

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2235/1insRC
RAC:.....

employment

The bill requires that supervisory personnel in the unit be state employees and that all other employees in the unit may be a combination of state employees and county employees. Milwaukee County is required to maintain for the unit no fewer represented authorized full time employee positions than the number of represented employee positions that were authorized on February 1, 2009. Under the bill, DHS has the authority to supervise, hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline, and adjust grievances with respect to county employees performing services under this section for the unit. The bill provides that any DHS employment decision affecting county employees may be appealed to the Employment Relations Commission, as are decisions affecting state employees. In addition, DHS must use the same ~~hiring~~ process and procedures for hiring and ~~evaluating county employees~~ that is used for ~~appointments~~ to the classified service of the state civil service system, including the use of probationary periods. *specifically*

The bill provides certain enhanced benefits for county employees who are appointed as state employees and are employed in the unit. First, the employee must have his or her seniority with the state computed by treating the employee's total service with the county as state service. Second, the employee's annual leave must be based on both county and state years of service. Third, the employee is immediately covered for employer contributions towards health care coverage insurance, unlike other most other state employees who must wait until the first day of the third month after beginning state employment. Finally, the employee is given the option of remaining a participant in the Milwaukee County Employees' Retirement System as opposed to becoming covered under the Wisconsin Retirement System.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2235/1insch
CMH:.....

1

Insert A--cmh

Under this bill, a collective bargaining agreement that covers nonsupervisory municipal employees who perform services for the Milwaukee County enrollment services unit created in this bill must contain a provision that permits the terms of the agreement to be modified, with respect to hours and conditions of employment, by a memorandum of understanding entered into with DHS.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2235/linsMES
PJK/RAC/CMH/MES:cjs:md

INS ANL-MES

COUNTY CIVIL SERVICE

Under current law, every county with a population of at least 500,000 (presently only Milwaukee County) is required to have a civil service system for county employees who are in the classified service. The civil service procedures that apply to classified employees relate to issues such as competitive examinations, hiring, disciplinary procedures, and standardized scales of compensation. County employees who are in the unclassified service are not subject to the civil service procedures, and state statutes specify which county employees are in the unclassified service.

Under this bill, ^{nonsupervisory} county employees who perform staff services for the Milwaukee County enrollment services unit are placed in the unclassified service.

Kahler, Pam

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Tuesday, March 31, 2009 2:43 PM
To: Champagne, Rick; Kahler, Pam; Hanaman, Cathlene; Nikolay, Robert A - DCF; Shovers, Marc
Cc: Currans-Sheehan, Rachel H - DHS
Subject: RE: Milwaukee IM

All,

I have answers to Rick's questions below and to others in our meeting this morning. Rick, I've bolded answers below.

Others:

Marc: We don't want anything in ch. 63 to apply; we don't want to be bound by the county civil service system. I certainly don't know much about classified vs. unclassified so I'm afraid of designating the county employees as classified. Could you generally 'except' the enrollment unit from ch. 63? Or, notwithstanding ch. 63 in other places like pg. 10?

Residency issue (can't remember whose this was): The requirements are in the Milwaukee County Civil Service Rules. *RAC → ch. 230*

All: It seems we may not need to define 'nonsupervisory staff' or even indicate that they will be a combination of state and county employees. We're probably fine with just referring to 'county workers performing services for the 49.825 unit' wherever we've changed employment-related provisions for 'nonsupervisory' staff.

Initial applicability: We need to make sure that the employment treatments apply to persons hired into the unit on or after April 1, 2009 who were county employees immediately prior. I don't know if you can just plug in April 1, 2009 to pg. 11, line 7, or if a whole initial app section is needed.

New issue: The county workers union wants to make sure that if a county worker is hired into a state position that state health insurance begins on day 1. Does this draft take care of it?

Let me know if there was anything else I was supposed to get to any of you. Thanks.

Shelley

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

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Tuesday, March 31, 2009 8:57 AM
To: Kahler, Pam - LEGIS; Hanaman, Cathlene - LEGIS; Malofsky, Shelley F - DHS; Welsh, Diane M - DHS; Nikolay, Robert A - DCF; Currans-Sheehan, Rachel H - DHS; Shovers, Marc - LEGIS
Subject: RE: Milwaukee IM

Good Morning Everyone:

As I cannot make the meeting this morning, here are my questions/comments relating to the changes

03/31/2009

DHS and DCF have made on the preliminary draft:

1. It appears that the state intends to allow county employees to fill state positions, other than supervisor positions, and be assigned to the unit. Hence, the unit will consist of state supervisors and non-supervisory county employees and non-supervisory state employees. Is this so? **Yes**
2. Non-supervisory county employees will have their wages determined by local collective bargaining agreements and their hours and other conditions of employment determined by local collective bargaining agreements, as modified by the MOU. Non-supervisory state employees will have their wages, hours, and working conditions all determined by state collective bargaining agreement, which cannot be modified by any side agreement. State supervisors, of course, will have their wages, etc., determined by compensation plan. Is this accurate? **Yes to all, but there might be one or a few unrepresented state employees, although I don't think this really matters to your ultimate question.**
3. It appears you wish to give county workers who assume state employees positions assigned to the unit the option of remaining in the Milwaukee County retirement system, and not just those who assume supervisor state employee positions. Is this so? **Yes**
4. We can certainly add in a subdivision in s.49.825 (3) (c) to clearly state that state employee supervisors can supervise county employees. **OK**
5. There is nothing that waives probation for new appointments into the state civil service, in either supervisory or nonsupervisory positions, so I think we're fine here. Ch. 230 and state collective bargaining agreements will control any mandatory probation period for new state employees. **Our goal is to make sure that all ch. 230 civil services processes/procedures are used for everything, other than for mandatory subjects of bargaining. So, what about modifying (c)2. [pg.10, line17] to say 'for the purposes of the actions under 1., the department shall use the state civil service system process and procedures under ch. 230.'**
6. The appeal under s. 230.44 91) 9h) would only cover "appointments" and not discipline. If you want those decisions appealable as well we can certainly draft that. I should also point out that the Milwaukee County employees will have a collective bargaining agreement covering them that imposes an entirely different process. While it appears that your intent to have all of these issues "resolved" by the MOU, let us hope the courts agree! **Yes, we would like all the appealable actions to the commission under (1) to apply, not just appointments.**

Rick

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

From: Kahler, Pam

Sent: Monday, March 30, 2009 1:03 PM

To: Champagne, Rick; Hanaman, Cathlene; Shovers, Marc

Subject: FW: Milwaukee IM

I'm meeting here tomorrow at 10:30 a.m. with Shelley Malofsky from DHS and Bob Nikolay from DCF on the Milwaukee takeover draft. Please take a look at this email and the attachment to determine if you need to come to the meeting, too. (I won't be able to answer questions outside of my drafting area.)
Thanks!

03/31/2009

Pam

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

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]

Sent: Monday, March 30, 2009 12:56 PM

To: Kahler, Pam

Cc: Nikolay, Robert A - DCF; Welsh, Diane M - DHS; Currans-Sheehan, Rachel H - DHS

Subject: Milwaukee IM

Pam,

Attached is draft with edits/comments/questions tracked. I still need information on one item that I will have when we meet tomorrow. On pg. 10, lines 17-20: we may be continuing the county residency requirements so that will have to be added here (I assume).

(The attached is a scanned and Word saved version of the pdf which didn't translate all that well.)

See you tomorrow.

Shelley

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Kahler, Pam

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Tuesday, March 31, 2009 3:18 PM
To: Kahler, Pam
Subject: RE: Milwaukee IM

Oh, I like this best.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Tuesday, March 31, 2009 2:53 PM
To: Malofsky, Shelley F - DHS
Subject: RE: Milwaukee IM

But there is a conflict between s. 49.825 and the specific requirements in the paragraphs. Another possibility would be to repeat "except as provided in s. 49.825" in the last sentence of the intro., which begins, "The county department of social services shall have the following functions".

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Tuesday, March 31, 2009 2:47 PM
To: Kahler, Pam
Subject: RE: Milwaukee IM

I thought everything listed was a 'welfare service.' If you don't think that's clear (and my preference is not to mess with the listings unless absolutely necessary to avoid an unintended interpretation/argument by other counties), then I like your suggestion in the 2nd sentence.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Tuesday, March 31, 2009 2:13 PM
To: Malofsky, Shelley F - DHS
Subject: RE: Milwaukee IM

The general trump phrase modifies "administration of welfare services" so the more specific functions, powers, and duties listed in the paragraphs below would control. But, if you think that Milw County might again at some point take over those functions, instead of repealing them, for example, I could say "subject to s. 49.825" or "except as provided in s. 49.825" in pars. (k) and (p).

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Tuesday, March 31, 2009 1:53 PM
To: Kahler, Pam
Cc: Nikolay, Robert A - DCF
Subject: RE: Milwaukee IM

Pam – I was hoping that the 'except as provided in 49.825' would trump anything that is inconsistent in the listings. If we have to be specific, I think DHS/DCF is only affected by (k) and (p): (k) talks about certifying eligibility for food stamps (and commodities, which we're not taking over); (p) is administering the 49.155 child care program. We're OK with (c) which generally talks about making certification of eligibles for state or federal assistance programs, 'when designated to perform..'; we're not designating for these IM, etc programs. I don't know why food stamps were separated out from (c). The rest don't seem to directly deal with this legislation so I think we're OK with no changes. But, I'm still hoping for the general trump phrase.

Also, I should have a decision about the big question of stripping DCF by COB today. However, if most of DCF waits for the budget bill, we might need to keep in the few changes you did make already to this bill. I'm

told that some county workers in the unit might answer questions/take changes related to child care subsidy when we takeover the call center this July. So, to be completely safe let's at a minimum keep/modify pg. 9 changes:

- (2)(a)3. – 'the child care subsidy program under 49.155 as contracted under (b)'
- (b) – 'The DCF may enter into a contract with the dhs that provides for the eligibility and authorization functions in 49.155 in the county by the dhs'

More later. Thanks.

Shelley

From: Kahler, Pam [<mailto:Pam.Kahler@legis.wisconsin.gov>]

Sent: Tuesday, March 31, 2009 1:21 PM

To: Malofsky, Shelley F - DHS

Subject: Milwaukee IM

<< File: 09-2235/P1dn.pdf >> Shelley, we didn't discuss what changes you need to see to s. 46.215 (1) and (2). See my first d-note.

Pam

Pamela J. Kahler

Legislative Attorney

Legislative Reference Bureau

608-266-2682

Kahler, Pam

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 10:26 AM
To: Shovers, Marc
Cc: Kahler, Pam
Subject: RE: Milwaukee IM

Let's remove nonsupervisory. Thanks.

From: Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 10:09 AM
To: Malofsky, Shelley F - DHS
Cc: Kahler, Pam - LEGIS
Subject: RE: Milwaukee IM

Hi Shelley:

As I understand it, the supervisors will all be state employees. If that's correct, you may just want to leave the created s. 63.03 (2) (r) as it is. If there may be other county employees under s. 48.825 who are not "nonsupervisory" and you want to make sure they are not covered by ch. 63, we should remove the word "nonsupervisory" from page 12, line 20, as I originally suggested.

Because the intro. to s. 63.03 (2) makes clear that it only applies to "the following officers and positions in every county with a commission created under ss. 63.01 to 63.17", there is no chance that someone could successfully argue that s. 63.03 (2) (r) applies to state employees. Created s. 63.03 (2) (r) will only apply to county employees. It doesn't matter that some state employees will be nonsupervisory; ch. 63 only applies to counties with a commission under subch. I of ch. 63.

Either way will work, but you should decide whether you want to include the word "nonsupervisory." Just let me know.

Marc

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 8:43 AM
To: Shovers, Marc
Subject: RE: Milwaukee IM

Oops, I'm rethinking what I sent you. There will be nonsupervisory state employees in the unit too. I know 63 applies to county civil service so your suggestion should be OK – I just don't want any interpretation that the state employees (not former county ones) in that unit become unclassified. Also, I noticed earlier in the draft (pg 3, line 16) they're referred to as 'a state employee described in 49.825(4); perhaps that's the way to reference them.

From: Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]
Sent: Tuesday, March 31, 2009 4:19 PM
To: Malofsky, Shelley F - DHS
Subject: RE: Milwaukee IM

Hi Shelley:

Most county employees are classified right now. See s. 63.03. The bill currently removes from the classified service, and from coverage by subch. I of ch. 63, nonsupervisory staff listed under s. 49.825. It sounds like you want all employees in the unit, as defined in s. 49.825 (1) (d), to be listed in s. 63.03 (2) (r), as created by the bill.

My suggestion would be to change s. 63.03 (2) (r) so that it reads, "All staff performing services for the Milwaukee County enrollment services unit under s. 49.825." Would this meet your intent?

Marc

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Tuesday, March 31, 2009 2:43 PM
To: Champagne, Rick; Kahler, Pam; Hanaman, Cathlene; Nikolay, Robert A - DCF; Shovers, Marc
Cc: Currans-Sheehan, Rachel H - DHS
Subject: RE: Milwaukee IM

All,

I have answers to Rick's questions below and to others in our meeting this morning. Rick, I've bolded answers below.

Others:

Marc: We don't want anything in ch. 63 to apply; we don't want to be bound by the county civil service system. I certainly don't know much about classified vs. unclassified so I'm afraid of designating the county employees as classified. Could you generally 'except' the enrollment unit from ch. 63? Or, notwithstanding ch. 63 in other places like pg. 10?

Residency issue (can't remember whose this was): The requirements are in the Milwaukee County Civil Service Rules.

All: It seems we may not need to define 'nonsupervisory staff' or even indicate that they will be a combination of state and county employees. We're probably fine with just referring to 'county workers performing services for the 49.825 unit' wherever we've changed employment-related provisions for 'nonsupervisory' staff.

Initial applicability: We need to make sure that the employment treatments apply to persons hired into the unit on or after April 1, 2009 who were county employees immediately prior. I don't know if you can just plug in April 1, 2009 to pg. 11, line 7, or if a whole initial app section is needed.

04/01/2009

Kahler, Pam

From: Shovers, Marc
Sent: Tuesday, March 31, 2009 10:03 AM
To: Kahler, Pam
Subject: RE: Residency question

Hi Pam:

Generally for any Milwaukee County position in the classified service, state residency is required under state law:

63.08(1)(a)

(a) Any applicant for an examination under s. 63.05, other than an applicant for a deputy sheriff position under s. 59.26 (8) (a), shall be a resident of this state before applying for an examination. The commission may require an applicant to file a written application form which bears upon the applicant's fitness for a vacant position and which the commission deems necessary. For a position offering a skilled, technical or professional service, upon a finding that a suitable number of qualified applicants cannot be obtained from within the state, the commission may open the examination to residents of other states. Residency in this state may be waived for an applicant for an examination for a position which requires a license in a health care field. No question pertaining to political affiliation or religious faith may be asked of any applicant for an examination.

If there are county residency requirements, those are probably done under collective bargaining agreements. I can't find anything in subch. I of ch. 63 requiring county residency.

Marc

From: Kahler, Pam
Sent: Tuesday, March 31, 2009 9:54 AM
To: Shovers, Marc
Subject: Residency question

Marc:

Is it a state law, or a county ordinance, that requires Milwaukee County employees to be residents of Milwaukee County?

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 8:09 AM
To: Kahler, Pam
Subject: RE: Milwaukee IM

No, they're not. Can you say 'recovery activities that begin on or after January 1, 2010?' BTW, that's the date we decided on.

Regarding your other email about nonsupervisory staff, I'll mark up a copy with the changes and send to you. Thanks for your diligence and patience!

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Tuesday, March 31, 2009 3:04 PM
To: Malofsky, Shelley F - DHS
Subject: RE: Milwaukee IM

One other issue - are all recoveries of overpayments, etc., made through court actions, so that for the initial applicability, it would be "actions commenced on the effective date"?

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Tuesday, March 31, 2009 2:43 PM
To: Champagne, Rick; Kahler, Pam; Hanaman, Cathlene; Nikolay, Robert A - DCF; Shovers, Marc
Cc: Currans-Sheehan, Rachel H - DHS
Subject: RE: Milwaukee IM

All,

I have answers to Rick's questions below and to others in our meeting this morning. Rick, I've bolded answers below.

Others:

Marc: We don't want anything in ch. 63 to apply; we don't want to be bound by the county civil service system. I certainly don't know much about classified vs. unclassified so I'm afraid of designating the county employees as classified. Could you generally 'except' the enrollment unit from ch. 63? Or, notwithstanding ch. 63 in other places like pg. 10?

Residency issue (can't remember whose this was): The requirements are in the Milwaukee County Civil Service Rules.

All: It seems we may not need to define 'nonsupervisory staff' or even indicate that they will be a combination of state and county employees. We're probably fine with just referring to 'county workers performing services for the 49.825 unit' wherever we've changed employment-related provisions for 'nonsupervisory' staff.

Initial applicability: We need to make sure that the employment treatments apply to persons hired into

04/01/2009

Kahler, Pam

From: Nikolay, Robert A - DCF [Robert.Nikolay@wisconsin.gov]
Sent: Wednesday, April 01, 2009 11:46 AM
To: Kahler, Pam
Subject: RE: Milwaukee IM

That probably works.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 11:43 AM
To: Nikolay, Robert A - DCF
Subject: RE: Milwaukee IM

I could have the proposed legislation be submitted to joint finance to be offered as an amendment to the budget.

From: Nikolay, Robert A - DCF [mailto:Robert.Nikolay@wisconsin.gov]
Sent: Wednesday, April 01, 2009 11:25 AM
To: Kahler, Pam
Subject: RE: Milwaukee IM

Can you direct that it be done as part of the 2009-11 biennial budget? Given that DCF and the Gov have already submitted their biennial budget requests, I'm not sure how that would be worded.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 10:49 AM
To: Nikolay, Robert A - DCF
Subject: Milwaukee IM

Hi, Bob:

As you know, I'm sure, I'm drafting a placeholder that would require DCF to submit proposed legislation to accomplish creating the DCF unit and having the DHS unit perform eligibility and authorization functions, etc. To whom should the proposed legislation be submitted? Normally, proposed legislation is submitted to the appropriate standing committees under s. 13.172 (3) or to the whole legislature under s. 13.172 (2).

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 12:35 PM
To: Kahler, Pam
Cc: Nikolay, Robert A - DCF
Subject: RE: Milwaukee IM bill revision

No preference –I gladly defer to your drafting expertise.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 12:33 PM
To: Malofsky, Shelley F - DHS
Cc: Nikolay, Robert A - DCF
Subject: RE: Milwaukee IM bill revision

Either way. Previously, I was going to say, "to the extent contracted under par. (b)" but then decided to take it out altogether after your e-mail this morning. Do you have a preference?

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 12:31 PM
To: Nikolay, Robert A - DCF; Kahler, Pam
Subject: RE: Milwaukee IM bill revision

That's fine. Will (2)(a)3. remain? Or modified to add 'if contracted under (b)?'

From: Nikolay, Robert A - DCF
Sent: Wednesday, April 01, 2009 12:20 PM
To: Kahler, Pam - LEGIS; Malofsky, Shelley F - DHS
Subject: RE: Milwaukee IM bill revision

I would agree we should keep a version of 49.825(2)(b) in, with a "may" vs "shall" with some clarification about CY 2009 as we suggested since currently the W-2 agencies are contracting with county.

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 12:11 PM
To: Nikolay, Robert A - DCF
Cc: Malofsky, Shelley F - DHS
Subject: RE: Milwaukee IM bill revision

Unless you both want me to completely remove all references to DCF, I was still planning to keep a version of s. 49.825 (2) (b), which authorized (not required) DCF to contract with DHS for performance of eligibility and authorization functions by the unit in Milwaukee County. I can add a form of the language below to that provision. Please let me know definitively what you want, so that we can get this thing into editing to get it through the process and out by Friday.

From: Nikolay, Robert A - DCF [mailto:Robert.Nikolay@wisconsin.gov]
Sent: Wednesday, April 01, 2009 11:59 AM
To: Kahler, Pam
Cc: Malofsky, Shelley F - DHS
Subject: FW: Milwaukee IM bill revision
Importance: High

One other suggestion on the language if we remove the reference to 49.155 in Section 21

From: Mansfield, Mark - DCF

Sent: Wednesday, April 01, 2009 11:14 AM
To: Nikolay, Robert A - DCF
Subject: Milwaukee IM bill revision
Importance: High

I think the primary goal if this is moving separately, without a fully-described DCF role, is to ensure the DHS-supervised unit/staff maintains at least current worker effort devoted to child care eligibility (county subcontracts with W-2 agencies for 2009) and authorization, certification, and program integrity (county CC admin. contract with us).

A potential issue is some ambiguity as to which current county employees are included in the Milwaukee enrollment services unit and which/whether some are not (i.e., those that may be exclusively working on certification, program-integrity, or customer service, which DHS ultimately does not want responsibility for). The implication could be that they are included in the DHS-supervised Milwaukee enrollment services unit at least until the passage of legislation that would subdivide the county workers and make provision for the DCF-supervised Child Care Quality Assurance Unit, presumably effective January 1, 2010. If, however, no further legislation passes, I think this the suggested language below gives us the discretionary power to negotiate something with DHS.

CHILD CARE ELIGIBILITY, SUBSIDY AUTHORIZATION, AND ELIGIBILITY REVIEWS. During 2009 and thereafter, unless the department of children and families agrees to an alternate provision, the department of health services shall ensure that the County enrollment services unit established under sub. (2) (a) maintains all contractual obligations to W-2 agencies, including the number of staff available to determine eligibility for a child care subsidy under 49.155 (1m) and all obligations of the county under 49.155 (3).

Kahler, Pam

From: Champagne, Rick
Sent: Wednesday, April 01, 2009 3:56 PM
To: Malofsky, Shelley F - DHS
Cc: Kahler, Pam
Subject: RE: Milwaukee

For all state employees who receive immediate employer contributions for health insurance (such as legislative employees), it is my understanding that it takes effect on the 1st of the first month after they start employment. You can verify this with Tom Korpady at DETF, but that is my understanding that that is the earliest enrollment opportunity.

Your second request is a little more complicated. DETF is going to have to calculate the cost of that county accrued sick leave and Milwaukee County or DHS (whoever is going to pay) will have to pay DETF to fund the cost of the accrued sick leave.

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

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:49 PM
To: Champagne, Rick
Subject: RE: Milwaukee

Does that mean that the state will start paying its share from day 1 also? That's what we need.

I am really, really sorry about this.... but I am at this moment being told we need to make sure that the accrued sick leave (when a co worker) also transfers when they take a state position. :(

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

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:41 PM
To: Malofsky, Shelley F - DHS
Cc: Kahler, Pam - LEGIS
Subject: RE: Milwaukee

Hi Shelly:

Coverage for state employee health insurance and WRS coverage are separate. I created a new "eligible employee" definition under s. 40.02 (25) (b) 2c. For the former county employees who become state employees. They will be eligible for immediate coverage, as provided under s. 40.05 (4) (a) 2.

Rick

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

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:35 PM
To: Champagne, Rick
Cc: Kahler, Pam
Subject: Milwaukee

Rick, I think you're the person for this question but I'm copying Pam in case I'm wrong. I had emailed yesterday to be certain that a county employee in a state position gets health insurance coverage on day 1. I now have a corollary question we need to be sure of: does something need to be done to make sure that just because they may opt to stay in the county pension, that doesn't mean they then cannot get state health insurance. Someone here said that state health insurance is tied to being in WRS.

Sorry if this is easily answered if I studied the draft so far, but it is such an important issue in the takeover that I'd want you to confirm anyway. Thanks.

Shelley

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Champagne, Rick

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 7:04 PM
To: Champagne, Rick
Subject: RE: Milwaukee

Gosh I hope you're right. My headache is worse.

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 6:43 PM
To: Malofsky, Shelley F - DHS
Subject: RE: Milwaukee

I will take care of the sick leave per your second paragraph. Let me know what Tom says on the health insurance issue. As a practical matter, wouldn't the Milwaukee County employees still be on health insurance from Milwaukee County when they started with the state. Coverage usually is for the entire month and if Milwaukee County is run like the state premiums are paid out a couple of months in advance. Obviously, if the county employees took a couple of months off before starting with the state we might have a problem.

In terms of timing, we should still have this for you by Friday (though I can't speak entirely for Pam). I have set aside early tomorrow morning to deal with this change,

Rick

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

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wed 4/1/2009 6:35 PM
To: Champagne, Rick
Cc: Kahler, Pam
Subject: RE: Milwaukee

Now that I have a headache after trying to keep track of this and coordinate it with what we have agreed to do in our talks with County employees, here's the final bottom line.

Sick leave: We want their sick leave to carry over, but not be eligible for conversion for health insurance when they retire. The language used for the DAs in 978.12(3) is the language we'd like.

Health insurance: Regardless of what happens now for new state hires who are immediately eligible, we have committed to having the county employees covered on their first day as a state worker AND the State pays its contribution for the month of the first day s/he is a state worker. I will copy you on an email I send Tom Korpardy so you will see his answer. If it means some drafting for you, will this mean we can't get the bill on Friday COB?

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

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:56 PM
To: Malofsky, Shelley F - DHS
Cc: Kahler, Pam - LEGIS
Subject: RE: Milwaukee

04/02/2009

For all state employees who receive immediate employer contributions for health insurance (such as legislative employees), it is my understanding that it takes effect on the 1st of the first month after they start employment. You can verify this with Tom Korpady at DETF, but that is my understanding that that is the earliest enrollment opportunity.

Your second request is a little more complicated. DETF is going to have to calculate the cost of that county accrued sick leave and Milwaukee County or DHS (whoever is going to pay) will have to pay DETF to fund the cost of the accrued sick leave.

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

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:49 PM
To: Champagne, Rick
Subject: RE: Milwaukee

Does that mean that the state will start paying its share from day 1 also? That's what we need.

I am really, really sorry about this.... but I am at this moment being told we need to make sure that the accrued sick leave (when a co worker) also transfers when they take a state position. :(

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

From: Champagne, Rick [mailto:Rick.Champagne@legis.wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:41 PM
To: Malofsky, Shelley F - DHS
Cc: Kahler, Pam - LEGIS
Subject: RE: Milwaukee

Hi Shelly:

Coverage for state employee health insurance and WRS coverage are separate. I created a new "eligible employee" definition under s. 40.02 (25) (b) 2c. For the former county employees who become state employees. They will be eligible for immediate coverage, as provided under s. 40.05 (4) (a) 2.

Rick

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

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 3:35 PM
To: Champagne, Rick
Cc: Kahler, Pam
Subject: Milwaukee

Rick, I think you're the person for this question but I'm copying Pam in case I'm wrong. I had emailed yesterday to be certain that a county employee in a state position gets health insurance coverage on day 1. I now have a corollary question we need to be sure of: does something need to be done to make sure that just because they may opt to stay in the county pension, that doesn't mean they then cannot get state health insurance. Someone here said that state health insurance is tied to being in WRS.

Sorry if this is easily answered if I studied the draft so far, but it is such an important issue in the takeover that I'd want you to confirm anyway. Thanks.

Shelley

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04/02/2009

disclose, or store the information it contains.

Champagne, Rick

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Wednesday, April 01, 2009 7:03 PM
To: Korpady, Tom - ETF
Cc: Champagne, Rick
Subject: Legislative Bill

Tom,

You may or may not know that DHS is taking over direct responsibility for the income maintenance programs in Milwaukee County. As part of that we have made certain commitments to the county workers' union. We will continue to use county employees but we will have state employees supervising them. Some county employees will want to apply for those supervisor positions (and some nonsupervisory ones) and we have agreed that they will not be harmed by coming over to state employment. 'Not being harmed' means they can stay in the county pension system, their years of service become state years of services and, among other provisions, they are eligible for state health insurance on their first day of work in the state position AND the state will make its premium contributions for the very first month of their state employment. So, if a former county worker starts in a state position on June 4, then they will have state health insurance on June 4 and the state will make its contribution for June's health insurance coverage.

Rick has added these workers to the definition of 'eligible employee' under 40.02(25)(b). I very much need you to confirm or reject the following analysis so that I (Rick) knows if we need further stat changes. Of course, we need to get the drafting done early Thursday.

For an eligible employee under 40.02(25)(b) who is an insured employee, the state will pay its contribution "beginning on the date on which the employee becomes insured."
[40.05(4)] An insured employee is someone properly enrolled in the plan. [40.02(39)] An eligible employee may become covered by electing coverage within 30 days of being hired, "to be effective as of the first day of the month which begins on or after the date the application is received by the employer..." If a person is hired for June 1 and has the application to us (DHS?) on June 1, the state will pay for June's coverage. If a person is hired for June 10 and has the application to us on June 10, the state will start contributing for the month of July.

I'm sure that I've missed some steps but that's why I'm going to the expert. We need both the June 1 hire and the June 10 hire to be covered on their first day on the job, and we need the state to contribute its share for June for both hires. So, do we need more stat changes? Is this absolutely impossible to implement even if we had the stat changes?

Thanks for your thoughts and sorry that I need your wisdom ASAP.

Shelley Malofsky

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Kahler, Pam

From: Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Thursday, April 02, 2009 10:45 AM
To: Kahler, Pam
Cc: Welsh, Diane M - DHS
Subject: RE: Milwaukee IM

Correct.

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

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Thursday, April 02, 2009 9:54 AM
To: Malofsky, Shelley F - DHS
Subject: RE: Milwaukee IM

So, you do NOT want the language that says DCF will request the LRB to prepare legislation related to DCF and Milwaukee County, and you also do NOT want the language proposed by Mark Mansfield that requires DHS to ensure that W-2 contract obligations are fulfilled, correct?

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

From: Malofsky, Shelley F - DHS [mailto:Shelley.Malofsky@dhs.wisconsin.gov]
Sent: Thursday, April 02, 2009 9:01 AM
To: Kahler, Pam
Cc: Welsh, Diane M - DHS; Nikolay, Robert A - DCF; Champagne, Rick
Subject: Milwaukee IM

Here is the last and final word: we do not want non-stat language for DCF. So, there is nothing anywhere about DCF other than the 'DCF may contract with us' and child care subsidy being in the unit if DCF contracts with us (as we e-discussed yesterday).

I'm waiting for that one last issue involving Rick and premium payments to resolve and then I believe we are all done. Right?

Thanks.

Shelley

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2235/P1

PJK/RAC/CMH/MES:cjs:md

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

by Fri am
(on Thurs pm if possible)

SA ✓

regenerate ↓

1 **AN ACT** *to renumber and amend* 49.496 (4), 49.497 (2), 49.793 (2) and 49.847
2 (3); *to amend* 20.435 (4) (bn), 20.435 (4) (im), 20.435 (4) (L), 40.05 (4) (a) 2.,
3 46.215 (1) (intro.), 49.496 (5), 49.78 (2), 49.78 (10) (a), 49.785 (1) (intro.), 49.785
4 (1m) (a), 49.785 (1m) (b), 49.785 (1m) (c), 49.89 (7) (a) and 111.70 (1) (a); and *to*
5 **create** 40.02 (25) (b) 2c., 40.22 (2) (m), 49.496 (4) (b), 49.497 (2) (b), 49.793 (2)
6 (b), 49.825, 49.847 (3) (b), 49.89 (7) (f), 63.03 (2) (r), 111.70 (3m) and 230.44 (1)
7 (h) of the statutes; **relating to:** administration of certain public assistance
8 programs in Milwaukee County, removing county civil service protections from
9 certain employees, required provisions in certain collective bargaining

1 agreements under the Municipal Employment Relations Act, and making an
2 appropriation.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 20.435 (4) (bn) of the statutes is amended to read:

4 20.435 (4) (bn) *Income maintenance*. Biennially, the amounts in the schedule
5 for funeral expenses under s. 49.785, for administration of the food stamp
6 employment and training program under s. 49.79 (9), for the performance of income
7 maintenance administrative activities on behalf of a local entity, as defined in s.
8 30.77 (3) (dm) 1. b., and for payments under s. 49.78 (8) relating to the administration
9 of the Medical Assistance program under subch. IV of ch. 49, the Badger Care health
10 care program under s. 49.665, the food stamp program, and the cemetery, funeral,
11 and burial expenses program under s. 49.785.

12 SECTION 2. 20.435 (4) (im) of the statutes is amended to read:

13 20.435 (4) (im) *Medical assistance; correct payment recovery; collections; other*
14 *recoveries*. All moneys received from the recovery of correct medical assistance
15 payments under ss. 49.496 and 867.035 and rules promulgated under s. 46.286 (7)
16 and, all moneys received as collections and other recoveries from providers, drug
17 manufacturers, and other 3rd parties under medical assistance performance-based
18 contracts, and all moneys credited to this appropriation account under s. 49.89 (7)
19 (f), for payments to counties and tribal governing bodies under s. 49.496 (4) (a), for
20 payment of claims under s. 867.035 (3), for payments to the federal government for

ANLI →
Sessit analysis
EX-AM-2

1 its share of medical assistance benefits recovered, for the state share of medical
2 assistance benefits provided under subch. IV of ch. 49, and for costs related to
3 collections and other recoveries.

4 **SECTION 3.** 20.435 (4) (L) of the statutes is amended to read:

5 20.435 (4) (L) *Fraud and error reduction.* All moneys received as the state's
6 share of the recovery of overpayments and incorrect payments under ss. ~~49.847,~~
7 ~~49.497 (1) and (1m), and 49.793 (2) (a), and 49.847,~~ all moneys received from counties
8 and tribal governing bodies as a result of any error reduction activities under ss.
9 ~~49.197 and 49.845, and all moneys credited to this appropriation account under ss.~~
10 ~~49.497 (2) (b), 49.793 (2) (b), and 49.847 (3) (b),~~ for any contracts under s. 49.197 (5),
11 for any activities to reduce error and fraud under s. 49.845, to pay federal sanctions
12 under the food stamp program, and for food stamp reinvestment activities under
13 reinvestment agreements with the federal department of agriculture that are
14 designed to improve the food stamp program.

15 **SECTION 4.** 40.02 (25) (b) 2c. of the statutes is created to read:

16 40.02 (25) (b) 2c. A state employee described in s. 49.825 (4).

17 **SECTION 5.** 40.05 (4) (a) 2. of the statutes is amended to read:

18 40.05 (4) (a) 2. For an insured employee who is an eligible employee under s.
19 40.02 (25) (a) 2. or (b) 1m. or 2c., the employer shall pay required employer
20 contributions toward the health insurance premium of the insured employee
21 beginning on the date on which the employee becomes insured. For an insured state
22 employee who is currently employed, but who is not a limited term appointment
23 under s. 230.26 or an eligible employee under s. 40.02 (25) (a) 2. or (b) 1m. or 2c., the
24 employer shall pay required employer contributions toward the health insurance
25 premium of the insured employee beginning on the first day of the 3rd month

1 beginning after the date on which the employee begins employment with the state,
2 not including any leave of absence. For an insured employee who has a limited term
3 appointment under s. 230.26, the employer shall pay required employer
4 contributions toward the health insurance premium of the insured employee
5 beginning on the first day of the 7th month beginning after the date on which the
6 employee first becomes a participating employee.

7 SECTION 6. 40.22 (2) (m) of the statutes is created to read:

8 40.22 (2) (m) The employee was formerly employed by Milwaukee County, is
9 ~~appointed to a supervisor position in the department of health services,~~ *a state employee described in s. 49.825(4)* and elects
10 to remain a covered employee under the retirement system established under
11 chapter 201, laws of 1937, pursuant to s. 49.825 (4) (c).

12 SECTION 7. 46.215 (1) (intro.) of the statutes is amended to read:

13 *insert*
4-12
14 46.215 (1) CREATION; POWERS AND DUTIES. (intro.) In a county with a population
15 of 500,000 or more the administration of welfare services, other than child welfare
16 services under s. 48.48 (17) administered by the department and except as provided
17 in s. 49.825, is vested in a county department of social services under the jurisdiction
18 of the county board of supervisors under s. 46.21 (2m) (b) 1. a. Any reference in any
19 law to a county department of social services under this section applies to a county
20 department under s. 46.21 (2m) in its administration under s. 46.21 (2m) of the
21 powers and duties of the county department of social services. *The* county
22 department of social services shall have the following functions, duties and powers,
23 and such other welfare functions as may be delegated to it:

24 SECTION 8. 49.496 (4) of the statutes is renumbered 49.496 (4) (a) and amended
to read:

Except as provided in s. 49.825, the

1 49.496 (4) (a) The department may require a county department under s.
 2 46.215, 46.22, or 46.23 or the governing body of a federally recognized American
 3 Indian tribe administering medical assistance to gather and provide the department
 4 with information needed to recover medical assistance under this section. The
 5 Except as provided in par. (b), the department shall pay to a county department or
 6 tribal governing body an amount equal to 5% of the recovery collected by the
 7 department relating to a beneficiary for whom the county department or tribal
 8 governing body made the last determination of medical assistance eligibility. A
 9 county department or tribal governing body may use funds received under this
 10 subsection paragraph only to pay costs incurred under this subsection paragraph
 11 and, if any amount remains, to pay for improvements to functions required under s.
 12 49.78 (2). The department may withhold payments under this subsection paragraph
 13 for failure to comply with the department's requirements under this subsection
 14 paragraph. The department shall treat payments made under this subsection
 15 paragraph as costs of administration of the Medical Assistance program.

SECTION 9. 49.496 (4) (b) of the statutes is created to read:

16 49.496 (4) (b) The department shall credit to the appropriation account under
 17 s. 20.435 (4) (im) any amount that the department would otherwise pay under par.

18 (a) to a county department under s. 46.215 for any recovery collected by the
 19 department relating to a beneficiary for whom department employees or officers, or
 20 county employees or officers ^{by a} under the management of the department, made the
 21 last determination of medical assistance eligibility.

SECTION 10. 49.496 (5) of the statutes is amended to read:

22 49.496 (5) USE OF FUNDS. From the appropriation under s. 20.435 (4) (im), the
 23 department shall pay the amount of the payments under sub. (4) (a) that is not paid
 24
 25

1 from federal funds, shall pay to the federal government the amount of the funds
2 recovered under this section equal to the amount of federal funds used to pay the
3 benefits recovered under this section, and shall spend the remainder of the funds
4 recovered under this section for medical assistance benefits under this subchapter.

5 **SECTION 11.** 49.497 (2) of the statutes is renumbered 49.497 (2) (a) and
6 amended to read:

7 49.497 (2) (a) A Except as provided in par. (b), a county or governing body of
8 a federally recognized American Indian tribe may retain 15% of benefits provided
9 under this subchapter or s. 49.665 that are recovered under this section due to the
10 efforts of an employee or officer of the county or tribe.

11 **SECTION 12.** 49.497 (2) (b) of the statutes is created to read:

12 49.497 (2) (b) Any amount that Milwaukee County would otherwise be entitled
13 to retain under par. (a) for benefits recovered due to the efforts of a department
14 employee or officer, or a county employee or officer under the management of the
15 department, shall be credited to the appropriation account under s. 20.435 (4) (L).

16 **SECTION 13.** 49.78 (2) of the statutes is amended to read:

17 49.78 (2) **CONTRACTS.** Annually, for the income maintenance program functions
18 that the department delegates to a county or tribal governing body, the department
19 shall contract with the county departments department under ss. 46.215, 46.22, and
20 or 46.23, and may contract with the tribal governing bodies body, to reimburse the
21 county departments and department or tribal governing bodies body for the
22 reasonable cost of administering income maintenance programs.

Insert 6-22

23 **SECTION 14.** 49.78 (10) (a) of the statutes is amended to read:

24 49.78 (10) (a) Each county treasurer and director of a county department under
25 s. 46.215, 46.22, or 46.23 that contracts with the department under sub. (2) and each

1 tribal governing body that contracts with the department under sub. (2) shall certify
2 monthly under oath to the department in such manner as the department prescribes
3 the claim of the county or tribal governing body for state reimbursement under sub.
4 (8) (a). The department shall review each claim of reimbursement and, if the
5 department approves the claim, the department shall certify to the department of
6 administration for reimbursement to the county or tribal governing body for
7 amounts due under sub. (8) (a) and payment claimed to be made to the counties or
8 tribal governing bodies monthly. The department may make advance payments
9 prior to the beginning of each month equal to one-twelfth of the contracted amount.

10 **SECTION 15.** 49.785 (1) (intro.) of the statutes is amended to read:

11 49.785 (1) (intro.) Except as provided in sub. (1m) and subject to s. 49.825, if
12 any recipient specified in sub. (1c) dies and the estate of the deceased recipient is
13 insufficient to pay the funeral, burial, and cemetery expenses of the deceased
14 recipient, the department or county or applicable tribal governing body or
15 organization responsible for burial of the recipient shall pay, to the person
16 designated by the department or county department under s. 46.215, 46.22, or 46.23
17 or applicable tribal governing body or organization responsible for the burial of the
18 recipient, all of the following:

19 **SECTION 16.** 49.785 (1m) (a) of the statutes is amended to read:

20 49.785 (1m) (a) If the total cemetery expenses for the recipient exceed \$3,500,
21 the department or county or applicable tribal governing body or organization
22 responsible for burial of the recipient is not required to make a payment for the
23 cemetery expenses under sub. (1) (a).

24 **SECTION 17.** 49.785 (1m) (b) of the statutes is amended to read:

1 49.785 (1m) (b) If the total funeral and burial expenses for the recipient exceed
2 \$3,500, the department or county or applicable tribal governing body or organization
3 responsible for burial of the recipient is not required to make a payment for funeral
4 and burial expenses under sub. (1) (b).

5 **SECTION 18.** 49.785 (1m) (c) of the statutes is amended to read:

6 49.785 (1m) (c) If a request for payment under sub. (1) is made more than 12
7 months after the death of the recipient, the department or county or applicable tribal
8 governing body or organization responsible for burial of the recipient is not required
9 to make a payment for cemetery, funeral, or burial expenses.

10 **SECTION 19.** 49.793 (2) of the statutes is renumbered 49.793 (2) (a) and
11 amended to read:

12 49.793 (2) (a) A Except as provided in par. (b), a county or governing body of
13 a federally recognized American Indian tribe may retain a portion of the amount of
14 an overpayment the state is authorized to retain under 7 USC 2025 which that is
15 recovered under sub. (1) due to the efforts of an employee or officer of the county or
16 tribe. The department shall promulgate a rule establishing the portion of the
17 amount of the overpayment that the county or governing body may retain. This
18 subsection paragraph does not apply to recovery of an overpayment that was made
19 as a result of state, county, or tribal governing body error.

20 **SECTION 20.** 49.793 (2) (b) of the statutes is created to read:

21 49.793 (2) (b) Any amount that Milwaukee County would otherwise be entitled
22 to retain under par. (a) for the recovery of an overpayment due to the efforts of a
23 department employee or officer, or a county employee or officer under the
24 management of the department, shall be credited to the appropriation account under
25 s. 20.435 (4) (L).

1 SECTION 21. 49.825 of the statutes is created to read:

2 49.825 Department administration in Milwaukee County. (1)

3 DEFINITIONS. In this section:

- 4 (a) "County" means Milwaukee County.
- 5 (b) "Department" means the department of health services.
- 6 (c) "Income maintenance program" has the meaning given in s. 49.78 (1) (b).
- 7 (d) "Unit" means the Milwaukee County enrollment services unit.

8 (2) ESTABLISHMENT OF UNIT. (a) The department shall establish a Milwaukee
9 County enrollment services unit under s. 15.02 (3) (c) 3. to determine eligibility under
10 and administer the following public assistance programs in the county:

- 11 1. Income maintenance programs.
- 12 2. The programs under ss. 49.77 and 49.775.
- 13 3. The child care subsidy program under s. 49.155.

To the extent
= contracted under
par. (b),
may

14 (b) The department of children and families shall enter into a contract with the
15 department of health services that provides for the determination of eligibility under
16 and administration of the program under s. 49.155 in the county by the department
17 of health services.

Insert 9-16
unit

18 (c) The department may enter into a contract with the county that provides for
19 the performance by the county of any of the administrative functions under this
20 subsection.

21 (d) 1. The department shall reimburse the county for all approved, allowable
22 costs that exceed the amounts specified in subd. 2. and that are incurred by the
23 county under a contract with the department for the operation of income
24 maintenance programs in the county.

the public assistance

under par. (a)

2009

1 2. In fiscal year 2009-10 the county shall expend at least \$3,559,800, for which
2 the county shall not be reimbursed by the department, for the operation of income
3 maintenance programs in the county. In each fiscal year thereafter, the county's
4 unreimbursed required minimum expenditure for the operation of income
5 maintenance programs in the county shall increase by the percentage increase in
6 annual wage and benefit costs paid with respect to county employees performing
7 services under this section for the unit.

8 (3) DIVISION OF EMPLOYMENT-RELATED FUNCTIONS. (a) Supervisory personnel in
9 the unit shall be state employees. Nonsupervisory staff performing services under
10 this section for the unit ^{may be} ~~shall be~~ ^{a combination of state employees and} employees of Milwaukee County. For the
11 performance of services under this section for the unit, the county shall maintain no
12 ^{represented -} fewer ~~authorized~~ full-time employee positions than the number ^{insert 10-12} that were authorized
13 on February 1, 2009, for performance of the same types of services.

14 (c) 1. The department shall have the authority to hire, transfer, suspend, lay
15 off, recall, promote, discharge, assign, reward, discipline, and adjust grievances with
16 respect to ^{insert 10-16} county employees performing services under this section for the unit.

17 2. For the ~~purpose of hiring county employees performing services under this~~
18 ~~section for the unit,~~ ^{purposes under subd. 1.} the department shall use the same ~~hiring~~ ^{and evaluation} process and procedures
19 under ch. 230 that ~~is~~ ^{are} used for ~~appointments to~~ the classified service of the state civil
20 service system. ^{including the use of probationary periods under s. 230.28}

insert 10-20

21 ~~3.~~ ^{specifically} The department may enter into a memorandum of understanding, as
22 described under s. 111.70 (3m), with the certified representative of the county
23 employees performing services under this section for the unit. If there is a dispute
24 ^{that remains} ~~between the department and the certified representative,~~ ^{after a good faith effort to resolve it} the department may

*as to hours or conditions of employment
of the employees*

1 resolve the dispute by unilaterally implementing a memorandum of understanding
2 with respect to the wages, hours, and conditions of employment of the employees.

3 (d) The county shall perform all administrative tasks related to payroll and
4 benefits for the county employees performing services under this section for the unit.

5 (4) TREATMENT OF FORMER COUNTY EMPLOYEES APPOINTED TO SUPERVISOR POSITIONS

6 IN THE UNIT. All of the following shall apply to an employee who is appointed to a

7 supervisor position in the unit after the effective date of this subsection ... [LRB

8 inserts date], and who, immediately prior to his or her appointment, was a county

9 employee:

10 (a) The employee shall have his or her seniority with the state computed by
11 treating the employee's total service with the county as state service.

12 (b) Annual leave for the employee shall accrue at the rate provided in s. 230.35
13 using the employee's state service computed under par. (a).

14 (c) The employee may remain a participating employee in the retirement
15 system established under chapter 201, laws of 1937. To remain under the retirement
16 system established under chapter 201, laws of 1937, the employee must exercise this
17 option in writing, on a form provided by the department, at the time the employee
18 is appointed to a supervisor position. The secretary shall pay, on behalf of the
19 employee, all required employer contributions under the retirement system
20 established under chapter 201, laws of 1937.

21 SECTION 22. 49.847 (3) of the statutes is renumbered 49.847 (3) (a) and
22 amended to read:

23 49.847 (3) (a) Subject to ss. 49.497 (2) and 49.793 (2), and except as provided
24 in par. (b), a county or elected governing body may retain a portion of an amount

unilaterally

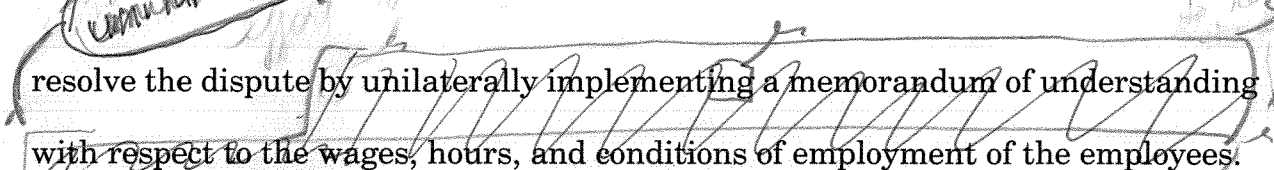
state employee

state employee

serve any applicable probationary period under s. 230.28, but shall

state employee

Insert 11-21



1 recovered under this section due to the efforts of an employee or officer of the county,
2 tribe, or band, as provided by the department by rule.

3 **SECTION 23.** 49.847 (3) (b) of the statutes is created to read:

4 49.847 (3) (b) Any amount that Milwaukee County would otherwise be entitled
5 to retain under par⁹(a) for the recovery of an amount under this section due to the
6 efforts of a department employee or officer, or a county employee or officer under the
7 management of the department, shall be credited to the appropriation account under
8 s. 20.435 (4) (L).

9 **SECTION 24.** 49.89 (7) (a) of the statutes is amended to read:

10 49.89 (7) (a) Any Except as provided in par. (f), any county or elected tribal
11 governing body that has made a recovery under this section shall receive an incentive
12 payment from the sum recovered as provided under this subsection.

13 **SECTION 25.** 49.89 (7) (f) of the statutes is created to read:

14 49.89 (7) (f) The amount of any incentive payment to which Milwaukee County
15 would otherwise be entitled under this subsection for a recovery under this section
16 due to the efforts of an employee or officer of the department of health services, or
17 a county employee or officer under the management of the department of health
18 services, shall be credited to the appropriation account under s. 20.435 (4) (im).

19 **SECTION 26.** 63.03 (2) (r) of the statutes is created to read:

20 63.03 (2) (r) All ~~nonsupervisory~~ staff performing services for the Milwaukee
21 County enrollment services unit under s. 49.825.

22 **SECTION 27.** 111.70 (1) (a) of the statutes is amended to read:

23 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
24 obligation of a municipal employer, through its officers and agents, and the
25 representative of its municipal employees in a collective bargaining unit, to meet and

1 confer at reasonable times, in good faith, with the intention of reaching an
2 agreement, or to resolve questions arising under such an agreement, with respect to
3 wages, hours and conditions of employment, and with respect to a requirement of the
4 municipal employer for a municipal employee to perform law enforcement and fire
5 fighting services under s. 61.66, except as provided in sub- subs. (3m) and (4) (m) and
6 s. 40.81 (3) and except that a municipal employer shall not meet and confer with
7 respect to any proposal to diminish or abridge the rights guaranteed to municipal
8 employees under ch. 164. The duty to bargain, however, does not compel either party
9 to agree to a proposal or require the making of a concession. Collective bargaining
10 includes the reduction of any agreement reached to a written and signed document.
11 The municipal employer shall not be required to bargain on subjects reserved to
12 management and direction of the governmental unit except insofar as the manner
13 of exercise of such functions affects the wages, hours and conditions of employment
14 of the municipal employees in a collective bargaining unit. In creating this
15 subchapter the legislature recognizes that the municipal employer must exercise its
16 powers and responsibilities to act for the government and good order of the
17 jurisdiction which it serves, its commercial benefit and the health, safety and welfare
18 of the public to assure orderly operations and functions within its jurisdiction,
19 subject to those rights secured to municipal employees by the constitutions of this
20 state and of the United States and by this subchapter.

21 **SECTION 28.** 111.70 (3m) of the statutes is created to read:

22 111.70 **(3m)** MILWAUKEE COUNTY ENROLLMENT SERVICES UNIT. A collective
23 bargaining agreement that covers nonsupervisory municipal employees performing
24 services for the Milwaukee County enrollment services unit under s. 49.825 shall
25 contain a provision that permits the terms of the agreement to be modified with

1 respect to wages, hours, and conditions of employment by a memorandum of
2 understanding under s. 49.825 (3) (c) 3. 4

3 SECTION 29. 230.44 (1) (h) of the statutes is created to read:

4 230.44 (1) (h) ~~Appointment of Milwaukee County employees by the department~~ *Decisions affecting* I
5 of health services. A decision of the department of health services relating to ~~the~~
6 ~~appointment of~~ a Milwaukee County employee under s. 49.825 (3) (c).

7 SECTION 30. Nonstatutory provisions.

8 (1) TRANSFER OF PUBLIC ASSISTANCE PROGRAM ADMINISTRATIVE FUNCTIONS.

9 (a) *Definitions.* In this subsection:

10 1. "County" means Milwaukee County.

11 2. "County department" means the Milwaukee County department of social
12 services. *under section 49.215 of the statutes* ✓

13 3. "Department" means the department of health services.

14 (b) *Transition plan.* On the effective date of this paragraph, the county and the
15 department shall begin the transition from the county to the department of
16 administrative functions for the programs specified in section 49.825 (2) (a) 1., 2., and

17 3. of the statutes, as created by this act, and shall cooperate in the transition. The
18 department shall develop a transition plan that includes the reporting, exchange of
19 information, and staff deployment that the department needs and that the county
20 department must provide for the transition. The secretary of administration shall
21 resolve any disagreement between the department and the county or county
22 department.

23 (c) *Records.* By January 15, 2010, the county shall transfer to the department
24 all records in the possession of the county that are related to eligibility processing
25 for the programs specified in section 49.825 (2) (a) 1., 2., and 3. of the statutes, as

1 created by this act. The county department and the department shall jointly identify
2 those records and jointly develop and implement a plan for the orderly transfer of the
3 records.

4 (d) *County administration.* In calendar year 2009, the county shall continue
5 to perform the administrative functions for the programs specified in section 49.825
6 (2) (a) 1., 2., and 3. of the statutes, as created by this act, as provided under any
7 contracts requiring those administrative functions until the department notifies the
8 county that it is prepared to assume responsibility for the administrative functions.
9 The county and department shall contract with respect to administrative functions
10 that the department requires the county to perform to assist the department in
11 administering the programs specified in section 49.825 (2) (a) 1., 2., and 3. of the
12 statutes, as created by this act, for the years after 2009.

13 **SECTION 31. Initial applicability.**

*create
auto ref A*

*Collective
BARGAINING
CS*

14 (1) This act first applies to any employee of Milwaukee County who is covered
15 by a collective bargaining agreement that contains provisions inconsistent with this
16 act on the day on which the collective bargaining agreement expires or is extended,
17 modified, or renewed, whichever occurs first.

18 (END)

*Insert
15-17*

*The treatment of sections 63.03 (2)(r)
and 111.70 (1)(a) and (3m) of the statutes*

(this document is "analysis and other inserts")

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LPS →

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INSERT ANALYSIS

The Department of Health Services (DHS) administers income maintenance programs under current law, as well as the programs that provide state supplemental payments to persons receiving federal supplemental security income (state supplemental payment programs). The income maintenance programs are specified in the statutes as the Medical Assistance program, including BadgerCare Plus; the food stamp program; and the program that pays funeral, burial, and cemetery expenses for persons whose estates are insufficient to pay those expenses. Generally, income maintenance and state supplemental payment programs are administered by counties through contracts with DHS. ←

This bill requires DHS to establish a Milwaukee County enrollment services unit (unit) in DHS to determine eligibility for and administer income maintenance and state supplemental payment programs in Milwaukee County (county). In addition, the Department of Children and Families (DCF) may contract with DHS to have the unit perform eligibility and authorization functions in the county for DCF's child care subsidy program. Under the bill, DHS may contract with the county for the performance by the county of administrative functions under the income maintenance and state supplemental payment programs. The county is required to expend a certain specified amount for the operation of income maintenance programs in the county, and DHS must reimburse the county for all additional approved costs for operation of the income maintenance and state supplemental payment programs in the county that exceed the amount that the county is required to spend.

The bill requires that supervisory personnel in the unit be state employees and that all other employees in the unit may be a combination of state employees and county employees. Milwaukee County is required to maintain for the unit no fewer represented authorized full-time employee positions than the number of represented employee positions that were authorized on February 1, 2009. Under the bill, DHS has the authority to supervise, hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline, and adjust grievances with respect to county employees performing services for the unit. The bill provides that any DHS employment decision affecting county employees may be appealed to the Employment Relations Commission, as are decisions affecting state employees. In addition, DHS must use the same employment process and procedures that are used for appointments to the classified service of the state civil service system, including specifically the use of probationary periods. County employees performing services for the unit are subject to the same residency requirements as are other employees of Milwaukee County under the county's civil service rules. →

The bill provides certain enhanced benefits for county employees who are appointed as state employees and are employed in the unit. First, the employee must have his or her seniority with the state computed by treating the employee's total service with the county as state service. Second, the employee's annual leave must be based on both county and state years of service. Third, the employee is immediately covered for employer contributions towards health care coverage

and accrued sick leave

to perform the functions that the unit will perform under the bill

when the employee becomes insured

insurance, unlike other most other state employees who must wait until the first day of the third month after beginning state employment. Finally, the employee is given the option of remaining a participant in the Milwaukee County Employees' Retirement System as opposed to becoming covered under the Wisconsin Retirement System.

Under current law, every county with a population of at least 500,000 (presently only Milwaukee County) is required to have a civil service system for county employees who are in the classified service. The civil service procedures that apply to classified employees relate to issues such as competitive examinations, hiring, disciplinary procedures, and standardized scales of compensation. County employees who are in the unclassified service are not subject to the civil service procedures, and state statutes specify which county employees are in the unclassified service. Under the bill, nonsupervisory county employees who perform staff services for the unit are placed in the unclassified service.

Under the bill, a collective bargaining agreement that covers nonsupervisory municipal employees who perform services for the unit must contain a provision that permits the terms of the agreement to be modified, with respect to hours and conditions of employment, by a memorandum of understanding entered into with DHS.

County

The bill requires DCF to request the Legislative Reference Bureau to prepare legislation that would provide for performance by the unit of eligibility and authorization functions in the county for DCF's child care subsidy program and for the creation of a separate unit in DCF that would certify child care providers and perform other administrative functions in the county for DCF's child care subsidy program. The proposed legislation must be submitted the Joint Committee on Finance, to be offered as an amendment to the 2009-10 biennial budget bill.

Current law contains various provisions for the recovery of both correctly made and incorrectly made payments under programs administered by DHS, including income maintenance and state supplemental payment programs. Generally, if the efforts of an employee of a county are responsible for a recovery, the county may retain a portion of the amount recovered. The bill provides that in Milwaukee County, no portion of amounts recovered through the efforts of a state or county employee are to be retained by Milwaukee County, but will be deposited in the general fund and credited to an appropriation that pays for, among other things, recovery effort costs and activities related to error reduction.

RET

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

(END OF INSERT ANALYSIS)

*in their entirety
such amounts*

INSERT 6-22

- 1 49.78 (2) CONTRACTS. Annually, for the income maintenance program
- 2 functions, if any, that the department delegates to a county or tribal governing body,

1 the department ~~shall contract with and county departments~~ department under ss.
 2 s. 46.215, 46.22, and or 46.23 shall enter into a contract, and the department and
 3 tribal governing body may enter into a contract with tribal governing bodies, to
 4 reimburse the county departments and tribal governing bodies, for reimbursement
 5 of the county department or tribal governing body for the reasonable cost of
 6 administering income maintenance programs.

History: 1995 a. 27 ss. 2041 to 2049, 2933 to 2936, 3084 to 3087, 3130; 1995 a. 289, 417; 1997 a. 27; 2001 a. 16; 2003 a. 33 ss. 1308, 1448, 9160; Stats. 2003 s. 49.78; 2005 a. 25; 2007 a. 20.

(END OF INSERT 6-22)

INSERT 9-16

7 ^{wof} performance of eligibility and authorization functions under

(END OF INSERT 9-16)

INSERT 9-7

8 ⁴ 2. Unless the department of children and families agrees otherwise, the
 9 department of health services shall, in 2009 and thereafter, ensure that the unit
 10 maintains and fulfills all contractual obligations to Wisconsin Works agencies under
 11 the child care subsidy program under s. 49.155, including contract provisions related
 12 to the number of staff available to determine eligibility for a child care subsidy under
 13 s. 49.155 (1m) and the obligations of the county under s. 49.155 (3).

(END OF INSERT 9-7)

INSERT 10-12

14 ^{wof} of represented full ^Ttime employee positions

(END OF INERT 10-12)

INSERT 10-16



Insert 10-16

1 *WOF*, and state supervisory employees may supervise,

(END OF INSERT 10-16)

INSERT 10-20

2 *(4)* 3. County employees performing services under this section for the unit shall
3 be subject to the residency requirements that apply to other county employees under
4 the county's civil service rules.

(END OF INSERT 10-20)

INSERT 15-12

SECTION 1. Nonstatutory provisions.

(1) LEGISLATION AFFECTING THE CHILD CARE SUBSIDY PROGRAM.

(a) The department of children and families shall request that the legislative reference bureau prepare legislation that does all of the following:

1. Provides for the performance of eligibility and authorization functions under the child care subsidy program under section 49.155 of the statutes in Milwaukee County by the Milwaukee County enrollment services unit under section 49.825 of the statutes, as created by this act.

2. Provides for the creation of a unit in the department of children and families for the performance of other administrative functions under the child care subsidy program under section 49.155 of the statutes in Milwaukee County, including child care provider certifications.

3. Addresses employment relations and collective bargaining issues with respect to personnel performing services in Milwaukee County for the unit specified in subdivision 2.

1 (b) The department of children and families shall submit the proposed
 2 legislation to the joint committee on finance, to be offered as an amendment to the
 3 2009-10 biennial budget bill.

(END OF INSERT 15-12)

INSERT 15-17

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4 (2) INCORRECT AND CORRECT PAYMENT RECOVERIES. The treatment of sections
 5 20.435 (4) (im) and (L), 49.496 (5), and 49.89 (7) (a) and (f) of the statutes, the
 6 renumbering and amendment of sections 49.496 (4), 49.497 (2), 49.793 (2), and
 7 49.847 (3) of the statutes, and the creation of sections 49.496 (4) (b), 49.497 (2) (b),
 8 49.793 (2) (b), and 49.847 (3) (b) of the statutes first apply to recovery activities that
 9 are commenced on the effective date of this subsection.

*use
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number
not
hard
number*

10 **SECTION 2. Effective dates.** This act takes effect on the day after publication,
 11 except as follows:

12 (1) INCORRECT AND CORRECT PAYMENT RECOVERIES. The treatment of sections
 13 20.435 (4) (im) and (L), 49.496 (5), and 49.89 (7) (a) and (f) of the statutes, the
 14 renumbering and amendment of sections 49.496 (4), 49.497 (2), 49.793 (2), and
 15 49.847 (3) of the statutes, the creation of sections 49.496 (4) (b), 49.497 (2) (b), 49.793
 16 (2) (b), and 49.847 (3) (b) of the statutes, and SECTION ~~XX~~ (2) of this act take effect on
 17 January 1, 2010.

(END OF INSERT 15-17)

*use
auto ref A*

*use
auto ref B*

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2235/1insRC
RAC:.....

Insert 11-21:

(d) The employee shall have his or her sick leave accrued with the state computed by treating the employee's unused balance of sick leave accrued with the county as sick leave accrued in state service, but not to exceed the amount of sick leave the employee would have accrued in state service for the same period, if the employee is able to provide adequate documentation in accounting for sick leave used during the accrual period with the county. Sick leave that transfers under this paragraph is not subject to a right of conversion, under s. 40.05 (4) or otherwise, upon death or termination of creditable service for payment of health insurance benefits on behalf of the employee or the employee's dependents.

4-12

x
Section #. 40.62 (2) of the statutes is amended to read:

40.62 (2) Sick leave accumulation shall be determined in accordance with rules of the department, any collective bargaining agreement under subch. I or V of ch. 111, and ss. 13.121 (4), 36.30, 230.35 (2), 233.10, 757.02 (5) and 978.12 (3).

History: 1981 c. 96; 1987 a. 309; 1989 a. 13, 31; 1995 a. 27.

✓
49.825 (4) (d),