

2009 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB755)

Received: **02/26/2010**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Cory Mason (608) 266-0634**

By/Representing: **Vicky**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters: **mshovers
gmalaise**

Subject: **Public Util. - energy
Local Gov't - munis generally
Local Gov't - counties**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Rep.Mason@legis.wisconsin.gov**

Carbon copy (CC:) to: **david.lovell@legis.wisconsin.gov
mary.matthias@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Utility and political subdivision programs for investing in energy efficiency improvements and renewable resource applications

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 02/27/2010	csicilia 02/28/2010		_____			
/1			jfrantze 03/01/2010	_____	mbarman 03/01/2010	mbarman 03/01/2010	

FE Sent For:

<END>

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/?	mkunkel	2/28 10	gs /	J 2/1	3/1 DMLB		

FE Sent For:

<END>

Kunkel, Mark

From: Selkowe, Vicky
Sent: Monday, February 22, 2010 9:03 AM
To: Baldus, John I - OEI; Driscoll, Brian - OEI
Cc: Kunkel, Mark
Subject: question re. WI WAP & EECBG statutory references

Hi John & Brian –

As Rep. Mason & I discussed with you two and Judy a few weeks ago, we do not want to include the low-income weatherization programs in what's covered by our proposed Wisconsin Sustainable Jobs Act (now AB 755). We've received a question from Bob Jones at WISCAP, believing that the way the statutes are referenced in the bill that we are in fact actually covering those low-income programs. As we discussed, we instead want to make sure that we're covering the EECBG competitive funding and any future similar DOE funding that could be used for residential retrofits, to get at, as Judy described, "middle income" homeowners.

Could one of you help our drafter, Mark Kunkel, cc'd here, ensure that we've got the correct statutes linked to in this draft? We're having a hearing on the bill this week and want to make sure we've got clarity on this prior to that hearing, and if an amendment to the bill is needed to explicitly exclude the low-income weatherization programs, we'd want to have that drafted.

Rep. Mason and I would appreciate it if one of you or Judy is able to talk with Mark to help ensure he's got the correct statutes referenced or excluded.

Thanks much! The bill can be found here: <http://www.legis.state.wi.us/2009/data/AB-755.pdf>
Vicky

Vicky Selkowe
Office of State Representative Cory Mason
62nd Assembly District
Room 321 East, State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634
Toll-free: (888) 534-0062

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Kunkel, Mark

From: Selkowe, Vicky
Sent: Friday, February 19, 2010 4:41 PM
To: Kunkel, Mark
Subject: Re: question re. LRB-2740/2 (now AB 755)

Thanks, Mark. I'll also send Judy an email outlining the issue and see if I can get a response from her or her staff.

Have a good weekend.

Vicky

Sent from my iPhone.

Vicky Selkowe

On Feb 19, 2010, at 4:28 PM, "Kunkel, Mark" <Mark.Kunkel@legis.wisconsin.gov> wrote:

Vicky:

Sorry for the late response, but I was busy all day on a big draft. I will get in touch with Judy Karofsky first thing Monday am.

-- Mark

From: Selkowe, Vicky
Sent: Thursday, February 18, 2010 5:02 PM
To: Kunkel, Mark
Subject: question re. LRB-2740/2 (now AB 755)

Hi Mark –
This bill has been introduced and is now AB 755.

We've gotten some questions about whether the bill's provisions will apply to the low-income weatherization program, since that's the section of the statutes it's being added to. That program, as you probably know, also recently received ARRA funds. We want to be clear that we do not want our bill's provisions to apply to the state's low-income weatherization program (WisWAP) and that those are NOT the ARRA funds we're linking to in the "grants" section of the bill. I'm sure that someone at the state's Office of Energy Independence could help you determine which federal statutes and ARRA funding streams are which, but we really want to make sure the bill is not going to cover the low-income weatherization program or apply to any federal stimulus (or other) dollars that go into WisWAP.

It's our understanding that one of the pots of money that we DO want to link to (the money that we do want the bill's provisions to apply to) is found below.

Taken from the ARRA text (below)...

“for implementation of programs authorized under subtitle E of title V of the

Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.)” and funded through ARRA 2009?

HR 1, American Recovery and Reinvestment Act of 2009, Title IV
<http://thomas.gov/cgi-bin/query/F?c111:8:./temp/~c111UOhCIZ:e67773:>

“...That \$3,200,000,000 shall be available for **Energy Efficiency and Conservation Block Grants for implementation of programs authorized under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.)**, of which \$2,800,000,000 is available through the formula in subtitle E: Provided further, That the Secretary may use the most recent and accurate population data available to satisfy the requirements of section 543(b) of the Energy Independence and Security Act of 2007: Provided further, That the remaining \$400,000,000 shall be awarded on a competitive basis:”

I know this is confusing. I'm trying to wrap my own brain around it. If you're able to talk to Judy Karofsky or someone else at the state's Office of Energy Independence to help straighten this out, that would be appreciated. She is familiar with the bill and might be able to point you to the correct statutory references for both the low-income weatherization program and the other DOE money that is coming to WI in the future that we do want the bill to apply to.

Thanks,
Vicky

Vicky Selkove
Office of State Representative Cory Mason
62nd Assembly District
Room 321 East, State Capitol
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0634
Toll-free: (888) 534-0062

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Kunkel, Mark

From: Selkowe, Vicky
Sent: Monday, February 22, 2010 12:56 PM
To: Kunkel, Mark
Subject: RE: question re. WI WAP & EECBG statutory references

Hi Mark –

Thanks for this, this is helpful. I'm 90% certain that we will want amendments, as you suggest, to address the issues in both #1 and #2, below, but let me just discuss it with Rep. Mason to confirm. I'll follow up with Bob Jones at WISCAP to see if this addresses his concern or if he can be more detailed.

Vicky

P.S. Enjoyed hearing you play Friday night! Was a good jam session.

Vicky Selkowe
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From: Kunkel, Mark
Sent: Monday, February 22, 2010 11:24 AM
To: Selkowe, Vicky
Subject: RE: question re. WI WAP & EECBG statutory references

Vicky, I spoke with David Jenkins of OEI this morning about the bill, which requires the PSC to make grants under the bill from all moneys received by the state under the energy efficiency and conservation block grant program under P.L. 111-5 (the American Recovery and Reinvestment Act of 2009, or "ARAR").

According to Jenkins, the federal money received under the above block grant program is in addition to money received for federal low-income weatherization assistance. That is consistent with my understanding when I drafted the bill. Also, the bill does not otherwise affect federal low-income weatherization assistance. Therefore, it doesn't appear that bill interferes with money received by the state for federal low-income weatherization assistance and I'm not sure what Bob Jones' concern is. Perhaps he can describe what the issue is?

However, based on my conversation with David Jenkins, there are 2 different issues that might require amendments:

1. According to Jenkins, joint finance has already approved the spending of some of the above block grant money pursuant to an agreement by the governor, OEI, and the Department of Commerce. You may want to amend the bill so that the bill does not apply to block grant money for which Joint Finance has approved spending prior to the effective date of the bill.
2. Under current law, the governor and Joint Finance have authority over the spending of any block grants received by the state, not just the block grants described above. See s. 16.54 (2) (a). The bill creates an exception to that authority in allowing the PSC to use the block grants described above for the purposes described in the bill. However, 2009 Act 2, s. 9131 also authorizes Joint Finance to approve money received before June 30, 2011 by the state under ARAR. When authorizing the PSC to use the block grants described above, I should have created an exception to the authority of Joint Finance under 2009 Act 2, s. 9131. You probably want an amendment to address this issue.

Finally, for your information, Jenkins noted that some of the block grant money described above is earmarked to local units of government. He referred to such block grants as entitlement grants. However, the bill refers to block grants received by the state. As a result, the bill does not interfere with the local government entitlement grants, because those grants will

be received by local units of government, not the state.

-- Mark

From: Selkove, Vicky
Sent: Monday, February 22, 2010 9:03 AM
To: Baldus, John I - OEI; Driscoll, Brian - OEI
Cc: Kunkel, Mark
Subject: question re. WI WAP & EECBG statutory references

Hi John & Brian –

As Rep. Mason & I discussed with you two and Judy a few weeks ago, we do not want to include the low-income weatherization programs in what's covered by our proposed Wisconsin Sustainable Jobs Act (now AB 755). We've received a question from Bob Jones at WISCAP, believing that the way the statutes are referenced in the bill that we are in fact actually covering those low-income programs. As we discussed, we instead want to make sure that we're covering the EECBG competitive funding and any future similar DOE funding that could be used for residential retrofits, to get at, as Judy described, "middle income" homeowners.

Could one of you help our drafter, Mark Kunkel, cc'd here, ensure that we've got the correct statutes linked to in this draft? We're having a hearing on the bill this week and want to make sure we've got clarity on this prior to that hearing, and if an amendment to the bill is needed to explicitly exclude the low-income weatherization programs, we'd want to have that drafted.

Rep. Mason and I would appreciate it if one of you or Judy is able to talk with Mark to help ensure he's got the correct statutes referenced or excluded.

Thanks much! The bill can be found here: <http://www.legis.state.wi.us/2009/data/AB-755.pdf>
Vicky

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Kunkel, Mark

From: Selkowe, Vicky
Sent: Tuesday, February 23, 2010 9:28 AM
To: Kunkel, Mark
Subject: RE: weatherization funds & AB 755

Yes, we need to delete the requirement that work under the weatherization assistance program be performed by contractors & subcontractors on the prequalified list. Do you agree with Bob that it needs to be removed in all three of the identified areas of the bill? If so, please go ahead & make those changes into an amendment.

As with the apprenticeship amendment you drafted and the LED lighting amendment you also drafted, we will likely want to fold all of those into a substitute once we've had the public hearing this Wednesday and are preparing for the committee's executive session. (There may be other amendments that also need to be part of the sub.)

Thanks,
Vicky

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From: Kunkel, Mark
Sent: Tuesday, February 23, 2010 8:20 AM
To: Selkowe, Vicky
Subject: RE: weatherization funds & AB 755

Yes, I do now understand the issue. The issue is not funding, which is what I meant when I referred to assistance, but the requirement that work under the weatherization assistance program must be done by contractors and subcontractors on the prequalification list. Under the bill, work under the following programs must be performed by contractors and subcontractors on the prequalification list: 1) as noted above, work under the weatherization assistance program; 2) work under s. 196.374, which is commonly referred to as the FOCUS program; and 3) work under the new programs created in the bill.

If you want to delete the requirement that work under the weatherization assistance program must be performed by contractors and subcontractors on the prequalification list, that is easy to do, as noted in Bob Jones' email below. Let me know how you want to proceed.

-- Mark

02/27/2010

From: Selkove, Vicky
Sent: Monday, February 22, 2010 6:47 PM
To: Kunkel, Mark
Subject: Fwd: weatherization funds & AB 755

Does this help understand the concern and give you ideas on how we can fix it?

Sent from my iPhone.

Vicky Selkove

Begin forwarded message:

From: "Bob Jones" <bjones@wiscap.org>
Date: February 22, 2010 6:41:47 PM CST
To: "Selkove, Vicky" <Vicky.Selkove@legis.wisconsin.gov>
Cc: "Dick Schlimm" <rschlimm@wiscap.org>
Subject: RE: weatherization funds & AB 755

Vicky –

Hate to be a nuisance, but the drafter's comments you've shared don't clear things up at all. I don't agree with the attorney's comment that "... the bill does not otherwise affect federal low-income weatherization assistance" as I don't see anything in his/her explanation to the contrary (although, clearly, I guess we both wish that were true). And the reference to P.L. 111-5 and Jenks' explanations, to my mind, don't allay that.

Let me walk you through what I see as the problem here; maybe that will help indicate why we still perceive this as a problem. It's got nothing to do with the Energy Efficiency and Conservation Block Grant Program and it's got nothing to do with ARRA.

AB 755 – on page 5, line 1 – renumbers 16.26 of Wisconsin statutes as 16.26 (1). 16.26 of Wisconsin statutes says, in its entirety: "16.26 Weatherization assistance. Notwithstanding s.16.54 (2) (a), the department shall administer federal funds available to this state under the weatherization assistance for low-income persons program, as amended, 42 USC 6861 to 6873. The department shall administer the funds in accordance with 42 USC 6861 to 6873 and regulations adopted under 42 USC 6861 or 6873."

If you go to 42 USC 6861 to 6873, you'll see that this is the federal low-income weatherization assistance program. It is not the energy efficiency and conservation block grant program. It is not ARRA. Here is the direct linkage that is causing the problem.

Rep. Mason's bill, in the next line – page 5, line 2 – creates 16.26 (2) and, by so doing, links the prequalification requirements in question to the low-income program: "The department shall prohibit by rule the performance of any work under a contract entered into under sub. (1) by a contractor ..."

If you follow my trail from above, you will see that "sub. (1)" is the low-income weatherization assistance program under 42 USC 6861 to 6873 ... not the energy efficiency and conservation block grant and not ARRA. So the bill is requiring the department of administration to enforce these prequalification requirements for the low-income weatherization assistance program.

Since 16.26 refers ONLY to low-income weatherization, removing all references to that section of the statutes would fix the problem and shouldn't create any new problems regarding the bill's intent vis-à-vis the energy efficiency and conservation block grant. I found three such areas in need of removal: Page 5, Lines 1-8; Page 6, Lines 1-2; and Page 26, Lines 3-13. At a very minimum, Vicky,

maybe it would be helpful if I could meet with you and the drafter's to go through this language and explain to her/him why it's still a problem.

We've registered our interest in the bill and stated for the record that "we support the general intent of AB 755 but cannot support it in its current form because of the conditions it would place on contracting and operating the federally funded weatherization program under 42 USC 6861 to 6873."

Thanks for continuing to track this issue for us, Vicky.

Take care,

Bob

From: Selkove, Vicky [mailto:Vicky.Selkove@legis.wisconsin.gov]

Sent: Monday, February 22, 2010 12:43 PM

To: Bob Jones

Subject: weatherization funds & AB 755

Bob –

This is what our drafting attorney said, in response to your question about whether our bill, AB 755, would apply to the low-income weatherization funds:

Vicky, I spoke with David Jenkins of OEI this morning about the bill, which requires the PSC to make grants under the bill from all moneys received by the state under the energy efficiency and conservation block grant program under P.L. 111-5 (the American Recovery and Reinvestment Act of 2009, or "ARAR").

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Does this allay your questions or do you feel there is more digging around that we need to do?

Vicky

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Kunkel, Mark

From: Selkowe, Vicky
Sent: Tuesday, February 23, 2010 10:17 AM
To: Kunkel, Mark
Subject: RE: weatherization funds & AB 755

Sounds great. Thanks much,
Vicky

Vicky Selkowe
Office of State Representative Cory Mason
62nd Assembly District
Room 321 East, State Capitol
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From: Kunkel, Mark
Sent: Tuesday, February 23, 2010 10:15 AM
To: Selkowe, Vicky
Subject: RE: weatherization funds & AB 755

Yes, the 3 changes he identified are the changes that will be in the amendment, as they all related to the same issue. I will draft an amendment and get it to you today -- early afternoon.

-- Mark

From: Selkowe, Vicky
Sent: Tuesday, February 23, 2010 9:28 AM
To: Kunkel, Mark
Subject: RE: weatherization funds & AB 755

Yes, we need to delete the requirement that work under the weatherization assistance program be performed by contractors & subcontractors on the prequalified list. Do you agree with Bob that it needs to be removed in all three of the identified areas of the bill? If so, please go ahead & make those changes into an amendment.

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If you want to delete the requirement that work under the weatherization assistance program must be performed by contractors and subcontractors on the prequalification list, that is easy to do, as noted in Bob Jones' email below. Let me know how you want to proceed.

-- Mark

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Date: February 22, 2010 6:41:47 PM CST
To: "Selkove, Vicky" <Vicky.Selkove@legis.wisconsin.gov>
Cc: "Dick Schlimm" <rschlimm@wiscap.org>
Subject: RE: weatherization funds & AB 755

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Let me walk you through what I see as the problem here; maybe that will help indicate why we still perceive this as a problem. It's got nothing to do with the Energy Efficiency and Conservation Block Grant Program and it's got nothing to do with ARRA.

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If you go to 42 USC 6861 to 6873, you'll see that this is the federal low-income weatherization assistance program. It is not the energy efficiency and conservation block grant program. It is not ARRA. Here is the direct linkage that is causing the problem.

Rep. Mason's bill, in the next line – page 5, line 2 – creates 16.26 (2) and, by so doing, links the prequalification requirements in question to the low-income program: "The department shall prohibit by rule the performance of any work under a contract entered into under sub. (1) by a contractor ..."

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Since 16.26 refers ONLY to low-income weatherization, removing all references to that section of the statutes would fix the problem and shouldn't create any new problems regarding the bill's intent vis-à-vis the energy efficiency and conservation block grant. I found three such areas in need of removal: Page 5, Lines 1-8; Page 6, Lines 1-2; and Page 26, Lines 3-13. At a very minimum, Vicky, maybe it would be helpful if I could meet with you and the drafter's to go through this language and explain to her/him why it's still a problem.

We've registered our interest in the bill and stated for the record that "we support the general intent of AB 755 but cannot support it in its current form because of the conditions it would place on contracting and operating the federally funded weatherization program under 42 USC 6861 to 6873."

Thanks for continuing to track this issue for us, Vicky.

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Bob

From: Selkove, Vicky [mailto:Vicky.Selkove@legis.wisconsin.gov]

Sent: Monday, February 22, 2010 12:43 PM

To: Bob Jones

Subject: weatherization funds & AB 755

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Vicky Selkove

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Kunkel, Mark

From: Selkowe, Vicky
Sent: Tuesday, February 23, 2010 5:48 PM
To: Matthias, Mary; Kunkel, Mark; James Irwin
Cc: Lovell, David
Subject: RE: AB 755-federal grant \$ question

Mary, Mark & David –

I have been talking to several folks today about this issue of which federal funds AB 755 needs to reference.

James Irwin at COWS has been following these federal stimulus funds very closely and has provided the following information about the DOE funds that AB 755 aims to link to:

Sources of ARRA funding available for use in Energy Efficiency Programs in Wisconsin

Energy Efficiency Conservation Block Grants (EECBG) Competitive funds: Also known as Retrofit Ramp Up grants, these DOE grant awards have not yet been announced. Milwaukee, Madison, and Racine jointly applied for \$65 million. The grant awards are expected to be announced in March 2010.

The reference for the FOA for the Retrofit Ramp Up grant is:

Funding Opportunity Title: Recovery Act Request for Information (RFI): Energy Efficiency and Conservation Block Grant (EECBG) Program: Competitive Grants

Funding Opportunity Number: DE-FOA-0000148-RFI

CFDA Codes: 81.128

CFDA Title: Energy Efficiency and Conservation Block Grant Program (EECBG)

These are the funds that AB 755 should specifically name.

The bill does also need to have language that is broad enough to ensure that the programs created by AB 755 are not limited to just those Retrofit Ramp Up grants but that future federal dollars that come to WI with these same kinds of energy efficiency goals would be governed by AB 755's provisions as well.

Does this help? I understand that the reference currently in AB 755 is, therefore, incorrect, and we'll need to have an amendment striking that reference and replacing it with the above referenced info.

Thanks all. Please let me know if this helps clear this up. Rep. Mason has authorized either Leg Council or LRB to speak with James Irwin at COWS at 262-6585 if you need further clarification about these federal grant funds that AB 755 aims to leverage.

Vicky

Vicky Selkowe
Office of State Representative Cory Mason
62nd Assembly District
 Room 321 East, State Capitol
 PO Box 8953, Madison, WI 53708
 Phone: (608) 266-0634
 Toll-free: (888) 534-0062

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02/27/2010

From: Matthias, Mary
Sent: Tuesday, February 23, 2010 12:04 PM
To: Selkove, Vicky
Cc: Lovell, David
Subject: AB 755-federal grant \$ question

Vicky-

I checked with Mark Kunkel and he agrees that AB 755 (pg 19, line 24-25) refers to the funds provided under this program <http://commerce.wi.gov/CD/cd-bcf-energy.html>. Jason Scott at Commerce told me this money has all been awarded and the terms of the awards limit the use of the money to specific purposes (which are different than the purposes specified in AB 755). He said Commerce had \$11.7 M to distribute, which included the "state" portion and the "non-entitlement community" portion.

At this point I am unsure how to answer the question I have been asked-ie, whether there is any federal money available for the program created in the bill. (I suppose DOA will address this when they prepare the fiscal estimate.)

Thanks-

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830

Kunkel, Mark

From: Selkowe, Vicky
Sent: Thursday, February 25, 2010 9:11 AM
To: Lovell, David; Kunkel, Mark; Matthias, Mary
Subject: RE: available tomorrow to meet re. amendments to AB 755?

Let's go with 1:00 today. I will try to find a larger room close to our office. Thanks!

Vicky Selkowe
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From: Lovell, David
Sent: Thursday, February 25, 2010 8:48 AM
To: Kunkel, Mark; Selkowe, Vicky; Matthias, Mary
Subject: RE: available tomorrow to meet re. amendments to AB 755?

Like Mark, I'm flexible today.

On the federal funds issue, it might be helpful to have input from David Jenkins, at the Office of Energy Independence. I'm not sure that he would need to be at the meeting, but I would suggest him as a resource on the various federal funding sources.

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Kunkel, Mark
Sent: Thursday, February 25, 2010 8:01 AM
To: Selkowe, Vicky; Lovell, David; Matthias, Mary
Subject: RE: available tomorrow to meet re. amendments to AB 755?

Yes, 1 pm or any other time is ok.

From: Selkowe, Vicky
Sent: Wednesday, February 24, 2010 5:27 PM
To: Kunkel, Mark; Lovell, David; Matthias, Mary
Subject: available tomorrow to meet re. amendments to AB 755?

Hi Mark, David & Mary –

Are you available tomorrow to come over to meet with me & Rep. Mason (and possibly a few of the stakeholders we've been working with) tomorrow around 1pm to discuss amendments we're going to need drafted to this bill? We could also discuss at that time the issue we've been emailing about re. referencing a certain type of federal funds.

We would pull Rep.Mason out of caucus, but obviously, if the Assembly is on the floor at 1, we'd likely have to bump the

meeting time or possibly meet in the Assembly parlor.

Vicky

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Kunkel, Mark

From: Selkowe, Vicky
Sent: Thursday, February 25, 2010 4:05 PM
To: Matthias, Mary; Kunkel, Mark
Subject: RE: AB 755-exec Tues?

I just spoke to the Molepske office. They're going to see if they can do this on Wednesday instead of Tuesday - as Rep. Molepske mentioned to Rep. Mason this morning. I'll let you know, but I think this means we should be prepared for a Monday morning finish on the sub.

Vicky Selkowe
Office of State Representative Cory Mason
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From: Matthias, Mary
Sent: Thursday, February 25, 2010 3:56 PM
To: Selkowe, Vicky; Kunkel, Mark
Subject: AB 755-exec Tues?

Looks like the exec is planned for Tuesday, not Wednesday....

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830

From: Rep.Molepske
Sent: Thursday, February 25, 2010 1:10 PM
To: Rep.Barca; Rep.Benedict; Rep.BernardSchaber; Rep.Fields; Rep.Friske; Rep.Hintz; Rep.Krusick; Rep.Molepske; Rep.Strachota; Rep.Toles; Rep.Van Roy; Rep.WilliamsM; Rep.Zipperer
Cc: Bills, Nancy; Buschman, Sara; Caruso, Nicholl; Castillo, Cecely; Deering2, Bonnie; Farnsworth, Kathy; Friedl, Cathy; Gary, Tim; Gillis, George; Hein, Tanya; Hochhausen2, Natolie; Hoelter, Jon; Junck, Linda; Kundert, Stephanie; Lundquist, Cody; Lundquist, Lisa; Machtan, Ken; Matthias, Mary; McKinny, Chris; Moran, Christian; Palmer-Rehorst, Corey; Reader, Chris; Thorson, Randy; Vasby, Tara; Wilson, Stephanie; Youngman, Lori
Subject: Hold the Date

TO: **Members of the Assembly Committee on Jobs, the Economy and Small Business**
FROM: **Rep. Louis J. Molepske, Jr.**

Please hold 10:00 AM to 2:00 PM on Tuesday, March 2 for a meeting of the Jobs, the Economy and Small Business Committee. It will be an Executive Session and there may also be a public hearing.

Many thanks.

Kathy Farnsworth
Office of Representative Louis J. Molepske, Jr.
Chair-Committee on Jobs, the Economy and Small Business
State Capitol
P. O. Box 8953
Madison, WI 53708-8953
608.267.9649
888.534.0071
kathy.farnsworth@legis.wisconsin.gov

Kunkel, Mark

From: Selkowe, Vicky
Sent: Thursday, February 25, 2010 6:06 PM
To: Kunkel, Mark; Matthias, Mary
Cc: Satya Rhodes-Conway; 'erics@cows.org'; Selkowe, Vicky
Subject: Amendments to become part of the AB 755 Substitute

Mark, Mary, Satya & Eric –

Attempting to summarize our discussion from this afternoon, here are the amendments that we need to all become part of a substitute to AB 755, in preparation for next week's committee's action. Please let me know if I'm missing anything else that we discussed today.

Fix MES insert for 66.0627(F)

- ✓ 1. Include language suggested by Johnson Controls, Inc. amending 66.0627(1)(a) to make clear that all premises are covered (not just residential), and to add water
- ✓ 2. Correct the "double-dipping" language that, as currently drafted, allows a utility to recover costs both through rates and through direct billing, including the cross-referencing of language.
- ✓ 3. Define "cost-effective" both as it relates to utility-run programs and as it relates to improvements made by the customer
- ✓ 4. Address the special charge/assessment language as discussed on COWS handout, issue 3.
- ✓ 5. Low-income program weatherization exclusion – already drafted as LRBA1645/1
- ✓ 6. Non-utility service question/definition – talk to PSC
- ✓ 7. Clarifying the issue re. only state or federal grant funds that go into a PACE program need to revolve back into the loan program, not other funds utilized for these programs (i.e. bonds, muni general revenue, etc.) – this was the issue re. page 19, lines 14-16.
- ✓ 8. Removing references to the PSC as administrator for the block grants or other federal funds (removing all references to administrators of the funds to clarify that no matter the source of funds, if a muni or utility is doing a loan program, this bill's provisions apply)
- ✓ 9. Clarify that "any work" refers only to work related to the installation, etc. of the retrofit work.
- ✓ 10. Removing/clarifying the block grant references in the bill.
- ✓ 11. Removing the PSC rule promulgation in the political subdivision section on page 19, lines 21-23.
- ✓ 12. Remove the RPS credit for the utilities
- ✓ 13. LRBA1652/1, already drafted, refers to the Joint Finance approval and may need to be modified given what we decided to do today re. the block grant references in the bill. → NO LONGER NECESSARY
- ✓ 14. Including LRBA1575/1 re. apprenticeship training grants.

I have told Johnson Controls that if they have additional amendments, I need them by 11am tomorrow morning.

Thanks all,
Vicky

Vicky Selkowe
Office of State Representative Cory Mason
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Amendments to be Drafted as part of the AB 755 Substitute

1. JCI language minus lessees → AND add water to 196.3745
2. Double-dipping language concern raised by Lovell, WIEG & Paper Council
3. Definition of cost-effective
4. Time horizon for payback
5. What happens if you are on a partial payment system and loan is on the utility bill, who gets paid first – utility or loan?
6. Point of sale/special assessment language clarification
7. Low-income program weatherization exclusion – already drafted
8. Non-utility service question/definition
9. Clarifying money that goes into PACE must stay in PACE
10. Clarifying the prioritization language if necessary
11. Block grants running through WECC not PSC
12. Ask about "any work" question re. the labor standards
13. Green Wisconsin label
14. RPS removal

+ any type of premises

~~_____~~
~~_____~~

nonutil service:
11 - 25
12 - 6
19 - 12
problem: RPL

clarify what nonutility means

- Relationship btw PACE and Pous
66.0627 (8) 196.3745

- if that means outside capital (then) ASK PSC

- P.G. line 5 - applies only to energy utilities

must be able to discern correct

~~WED~~
TUESDAY

This is the recent past practice of the Commission. I would not put these words in the bill because we might be able to improve on this by adding carbon costs to the equation as soon as there is Federal legislation.

A less friendly Commission would be hard pressed to figure out how to justify a test that was weaker as this test is pervasive in the current Focus on Energy program. It is also the industry standard.

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

From: Eric Sundquist [mailto:erics@cows.org]
Sent: Tuesday, February 23, 2010 5:14 PM
To: Susan Stratton
Subject: Re: AB 755 (Cory Mason's EE bill)

Just to be clear, if the bill said the program had to be cost-effective, the commission would use TRC with MISO costs. Should we require that -- in case we get a less-friendly commission -- or just rely on them to do that?

Eric Sundquist
Senior associate
Center on Wisconsin Strategy
University of Wisconsin
608-265-6155
www.cows.org

Susan Stratton wrote:

> Thanks for your note Eric,
>
> On "cost effective"...the PSC has been using the TRC test (total resource cost) rather than an avoided fuel cost test. This was dictated as part of our potential study. While this test is not perfect, it's one of the best of the bunch. The PSC also dictated that we use current MISO price (fuel and capacity) as the benchmark for utility costs. In our study we also added a cost of carbon into the mix. So even if We Energies' avoided costs were low, the MISO price would serve as an average cost in the region of installed generation. This is a pretty low benchmark at this time and may stay that way for a while. If we were honest about this, we would use a future cost of low-carbon generation but it may be too early to accept that as a benchmark in this economic decline.
>
> You are right that there may be issues in dictating to customers what is cost effective. For utility funded programs, we use a cost effectiveness test to

insure that utilities are responsible to make good choices with ratepayer money. For an individual or business, not all choices are made with a cost effectiveness test. We found evidence in our recent study that more Wisconsin homeowners have installed renewable equipment than we could estimate with a TRC test. (Our measure of "potential" with this test was less than what is already installed!) In other words, consumers may adopt an EE measure or renewable energy for reasons other than money. Consumers might do a simple payback test, but who are we to say what the payback time is. I think the point of on-bill financing is to recognize longer payback times. As long as the consumer is using his/her own money, there is no harm to other ratepayers if work is done that has a longer payback period. The issues might be: the ability to pass along a large loan that was vastly out of proportion to the benefit of the measure or the ability of the current owner to pay back the loan in the first place.

>
> My thought would be not to put a definition into this bill. The Commission has acted reasonably on this point and has a good track record to make a reasonable definition. I would not have a cost effective requirement for the on-bill financing, but the Commission could on an annual basis announce what types of measures apply. This would be more straightforward (insulation, triple pane windows, HVAC upgrades, etc.) This would contain in an indirect way, a measure of cost effectiveness that could be kept current with new technologies.

>
> Hope this is helpful. No easy answers here.
>
>

Kunkel, Mark

From: Shovers, Marc
Sent: Friday, February 26, 2010 12:53 PM
To: Kunkel, Mark
Subject: RE: One more question re: sub to AB755

I'm not aware of any specific authority authorizing a political subdivision to make loans to any entities, except that a city or village may make a loan to a school district. "Council" here means a city's common council.

62.12(9)

(9) Loans. The council may loan money to any school district located within the city, or within which the city is wholly or partially located, in such sums as are needed by such district to meet the immediate expenses of operating the schools thereof, and the board of the district may borrow money from such city accordingly and give its note therefor. No such loan shall be made to extend beyond August 30 next following the making thereof or in an amount exceeding one-half of the estimated receipts for such district as certified by the state superintendent of public instruction and the local school clerk. The rate of interest on any such loan shall be determined by the city council.

61.34(4)

(4) Village finances. The village board may levy and provide for the collection of taxes and special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the village finances. The village board may loan money to any school district located within the village or within which the village is wholly or partially located in such sums as are needed by such district to meet the immediate expenses of operating the schools thereof, and the board of the district may borrow money from such village accordingly and give its note therefor. No such loan shall be made to extend beyond August 30 next following the making thereof or in an amount exceeding one-half of the estimated receipts for such district as certified by the state superintendent of public instruction and the local school clerk. The rate of interest on any such loan shall be determined by the village board.

As far as home rule authority goes, city and village powers are pretty broad in the area of finance. For cities, see s. 62.11 (5):

62.11(5)

(5) Powers. Except as elsewhere in the statutes specifically provided, the council shall have the management and control of the city property, finances, highways, navigable waters, and the public service, and shall have power to act for the government and good order of the city, for its commercial benefit, and for the health, safety, and welfare of the public, and may carry out its powers by license, regulation, suppression, borrowing of money, tax levy, appropriation, fine, imprisonment, confiscation, and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants, and shall be limited only by express language.

Although the power seems to be broad and far reaching, a city or village may only act to further a public purpose, so without some specific authorization as exists in s. 66.0627 (8), I doubt that cities

and villages spend a lot of time making loans to private entities. If you really need a more specific real-world answer, you may wish to call Curt Witynski from the League of Wisconsin Municipalities (7-2380) or Ed Huck from the Alliance of Cities (257-5881). I hope this helps.

Let me know if you need anything else.

From: Kunkel, Mark
Sent: Friday, February 26, 2010 11:33 AM
To: Shovers, Marc
Subject: One more question re: sub to AB755

2 questions arose at yesterday's meeting with Mason et al.

1. Under current law, s. 66.0627 (8) allows political subdivisions to make certain loans. Is that the only authority for a political subdivision to make such loans, or does a political subdivision have other authority it can rely on to make the loans? E.g. home rule powers?
2. The reason I ask question 1 is that Mason wants to say that if a political subdivision makes a loan described in s. 66.0627 (8), then the political subdivision must do certain things. E.g., all work performed pursuant to the loan must be performed by contractors on a pre-approval list that the PSC administers. I accomplished that already, in part, by inserting "subject to s. 196.3745" at the beginning of s. 66.0627 (8). And s. 196.3745 has all the requirements that will apply. So, if there is no other authority, then I'm okay. If there is other authority, I need to draft something or other. Also, if there are constitutional problems, do I need that statewide concern legis intent language that we sometimes use?