

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3682/P2dn

JTK:...:jf

September 14, 2001

Michelle Kho:

1. To confirm what you may already have surmised, LRB-3540 was destroyed due to a defect in the LRB computer system. LRB-3540/P2 then became LRB-3682/P1 and this draft, LRB-3682/P2, is actually our 3rd draft.
2. This draft should include all the items you have given me as of this date except the changes related to coverage of Indian tribes and contribution and wage report format, I am still working on these items.
3. Please review the initial applicability for the treatment of s. 108.04 (16) (b), stats., (requalification exemption for employees receiving certain training). This is a little unusual in that the change applies both to employees who are working and to employees who specifically terminate their work to receive training. Also please confirm that the retroactive date is still appropriate.
4. Concerning ss. 108.22 (1m) and 108.225 (1) (a), stats., I am reluctant to assume for purposes of these statutes that a forfeiture is not a penalty, because other statutes [for example, ss. 20.445 (1) (gd), (ge), (gf), and (gg) and 108.20 (2m)] assume the opposite. I have therefore used the terminology "forfeiture or other penalty" in s. 108.225 (1) (a), stats. I also added a reference to fees in this statute. I think the current language in s. 108.22 (1m) and 108.225 (1) (a), stats., hangs together and conforms to your intent as I understand it. I would note, however, that the existing law does not follow recommended drafting practice in defining "contributions" to include things that are not normally swept within that term in ch. 108, stats. This confuses the reader and creates the urge to clarify other provisions of the law to reiterate that "contributions" are not limited only to the things we normally associate with that term. Although it would involve some work, it would actually be my preference to use the term "contributions" in the normal sense here, as we do elsewhere, and substitute a new term like "liability" which would encompass contributions in the normal sense, as well as unpaid reimbursements, interest, fees, and penalties. We can discuss this further if you wish.
5. Concerning funding for IT systems development, the appropriation under s. 20.445 (1) (gh), stats., is a state-funded revolving PR appropriation and is nonlapsing. Expenditures from this appropriation are limited only by the revenue it receives. However, the appropriation under s. 20.445 (1) (nb), stats., is a federal appropriation

and is limited to the amounts in the schedule. This is the appropriation that presumably needs to be increased. I would need only any amount that is needed for fiscal years 2001-02 and 2003-04. I would not need any amount for the 2003-04 fiscal year, since that is beyond our reach at this point.

6. Concerning the project positions, we only keep position counts by revenue source and by agency, not within subunits of an agency. Therefore, the form of the authorization is correct as drafted. The specified funding source and purpose statement should ensure that these positions are used for the purpose that you intend.

7. The instructions for the initial applicability in relation to the treatment of s. 108.04 (8) (c), stats., that were included in your memo of 9/4/01 on page 1, point 7. conflicted with the instructions for the initial applicability in relation to the same treatment that were included in your memo of 9/11/01, point 3. This draft incorporates the latter treatment.

8. In the analysis headings, the heading "TAX CHANGES" was dropped in typing. This draft restores it.

9. In the analysis under "Requalification..." the first sentence was mangled in the previous draft and I have now revised it and split it apart. This sentence is intended to reflect s. 108.04 (16) (a) (int.), stats., I have made parallel changes under "Charging of certain benefits...".

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