



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 770

**Assembly Substitute
Amendment 1**

Memo published: December 13, 2005

Contact: Philip G. Cardis, Staff Attorney (267-0683)

Assembly Substitute Amendment 1 to Assembly Bill 770 creates the Wisconsin Aerospace Authority (WAA) and authorizes WAA to develop spaceports, spacecraft, and other aerospace facilities in this state, to provide spaceport and aerospace services and allow use of spaceport and aerospace facilities by others, to promote the aerospace industry in this state, and to provide public-private coordination for the aerospace industry in this state. An authority is a public body created by state law that is not a state agency.

Under the **substitute amendment**, the board of directors of WAA consists of nine members. Six members of the board are appointed by the Governor with the advice and consent of the Senate for three year terms. One member is appointed by the President of the Senate and one member is appointed by the Speaker of the Assembly, each for a three year term. Each of these eight members must be a resident of this state and must have experience in the aerospace, education, finance, or commercial space industry or other significant experience related to the functions of WAA. The ninth member of the board is the director of the Wisconsin Space Grant Consortium. A board member appointed by the Governor may be removed from the board for cause and a board member appointed by the Legislature is required to be removed from the board for two consecutive unapproved absences from board meetings. Board members are not compensated for their services, but receive reimbursement for actual and necessary expenses. The board must appoint an executive director, who may not be a member of the board and who may receive compensation for his or her services.

The **substitute amendment** provides WAA with numerous powers, including authorizing WAA to do all of the following:

1. Design, develop, and operate spaceports, aerospace facilities, and spacecraft, including establishing a spaceport in the City of Sheboygan.
2. Design, develop, and operate programs and projects, and provide services, related to spaceports, aerospace facilities, and spacecraft.

3. Acquire and dispose of real property, personal property, and intangible property rights and enter into contracts.
4. Issue bonds to fund any spaceport, facility, or service of WAA.
5. Exercise the right of eminent domain.
6. Maintain exclusive jurisdiction (except where federal or state law provides otherwise) over WAA spaceports.
7. Cooperate with other governmental units in furnishing any facility or service, including fire and police protection at a spaceport.

The **substitute amendment** also imposes a number of duties on WAA, including requiring WAA to do all of the following:

1. Promote the aerospace industry in this state, including advertising and promotion of WAA facilities and services and development, promotion, and attraction of space-related business in this state.
2. Provide and promote aerospace services, information, and business opportunities in this state.
3. Coordinate efforts of various governmental units and private parties interested in the promotion of space-related industry.
4. Develop a business plan to promote and facilitate spaceport-related educational and commercial development and to stimulate and improve aerospace science, design, technology, and research.
5. Annually report to the Governor and Legislature WAA's activities, receipts, expenditures, and financial condition; annually submit to the Department of Administration (DOA), for each fiscal year in which the authority receives operating revenues, an audited financial statement including detailed identification of funding sources; and submit once to DOA, and as DOA requests thereafter, a business plan, including proposed funding sources for capital expenditures by WAA, and estimate of costs and funding for design, development, and operation of initially planned spaceports, aerospace facilities, and spacecraft.

The **substitute amendment** authorizes WAA to issue bonds to carry out its functions if WAA submits a bond resolution to the Governor and Legislature and the Legislature's Joint Committee on Finance does not schedule a meeting within 14 days on the bond resolution or schedules such a meeting and approves the bond resolution. WAA's bonds are not state debt. The substitute amendment authorizes WAA to have no more than \$100,000,000 in outstanding bonds at any one time. The substitute amendment creates an individual and corporate income tax exemption for interest on bonds issued by WAA.

The **substitute amendment** creates state, federal, and local appropriations for the Department of Transportation (DOT) from the transportation fund for funding for WAA, but does not directly provide any funds. Under the substitute amendment, any project to acquire, construct, or improve a spaceport or

spaceport facility, other than a hangar, must be funded from these DOT appropriations and from WAA's own funds. DOT and WAA must share the cost of the project, except that DOT's share of costs is limited to a maximum of \$10,000,000 per project and is limited to 80% of the total project cost if federal aid is not available for the project or 50% of the total project cost in excess of federal aid if federal aid is available for the project. For each project, DOT determines the percentage of costs borne by DOT based on the relative importance of the project to any state spaceport development program as a whole.

Because WAA is not a state agency, numerous laws that apply to state agencies do not apply to WAA. However, as with many state-created authorities, WAA is treated like a state agency in the following respects, among others: 1) it is generally subject to the open records and open meetings laws; 2) it is treated like a state agency for purposes of the law regulating lobbying; 3) its employees may participate in the system for state retirement benefits and health insurance coverage; 4) it is exempt from sales and use taxes, property taxes, and income taxes; 5) its employees are subject to laws prohibiting political activities by state employees while engaged in official duties; 6) it is subject to auditing by the Legislative Audit Bureau and to access by the Legislative Fiscal Bureau; and 7) the Code of Ethics for Public Officials and Employees covers WAA.

WAA is unlike a state agency in many other ways, including: 1) it approves its own budget without going through the state budgetary process; 2) WAA employees are not state employees, are not included in the state system of personnel management, and are hired outside the state hiring system; 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules; 4) it keeps its operating fund in its own account outside of the State Treasury; and 5) the state is not liable for any debt, obligation, or act of WAA and WAA expenses are paid from WAA's own funds.

The **substitute amendment** also expands certain provisions of law currently applicable only to airports and aircraft to apply to spaceports and spacecraft as well. These changes include: 1) treating aircraft and spacecraft similarly with regard to certain aspects of civil and criminal liability; 2) recognizing the authority of a county or municipality to establish, own, and operate a spaceport or spacecraft launch or landing area in the same manner as a county or municipal airport, landing field, or landing and take-off strip, including the right of condemnation and the right to protect aerial approaches; and 3) expanding an existing loan program administered by DOT to facilitate acquisition by local governments or airport owners of land for airport projects to include spaceport projects as well, but with a maximum total outstanding balance of loans for spaceport projects of \$10,000,000 rather than the \$6,500,000 for airport projects and with a different funding source.

Legislative History

On December 6, 2005, the Joint Committee on Finance recommended adoption of Assembly Substitute Amendment 1, and passage of the bill, as amended, by a vote of Ayes, 13; Noes, 2.

PGC:ksm