2009 DRAFTING REQUEST

Bill

Received: **04/07/2009**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Lena Taylor (608) 266-5810**

By/Representing: **Cindy McGinnis/Eric Peterson**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - misc**
Employ Pub - miscellaneous
Local Gov't - counties
Employ Pub - collective bargain

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Income maintenance program operation by Department of Health Services

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Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pkahler 04/07/2009	csicilia 04/07/2009		_____ _____			S&L Retire
/1			rschluet 04/07/2009	_____ _____	lparisi 04/07/2009	sbasford 04/07/2009	

FE Sent For: "/1" @ intro. 4/8/09

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/?	pkahler	1 gs 4/7 09					

FE Sent For:

<END>

Kahler, Pam

From: Mcginnis, Cindy
Sent: Tuesday, April 07, 2009 9:31 AM
To: Kahler, Pam
Cc: Peterson, Eric
Subject: ~~lrb2253/3~~ 09-2235/3

Pam, can we get this drafted as a Senate version also and it should be sent to Sen. Taylor's office

Thanks

Cindy McGinnis
Office of State Representative Tamara Grigsby
324 East State Capitol
PO Box 8952
Madison, WI 53708
1-888-534-0018 - toll free
(608) 266-0645
(608) 282-3618 - fax

Senate companion bill to AB 194

State of Wisconsin
2009 - 2010 LEGISLATURE

FROM: 2562/1
LRB-2235/3
PJK/RAC/CMH/MES:cjs:jf

Stays

2009 BILL

today (one addition on p. 2)

Reger Cat

AN ACT ***to renumber and amend*** 49.496 (4), 49.497 (2), 49.793 (2) and 49.847 (3); ***to amend*** 20.435 (4) (bn), 20.435 (4) (im), 20.435 (4) (L), 40.05 (4) (a) 2., 40.62 (2), 46.215 (1) (intro.), 49.496 (5), 49.78 (2), 49.78 (10) (a), 49.785 (1) (intro.), 49.785 (1m) (a), 49.785 (1m) (b), 49.785 (1m) (c), 49.89 (7) (a) and 111.70 (1) (a); and ***to create*** 40.02 (25) (b) 2c., 40.22 (2) (m), 49.496 (4) (b), 49.497 (2) (b), 49.793 (2) (b), 49.825, 49.847 (3) (b), 49.89 (7) (f), 63.03 (2) (r), 111.70 (3m) and 230.44 (1) (h) of the statutes; **relating to:** administration of certain public assistance programs in Milwaukee County, removing county civil service protections from certain employees, required provisions in certain collective bargaining agreements under the Municipal Employment Relations Act, and 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

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 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.

in the future

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 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 for purposes of the county civil service provisions of the statutes.

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:

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

20.435 **(4)** (bn) *Income maintenance.* Biennially, the amounts in the schedule for funeral expenses under s. 49.785, for administration of the food stamp employment and training program under s. 49.79 (9), for the performance of income

maintenance administrative activities on behalf of a local entity, as defined in s. 30.77 (3) (dm) 1. b., and for payments under s. 49.78 (8) relating to the administration of the Medical Assistance program under subch. IV of ch. 49, the Badger Care health care program under s. 49.665, the food stamp program, and the cemetery, funeral, and burial expenses program under s. 49.785.

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

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

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

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

under the food stamp program, and for food stamp reinvestment activities under reinvestment agreements with the federal department of agriculture that are designed to improve the food stamp program.

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

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

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

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

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

40.22 **(2)** (m) Notwithstanding sub. (3m), the employee was formerly employed by Milwaukee County, is a state employee described in s. 49.825 (4), and elects to remain a covered employee under the retirement system established under chapter 201, laws of 1937, pursuant to s. 49.825 (4) (c). 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49.825 Department administration in Milwaukee County. (1) DEFINITIONS. In this section:

(a) "County" means Milwaukee County.

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

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

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

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

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

1. Income maintenance programs.

2. The programs under ss. 49.77 and 49.775.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

111.70 **(3m)** MILWAUKEE COUNTY ENROLLMENT SERVICES UNIT. A collective bargaining agreement that covers municipal employees performing services for the Milwaukee County enrollment services unit under s. 49.825 shall 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 under s. 49.825 (3) (b) 4.

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

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

SECTION 31. Nonstatutory provisions.

(1) TRANSFER OF PUBLIC ASSISTANCE PROGRAM ADMINISTRATIVE FUNCTIONS.

(a) *Definitions.* In this subsection:

1. "County" means Milwaukee County.

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

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

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

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

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

(e) *Future operation.* After the dismissal of the litigation commenced by April West and others against county and department officials, the department and county shall identify the standards required for county operation of the income maintenance programs, as defined in section 49.78 (1) (b) of the statutes, in the county and initiate discussions regarding who shall operate the income maintenance programs in the county in the future and how those programs shall be operated.

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

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

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

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

(END)

Basford, Sarah

From: Charles, Alan
Sent: Tuesday, April 07, 2009 1:12 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-2562/1 Topic: Income maintenance program operation by Department of Health Services

RUSH
Please Jacket LRB 09-2562/1 for the SENATE.