

**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB123)**

Received: 10/26/1999

Received By: isagerro

Wanted: As time permits

Identical to LRB:

For: Gwendolynne Moore (608) 266-5810

By/Representing: Laura Rose

This file may be shown to any legislator: NO

Drafter: isagerro

May Contact:

Alt. Drafters:

Subject: Public Assistance - Wis works

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Fair hearing process under W-2

**Instructions:**

See Attached

**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>
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FE Sent For:

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1/?	isagerro	1/10/27 jlg	11/10/27	11/10/27			

FE Sent For:

<END>

**Sager-Rosenthal, Ivy**

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**From:** Yaakor, Tina  
**Sent:** Tuesday, October 26, 1999 3:02 PM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** FW: Substitute Amendment to 1999 SB 123

Ooh, looky here. Seems things are heating up. Do you want to do this or shall I?  
Tina

-----  
Tina Yacker, Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 261-6927  
-----

-----Original Message-----

**From:** Rose, Laura  
**Sent:** Tuesday, October 26, 1999 2:45 PM  
**To:** Yacker, Tina  
**Cc:** Bablitch, Kelly  
**Subject:** Substitute Amendment to 1999 SB 123

Hi Tina,

I just left you a voice mail to call me, and this e-mail provides information on what I wanted to talk to you about (I'm leaving town tomorrow for a few days, and wanted to make sure I told you about this before I left).

Sen. Moore would like a Substitute Amendment drafted to SB 123. Please draft a Sub. that folds in two amendments to the bill which you have already drafted: LRB 0416/1, and LRB 0670/1.

Please call Kelly if you have any questions.

Thanks for your help!

Laura

**Laura Rose**  
**Senior Staff Attorney**  
**Wisconsin Legislative Council Staff**  
**One East Main St., Suite 401**  
**PO Box 2536**  
**Madison, WI 53701-2536**  
**(608) 266-9791; fax (608) 266-3830**  
**[laura.rose@legis.state.wi.us](mailto:laura.rose@legis.state.wi.us)**

LRBs016A  
LRB1318A  
TAY:jl:km  
↑ stays  
! ISR  
Rm not run

SOON

**1999 SENATE BILL 123**

April 21, 1999 - Introduced by Senators MOORE, ROBSON, GEORGE, ROSENZWEIG, PLACHE, DARLING and RISSEN, cosponsored by Representatives JESKEWITZ, PLALE, TURNER, SERATTI, SCHOFF, OWENS, PLOUFF, COGGS, SPILLNER, MILLER, OLSEN, YOUNG, RICHARDS, GUNDERSON, MORRIS-TATUM, RILEY, BLACK, POCAN, BOCK, RYBA, LA FAVE, J. LEHMAN and HASENOHRL. Referred to Committee on Labor.

Regen

1 AN ACT to repeal 49.152 (2); to renumber 49.152 (title); to renumber and  
2 amend 49.152 (1); and to create 49.16 (2), (3) and (4) of the statutes; relating  
3 to: the fair hearing process under Wisconsin works.

**Analysis by the Legislative Reference Bureau**

Under current law, an individual whose application for Wisconsin works (W-2) is not acted upon by the W-2 agency with reasonable promptness or is denied in whole or in part, whose benefit is modified or canceled, or who believes that the benefit was calculated incorrectly or that the employment position in which the individual was placed is inappropriate, may petition the W-2 agency for a review of that action or decision. With certain exceptions, the W-2 agency must grant the petition for review and the department of workforce development (DWD) may review the decision of the W-2 agency if the applicant or participant or the W-2 agency petitions DWD for a review of the W-2 agency's decision.

This bill permits an individual whose application for W-2 is denied in whole or in part, whose benefit is modified or canceled, or who believes that the benefit was calculated incorrectly or that the employment position in which the individual was placed is inappropriate, to petition DWD for a review of the action or decision of the W-2 agency. With certain exceptions, DWD must give the individual an opportunity for a hearing. Under the bill, if a participant in the W-2 program requests a hearing before the effective date of the W-2 agency's action, or within 10 days after the mailing of the notice of the action, whichever is later, the participant's benefits may

**SENATE BILL 123**

~~not be suspended, reduced or discontinued, except under limited circumstances, until DWD renders a decision after the hearing.~~

~~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:*

1 SECTION 1. 49.152 (title) of the statutes is renumbered 49.16 (title).

2 SECTION 2. 49.152 (1) of the statutes is renumbered 49.16 (1) and amended to  
3 read:

4 49.16 (1) PETITION FOR REVIEW. Any individual whose application for any  
5 component of Wisconsin works is not acted upon by the Wisconsin works agency with  
6 reasonable promptness after the filing of the application, as defined by the  
7 department by rule, or is denied in whole or in part, whose benefit is modified or  
8 canceled, or who believes that the benefit was calculated incorrectly or that the  
9 employment position in which the individual was placed is inappropriate, may  
10 petition the Wisconsin works agency department for a review of such action. Review  
11 is unavailable if the action by the Wisconsin works agency occurred more than 45  
12 days prior to submission of the petition for review.

13 SECTION 3. 49.152 (2) of the statutes is repealed.

14 *Insert 2-13*  
SECTION 4. 49.16 (2), (3) ~~and~~ (4) *and (6)* of the statutes are created to read:

15 49.16 (2) REVIEW. Upon receipt of a timely petition under sub. (1), the  
16 department shall give the applicant or participant reasonable notice and  
17 opportunity for a fair hearing. The department may make any additional  
18 investigation that it considers necessary. Notice of the hearing shall be given to the  
19 applicant or participant and, if appropriate, to the county clerk. The Wisconsin  
20 works agency may be represented at the hearing. The department shall render its

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1 decision as soon as possible after the hearing and shall send a certified copy of its  
2 decision to the applicant or participant, the county clerk, if appropriate, and the  
3 Wisconsin works agency. The decision of the department shall be final, but may be  
4 revoked or modified as altered conditions may require. The department shall deny  
5 a petition for a hearing or shall refuse to grant relief if any of the following applies:

6 (a) The applicant or participant withdraws the petition in writing.

7 (b) The sole issue in the petition concerns an automatic grant adjustment or  
8 change for a class of participants as required by state or federal law.

9 (c) The applicant or participant abandons the petition. Abandonment occurs  
10 if the applicant or participant fails to appear in person or by a representative at a  
11 scheduled hearing without providing the department with good cause.

12 (3) **SUSPENSION OF BENEFITS.** If a participant requests a hearing prior to the  
13 effective date of the action by the Wisconsin works agency or within 10 days after the  
14 mailing of the notice of the action, whichever is later, benefits may not be suspended,  
15 reduced or discontinued until a decision is rendered after the hearing but may be  
16 recovered by the department if the contested decision or failure to act is upheld.  
17 Until a decision is rendered after the hearing, the manner or form of benefit payment  
18 to the participant may not change to a protective, vendor or 2-party payment.  
19 Benefits shall be suspended, reduced or discontinued if any of the following applies:

20 (a) The participant is contesting a state or federal law or a change in state or  
21 federal law and not the participant's benefit computation.

22 (b) The participant is notified of a change in his or her benefit while the hearing  
23 decision is pending but the participant fails to request a hearing on the change.

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**SECTION 4**

1           (4) NOTICE TO PARTICIPANT. The participant shall be promptly informed in  
2 writing if benefits are to be suspended, reduced or terminated pending the hearing  
3 decision.

4           → Insert 4-3 ✓

~~(END)~~

→ Insert 4-3A ✓

(end)

**SENATE AMENDMENT ,  
TO 1999 SENATE BILL 123**

Inset 1-3

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

2 **1.** Page 2, line 14: delete "and (4)" and substitute ", (4) and (5)".

3 **2.** Page 4, line 3: after that line insert:

4 ~~(5)~~ <sup>(4) & (5)</sup> NONENTITLEMENT. This section does not create an entitlement to any  
5 services or benefits under Wisconsin works. *de*

6

(END)



~~SENATE AMENDMENT,  
TO 1999 SENATE BILL 123~~

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

2 **1.** Page 2, line 13: after that line insert:

3 ~~SECTION 2b.~~ <sup>#</sup> 49.152 (3) (title) of the statutes is renumbered 49.16 (5) (title).

4 ~~SECTION 3c.~~ <sup>#</sup> 49.152 (3) (a) of the statutes is repealed.

5 ~~SECTION 3d.~~ <sup>#</sup> 49.152 (3) (b) of the statutes is renumbered 49.16 (5) <sup>✓</sup> and amended

6 to read:

7 49.16 (5) If, following review under sub. (2), the ~~Wisconsin works agency or the~~  
8 department determines that an individual's application was improperly delayed or  
9 denied in whole or in part, that a participant was placed in an inappropriate  
10 Wisconsin works employment position or that a participant's benefit was improperly  
11 modified or canceled, or was calculated incorrectly, the Wisconsin works agency shall  
12 grant the appropriate benefit, or restore the benefit to the level determined to be  
13 appropriate by the ~~Wisconsin works agency or by the department,~~ retroactive to the

Insert  
2-13



*Insert 2-13 (cont)*

1 date on which the individual's application was first improperly delayed or denied in  
 2 whole or in part, the individual was first placed in an inappropriate Wisconsin works  
 3 position or the individual's benefit was first improperly modified or canceled or  
 4 incorrectly calculated. *se*

*Insert 4-3A* 2. Page 4, line 3, after that line insert:

6 SECTION ~~49~~<sup>#</sup> 49.26 (1) (h) 1. as. of the statutes is amended to read:  
 7 49.26 (1) (h) 1. as. The individual has failed to request a hearing or has failed  
 8 to show good cause for not cooperating with case management efforts in a hearing.  
 9 If the individual is a recipient of aid under s. 49.19, the hearing shall be requested  
 10 and held under s. 49.21 (1). If the individual is a member of a Wisconsin works group,  
 11 as defined in s. 49.141 (1) (s), the hearing shall be requested and held under s. 49.152  
 12 49.16<sup>✓</sup>. The department shall determine by rule the criteria for good cause. *se*