

2009 ASSEMBLY BILL 117

March 4, 2009 – Introduced by Representatives KAUFERT, BIES, BROOKS, ROTH, VAN ROY, TOWNSEND, LOTHIAN and MURSAU, cosponsored by Senators COWLES, ELLIS and A. LASEE. Referred to Joint Committee on Finance.

1 **AN ACT** *to renumber and amend* 16.45; *to amend* 13.121 (1), 13.123 (1) (c),
2 13.45 (3) (a), 13.48 (7) and 16.53 (1) (d) 1.; and *to create* 11.24 (4), 11.60 (3p),
3 13.085, 13.086, 13.124, 16.42 (3), 16.45 (2) and 20.923 (19) of the statutes;
4 **relating to:** withholding of pay of certain state elected officials and prohibiting
5 the reimbursement of certain legislator expenses; acceptance of certain
6 political contributions by certain elective state officials and committees;
7 deadlines for the transmittal of the Building Commission's long-range state
8 building program recommendations and the delivery of the governor's biennial
9 budget message; submission of a report on the timeliness of the submittal of
10 agency biennial budget requests; legislative consideration of biennial budget

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1 bill; operation of legislature before passage of biennial budget bill; and
2 providing a penalty.

Analysis by the Legislative Reference Bureau***Withholding of pay of certain state elected officials and prohibiting the reimbursement of certain legislator expenses***

This bill provides that, if the legislature has not passed a biennial budget bill before August 1 of the odd-numbered year, the governor, lieutenant governor, secretary of state, state treasurer, attorney general, and each member of the legislature may not receive any installments of their salaries until the legislature has passed a biennial budget bill. In addition, the bill provides that no member of the legislature may be paid any expenses to which the member is entitled for food and lodging for each day that he or she is in Madison on legislative business or for work as a member of a committee between August 1 of the odd-numbered year and the date on which the legislature passes a biennial budget bill.

Under the bill, upon passage of a biennial budget bill, the state elected officials specified above are to be paid all salary installments that were withheld during the period before passage of the biennial budget bill. If the legislature has not passed a biennial budget bill before the end of the legislative session, however, the state elected officials are to be paid all salary installments on the last day of the session that were withheld during the session.

Acceptance of certain political contributions by certain elective state officials and committees

The bill prohibits any incumbent partisan elective state official or his or her personal campaign or authorized support committee from accepting any political contribution for the purpose of promoting his or her nomination or reelection to the office held by the official during the period from the first Monday in January of each odd-numbered year through the date of enactment of the biennial budget act. The prohibition does not apply to contributions accepted by an incumbent official who is subject to a recall election or by the official's personal campaign or authorized support committee from the date on which the petition for a recall election is filed until the date of the recall election.

Violators are subject to a forfeiture (civil penalty) of treble the amount or value of any unlawful contribution. Intentional violators are guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than six months or both.

Development of state biennial budget

Currently, the governor is required to deliver the budget message, along with the biennial state budget report and executive budget bill or bills, on or before the last Tuesday in January of the odd-numbered year, unless the governor requests a later date and the legislature approves the later date by joint resolution.

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The bill provides, generally, that the governor must deliver the budget message on or before the second Tuesday in January of the odd-numbered year. If January 1 in an odd-numbered year falls on a Tuesday, however, the budget message must be delivered on or before the third Tuesday in January of the odd-numbered year. If a governor is newly elected and not an incumbent, the governor must deliver his or her first budget message on or before the fourth Tuesday in January in the year following the governor's election. If January 1 in the year following the election of a newly elected, nonincumbent governor falls on a Tuesday, the deadline for the budget message is the fifth Tuesday in January in the year following that election. The bill also eliminates a current law provision that authorizes the governor to request, and the legislature to approve by joint resolution, a date later than the statutory deadline for the delivery of the governor's budget message.

Currently, the Building Commission must transmit the portions of its recommended budget for the long-range state building program that require legislative approval to the Joint Committee on Finance (JCF) by the first Tuesday in April of each odd-numbered year, unless the Building Commission requests a later date and that later date is approved by JCF. The bill changes this submittal deadline to the first Tuesday in March of each odd-numbered year.

Currently, all executive branch state agencies are required to submit their biennial budget requests to the Department of Administration (DOA) and the Legislative Fiscal Bureau no later than September 15 of each even-numbered year. The bill requires DOA to report to the legislature by October 1 of each even-numbered year which agencies met the September 15 deadline and which were late, and, for those that were late, the reason for the delay in their submission.

Legislative consideration of biennial budget bill

The bill provides that the assembly and senate may not consider an amendment or substitute amendment to a biennial budget bill that contains a nonfiscal policy that has no or minimal state fiscal effect or a private or local measure.

The bill further provides that the cochairpersons of JCF must identify all items in any biennial budget bill that, in the opinion of the cochairpersons, propose a nonfiscal policy that has no or minimal state fiscal effect or a private or local measure. Under the bill, the cochairpersons must request the Legislative Reference Bureau (LRB) to draft each of the items, including any related appropriations, as a separate bill for introduction in the assembly by the assembly speaker, majority leader, minority leader, and cochairperson of JCF and in the senate by the senate president, majority leader, minority leader, and cochairperson of JCF. The bills shall be introduced at the request of the governor.

Finally, the bill requires the LRB to identify all items in any DOA drafting request for a biennial budget bill, that, in its opinion, propose a nonfiscal policy that has no or minimal state fiscal effect or a private or local measure. If the LRB identifies such an item, it must record the identification and so notify DOA. The LRB must maintain a list of all such items that are drafted for inclusion in a biennial budget bill. Upon introduction of a biennial budget bill, the LRB must submit a list of all such items that are included in the bill to the cochairpersons of JCF.

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The bill provides that, beginning on July 1, 2009, if the legislature has not passed a biennial budget bill before August 1 of the odd-numbered year, no bills may be introduced in the assembly or senate, other than a biennial budget bill; no joint, senate, or assembly committee may conduct any business, other than business related to a biennial budget bill; no member of the legislature may request that the LRB draft any legislation, other than legislation relating to a biennial budget bill; and the assembly and senate may not pass any bill, other than a biennial budget bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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:

1 **SECTION 1.** 11.24 (4) of the statutes is created to read:

2 11.24 (4) (a) No incumbent partisan elective state official or personal campaign
3 committee or support committee authorized under s. 11.05 (3) (p) of such an official
4 may accept any contribution for the purpose of promoting that official's nomination
5 or reelection to the office held by the official during the period beginning on the first
6 Monday of January in each odd-numbered year and ending on the date of enactment
7 of the biennial budget act.

8 (b) Notwithstanding par. (a), an incumbent partisan elective state official
9 against whom a recall petition has been filed or the personal campaign or authorized
10 support committee of such an official may accept a contribution during the period
11 beginning on the date on which the petition is filed under s. 9.10 (3) (b) and ending
12 on the date of the recall election or the date on which the official resigns if the official
13 resigns at an earlier date under s. 9.10 (3) (c).

14 **SECTION 2.** 11.60 (3p) of the statutes is created to read:

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1 11.60 **(3p)** Notwithstanding sub. (1), any elective state official or the personal
2 campaign or authorized support committee of such an official who accepts a
3 contribution in violation of s. 11.24 (4) shall forfeit treble the amount of the
4 contribution.

5 **SECTION 3.** 13.085 of the statutes is created to read:

6 **13.085 Legislative consideration of biennial budget bill. (1)** In this
7 section, “biennial budget bill” means an executive budget bill under s. 16.47 (1) or a
8 biennial budget bill comparable in scope to such an executive budget bill.

9 **(2)** The assembly and senate may not consider an amendment or a substitute
10 amendment to a biennial budget bill that contains any of the following:

11 (a) A nonfiscal policy that has no or minimal state fiscal effect.

12 (b) A private or local measure subject to article IV, section 18, of the
13 constitution.

14 **(3) (a)** The cochairpersons of the joint committee on finance shall identify all
15 items in any biennial budget bill that, in the opinion of the cochairpersons, propose
16 any of the following:

17 1. A nonfiscal policy that has no or minimal state fiscal effect.

18 2. A private or local measure subject to article IV, section 18, of the constitution.

19 (b) The cochairpersons of the joint committee on finance shall request the
20 legislative reference bureau to draft each of the items identified under par. (a),
21 including any related appropriations, as a separate bill for introduction in the
22 assembly by the assembly speaker, majority leader, minority leader, and
23 cochairperson of the joint committee on finance and in the senate by the senate
24 president, majority leader, minority leader, and cochairperson of the joint committee
25 on finance. The bills shall be introduced at the request of the governor.

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1 (c) The joint committee on finance may not recommend the passage of a
2 biennial budget bill, unless the joint committee on finance recommends passage of
3 the bill amended in such a way as to delete all of the items identified under par. (a).

4 **(4)** (a) The legislative reference bureau shall identify all items in any
5 department of administration drafting request for a biennial budget bill, that, in its
6 opinion, propose any of the types of policy specified in sub. (3) (a).

7 (b) If the legislative reference bureau identifies an item under par. (a), it shall
8 record the identification and so notify the department of administration. The
9 legislative reference bureau shall maintain a list of all such items that are drafted
10 for inclusion in a biennial budget bill. Upon introduction of a biennial budget bill,
11 the legislative reference bureau shall submit a list of all such items that are included
12 in the bill to the cochairpersons of the joint committee on finance.

13 **SECTION 4.** 13.086 of the statutes is created to read:

14 **13.086 Operation of legislature before passage of biennial budget bill.**

15 **(1)** In this section, “biennial budget bill” means an executive budget bill under s.
16 16.47 (1) or a biennial budget bill comparable in scope to such an executive budget
17 bill.

18 **(2)** Beginning on July 1, 2009, if the legislature has not passed a biennial
19 budget bill before August 1 of the odd-numbered year, all of the following shall apply
20 before the date on which the legislature passes a biennial budget bill:

21 (a) No bills may be introduced in the assembly or senate, other than a biennial
22 budget bill.

23 (b) No joint, senate, or assembly committee may conduct any business, other
24 than business related to a biennial budget bill.

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1 (c) No member of the legislature may request that the legislative reference
2 bureau draft any legislation, other than legislation relating to a biennial budget bill.

3 (d) The assembly or senate may not pass any bill, other than a biennial budget
4 bill.

5 **SECTION 5.** 13.121 (1) of the statutes is amended to read:

6 13.121 (1) CURRENT MEMBER. From the appropriation under s. 20.765 (1) (a) or
7 (b), but subject to s. 13.124 (2), each member of the legislature shall be paid, in equal
8 installments, the salary provided under s. 20.923.

9 **SECTION 6.** 13.123 (1) (c) of the statutes is amended to read:

10 13.123 (1) (c) Each member shall certify to the chief clerk of the house in which
11 the member serves, as promptly as may be following the 1st of each month, the
12 number of days during the previous calendar month on which the member was in
13 Madison on legislative business and for which the member seeks the allowance
14 provided by this subsection. ~~Such~~ Subject to s. 13.124 (3), ~~such~~ allowances shall be
15 paid from the appropriation under s. 20.765 (1) (a) or (b) within one week after each
16 calendar month; and shall be paid, upon the filing with the department of
17 administration, the chief clerk's affidavit stating the number of days in Madison on
18 legislative business for all members of the chief clerk's house.

19 **SECTION 7.** 13.124 of the statutes is created to read:

20 **13.124 Withholding of legislator salaries and prohibiting the payment**
21 **of certain expense reimbursements. (1)** In this section, "biennial budget bill"
22 means an executive budget bill under s. 16.47 (1) or a biennial budget bill comparable
23 in scope to such an executive budget bill.

24 **(2)** Beginning on July 1, 2009, if the legislature has not passed a biennial
25 budget bill before August 1 of the odd-numbered year, no member of the legislature

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1 may receive a salary installment, as required under s. 13.121 (1), until such time as
2 the legislature passes a biennial budget bill. Upon passage of a biennial budget bill,
3 the members of the legislature shall receive all salary installments that were
4 withheld during the period before passage of the biennial budget bill. If the
5 legislature has not passed a biennial budget bill before the end of the legislative
6 session, the members of the legislature shall receive all salary installments on the
7 last day of the session that were withheld during the session.

8 **(3)** Beginning on July 1, 2009, if the legislature has not passed a biennial
9 budget bill before August 1 of the odd-numbered year, no member of the legislature
10 may be paid any expenses to which the member is entitled under s. 13.123 (1) or 13.45
11 (3) (a) between August 1 of the odd-numbered year and the date on which the
12 legislature passes a biennial budget bill.

13 **SECTION 8.** 13.45 (3) (a) of the statutes is amended to read:

14 13.45 **(3)** (a) For any day for which the legislator does not file a claim under s.
15 13.123 (1), and subject to s. 13.124 (3), any legislator appointed to serve on a
16 legislative committee or a committee to which the legislator was appointed by either
17 house or the officers thereof shall be reimbursed from the appropriations under s.
18 20.765 (1) (a) or (b) for actual and necessary expenses incurred as a member of the
19 committee.

20 **SECTION 9.** 13.48 (7) of the statutes is amended to read:

21 13.48 **(7)** BIENNIAL RECOMMENDATIONS. The building commission shall prepare
22 and formally adopt recommendations for the long-range state building program on
23 a biennial basis. The building commission shall include in its report any projects
24 proposed by the state fair park board involving a cost of not more than \$250,000,
25 together with the method of financing those projects proposed by the board, without

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1 recommendation. Unless a later date is requested by the building commission and
2 approved by the joint committee on finance, the building commission shall, no later
3 than the first Tuesday in ~~April~~ March of each odd-numbered year, transmit the
4 report prepared by the department of administration under s. 16.40 (20) and the
5 commission's recommendations for the succeeding fiscal biennium that require
6 legislative approval to the joint committee on finance in the form of proposed
7 legislation prepared in proper form.

8 **SECTION 10.** 16.42 (3) of the statutes is created to read:

9 16.42 (3) (a) If an agency fails to furnish the information required under sub.
10 (1) by the date specified in sub. (1), the agency shall include with the information a
11 written explanation of the reason for the delay.

12 (b) No later than October 1 of each even-numbered year, the secretary shall
13 submit a report to the chief clerk of each house of the legislature for distribution to
14 the legislature under s. 13.172 (2) that identifies each agency that furnished a
15 complete submittal of the information required under sub. (1) by the date specified
16 in sub. (1), each agency that failed to furnish a complete submittal by the applicable
17 date, and the reason that any agency failed to furnish a complete submittal by the
18 applicable date.

19 **SECTION 11.** 16.45 of the statutes is renumbered 16.45 (1) and amended to read:

20 16.45 (1) In each regular session of the legislature, the governor shall deliver
21 the budget message to the 2 houses in joint session assembled. ~~Unless a later date~~
22 ~~is requested by the governor and approved by the legislature in the form of a joint~~
23 ~~resolution, the budget message shall be delivered on or before the last Tuesday in~~
24 ~~January of the odd-numbered year~~ by the date provided in sub. (2). With the
25 message the governor shall transmit to the legislature, as provided in ss. 16.46 and

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1 16.47, the biennial state budget report and the executive budget bill or bills together
2 with suggestions for the best methods for raising the needed revenues. The governor
3 may distribute the biennial state budget report in printed or optical disk format.

4 **SECTION 12.** 16.45 (2) of the statutes is created to read:

5 16.45 (2) (a) Except as provided in pars. (b) and (c), the governor shall deliver
6 the budget message on or before the 2nd Tuesday in January of the odd-numbered
7 year.

8 (b) If January 1 in an odd-numbered year falls on a Tuesday, the governor shall
9 deliver the budget message on or before the 3rd Tuesday in January of the
10 odd-numbered year.

11 (c) If a governor was elected governor for the first time in the most recent
12 gubernatorial election and was not an incumbent governor at the time of the election,
13 the governor shall deliver the budget message, for the fiscal biennium starting July
14 1 of the year following the gubernatorial election, on or before:

15 1. Except as provided in subd. 2., the 4th Tuesday in January in the year
16 following the gubernatorial election.

17 2. If January 1 in the year following the gubernatorial election falls on a
18 Tuesday, the 5th Tuesday in January in the year following the gubernatorial election.

19 **SECTION 13.** 16.53 (1) (d) 1. of the statutes is amended to read:

20 16.53 (1) (d) 1. The secretary, with the approval of the joint committee on
21 employment relations, shall fix the time and frequency for payment of salaries due
22 elective and appointive officers and employees of the state. As determined under this
23 subdivision, except as provided in ss. 13.124 (2) and 20.923 (19), the salaries shall
24 be paid either monthly, semimonthly or for each 2-week period.

25 **SECTION 14.** 20.923 (19) of the statutes is created to read:

