



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #330

Repeal Qualified Economic Offer Provisions and Increased Commission Attorney Staffing (Employment Relations Commission and Public Instruction)

[LFB 2009-11 Budget Summary: Page 240, #4 and 5 and Page 526, #1]

CURRENT LAW

If a school district employer makes a qualified economic offer (QEO) to its professional teaching employees, the employer may avoid arbitration on unresolved economic issues in the employer's final offer. Under a valid QEO, the school district employer must maintain both the existing employee fringe benefits package and the district's percentage contribution effort to that package, subject to an overall new funding commitment of 1.7% of total compensation and fringe benefits costs. Where these new costs are less than 1.7%, the employer must pass on the difference between the lower costs and 1.7% as an additional component of the salary offer. Where the costs are more than 1.7%, the employer may reduce the amount of the salary offer by the amount of the overage. Subject to the fringe benefits additions or offsets, the employer must provide an annual average new funding commitment for all salary items of at least 2.1% of total compensation and fringe benefits costs. As a first draw against any increased salary funding provided under a QEO, the employer must pay seniority-based step increases to all employees eligible for such adjustments. Any additional salary costs associated with a promotion or the attainment of increased professional qualifications are funded outside the QEO.

The total amounts available for salary and fringe benefits increases for nonrepresented school district professional employees during any year is limited to the greater of: (a) an amount generated by multiplying 3.8% of the total prior year's cost of salaries and fringe benefits for such employees; or (b) the total average percentage increase in total salary and fringe benefits increases per employee provided by the school district for the most recent 12-month period ending on June 30 for its represented professional employees.

GOVERNOR

Delete current law provisions related to the QEO. Delete the provision limiting the total amounts available for salary and fringe benefits increases for nonrepresented school district professional employees. Delete the requirement that school district professional employees be placed in a collective bargaining unit that is separate from the units of other school district employees.

Specify that these provisions first apply to petitions for arbitration that relate to collective bargaining agreements that cover periods beginning on or after July 1, 2009, and that are filed for interest arbitration on the effective date of the bill.

Provide \$195,000 GPR and 2.0 GPR attorney positions in 2010-11 for increased staffing at the Wisconsin Employment Relations Commission (WERC). According to the Executive Budget Book, funding and positions are associated with the Governor's recommendation to repeal current statutory provisions relating to the qualified economic offer.

DISCUSSION POINTS

Repeal QEO Provisions

1. Provisions related to the QEO were enacted in the 1993-95 biennial budget act. Originally, these provisions were to sunset on July 1, 1996. However, the sunset was removed in the 1995-97 biennial budget act and the QEO provisions were made permanent.

2. The 1993-95 budget also imposed revenue limits on school districts for a five-year period. Revenue limits were also made permanent in the 1995-97 budget act. The 1993-95 budget adjustment act established the state's commitment to fund two-thirds of K-12 partial school revenues, which was first fully-funded in 1996-97.

3. The QEO, revenue limits, and two-thirds commitment were implemented in the early 1990s to work in tandem as part of a system for financing K-12 education. An annual increase in the two main sources of operational funding for districts (property taxes and general aids) would be provided under revenue limits, with the state providing an ongoing and significant portion of that increase through general aids under the two-thirds commitment. The QEO was intended to give districts a means to control teacher compensation costs to more easily stay within the revenue limits.

4. The state's two-thirds commitment was repealed in the 2003-05 budget act. Since 2003-04, state support of K-12 partial school revenues has ranged from 63.7% to 66.1%, with estimated state support under the bill of 64.2% in 2009-10 and 62.5% in 2010-11. With the proposed repeal of the QEO under the bill, revenue limits would be the only remaining component of the major modifications to the school finance system that were made in the early 1990s.

5. Under the bill, school district employers and their represented teaching employees would generally be covered under the statutory interest arbitration procedures currently applicable

to all other represented, nonprotective municipal employees in the state. The bill would, however, make other changes to collective bargaining for school district employees regarding the duration of collective bargaining agreements, the ability to combine collective bargaining units, and the weighting of factors considered in making arbitration awards. These bill provisions are discussed in a separate issue paper.

6. WERC is required by law to prescribe forms for calculating the total increased cost to a school district employer of compensation and fringe benefits provided to school district professional employees. Districts are required to provide its local teachers' union and WERC the completed form for calculating the total increased cost to the employer of compensation and fringe benefits provided to the professional employees covered by the collective bargaining agreement as soon as possible after the effective date of the agreement.

7. The form prescribed by WERC does not require a district to indicate whether a QEO was made to its professional teaching employees. Of the 215 districts that submitted the completed form to WERC in the manner prescribed for collective bargaining agreements in the 2005-07 biennium, 22 indicated that their agreement provided a combined increase of 3.8% of total compensation and fringe benefits costs in each year. It is not known how many of those 22 agreements resulted from imposing the QEO as opposed to a negotiation that resulted in those increases.

8. The Wisconsin Association of School Boards (WASB) tracks data on annual changes in teacher compensation in a manner generally consistent with the QEO costing forms prescribed by WERC. Table 1 shows, for three biennia, the number of districts that reported teacher compensation data to WASB and the number of districts in which teacher compensation costs increased by 3.8% annually in each year of the biennium. The majority of the other districts are above 3.8%, although some are below the 3.8%.

TABLE 1

WASB Teacher Compensation Data -- Districts with 3.8% Annual Increases

<u>Biennium</u>	<u>Districts Reporting</u>	<u>Districts with 3.8% Annual Increases</u>
2003-05	317	37
2005-07	296	39
2007-09	302	39

Similar to the WERC data, it is not known how many of the districts with 3.8% annual increases in each year of the indicated biennium reached that result from imposing the QEO as opposed to negotiating an agreement that resulted in those increases.

9. The Wisconsin Education Association Council (WEAC) also collects data on the number of districts that make a QEO to its local affiliates. Table 2 shows the number of districts that imposed a QEO in the indicated biennium, based on information provided by staff from WEAC. Districts in which a 3.8% annual increase in compensation was reached without making a

QEO would not be included in the table.

TABLE 2
WEAC Data on QEO Usage

<u>Biennium</u>	<u>Districts that Made a QEO</u>
1999-01	15
2001-03	51
2003-05	17
2005-07	10
2007-09	1

10. Opponents of the QEO have argued that the provision is fundamentally unfair to teachers because it places them under a restriction on collective bargaining that does not apply to other municipal employees and that it restricts the compensation increases they can receive. The QEO has been cited by opponents as contributing to reduced teacher morale and difficulty in attracting qualified candidates to pursue teaching careers.

11. Table 3 provides information on the average teacher salary in Wisconsin in five-year increments from 1986-87 to 2006-07 as reported by the American Federation of Teachers, based on their survey of state education departments. Also shown in the table is the rank of Wisconsin's average teacher salary among the 50 states for that year (with 1 being highest and 50 being lowest), as well as the percent that the average Wisconsin teacher salary was of the national average in that year. Over the time period shown, Wisconsin's rank and percentage of the national average have declined.

TABLE 3
Average Teacher Salary in Wisconsin

	<u>Average Salary</u>	<u>Rank Among the 50 States</u>	<u>WI as % of National Average</u>
1986-87	\$27,815	13	105%
1991-92	35,227	14	103
1996-97	37,878	19	99
2001-02	41,056	23	92
2006-07	46,707	26	92

12. Table 4 shows information on teacher salaries in Wisconsin and neighboring states in 1996-97 and 2006-07, based on the AFT data. The table shows the average salary of all teachers and beginning teachers in each state in both years and the percent that Wisconsin's average is of the highest and lowest figure in each category in both years. As shown in the table, Wisconsin ranked fourth of the five states in both categories in both years. Wisconsin's relative position on the overall

average salary was relatively unchanged over the decade, while the relative position with respect to the average beginning salary worsened.

TABLE 4

Average and Beginning Teacher Salary in Wisconsin and Neighboring States

	1996-97		2006-07	
	Average Salary	Beginning Salary	Average Salary	Beginning Salary
Illinois	\$42,339	\$27,210	\$58,275	\$38,363
Michigan	47,769	26,404	55,541	34,100
Minnesota	38,276	25,600	49,719	33,018
Wisconsin	37,878	24,830	46,707	31,588
Iowa	33,272	21,884	42,922	30,331
WI as % of Highest	79%	91%	80%	82%
WI as % of Lowest	114%	113%	109%	104%

13. Critics of the QEO have also argued that the provision has inhibited efforts to make innovative reforms to teacher salary structure. Given that the salary range structure, number of steps, requirements for attaining a step, or assignment of a position to a salary range may not be modified unilaterally under a QEO, it has been argued that school boards and teachers' unions have less incentive to deviate from the traditional teacher salary structure.

14. Similarly, it has been argued that the QEO restricts local flexibility and innovation on health insurance matters. The requirement that districts maintain the existing fringe benefits package under a QEO arguably reduces the incentive for school boards and teachers' unions to discuss other options for health care and fringe benefits packages. Further, to the extent that districts impose the QEO, this requirement can result in higher fringe benefits increases at the expense of salary increases.

15. Proponents of the QEO have argued that the provision is an important tool for school districts to control costs, given that they are under revenue limits. Based on data from WASB, from 1984-85 to 1992-93, the average per teacher settlement increase for districts that reported data ranged from 6.9% to 8.4%. From 1993-94 to 2008-09, the range was 3.7% to 4.9%.

16. Further, some school district officials have also argued that, rather than a ceiling, the QEO acts as a floor from which a district must begin to negotiate. The outcome of negotiations and arbitrations depends on many factors, one of which may be a desire by one or both of the parties to reach a particular percentage of compensation growth. As shown in Table 5, for districts reporting to WASB over the last six years, relatively few reported annual increases in compensation under 3.8%.

TABLE 5

WASB Teacher Compensation Data -- Districts with Annual Increases Under 3.8%

	<u>Districts Reporting</u>	<u>Districts with Annual Increases Under 3.8%</u>
2003-04	317	15
2004-05	315	25
2005-06	293	12
2006-07	296	13
2007-08	302	21
2008-09	291	18

17. In response to the assertion that that QEO has stifled innovation with respect to salary structure and health benefits, it has been argued that revenue limits represent an additional constraint to such efforts. To the extent that any reforms in those areas would require additional funding, districts would still be limited in their ability to generate that funding by revenue limits, even without the QEO provisions.

18. The ultimate effect of the repeal of the QEO under the bill would be dependent on the offers made in negotiation by school boards and teachers' unions in districts across the state, the settlements agreed to by both parties, and the decisions made by arbitrators in those instances were no agreement is reached, all of which are indeterminate.

19. One issue that has been raised regarding the repeal of the QEO is the effect on school district property taxes. The overall fiscal control on districts is revenue limits and not the QEO. The QEO was intended as a potential limitation on certain expenditures within the allowable limits. A district's revenue limit determines the maximum amount, absent an approved referendum, that the district may raise through the property tax and general aids. Districts would not be able to raise property taxes as a result of a repeal of the QEO provisions. Districts may, however, exceed the revenue limits by approval by the voters through referenda. Any property tax effect would be dependent on the decisions of school boards and local voters.

20. District officials have indicated that, to the extent that repeal of the QEO could result in larger increases in employee compensation, revenue limits would place additional pressure on the other operating expenses of districts, such as instructional materials, maintenance, and compensation for non-teaching staff. It has also been argued that, to the extent that repeal of the QEO results in higher total compensation expenses for teachers, it could require districts to employ fewer teachers to keep their expenses within the constraints imposed under revenue limits. This could, in turn, place greater pressure on maintaining revenue limits in the future.

21. One issue that has been raised regarding the QEO is the disparity between the increases allowed under revenue limits and the QEO. In 2008-09, the average statewide base revenue per pupil is \$9,332. The \$274.68 per pupil adjustment allowed under revenue limits in that year provides, on average, a 2.9% increase to the statewide base revenue per pupil. For the district with the highest base revenue per pupil (\$15,074), the per pupil adjustment provides a 1.8%

increase. For the district with the lowest base revenue per pupil (\$8,528), the adjustment provides a 3.2% increase. Table 6 shows the average statewide base revenue per pupil for each year since 2000-01, the per pupil adjustment for that year, and the percent increase the per pupil adjustment is to the average base revenue per pupil.

TABLE 6
Base Revenue and Per Pupil Adjustment

	Statewide Average Base Revenue Per Pupil	Per Pupil Adjustment	Per Pupil Adjustment as % of Base Revenue Per Pupil
2000-01	\$7,121	\$220.29	3.09%
2001-02	7,341	226.68	3.09
2002-03	7,599	230.08	3.03
2003-04	7,860	236.98	3.02
2004-05	8,127	241.01	2.97
2005-06	8,418	248.48	2.95
2006-07	8,710	256.93	2.95
2007-08	9,028	264.12	2.93
2008-09	9,332	274.68	2.94

22. The gap between the QEO percentage and the average percentage increase allowed under revenue limits could be addressed either by increasing the per pupil amount under revenue limits or by reducing the percentages under the QEO. Given the magnitude of the current budget deficit, an alternative to address the gap is identified that would modify the various percentages involved in implementing a QEO to better conform to the per pupil increase allowed under revenue limits. Under this option (Alternative A2), the overall percentage limit required for a QEO would be set at 2.9%. This required increase would, on a statewide basis, conform the allowable increase under the QEO to the allowable increase under revenue limits. To maintain the current proportion of fringe benefits and salary increases required under a QEO, the required fringe benefit increase would be set at 1.3% and the required salary increase (subject to the current law fringe benefits additions or offsets) would be set at 1.6%. The specified percentage for salary and fringe benefits increases for nonrepresented school district professional employees would also be changed from 3.8% to 2.9%.

Increased Commission Attorney Staffing

23. The bill would provide \$195,000 GPR and 2.0 GPR attorney positions in 2010-11 for increased staffing at WERC. The Commission plays a key administrative role in all dispute resolution procedures, including mediation, fact-finding, grievance arbitration, and interest arbitration.

24. Prior to enactment of the QEO provisions in 1993, petitions to WERC relating to

teacher dispute resolution appear to have averaged approximately 158 cases per year between 1986 and 1993. Following the creation of QEO, the number of cases declined significantly. The data since 1998 now reflect all school district cases, which includes both teacher and non-teacher filings. In total, for the years 1998 through 2007, school district cases averaged 118 per year. Officials at WERC estimate that perhaps half of these cases are teacher-related. Based on this assumption, average teacher filings have declined from approximately 158 cases per year prior to the QEO to approximately 59 cases per year since 1998.

25. Based on these data trends, it is expected that WERC workload will increase significantly if the QEO provisions are repealed. Commission officials also anticipate a certain pent up demand reflecting many outstanding issues that have not been fully resolved since QEO was effected. The Commission expects workload associated with the repeal of QEO to be particularly demanding in the first three-to-four years following repeal. Based on this workload increase and the importance of performing the work in a timely manner, the Committee may want to approve the Governor's recommendation to provide the 2.0 attorney positions in 2010-11. [Alternative B1]

ALTERNATIVES

A. Repeal QEO Provisions

1. Approve the Governor's recommendation to delete provisions related to the QEO for school district represented teaching employees, delete the limit on salary and fringe benefits increases for nonrepresented school district professional employees, and delete the requirement that school district professional employees be placed in a collective bargaining unit that is separate from the units of other school district employees.

2. Modify current law relating to the QEO to change the 3.8% overall limit, the 1.7% fringe benefit increase, and the 2.1% salary increase to instead be 2.9%, 1.3%, and 1.6%, respectively. Also, change the provision for salary and fringe benefits increases for nonrepresented school district professional employees from 3.8% to 2.9%.

3. Delete provision.

B. Increased Commission Attorney Staffing

1. Approve the Governor's recommendation to provide \$195,000 GPR and 2.0 GPR attorney positions in 2010-11 at WERC.

2. Delete provision.

ALT B2	Change to Bill	
	Funding	Positions
GPR	- \$195,000	- 2.00

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