civil lawsuit brought under the laws of this state for purposes of notice of claim requirements and liability limitations. In addition, the bill provides that any employee of the state of Minnesota who is named as a defendant in a civil lawsuit and who is found liable as a result of performing services for this state under such an agreement shall be indemnified by this state to the same extent as an employee of this state performing the same services for this state under Wisconsin law. The bill also directs DOJ to represent any employee of the state of Minnesota who is named as a defendant in any civil lawsuit brought under Wisconsin law as a result of performing services for this state under such an agreement and any employee of this state who is named as a defendant as a result of performing services for the state of Minnesota under such an agreement in any civil lawsuit brought under Wisconsin law. In addition, the bill permits the attorney general to compromise and settle any such lawsuit in accordance with current law permitting such compromises and settlements.

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:

1 **SECTION 1.** 165.25 (12) of the statutes is created to read:

2 165.25 (12) REPRESENTATION ARISING FROM AGREEMENTS WITH MINNESOTA.

3 Represent any employee of the state of Minnesota who is named as a defendant in

4 any civil action brought under the laws of this state as a result of performing services

5 for this state under a valid agreement between this state and the state of Minnesota

6 providing for interchange of employees or services and any employee of this state who

7 is named as a defendant as a result of performing services for the state of Minnesota

8 under such an agreement in any action brought under the laws of this state. Witness

9 fees in any action specified in this subsection shall be paid in the same manner as

10 provided in s. 885.07. The attorney general may compromise and settle any action

11 specified in this subsection to the same extent as provided in sub. (6) (a).

12 **SECTION 2.** 893.82 (9) of the statutes is created to read:

