

2007 ASSEMBLY BILL 739

January 29, 2008 – Introduced by Representatives ZIPPERER, VUKMIR, ROTH, BALLWEG, BIES, DAVIS, GUNDERSON, HAHN, HONADEL, JESKEWITZ, KERKMAN, KLEEFISCH, KRAMER, F. LASEE, LEMAHIEU, LOTHIAN, MOULTON, MUSSER, NASS, NYGREN, OWENS, PETERSEN, PRIDEMORE, STRACHOTA, TOWNSEND, VAN ROY, VOS and WOOD, cosponsored by Senators LEIBHAM, KANAVAS, COWLES, DARLING, ELLIS, GROTHMAN, HARSDORF, KAPANKE, LAZICH, ROESSLER and SCHULTZ. Referred to Joint Committee on Finance.

1 **AN ACT to amend** 16.42 (1) (intro.) and 16.45; and **to create** 13.102, 13.39, 13.95
 2 (1r), 16.42 (1m) and 16.465 of the statutes; **relating to:** preparation and
 3 legislative consideration of a biennial budget bill.

Analysis by the Legislative Reference Bureau

This bill makes all of the following changes relating to the preparation and consideration of biennial budget bills:

State agency budget requests

Currently, state agencies in every even-numbered year must submit certain program and financial information to the Department of Administration and the Legislative Fiscal Bureau (LFB) that is used by the governor in preparing the executive budget bill. Among the required information that state agencies must submit is proposed legislation to implement programmatic and financial plans.

This bill prohibits state agencies from submitting a proposal for an earmark or a nonfiscal policy item. Under the bill, an earmark is a provision that authorizes or requires the payment of state moneys to a specific beneficiary or beneficiaries in a manner not determined by laws of general applicability for the selection of the beneficiary or beneficiaries. Similarly, a nonfiscal policy item is a provision that does not appropriate money, provide for revenue, or relate to taxation.

Biennial state agency budget modification report

Currently, the secretary of administration must prepare a biennial budget report for distribution to the legislature on the same day that the governor delivers his budget message to the legislature. The report contains a variety of information

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relating to the state's finances, state expenditures, and state revenues. This bill requires the secretary of administration to also prepare a biennial state agency budget modification report that includes the following information: a statement identifying each proposal in the executive budget bill that was requested by a state agency, but that was altered by the governor; a statement identifying each proposal in the executive budget bill that was not requested by a state agency; and a statement specifying the costs of each of these two proposals, the policy reasons for including each proposal in the executive budget bill, and the intended beneficiary or beneficiaries of each proposal.

Earmark transparency report

The bill requires LFB to prepare an earmark transparency report on each biennial budget bill and on each amendment thereto. The report must contain all of the following: a list of all earmarks and nonfiscal policy items; the cost of each earmark and nonfiscal policy item; and the beneficiary of each earmark and nonfiscal policy item. If the beneficiary is an individual, LFB must identify the assembly and senate district in which the beneficiary resides. If the beneficiary is an entity, LFB must identify the assembly and senate district in which the beneficiary is located, incorporated, or organized. With respect to an amendment to a biennial budget bill, LFB must identify the representative to the assembly or senator who proposed the earmark or nonfiscal policy item.

Joint Committee on Finance consideration of biennial budget bill

The bill provides that the Joint Committee on Finance may not vote to recommend passage of a biennial budget bill or an amendment thereto until LFB has distributed a copy of the earmark transparency report to each member of the legislature and at least 48 hours have passed from the time when LFB has distributed the report to all of the members.

Senate and assembly consideration of biennial budget bill

The bill provides that neither house of the legislature may pass a biennial budget bill until LFB has distributed a copy of an earmark transparency report on the biennial budget bill, as amended, to each member of the legislature and at least 48 hours have passed from the time when LFB has distributed the report to all of the members. The bill further provides that, if a committee of conference is convened on a biennial budget bill, a conference report may not contain any earmark or nonfiscal policy item that was not included in the executive budget bill or an amendment thereto that was passed by either house of the legislature.

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:

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1 **13.102 Joint committee on finance; consideration of biennial budget**
2 **bill. (1)** The joint committee on finance may not vote to recommend passage of a
3 biennial budget bill or an amendment thereto until the legislative fiscal bureau has
4 distributed a copy of an earmark transparency report on the biennial budget bill, as
5 amended, prepared under s. 13.95 (1r) (b), to each member of the legislature and at
6 least 48 hours have passed from the time when the legislative fiscal bureau has
7 distributed the report to all of the members.

8 **(2)** If a member of the joint committee on finance makes a motion during
9 committee deliberations on a biennial budget bill to remove an earmark or nonfiscal
10 policy item from a biennial budget bill, the motion shall prevail on either a majority
11 or a tie vote.

12 **SECTION 2.** 13.39 of the statutes is created to read:

13 **13.39 Legislative consideration of biennial budget bill. (1)** Neither
14 house of the legislature may pass a biennial budget bill until the legislative fiscal
15 bureau has distributed a copy of an earmark transparency report on the biennial
16 budget bill, as amended, prepared under s. 13.95 (1r) (b), to each member of the
17 legislature and at least 48 hours have passed from the time when the legislative
18 fiscal bureau has distributed the report to all of the members.

19 **(2)** If a committee of conference is convened on a biennial budget bill, a
20 conference report may not contain any earmark, as defined in s. 13.95 (1r) (a) 1., or
21 nonfiscal policy item, as defined in s. 13.95 (1r) (a) 2., that was not included in the
22 executive budget bill or an amendment thereto that was passed by either house of
23 the legislature.

24 **SECTION 3.** 13.95 (1r) of the statutes is created to read:

25 **13.95 (1r) (a)** In this subsection:

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1 1. “Earmark” means a provision in a bill or amendment that authorizes or
2 requires the payment of state moneys to a specific beneficiary or beneficiaries in a
3 manner not determined by laws of general applicability for the selection of the
4 beneficiary or beneficiaries.

5 2. “Nonfiscal policy item” means a provision in a bill or amendment that does
6 not appropriate money, provide for revenue, or relate to taxation.

7 (b) The legislative fiscal bureau shall prepare an earmark transparency report
8 on each biennial budget bill and on each amendment thereto. The report shall
9 contain all of the following:

10 1. A list of all earmarks and nonfiscal policy items.

11 2. The cost of each earmark and nonfiscal policy item.

12 3. The beneficiary of each earmark and nonfiscal policy item. If the beneficiary
13 is an individual, the legislative fiscal bureau shall identify the assembly and senate
14 district in which the beneficiary resides. If the beneficiary is an entity, the legislative
15 fiscal bureau shall identify the assembly and senate district in which the beneficiary
16 is located, incorporated, or organized. If the legislative fiscal bureau cannot
17 determine the identity of a beneficiary, the legislative fiscal bureau shall note that
18 fact in the report. If the earmark is a tax deduction, credit, exclusion, or exemption,
19 all of the following shall apply:

20 a. All businesses and associations that are members of the same controlled
21 group of corporations shall be treated as a single beneficiary.

22 b. All shareholders of a corporation, partners of a partnership, members of an
23 association or organization, or beneficiaries of a trust or estate, respectively, shall be
24 treated as a single beneficiary.

25 c. All employees of a single employer shall be treated as a single beneficiary.

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1 d. All health or other benefit plans of an employer that are qualified under the
2 federal Internal Revenue Code shall be treated as a single beneficiary.

3 e. All contributors to a charitable organization shall be treated as a single
4 beneficiary.

5 f. All holders of the same bond or note issue shall be treated as a single
6 beneficiary.

7 g. If a corporation, partnership, association or organization, or trust estate is
8 the beneficiary, the shareholders of the corporation, the partners of the partnership,
9 the members of the association or organization, or the beneficiaries of the trust or
10 estate shall not be considered beneficiaries.

11 4. If an amendment, the name of the representative to the assembly or senator
12 who proposed the earmark or nonfiscal policy item.

13 **SECTION 4.** 16.42 (1) (intro.) of the statutes is amended to read:

14 16.42 (1) (intro.) All agencies, other than the legislature and the courts, no later
15 than September 15 of each even-numbered year, in the form and content prescribed
16 by the department, shall, subject to sub. (1m), prepare and forward to the
17 department and to the legislative fiscal bureau the following program and financial
18 information:

19 **SECTION 5.** 16.42 (1m) of the statutes is created to read:

20 16.42 (1m) An agency may not include in the program and financial
21 information provided to the department and the legislative fiscal bureau under sub.
22 (1) a proposal for an earmark, as defined in s. 13.95 (1r) (a) 1., or a nonfiscal policy
23 item, as defined in s. 13.95 (1r) (a) 2.

24 **SECTION 6.** 16.45 of the statutes is amended to read:

1 **16.45 Budget message to legislature.** In each regular session of the
2 legislature, the governor shall deliver the budget message to the 2 houses in joint
3 session assembled. Unless a later date is requested by the governor and approved
4 by the legislature in the form of a joint resolution, the budget message shall be
5 delivered on or before the last Tuesday in January of the odd-numbered year. With
6 the message the governor shall transmit to the legislature, as provided in ss. 16.46
7 ~~and to~~ 16.47, the biennial state budget report, the biennial state agency budget
8 modification report, and the executive budget bill or bills together with suggestions
9 for the best methods for raising the needed revenues. The governor may distribute
10 the biennial state budget report in printed or optical disk format.

11 **SECTION 7.** 16.465 of the statutes is created to read:

12 **16.465 Biennial state agency budget modification report.** A biennial
13 state agency budget modification report shall be prepared by the secretary, under the
14 direction of the governor, and a copy of the report shall be furnished to each member
15 of the legislature on the day of the delivery of the budget message. The biennial state
16 agency budget modification report shall be furnished to each member of the
17 legislature on the same day and shall contain the following information:

18 (a) A statement identifying each proposal in the executive budget bill that was
19 requested by an agency under s. 16.42 (1), but that was altered by the governor.

20 (b) A statement identifying each proposal in the executive budget bill that was
21 not requested by an agency under s. 16.42 (1).

22 (c) A statement specifying the costs of each proposal under pars. (a) and (b), the
23 policy reasons for including each proposal in the executive budget bill, and the
24 intended beneficiaries of each proposal.

25

(END)