

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2235/1

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2009 BILL

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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 40.62 (2), 46.215 (1) (intro.), 49.496 (5), 49.78 (2), 49.78 (10) (a), 49.785 (1)
 4 (intro.), 49.785 (1m) (a), 49.785 (1m) (b), 49.785 (1m) (c), 49.89 (7) (a) and 111.70
 5 (1) (a); and *to create* 40.02 (25) (b) 2c., 40.22 (2) (m), 49.496 (4) (b), 49.497 (2)
 6 (b), 49.793 (2) (b), 49.825, 49.847 (3) (b), 49.89 (7) (f), 63.03 (2) (r), 111.70 (3m)
 7 and 230.44 (1) (h) of the statutes; **relating to:** administration of certain public
 8 assistance programs in Milwaukee County, removing county civil service
 9 protections from certain employees, required provisions in certain collective
 10 bargaining agreements under the Municipal Employment Relations Act, and
 11 making an appropriation.

Analysis by the Legislative Reference Bureau

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

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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 approved costs for operation of the income maintenance and state supplemental payment programs in the county that exceed that amount.

and, if DCF do contracts with DHS for the performance of the eligibility and authorization functions under the child care subsidy program.

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

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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 and accrued sick 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 when the employee becomes insured, 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.

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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 county 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.

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 such amounts will be deposited in their entirety in the general fund and credited to an appropriation that pays for, among other things, recovery effort costs and activities related to error reduction.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

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

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

- 1 **SECTION 1.** 20.435 (4) (bn) of the statutes is amended to read:
- 2 20.435 (4) (bn) *Income maintenance.* Biennially, the amounts in the schedule
- 3 for funeral expenses under s. 49.785, for administration of the food stamp
- 4 employment and training program under s. 49.79 (9), for the performance of income
- 5 maintenance administrative activities on behalf of a local entity, as defined in s.
- 6 30.77 (3) (dm) 1. b., and for payments under s. 49.78 (8) relating to the administration
- 7 of the Medical Assistance program under subch. IV of ch. 49, the Badger Care health

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1 care program under s. 49.665, the food stamp program, and the cemetery, funeral,
2 and burial expenses program under s. 49.785.

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

4 20.435 (4) (im) *Medical assistance; correct payment recovery; collections; other*
5 *recoveries.* All moneys received from the recovery of correct medical assistance
6 payments under ss. 49.496 and 867.035 and rules promulgated under s. 46.286 (7)
7 and, all moneys received as collections and other recoveries from providers, drug
8 manufacturers, and other 3rd parties under medical assistance performance-based
9 contracts, and all moneys credited to this appropriation account under s. 49.89 (7)
10 (f), for payments to counties and tribal governing bodies under s. 49.496 (4) (a), for
11 payment of claims under s. 867.035 (3), for payments to the federal government for
12 its share of medical assistance benefits recovered, for the state share of medical
13 assistance benefits provided under subch. IV of ch. 49, and for costs related to
14 collections and other recoveries.

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

16 20.435 (4) (L) *Fraud and error reduction.* All moneys received as the state's
17 share of the recovery of overpayments and incorrect payments under ss. 49.847,
18 49.497 (1) and (1m), and 49.793 (2) (a), and 49.847, all moneys received from counties
19 and tribal governing bodies as a result of any error reduction activities under ss.
20 49.197 and 49.845, and all moneys credited to this appropriation account under ss.
21 49.497 (2) (b), 49.793 (2) (b), and 49.847 (3) (b), for any contracts under s. 49.197 (5),
22 for any activities to reduce error and fraud under s. 49.845, to pay federal sanctions
23 under the food stamp program, and for food stamp reinvestment activities under
24 reinvestment agreements with the federal department of agriculture that are
25 designed to improve the food stamp program.

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

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

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

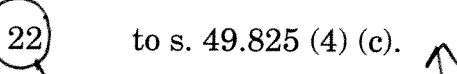
4 40.05 (4) (a) 2. For an insured employee who is an eligible employee under s.
5 40.02 (25) (a) 2. or (b) 1m. or 2c., the employer shall pay required employer
6 contributions toward the health insurance premium of the insured employee
7 beginning on the date on which the employee becomes insured. For an insured state
8 employee who is currently employed, but who is not a limited term appointment
9 under s. 230.26 or an eligible employee under s. 40.02 (25) (a) 2. or (b) 1m. or 2c., the
10 employer shall pay required employer contributions toward the health insurance
11 premium of the insured employee beginning on the first day of the 3rd month
12 beginning after the date on which the employee begins employment with the state,
13 not including any leave of absence. For an insured employee who has a limited term
14 appointment under s. 230.26, the employer shall pay required employer
15 contributions toward the health insurance premium of the insured employee
16 beginning on the first day of the 7th month beginning after the date on which the
17 employee first becomes a participating employee.

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

19 40.22 (2) (m) The employee was formerly employed by Milwaukee County, is
20 a state employee described in s. 49.825 (4), and elects to remain a covered employee
21 under the retirement system established under chapter 201, laws of 1937, pursuant
22 to s. 49.825 (4) (c).

23 **SECTION 7.** 40.62 (2) of the statutes is amended to read:

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1 40.62 (2) Sick leave accumulation shall be determined in accordance with rules
2 of the department, any collective bargaining agreement under subch. I or V of ch. 111,
3 and ss. 13.121 (4), 36.30, 49.825 (4) (d), 230.35 (2), 233.10, 757.02 (5) and 978.12 (3).

4 **SECTION 8.** 46.215 (1) (intro.) of the statutes is amended to read:

5 46.215 (1) CREATION; POWERS AND DUTIES. (intro.) In a county with a population
6 of 500,000 or more the administration of welfare services, other than child welfare
7 services under s. 48.48 (17) administered by the department and except as provided
8 in s. 49.825, is vested in a county department of social services under the jurisdiction
9 of the county board of supervisors under s. 46.21 (2m) (b) 1. a. Any reference in any
10 law to a county department of social services under this section applies to a county
11 department under s. 46.21 (2m) in its administration under s. 46.21 (2m) of the
12 powers and duties of the county department of social services. The Except as
13 provided in s. 49.825, the county department of social services shall have the
14 following functions, duties and powers, and such other welfare functions as may be
15 delegated to it:

16 **SECTION 9.** 49.496 (4) of the statutes is renumbered 49.496 (4) (a) and amended
17 to read:

18 49.496 (4) (a) The department may require a county department under s.
19 46.215, 46.22, or 46.23 or the governing body of a federally recognized American
20 Indian tribe administering medical assistance to gather and provide the department
21 with information needed to recover medical assistance under this section. The
22 Except as provided in par. (b), the department shall pay to a county department or
23 tribal governing body an amount equal to 5% of the recovery collected by the
24 department relating to a beneficiary for whom the county department or tribal
25 governing body made the last determination of medical assistance eligibility. A

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1 county department or tribal governing body may use funds received under this
2 ~~subsection~~ paragraph only to pay costs incurred under this ~~subsection~~ paragraph
3 and, if any amount remains, to pay for improvements to functions required under s.
4 49.78 (2). The department may withhold payments under this ~~subsection~~ paragraph
5 for failure to comply with the department's requirements under this ~~subsection~~
6 paragraph. The department shall treat payments made under this ~~subsection~~
7 paragraph as costs of administration of the Medical Assistance program.

8 **SECTION 10.** 49.496 (4) (b) of the statutes is created to read:

9 49.496 (4) (b) The department shall credit to the appropriation account under
10 s. 20.435 (4) (im) any amount that the department would otherwise pay under par.
11 (a) to a county department under s. 46.215 for any recovery collected by a department
12 employee or officer, or by a county employee or officer under the management of the
13 department.

14 **SECTION 11.** 49.496 (5) of the statutes is amended to read:

15 49.496 (5) USE OF FUNDS. From the appropriation under s. 20.435 (4) (im), the
16 department shall pay the amount of the payments under sub. (4) (a) that is not paid
17 from federal funds, shall pay to the federal government the amount of the funds
18 recovered under this section equal to the amount of federal funds used to pay the
19 benefits recovered under this section, and shall spend the remainder of the funds
20 recovered under this section for medical assistance benefits under this subchapter.

21 **SECTION 12.** 49.497 (2) of the statutes is renumbered 49.497 (2) (a) and
22 amended to read:

23 49.497 (2) (a) A Except as provided in par. (b), a county or governing body of
24 a federally recognized American Indian tribe may retain 15% of benefits provided

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1 under this subchapter or s. 49.665 that are recovered under this section due to the
2 efforts of an employee or officer of the county or tribe.

3 **SECTION 13.** 49.497 (2) (b) of the statutes is created to read:

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

8 **SECTION 14.** 49.78 (2) of the statutes is amended to read:

9 49.78 (2) **CONTRACTS.** Annually, for the income maintenance program
10 functions, if any, that the department delegates to a county or tribal governing body,
11 the department shall contract with and county departments department under ss.
12 s. 46.215, 46.22, and or 46.23 shall enter into a contract, and the department and
13 tribal governing body may enter into a contract with tribal governing bodies, to
14 reimburse the county departments and tribal governing bodies, for reimbursement
15 of the county department or tribal governing body for the reasonable cost of
16 administering income maintenance programs.

17 **SECTION 15.** 49.78 (10) (a) of the statutes is amended to read:

18 49.78 (10) (a) Each county treasurer and director of a county department under
19 s. 46.215, 46.22, or 46.23 that contracts with the department under sub. (2) and each
20 tribal governing body that contracts with the department under sub. (2) shall certify
21 monthly under oath to the department in such manner as the department prescribes
22 the claim of the county or tribal governing body for state reimbursement under sub.
23 (8) (a). The department shall review each claim of reimbursement and, if the
24 department approves the claim, the department shall certify to the department of
25 administration for reimbursement to the county or tribal governing body for

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1 amounts due under sub. (8) (a) and payment claimed to be made to the counties or
2 tribal governing bodies monthly. The department may make advance payments
3 prior to the beginning of each month equal to one-twelfth of the contracted amount.

4 **SECTION 16.** 49.785 (1) (intro.) of the statutes is amended to read:

5 49.785 (1) (intro.) Except as provided in sub. (1m) and subject to s. 49.825, if
6 any recipient specified in sub. (1c) dies and the estate of the deceased recipient is
7 insufficient to pay the funeral, burial, and cemetery expenses of the deceased
8 recipient, the department or county or applicable tribal governing body or
9 organization responsible for burial of the recipient shall pay, to the person
10 designated by the department or county department under s. 46.215, 46.22, or 46.23
11 or applicable tribal governing body or organization responsible for the burial of the
12 recipient, all of the following:

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

14 49.785 (1m) (a) If the total cemetery expenses for the recipient exceed \$3,500,
15 the department or county or applicable tribal governing body or organization
16 responsible for burial of the recipient is not required to make a payment for the
17 cemetery expenses under sub. (1) (a).

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

19 49.785 (1m) (b) If the total funeral and burial expenses for the recipient exceed
20 \$3,500, the department or county or applicable tribal governing body or organization
21 responsible for burial of the recipient is not required to make a payment for funeral
22 and burial expenses under sub. (1) (b).

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

24 49.785 (1m) (c) If a request for payment under sub. (1) is made more than 12
25 months after the death of the recipient, the department or county or applicable tribal

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1 governing body or organization responsible for burial of the recipient is not required
2 to make a payment for cemetery, funeral, or burial expenses.

3 **SECTION 20.** 49.793 (2) of the statutes is renumbered 49.793 (2) (a) and
4 amended to read:

5 49.793 (2) (a) A Except as provided in par. (b), a county or governing body of
6 a federally recognized American Indian tribe may retain a portion of the amount of
7 an overpayment the state is authorized to retain under 7 USC 2025 ~~which~~ that is
8 recovered under sub. (1) due to the efforts of an employee or officer of the county or
9 tribe. The department shall promulgate a rule establishing the portion of the
10 amount of the overpayment that the county or governing body may retain. This
11 ~~subsection~~ paragraph does not apply to recovery of an overpayment that was made
12 as a result of state, county, or tribal governing body error.

13 **SECTION 21.** 49.793 (2) (b) of the statutes is created to read:

14 49.793 (2) (b) Any amount that Milwaukee County would otherwise be entitled
15 to retain under par. (a) for the recovery of an overpayment due to the efforts of a
16 department employee or officer, or a county employee or officer under the
17 management of the department, shall be credited to the appropriation account under
18 s. 20.435 (4) (L).

19 **SECTION 22.** 49.825 of the statutes is created to read:

20 **49.825 Department administration in Milwaukee County. (1)**

21 DEFINITIONS. In this section:

22 (a) "County" means Milwaukee County.

23 (b) "Department" means the department of health services.

24 (c) "Income maintenance program" has the meaning given in s. 49.78 (1) (b).

25 (d) "Unit" means the Milwaukee County enrollment services unit.

(d) "Secretary" means the secretary of health services.

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

4 1. Income maintenance programs.

5 2. The programs under ss. 49.77 and 49.775.

6 3. To the extent contracted under par. (b), the child care subsidy program under
7 s. 49.155.

8 (b) The department of children and families may enter into a contract with the
9 department of health services that provides for the performance of eligibility and
10 authorization functions under the program under s. 49.155 in the county by the unit.

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

14 (d) 1. The department shall reimburse the county for all approved, allowable
15 costs that exceed the amounts specified in subd. 2. and that are incurred by the
16 county under a contract with the department for the operation of the public
17 assistance programs under par. (a) in the county.

18 2. In 2009 the county shall expend at least \$3,559,800, for which the county
19 shall not be reimbursed by the department, for the operation of income maintenance
20 programs in the county. In each year thereafter, the county's unreimbursed required
21 minimum expenditure for the operation of income maintenance programs in the
22 county shall increase by the percentage increase in annual wage and benefit costs
23 paid with respect to county employees performing services under this section for the
24 unit.

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1 (3) DIVISION OF EMPLOYMENT-RELATED FUNCTIONS. (a) Supervisory personnel in
2 the unit shall be state employees. Nonsupervisory staff performing services under
3 this section for the unit may be a combination of state employees and employees of
4 Milwaukee County. For the performance of services under this section for the unit,
5 the county shall maintain no fewer represented authorized full-time employee
6 positions than the number of represented full-time employee positions that were
7 authorized on February 1, 2009, for performance of the same types of services.

8 b ← (c) 1. The department shall have the authority to hire, transfer, suspend, lay
9 off, recall, promote, discharge, assign, reward, discipline, and adjust grievances with
10 respect to, and state supervisory employees may supervise, county employees
11 performing services under this section for the unit.

12 2. For the purposes under subd. 1., the department shall use the same process
13 and procedures under ch. 230 that are used for the classified service of the state civil
14 service system, including specifically the use of probationary periods under s. 230.28.

15 3. County employees performing services under this section for the unit shall
16 be subject to the residency requirements that apply to other county employees under
17 the county's civil service rules.

18 4. The department may enter into a memorandum of understanding, as
19 described under s. 111.70 (3m), with the certified representative of the county
20 employees performing services under this section for the unit. If there is a dispute
21 as to hours or conditions of employment that remains between the department and
22 the certified representative after a good faith effort to resolve it, the department may
23 unilaterally resolve the dispute.

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

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1 (4) TREATMENT OF FORMER COUNTY EMPLOYEES APPOINTED TO STATE EMPLOYEE
 2 POSITIONS IN THE UNIT. All of the following shall apply to an employee who is appointed
 3 to a state employee position in the unit after the effective date of this subsection
 4 [LRB inserts date], and who, immediately prior to his or her appointment, was a
 5 county employee:

6 (a) The employee shall serve any applicable probationary period under s.
 7 230.28, but shall have his or her seniority with the state computed by treating the
 8 employee's total service with the county as state service.

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

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

18 (d) The employee shall have his or her sick leave accrued with the state
 19 computed by treating the employee's unused balance of sick leave accrued with the
 20 county as sick leave accrued in state service, but not to exceed the amount of sick
 21 leave the employee would have accrued in state service for the same period, if the
 22 employee is able to provide adequate documentation in accounting for sick leave used
 23 during the accrual period with the county. Sick leave that transfers under this
 24 paragraph is not subject to a right of conversion, under s. 40.05 (4) or otherwise, upon

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1 death or termination of creditable service for payment of health insurance benefits
2 on behalf of the employee or the employee's dependents.

3 **SECTION 23.** 49.847 (3) of the statutes is renumbered 49.847 (3) (a) and
4 amended to read:

5 49.847 (3) (a) Subject to ss. 49.497 (2) and 49.793 (2), and except as provided
6 in par. (b), a county or elected governing body may retain a portion of an amount
7 recovered under this section due to the efforts of an employee or officer of the county,
8 tribe, or band, as provided by the department by rule.

9 **SECTION 24.** 49.847 (3) (b) of the statutes is created to read:

10 49.847 (3) (b) Any amount that Milwaukee County would otherwise be entitled
11 to retain under par. (a) for the recovery of an amount under this section due to the
12 efforts of a department employee or officer, or a county employee or officer under the
13 management of the department, shall be credited to the appropriation account under
14 s. 20.435 (4) (L).

15 **SECTION 25.** 49.89 (7) (a) of the statutes is amended to read:

16 49.89 (7) (a) Any Except as provided in par. (f), any county or elected tribal
17 governing body that has made a recovery under this section shall receive an incentive
18 payment from the sum recovered as provided under this subsection.

19 **SECTION 26.** 49.89 (7) (f) of the statutes is created to read:

20 49.89 (7) (f) The amount of any incentive payment to which Milwaukee County
21 would otherwise be entitled under this subsection for a recovery under this section
22 due to the efforts of an employee or officer of the department of health services, or
23 a county employee or officer under the management of the department of health
24 services, shall be credited to the appropriation account under s. 20.435 (4) (im).

25 **SECTION 27.** 63.03 (2) (r) of the statutes is created to read:

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1 63.03 (2) (r) All staff performing services for the Milwaukee County enrollment
2 services unit under s. 49.825.

3 **SECTION 28.** 111.70 (1) (a) of the statutes is amended to read:

4 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
5 obligation of a municipal employer, through its officers and agents, and the
6 representative of its municipal employees in a collective bargaining unit, to meet and
7 confer at reasonable times, in good faith, with the intention of reaching an
8 agreement, or to resolve questions arising under such an agreement, with respect to
9 wages, hours and conditions of employment, and with respect to a requirement of the
10 municipal employer for a municipal employee to perform law enforcement and fire
11 fighting services under s. 61.66, except as provided in ~~sub.~~ subs. (3m) and (4) (m) and
12 s. 40.81 (3) and except that a municipal employer shall not meet and confer with
13 respect to any proposal to diminish or abridge the rights guaranteed to municipal
14 employees under ch. 164. The duty to bargain, however, does not compel either party
15 to agree to a proposal or require the making of a concession. Collective bargaining
16 includes the reduction of any agreement reached to a written and signed document.
17 The municipal employer shall not be required to bargain on subjects reserved to
18 management and direction of the governmental unit except insofar as the manner
19 of exercise of such functions affects the wages, hours and conditions of employment
20 of the municipal employees in a collective bargaining unit. In creating this
21 subchapter the legislature recognizes that the municipal employer must exercise its
22 powers and responsibilities to act for the government and good order of the
23 jurisdiction which it serves, its commercial benefit and the health, safety and welfare
24 of the public to assure orderly operations and functions within its jurisdiction,

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1 subject to those rights secured to municipal employees by the constitutions of this
2 state and of the United States and by this subchapter.

3 **SECTION 29.** 111.70 (3m) of the statutes is created to read:

4 111.70 (3m) MILWAUKEE COUNTY ENROLLMENT SERVICES UNIT. A collective
5 bargaining agreement that covers municipal employees performing services for the
6 Milwaukee County enrollment services unit under s. 49.825 shall contain a provision
7 that permits the terms of the agreement to be modified with respect to hours and
8 conditions of employment by a memorandum of understanding under s. 49.825 (3)

9 (e) 4. → b ✓

10 **SECTION 30.** 230.44 (1) (h) of the statutes is created to read:

11 230.44 (1) (h) *Decisions affecting Milwaukee County employees by the*
12 *department of health services.* A decision of the department of health services
13 relating to a Milwaukee County employee under s. 49.825 (3) (e). → b ✓

14 **SECTION 31. Nonstatutory provisions.**

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

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

17 1. "County" means Milwaukee County.

18 2. "County department" means the Milwaukee County department of social
19 services under section 49.215 of the statutes.

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

21 (b) *Transition plan.* On the effective date of this paragraph, the county and the
22 department shall begin the transition from the county to the department of
23 administrative functions for the programs specified in section 49.825 (2) (a) of the
24 statutes, as created by this act, and shall cooperate in the transition. The
25 department shall develop a transition plan that includes the reporting, exchange of

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1 information, and staff deployment that the department needs and that the county
2 department must provide for the transition. The secretary of administration shall
3 resolve any disagreement between the department and the county or county
4 department.

5 (c) *Records*. By January 15, 2010, the county shall transfer to the department
6 all records in the possession of the county that are related to eligibility processing
7 for the programs specified in section 49.825 (2) (a) of the statutes, as created by this
8 act. The county department and the department shall jointly identify those records
9 and jointly develop and implement a plan for the orderly transfer of the records.

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

19 **SECTION 32. Initial applicability.**

20 (1) COLLECTIVE BARGAINING. The treatment of sections 63.03 (2) (r) and 111.70
21 (1) (a) and (3m) of the statutes first applies to any employee of Milwaukee County
22 who is covered by a collective bargaining agreement that contains provisions
23 inconsistent with this act on the day on which the collective bargaining agreement
24 expires or is extended, modified, or renewed, whichever occurs first.

8121+18
17-18

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

LRB-2235/2ins
PJK:.....

INSERT A-PJK

no 9

for the operation of the income maintenance and state supplemental payment programs in the county and, if DCF so contracts with DHS, for the performance of the eligibility and authorization functions under the child care subsidy program in the county

(END OF INSERT A-PJK)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2235/2insRC
RAC::

Insert 5-22:

no P
This paragraph shall not apply if the employee remains a state employee, but is no longer performing services for the Milwaukee County enrollment services unit under s. 49.825.

Insert 13-18:

(c) 1. The employee may remain a participating employee in the retirement system established under chapter 201, laws of 1937. To remain under the retirement system established under chapter 201, laws of 1937, the employee must exercise this option in writing, on a form provided by the department, at the time the employee is appointed to a state employee position. The employee shall exercise this option, in writing, no later than 10 days after the employee is appointed to a state employee position. An employee's decision to remain a participating employee in the retirement system established under chapter 201, laws of 1937, is irrevocable during the period that the employee is holding a state employee position in the unit.

2. The secretary shall pay, on behalf of the employee, all required employer contributions under the retirement system established under chapter 201, laws of 1937.

Insert 17-18:

*LPS:
use
auto number
Not
hard
number*

(2) TREATMENT OF FORMER COUNTY EMPLOYEES APPOINTED TO ~~STATE EMPLOYEE~~ *DEPARTMENT OF HEALTH SERVICES* (S) POSITIONS IN THE ~~MILWAUKEE COUNTY ENROLLMENT SERVICES UNIT~~. Section 49.825 (4) of the statutes, as created by this act, shall apply to any employee who is appointed to a ~~state employee~~ *department of health services* position in the ~~Milwaukee County enrollment services unit~~ beginning on April 1, 2009, and ending on the effective date of this paragraph, and

49

who, immediately prior to his or her appointment, was a county employee, except that for purposes of section 49.825 (4) (c) of the statutes, as created by this act, the employee may ~~remain~~ ^{continue to be} a participating employee in the retirement system established under chapter 201, laws of 1937, by exercising this option, in writing, on a form provided by the department of health services no later than 10 days after after the effective date of this paragraph. If an employee exercises the option to ~~remain~~ ^{continue to be} a participating employee in the retirement system established under chapter 201, laws of 1937, the employee shall notify the department of employee trust funds, in writing, on a form provided by the department of health services, that the employee is no longer a participating employee under the Wisconsin Retirement System and is instead ^{be} a participating employee in the retirement system established under chapter 201, laws of 1937. An employee's decision to ~~remain~~ ^{be} a participating employee in the retirement system established under chapter 201, laws of 1937, is irrevocable during the period that the employee is holding a state employee position in the Milwaukee County enrollment services unit.

under section
49.825 of
the statutes,
as created
by this act

Kahler, Pam

From: Currans-Sheehan, Rachel H - DHS [Rachel.CurransSheehan@dhs.wisconsin.gov]
Sent: Monday, April 06, 2009 4:36 PM
To: Kahler, Pam
Cc: Welsh, Diane M - DHS
Subject: for Mil Co IM Legislation

Add in the following non-statutory language:

Following dismissal of the pending West v. Timberlake litigation, DHS and Milwaukee County will initiate discussions on continued successful income maintenance program in Milwaukee County and explore management options for continued performance of the program.

Rachel H. Currans-Sheehan
Legislative Liaison
Department of Health Services
Phone: (608)266-3262
Email: rachel.curranssheehan@wisconsin.gov

*identify the required
standard for
operation of
the program*

Kahler, Pam

From: Currans-Sheehan, Rachel H - DHS [Rachel.CurransSheehan@dhs.wisconsin.gov]
Sent: Monday, April 06, 2009 4:37 PM
To: Currans-Sheehan, Rachel H - DHS; Kahler, Pam
Cc: Welsh, Diane M - DHS
Subject: RE: for Mil Co IM Legislation

Technical change per ETF... Do we need to harmonize 40.22(2)(m) with 40.22(3m)?

From: Currans-Sheehan, Rachel H - DHS
Sent: Monday, April 06, 2009 4:36 PM
To: Kahler, Pam - LEGIS
Cc: Welsh, Diane M - DHS
Subject: for Mil Co IM Legislation

Add in the following non-statutory language:

Following dismissal of the pending West v. Timberlake litigation, DHS and Milwaukee County will initiate discussions on continued successful income maintenance program in Milwaukee County and explore management options for continued performance of the program.

Rachel H. Currans-Sheehan
Legislative Liaison
Department of Health Services
Phone: (608)266-3262
Email: rachel.curranssheehan@wisconsin.gov

mt for by 10:00 9:00

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between 10:00 & 11:00

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held co of

continued operation

who should administer the water
in the future

(2)

with (2)(m) HAW S (3w)

(3) analysis

for purposes of the
Municipal Employment Relations
Act

of the county & civil service provisions
of the statutes

Kahler, Pam

From: Currans-Sheehan, Rachel H - DHS [Rachel.CurransSheehan@dhs.wisconsin.gov]
Sent: Monday, April 06, 2009 5:04 PM
To: Kahler, Pam
Subject: FW: non stat language to add

From: Peterson, Eric [mailto:Eric.Peterson@legis.wisconsin.gov]
Sent: Monday, April 06, 2009 5:02 PM
To: Currans-Sheehan, Rachel H - DHS
Subject: RE: non stat language to add

Rachel,

I talked with Lena, and she would like the underlined language added.

Let me know,
Eric

Following dismissal of class action litigation commenced by April West and others against Milwaukee County officials and DHS officials, DHS and Milwaukee County will identify the required standards for county operation of the program and initiate discussions for management of continued operations of the income maintenance program.

Eric M. Peterson

Chief of Staff, Senator Lena C. Taylor
Wisconsin State Senator - 4th Senate District
t - 608-266-5810 f - 608-267-2353

From: Currans-Sheehan, Rachel H - DHS [mailto:Rachel.CurransSheehan@dhs.wisconsin.gov]
Sent: Monday, April 06, 2009 4:53 PM
To: Peterson, Eric
Subject: non stat language to add

Eric:
This is the sort of language we are suggesting to the drafter following Karen/Lena's conversation:

Following dismissal of class action litigation commenced by April West and others against Milwaukee County officials and DHS officials, DHS and Milwaukee County will initiate discussions for management of continued operations of the income maintenance program.

Rachel H. Currans-Sheehan
Legislative Liaison
Department of Health Services
Phone: (608)266-3262
Email: rachel.curranssheehan@wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2235/2

PJK/RAC/CMH/MES:cjs:mtl

3

2009 BILL

stays

reviser

by Tues.
9:00 am
please
(in Monday pm)

Reger Cat

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 40.62 (2), 46.215 (1) (intro.), 49.496 (5), 49.78 (2), 49.78 (10) (a), 49.785 (1)
4 (intro.), 49.785 (1m) (a), 49.785 (1m) (b), 49.785 (1m) (c), 49.89 (7) (a) and 111.70
5 (1) (a); and to create 40.02 (25) (b) 2c., 40.22 (2) (m), 49.496 (4) (b), 49.497 (2)
6 (b), 49.793 (2) (b), 49.825, 49.847 (3) (b), 49.89 (7) (f), 63.03 (2) (r), 111.70 (3m)
7 and 230.44 (1) (h) of the statutes; relating to: administration of certain public
8 assistance programs in Milwaukee County, removing county civil service
9 protections from certain employees, required provisions in certain collective
10 bargaining agreements under the Municipal Employment Relations Act, and
11 making an appropriation.

Analysis by the Legislative Reference Bureau

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

BILL

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 and, if DCF so contracts with DHS, for the performance of the eligibility and authorization functions under the child care subsidy program. 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 approved costs that exceed that amount for the operation of the income maintenance and state supplemental payment programs in the county and, if DCF so contracts with DHS, for the performance of the eligibility and authorization functions under the child care subsidy program in the county.

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, to perform the functions that the unit will perform under the bill. 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 and accrued sick 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 when the employee becomes insured, 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

The bill also requires DHS and Milwaukee County at a specified time in the future to discuss who will operate the income maintenance programs in the county and how the programs will be operated.

BILL

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. *insert A*

Under the bill, a collective bargaining agreement that covers county 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.

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 such amounts will be deposited in their entirety in the general fund and credited to an appropriation that pays for, among other things, recovery effort costs and activities related to error reduction.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

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

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

- 1 **SECTION 1.** 20.435 (4) (bn) of the statutes is amended to read:
- 2 20.435 (4) (bn) *Income maintenance.* Biennially, the amounts in the schedule
- 3 for funeral expenses under s. 49.785, for administration of the food stamp
- 4 employment and training program under s. 49.79 (9), for the performance of income
- 5 maintenance administrative activities on behalf of a local entity, as defined in s.
- 6 30.77 (3) (dm) 1. b., and for payments under s. 49.78 (8) relating to the administration

BILL**SECTION 1**

1 of the Medical Assistance program under subch. IV of ch. 49, the Badger Care health
2 care program under s. 49.665, the food stamp program, and the cemetery, funeral,
3 and burial expenses program under s. 49.785.

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

5 20.435 (4) (im) *Medical assistance; correct payment recovery; collections; other*
6 *recoveries.* All moneys received from the recovery of correct medical assistance
7 payments under ss. 49.496 and 867.035 and rules promulgated under s. 46.286 (7)
8 ~~and~~, all moneys received as collections and other recoveries from providers, drug
9 manufacturers, and other 3rd parties under medical assistance performance-based
10 contracts, and all moneys credited to this appropriation account under s. 49.89 (7)
11 (f), for payments to counties and tribal governing bodies under s. 49.496 (4) (a), for
12 payment of claims under s. 867.035 (3), for payments to the federal government for
13 its share of medical assistance benefits recovered, for the state share of medical
14 assistance benefits provided under subch. IV of ch. 49, and for costs related to
15 collections and other recoveries.

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

17 20.435 (4) (L) *Fraud and error reduction.* All moneys received as the state's
18 share of the recovery of overpayments and incorrect payments under ss. ~~49.847,~~
19 ~~49.497 (1) and (1m), and 49.793 (2) (a), and 49.847,~~ all moneys received from counties
20 and tribal governing bodies as a result of any error reduction activities under ss.
21 ~~49.197 and 49.845,~~ and all moneys credited to this appropriation account under ss.
22 49.497 (2) (b), 49.793 (2) (b), and 49.847 (3) (b), for any contracts under s. 49.197 (5),
23 for any activities to reduce error and fraud under s. 49.845, to pay federal sanctions
24 under the food stamp program, and for food stamp reinvestment activities under

BILL

1 reinvestment agreements with the federal department of agriculture that are
2 designed to improve the food stamp program.

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

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

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

6 40.05 (4) (a) 2. For an insured employee who is an eligible employee under s.
7 40.02 (25) (a) 2. or (b) 1m. or 2c., the employer shall pay required employer
8 contributions toward the health insurance premium of the insured employee
9 beginning on the date on which the employee becomes insured. For an insured state
10 employee who is currently employed, but who is not a limited term appointment
11 under s. 230.26 or an eligible employee under s. 40.02 (25) (a) 2. or (b) 1m. or 2c., the
12 employer shall pay required employer contributions toward the health insurance
13 premium of the insured employee beginning on the first day of the 3rd month
14 beginning after the date on which the employee begins employment with the state,
15 not including any leave of absence. For an insured employee who has a limited term
16 appointment under s. 230.26, the employer shall pay required employer
17 contributions toward the health insurance premium of the insured employee
18 beginning on the first day of the 7th month beginning after the date on which the
19 employee first becomes a participating employee.

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

21 40.22 (2) (m) ~~The~~ The employee was formerly employed by Milwaukee County, is
22 a state employee described in s. 49.825 (4), and elects to remain a covered employee
23 under the retirement system established under chapter 201, laws of 1937, pursuant
24 to s. 49.825 (4) (c). This paragraph shall not apply if the employee remains a state

→ Notwithstanding sub. (3m),

BILL**SECTION 6**

1 employee, but is no longer performing services for the Milwaukee County enrollment
2 services unit under s. 49.825.

3 **SECTION 7.** 40.62 (2) of the statutes is amended to read:

4 40.62 (2) Sick leave accumulation shall be determined in accordance with rules
5 of the department, any collective bargaining agreement under subch. I or V of ch. 111,
6 and ss. 13.121 (4), 36.30, 49.825 (4) (d), 230.35 (2), 233.10, 757.02 (5) and 978.12 (3).

7 **SECTION 8.** 46.215 (1) (intro.) of the statutes is amended to read:

8 46.215 (1) CREATION; POWERS AND DUTIES. (intro.) In a county with a population
9 of 500,000 or more the administration of welfare services, other than child welfare
10 services under s. 48.48 (17) administered by the department and except as provided
11 in s. 49.825, is vested in a county department of social services under the jurisdiction
12 of the county board of supervisors under s. 46.21 (2m) (b) 1. a. Any reference in any
13 law to a county department of social services under this section applies to a county
14 department under s. 46.21 (2m) in its administration under s. 46.21 (2m) of the
15 powers and duties of the county department of social services. The Except as
16 provided in s. 49.825, the county department of social services shall have the
17 following functions, duties and powers, and such other welfare functions as may be
18 delegated to it:

19 **SECTION 9.** 49.496 (4) of the statutes is renumbered 49.496 (4) (a) and amended
20 to read:

21 49.496 (4) (a) The department may require a county department under s.
22 46.215, 46.22, or 46.23 or the governing body of a federally recognized American
23 Indian tribe administering medical assistance to gather and provide the department
24 with information needed to recover medical assistance under this section. The
25 Except as provided in par. (b), the department shall pay to a county department or

BILL

1 tribal governing body an amount equal to 5% of the recovery collected by the
2 department relating to a beneficiary for whom the county department or tribal
3 governing body made the last determination of medical assistance eligibility. A
4 county department or tribal governing body may use funds received under this
5 subsection paragraph only to pay costs incurred under this subsection paragraph
6 and, if any amount remains, to pay for improvements to functions required under s.
7 49.78 (2). The department may withhold payments under this subsection paragraph
8 for failure to comply with the department's requirements under this subsection
9 paragraph. The department shall treat payments made under this subsection
10 paragraph as costs of administration of the Medical Assistance program.

11 **SECTION 10.** 49.496 (4) (b) of the statutes is created to read:

12 49.496 (4) (b) The department shall credit to the appropriation account under
13 s. 20.435 (4) (im) any amount that the department would otherwise pay under par.
14 (a) to a county department under s. 46.215 for any recovery collected by a department
15 employee or officer, or by a county employee or officer under the management of the
16 department.

17 **SECTION 11.** 49.496 (5) of the statutes is amended to read:

18 49.496 (5) USE OF FUNDS. From the appropriation under s. 20.435 (4) (im), the
19 department shall pay the amount of the payments under sub. (4) (a) that is not paid
20 from federal funds, shall pay to the federal government the amount of the funds
21 recovered under this section equal to the amount of federal funds used to pay the
22 benefits recovered under this section, and shall spend the remainder of the funds
23 recovered under this section for medical assistance benefits under this subchapter.

24 **SECTION 12.** 49.497 (2) of the statutes is renumbered 49.497 (2) (a) and
25 amended to read:

BILL**SECTION 12**

1 49.497 (2) (a) A Except as provided in par. (b), a county or governing body of
2 a federally recognized American Indian tribe may retain 15% of benefits provided
3 under this subchapter or s. 49.665 that are recovered under this section due to the
4 efforts of an employee or officer of the county or tribe.

5 **SECTION 13.** 49.497 (2) (b) of the statutes is created to read:

6 49.497 (2) (b) Any amount that Milwaukee County would otherwise be entitled
7 to retain under par. (a) for benefits recovered due to the efforts of a department
8 employee or officer, or a county employee or officer under the management of the
9 department, shall be credited to the appropriation account under s. 20.435 (4) (L).

10 **SECTION 14.** 49.78 (2) of the statutes is amended to read:

11 49.78 (2) **CONTRACTS.** Annually, for the income maintenance program
12 functions, if any, that the department delegates to a county or tribal governing body,
13 the department shall contract with and county departments department under ss.
14 s. 46.215, 46.22, and or 46.23 shall enter into a contract, and the department and
15 tribal governing body may enter into a contract with tribal governing bodies, to
16 reimburse the county departments and tribal governing bodies, for reimbursement
17 of the county department or tribal governing body for the reasonable cost of
18 administering income maintenance programs.

19 **SECTION 15.** 49.78 (10) (a) of the statutes is amended to read:

20 49.78 (10) (a) Each county treasurer and director of a county department under
21 s. 46.215, 46.22, or 46.23 that contracts with the department under sub. (2) and each
22 tribal governing body that contracts with the department under sub. (2) shall certify
23 monthly under oath to the department in such manner as the department prescribes
24 the claim of the county or tribal governing body for state reimbursement under sub.
25 (8) (a). The department shall review each claim of reimbursement and, if the

BILL

1 department approves the claim, the department shall certify to the department of
2 administration for reimbursement to the county or tribal governing body for
3 amounts due under sub. (8) (a) and payment claimed to be made to the counties or
4 tribal governing bodies monthly. The department may make advance payments
5 prior to the beginning of each month equal to one-twelfth of the contracted amount.

6 **SECTION 16.** 49.785 (1) (intro.) of the statutes is amended to read:

7 49.785 (1) (intro.) Except as provided in sub. (1m) and subject to s. 49.825, if
8 any recipient specified in sub. (1c) dies and the estate of the deceased recipient is
9 insufficient to pay the funeral, burial, and cemetery expenses of the deceased
10 recipient, the department or county or applicable tribal governing body or
11 organization responsible for burial of the recipient shall pay, to the person
12 designated by the department or county department under s. 46.215, 46.22, or 46.23
13 or applicable tribal governing body or organization responsible for the burial of the
14 recipient, all of the following:

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

16 49.785 (1m) (a) If the total cemetery expenses for the recipient exceed \$3,500,
17 the department or county or applicable tribal governing body or organization
18 responsible for burial of the recipient is not required to make a payment for the
19 cemetery expenses under sub. (1) (a).

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

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

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

BILL**SECTION 19**

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

5 **SECTION 20.** 49.793 (2) of the statutes is renumbered 49.793 (2) (a) and
6 amended to read:

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

15 **SECTION 21.** 49.793 (2) (b) of the statutes is created to read:

16 49.793 (2) (b) Any amount that Milwaukee County would otherwise be entitled
17 to retain under par. (a) for the recovery of an overpayment due to the efforts of a
18 department employee or officer, or a county employee or officer under the
19 management of the department, shall be credited to the appropriation account under
20 s. 20.435 (4) (L).

21 **SECTION 22.** 49.825 of the statutes is created to read:

22 **49.825 Department administration in Milwaukee County. (1)**

23 DEFINITIONS. In this section:

24 (a) "County" means Milwaukee County.

25 (b) "Department" means the department of health services.

BILL

1 (c) "Income maintenance program" has the meaning given in s. 49.78 (1) (b).

2 (d) "Secretary" means the secretary of health services.

3 (e) "Unit" means the Milwaukee County enrollment services unit.

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

7 1. Income maintenance programs.

8 2. The programs under ss. 49.77 and 49.775.

9 3. To the extent contracted under par. (b), the child care subsidy program under
10 s. 49.155.

11 (b) The department of children and families may enter into a contract with the
12 department of health services that provides for the performance of eligibility and
13 authorization functions under the program under s. 49.155 in the county by the unit.

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

17 (d) 1. The department shall reimburse the county for all approved, allowable
18 costs that exceed the amounts specified in subd. 2. and that are incurred by the
19 county under a contract with the department for the operation of the public
20 assistance programs under par. (a) in the county.

21 2. In 2009 the county shall expend at least \$3,559,800, for which the county
22 shall not be reimbursed by the department, for the operation of income maintenance
23 programs in the county. In each year thereafter, the county's unreimbursed required
24 minimum expenditure for the operation of income maintenance programs in the
25 county shall increase by the percentage increase in annual wage and benefit costs

BILL**SECTION 22**

1 paid with respect to county employees performing services under this section for the
2 unit.

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

10 (b) 1. The department shall have the authority to hire, transfer, suspend, lay
11 off, recall, promote, discharge, assign, reward, discipline, and adjust grievances with
12 respect to, and state supervisory employees may supervise, county employees
13 performing services under this section for the unit.

14 2. For the purposes under subd. 1., the department shall use the same process
15 and procedures under ch. 230 that are used for the classified service of the state civil
16 service system, including specifically the use of probationary periods under s. 230.28.

17 3. County employees performing services under this section for the unit shall
18 be subject to the residency requirements that apply to other county employees under
19 the county's civil service rules.

20 4. The department may enter into a memorandum of understanding, as
21 described under s. 111.70 (3m), with the certified representative of the county
22 employees performing services under this section for the unit. If there is a dispute
23 as to hours or conditions of employment that remains between the department and
24 the certified representative after a good faith effort to resolve it, the department may
25 unilaterally resolve the dispute.

BILL

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

3 (4) TREATMENT OF FORMER COUNTY EMPLOYEES APPOINTED TO STATE EMPLOYEE
4 POSITIONS IN THE UNIT. All of the following shall apply to an employee who is appointed
5 to a state employee position in the unit after the effective date of this subsection
6 [LRB inserts date], and who, immediately prior to his or her appointment, was a
7 county employee:

8 (a) The employee shall serve any applicable probationary period under s.
9 230.28, but shall have his or her seniority with the state computed by treating the
10 employee's total service with the county as state service.

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

13 (c) 1. The employee may remain a participating employee in the retirement
14 system established under chapter 201, laws of 1937. To remain under the retirement
15 system established under chapter 201, laws of 1937, the employee must exercise this
16 option in writing, on a form provided by the department, at the time the employee
17 is appointed to a state employee position. The employee shall exercise this option,
18 in writing, no later than 10 days after the employee is appointed to a state employee
19 position. An employee's decision to remain a participating employee in the
20 retirement system established under chapter 201, laws of 1937, is irrevocable during
21 the period that the employee is holding a state employee position in the unit.

22 2. The secretary shall pay, on behalf of the employee, all required employer
23 contributions under the retirement system established under chapter 201, laws of
24 1937.

BILL**SECTION 22**

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

10 **SECTION 23.** 49.847 (3) of the statutes is renumbered 49.847 (3) (a) and
11 amended to read:

12 49.847 (3) (a) Subject to ss. 49.497 (2) and 49.793 (2), and except as provided
13 in par. (b), a county or elected governing body may retain a portion of an amount
14 recovered under this section due to the efforts of an employee or officer of the county,
15 tribe, or band, as provided by the department by rule.

16 **SECTION 24.** 49.847 (3) (b) of the statutes is created to read:

17 49.847 (3) (b) Any amount that Milwaukee County would otherwise be entitled
18 to retain under par. (a) for the recovery of an amount under this section due to the
19 efforts of a department employee or officer, or a county employee or officer under the
20 management of the department, shall be credited to the appropriation account under
21 s. 20.435 (4) (L).

22 **SECTION 25.** 49.89 (7) (a) of the statutes is amended to read:

23 49.89 (7) (a) Any Except as provided in par. (f), any county or elected tribal
24 governing body that has made a recovery under this section shall receive an incentive
25 payment from the sum recovered as provided under this subsection.

BILL

1 **SECTION 26.** 49.89 (7) (f) of the statutes is created to read:

2 49.89 (7) (f) The amount of any incentive payment to which Milwaukee County
3 would otherwise be entitled under this subsection for a recovery under this section
4 due to the efforts of an employee or officer of the department of health services, or
5 a county employee or officer under the management of the department of health
6 services, shall be credited to the appropriation account under s. 20.435 (4) (im).

7 **SECTION 27.** 63.03 (2) (r) of the statutes is created to read:

8 63.03 (2) (r) All staff performing services for the Milwaukee County enrollment
9 services unit under s. 49.825.

10 **SECTION 28.** 111.70 (1) (a) of the statutes is amended to read:

11 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
12 obligation of a municipal employer, through its officers and agents, and the
13 representative of its municipal employees in a collective bargaining unit, to meet and
14 confer at reasonable times, in good faith, with the intention of reaching an
15 agreement, or to resolve questions arising under such an agreement, with respect to
16 wages, hours and conditions of employment, and with respect to a requirement of the
17 municipal employer for a municipal employee to perform law enforcement and fire
18 fighting services under s. 61.66, except as provided in sub. subs. (3m) and (4) (m) and
19 s. 40.81 (3) and except that a municipal employer shall not meet and confer with
20 respect to any proposal to diminish or abridge the rights guaranteed to municipal
21 employees under ch. 164. The duty to bargain, however, does not compel either party
22 to agree to a proposal or require the making of a concession. Collective bargaining
23 includes the reduction of any agreement reached to a written and signed document.
24 The municipal employer shall not be required to bargain on subjects reserved to
25 management and direction of the governmental unit except insofar as the manner

BILL**SECTION 28**

1 of exercise of such functions affects the wages, hours and conditions of employment
2 of the municipal employees in a collective bargaining unit. In creating this
3 subchapter the legislature recognizes that the municipal employer must exercise its
4 powers and responsibilities to act for the government and good order of the
5 jurisdiction which it serves, its commercial benefit and the health, safety and welfare
6 of the public to assure orderly operations and functions within its jurisdiction,
7 subject to those rights secured to municipal employees by the constitutions of this
8 state and of the United States and by this subchapter.

9 **SECTION 29.** 111.70 (3m) of the statutes is created to read:

10 **111.70 (3m) MILWAUKEE COUNTY ENROLLMENT SERVICES UNIT.** A collective
11 bargaining agreement that covers municipal employees performing services for the
12 Milwaukee County enrollment services unit under s. 49.825 shall contain a provision
13 that permits the terms of the agreement to be modified with respect to hours and
14 conditions of employment by a memorandum of understanding under s. 49.825 (3)
15 (b) 4.

16 **SECTION 30.** 230.44 (1) (h) of the statutes is created to read:

17 **230.44 (1) (h) *Decisions affecting Milwaukee County employees by the***
18 ***department of health services.*** A decision of the department of health services
19 relating to a Milwaukee County employee under s. 49.825 (3) (b).

20 **SECTION 31. Nonstatutory provisions.**

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

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

23 1. "County" means Milwaukee County.

24 2. "County department" means the Milwaukee County department of social
25 services under section 49.215 of the statutes.

BILL

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

2 (b) *Transition plan.* On the effective date of this paragraph, the county and the
3 department shall begin the transition from the county to the department of
4 administrative functions for the programs specified in section 49.825 (2) (a) of the
5 statutes, as created by this act, and shall cooperate in the transition. The
6 department shall develop a transition plan that includes the reporting, exchange of
7 information, and staff deployment that the department needs and that the county
8 department must provide for the transition. The secretary of administration shall
9 resolve any disagreement between the department and the county or county
10 department.

11 (c) *Records.* By January 15, 2010, the county shall transfer to the department
12 all records in the possession of the county that are related to eligibility processing
13 for the programs specified in section 49.825 (2) (a) of the statutes, as created by this
14 act. The county department and the department shall jointly identify those records
15 and jointly develop and implement a plan for the orderly transfer of the records.

16 (d) *County administration.* In calendar year 2009, the county shall continue
17 to perform the administrative functions for the programs specified in section 49.825
18 (2) (a) of the statutes, as created by this act, as provided under any contracts
19 requiring those administrative functions until the department notifies the county
20 that it is prepared to assume responsibility for the administrative functions. The
21 county and department shall contract with respect to administrative functions that
22 the department requires the county to perform to assist the department in
23 administering the programs specified in section 49.825 (2) (a) of the statutes, as
24 created by this act, for the years after 2009.

Insert 17-24 →

BILL

SECTION 31

(2) TREATMENT OF FORMER COUNTY EMPLOYEES APPOINTED TO POSITIONS IN THE DEPARTMENT OF HEALTH SERVICES. Section 49.825 (4) of the statutes, as created by this act, shall apply to any employee who is appointed to a position in the department of health services beginning on April 1, 2009, and ending on the effective date of this paragraph, and who, immediately prior to his or her appointment, was a county employee, except that for purposes of section 49.825 (4) (c) of the statutes, as created by this act, the employee may continue to be a participating employee in the retirement system established under chapter 201, laws of 1937, by exercising this option, in writing, on a form provided by the department of health services no later than 10 days after after the effective date of this paragraph. If an employee exercises the option to continue to be a participating employee in the retirement system established under chapter 201, laws of 1937, the employee shall notify the department of employee trust funds, in writing, on a form provided by the department of health services, that the employee is no longer a participating employee under the Wisconsin Retirement System and is instead a participating employee in the retirement system established under chapter 201, laws of 1937. An employee's decision to be a participating employee in the retirement system established under chapter 201, laws of 1937, is irrevocable during the period that the employee is holding a state employee position in the Milwaukee County enrollment services unit under section 49.825 of the statutes, as created by this act.

SECTION 32. Initial applicability.

(1) COLLECTIVE BARGAINING. The treatment of sections 63.03 (2) (r) and 111.70 (1) (a) and (3m) of the statutes first applies to any employee of Milwaukee County who is covered by a collective bargaining agreement that contains provisions

Subsection

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1 inconsistent with this act on the day on which the collective bargaining agreement
2 expires or is extended, modified, or renewed, whichever occurs first.

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

9 **SECTION 33. Effective dates.** This act takes effect on the day after publication,
10 except as follows:

11 (1) INCORRECT AND CORRECT PAYMENT RECOVERIES. The treatment of sections
12 20.435 (4) (im) and (L), 49.496 (5), and 49.89 (7) (a) and (f) of the statutes, the
13 renumbering and amendment of sections 49.496 (4), 49.497 (2), 49.793 (2), and
14 49.847 (3) of the statutes, the creation of sections 49.496 (4) (b), 49.497 (2) (b), 49.793
15 (2) (b), and 49.847 (3) (b) of the statutes, and SECTION 32 (2) of this act take effect on
16 January 1, 2010.

17 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2235/3ins
PJK:.....

INSERT A

will
for purposes of the county civil service provisions of the statutes ✓
(END OF INSERT A)

INSERT 17-24

1 *FI* *en* (a) Future operation. After the dismissal of the litigation commenced by April
2 West and others against county and department officials, the department and county
3 shall initiate discussions regarding who shall operate the income maintenance
4 programs in the county in the future, *and* how those programs shall be operated, and
5 what the required standards are for the operation of the programs.

(END OF INSERT 17-24)

identify the required standards for county operation of the income maintenance programs in the county and

as defined in section 49.78 (1)(b) of the statutes

Duerst, Christina

From: Mcginnis, Cindy

Sent: Tuesday, April 07, 2009 8:29 AM

To: LRB.Legal

Subject: Draft Review: LRB 09-2235/3 Topic: State takeover of Milwaukee County income maintenance and child care subsidy programs

Please Jacket LRB 09-2235/3 for the ASSEMBLY.

4/7/2009