


State of Wisconsin


LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**


Date Transfer Requested: 08/31/2015 (Per: MED)


Compile Draft – Appendix B

Appendix A  The 2015 drafting file for LRB-1676

Appendix B  The 2015 drafting file for LRB-1684

Appendix C  The 2015 drafting file for LRB-2087

Appendix D  The 2015 drafting file for LRB-2122

Appendix E  The 2015 drafting file for LRB-2260

has been copied/added to the drafting file for

2015 LRB-3011

2015 DRAFTING REQUEST

Bill

Received: **2/10/2015** Received By: **mduchek**
Wanted: **As time permits** Same as LRB:
For: **Frank Lasee (608) 266-3512** By/Representing: **Rob Kovach**
May Contact: Drafter: **mduchek**
Subject: **Open Meetings** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Lasee@legis.wisconsin.gov**
Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Increase notice requirements

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>
/?	mduchek 2/12/2015	csicilia 2/23/2015	jfrantze 2/23/2015	_____			
/P1	mduchek 4/29/2015	csicilia 5/1/2015		_____	sbasford 2/23/2015		
/P2				_____	sbasford 5/1/2015		

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

4:35 Rob Kovach

- notices for govt meetings
19.84

- Mil notices posted on Fri for meeting on Mon

- changed to 1 business day instead of 24 hours
somewhat else
Leave by alone

6-3512



State of Wisconsin
2015 - 2016 LEGISLATURE

In 2-12
Out 2-23

LRB-1684/P1
MED:.....
gjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SM
x web

Gen Cert

D-note

1 **AN ACT** ~~relating to~~; **relating to:** required notice under the open meetings law.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

2 **SECTION 1.** 19.84 (3) of the statutes is renumbered 19.84 (3) (a) and amended
3 to read:

4 19.84 (3) (a) ~~Public~~ Except as provided in pars. (b) and (c), public notice of every
5 meeting of a governmental body shall be given at least 24 hours prior to the
6 commencement of such meeting ~~unless.~~

7 (c) Paragraphs (a) and (b) do not apply if, for good cause, such notice is
8 impossible or impractical, in which case shorter notice may be given, but in no case
9 may the notice be provided less than 2 hours in advance of the meeting.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1684/P1dn

MED:/:....

— Date —

cjs

Rob:

This draft is an attempt to address the issue you identified in a narrow way, as opposed to increasing notice requirements across the board.

What this draft basically requires is that meetings by government bodies to be held on Monday must be noticed no later than the previous Friday at noon. However, I included additional language to account for the fact that there may be holidays involved on one or more of these days (one or two holidays could fall at the beginning or end of a week).

Let me know if you want to discuss these issues further, or if you would like to address the issue some other way.

Michael Duchek
Legislative Attorney
(608) 266-0130
michael.duchek@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1684/P1dn
MED:cjs:jf

February 23, 2015

Rob:

This draft is an attempt to address the issue you identified in a narrow way, as opposed to increasing notice requirements across the board.

What this draft basically requires is that meetings by government bodies to be held on Monday must be noticed no later than the previous Friday at noon. However, I included additional language to account for the fact that there may be holidays involved on one or more of these days (one or two holidays could fall at the beginning or end of a week).

Let me know if you want to discuss these issues further, or if you would like to address the issue some other way.

Michael Duchek
Legislative Attorney
(608) 266-0130
michael.duchek@legis.wisconsin.gov



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1684/P1

MED:cjs:ff

In 4-29
out 5-1 if poss

P2
CS

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Coe Cat

1 AN ACT to *renumber and amend* 19.84 (3); and to *create* 19.84 (3) (b) and 19.87
2 (1m) of the statutes; **relating to:** required notice under the open meetings law.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

3 SECTION 1. 19.84 (3) of the statutes is renumbered 19.84 (3) (a) and amended
4 to read:
5 19.84 (3) (a) ~~Public~~ Except as provided in pars. (b) and (c), public notice of every
6 meeting of a governmental body shall be given at least 24 hours prior to the
7 commencement of such meeting unless.
8 (c) Paragraphs (a) and (b) do not apply if, for good cause, such notice is
9 impossible or impractical, in which case shorter notice may be given, but in no case
10 may the notice be provided less than 2 hours in advance of the meeting.

Ins
1-3

1 **SECTION 2.** 19.84 (3) (b) of the statutes is created to read:

2 19.84 (3) (b) Except as provided in par. (c) and s. 19.87 (1m), if a meeting of a
3 governmental body is to be commenced on a Monday or on the first business day of
4 a week if Monday is a legal holiday, notice shall be given no later than noon on the
5 last business day prior to the date of that meeting.

6 **SECTION 3.** 19.87 (1m) of the statutes is created to read:

7 19.87 (1m) Section 19.84 (3) (b) does not apply to any meetings of the senate
8 or assembly or the committees, subcommittees, or other subunits thereof.

9

(END)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1684/P2ins
MED:cjs:jf

INSERT 1-3

1 SECTION 1. 19.84 (3m) of the statutes is created to read:
2 19.84 (3m) Notwithstanding sub. (3), before a governmental body may consider
3 any matter involving the enactment, adoption, amendment, or repeal of any local
4 government ordinance or regulation at a meeting of that body, it shall give public
5 notice of such consideration at least 14 days prior to the commencement of the
6 meeting. Notice of matters to which this subsection applies may be given separately
7 and prior to matters to which this subsection does not apply.

***NOTE: I wondered if this language should cover a body that is meeting to discuss a change to an ordinance/regulation, but is not the body that has the ultimate authority to change the ordinance. As written, this would cover "any matter involving..." a change to an ordinance or regulation, but if this seems potentially too broad, let me know.

***NOTE: As written, this would require notice of the consideration of an ordinance change to be given at least 2 weeks out, but other items on the agenda would not be subject to this requirement and could receive shorter notice. As such, I added a sentence to make this clear. Let me know if this was not the intent.

resolution

from

resolution

or
or regulation
resolution

resolution

regardless of the subject of the ordinance or resolution or the nature of the body that is meeting about it, so

Duchek, Michael

From: Kovach, Robert
Sent: Friday, April 17, 2015 4:43 PM
To: Duchek, Michael
Subject: FW: Draft review: LRB -1684/P1 Topic: Increase notice requirements
Attachments: Sec. 19.84 Public notice - revision 030615.docx

Can you add these changes to your draft of LRB 1684? Thanks!

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Murray, Joe - Director of Political and Governmental Affairs [mailto:jmurray@wra.org]
Sent: Friday, April 17, 2015 12:39 PM
To: Kovach, Robert
Subject: FW: Draft review: LRB -1684/P1 Topic: Increase notice requirements

Rob,

This was the extra meeting notice bill draft after our attorneys took a look at it. Need another draft.

Joe

From: Bolgrihn, Sandy
Sent: Friday, April 17, 2015 12:37 PM
To: Murray, Joe - Director of Political and Governmental Affairs (jmurray@wra.org)
Subject: Draft review: LRB -1684/P1 Topic: Increase notice requirements

Attached is a revision to our proposal on "notice of meetings" - amendment to sec. 19.84. I have changed the general notice time to 5 days from 14. For emergencies 2 hours notice is allowed, same as current law, I think. I added a new (3)(b) providing for 14 days notice if an agenda item involves ordinance (local law) changes. This is the heart of our goal. If an agenda item is the reappointment of Dudley Doright to the City zoning board or the police chief's request to buy bullet-proof vests with a federal grant a short notice period is fine. What we want to stop is the last minute proposal of ordinances which have been drafted in secret for two or three weeks and are then noticed on Friday at 4 pm for a 9 am meeting on the following Tuesday.

Btw, the LRB 1684/1 draft which Rob Kovach sent us is unnecessary because you don't need a special weekend or holiday rule -- the current 24 hour notice law excludes Sundays and holidays in the computation of time due to the general computation of time statute - sec. 990.001 (4).

--Heiner

Atty Heiner Giese
1216 N. Prospect Ave.

Milwaukee, WI. 53202-3061
Tel. 414-276-7988 Fax: 414-276-8342

19.84 Public notice. (1) Public notice of all meetings of a governmental body shall be given in the following manner: (a) As required by any other statutes; and (b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area; and (c) By electronic mail to those persons who have registered their electronic mail addresses with the governmental body indicating the unit or subunit of the governmental body as to which they wish to receive notification of meetings.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.

(3) Public notice of every meeting of a governmental body shall be given as follows:

(a) for a governmental body other than the legislature or a subunit thereof at least 5 days prior ~~prior~~ to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 24 hours in advance of the meeting. Provided however, if the governmental body subject to this subparagraph determines that a public health or safety emergency exists requiring immediate action, then the public notice of a meeting shall be provided not less than 2 hours in advance of the meeting.

(b) at least 14 days prior to the commencement of the meeting for such matters on the agenda of the meeting which involve the

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proposed adoption, amendment or repeal of any local government ordinance or regulation.

(c) for a governmental body consisting of the legislature or a subunit thereof at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

(5) Departments and their subunits in any University of Wisconsin System institution or campus are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.

(6) Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

History: 1975 c. 426; 1987 a. 305; 1993 a. 215; 1997 a. 123; 2007 a. 20. There is no requirement in this section that the notice provided be exactly correct in every detail. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01-0201.

Sub. (2) does not expressly require that the notice indicate whether a meeting will be purely deliberative or if action will be taken. The notice must alert the public of the importance of the meeting. Although a failure to expressly state whether action will be taken could be a violation, the importance of knowing whether a vote would be taken is diminished when no input from the audience is allowed or required. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01-0201. Sub. (2) sets forth a reasonableness

standard for determining whether notice of a meeting is sufficient that strikes the proper balance between the public's right to information and the government's need to efficiently conduct its business. The standard requires taking into account the circumstances of the case, which includes analyzing such factors as the burden of providing more detailed notice, whether the subject is of particular public interest, and whether it involves non-routine action that the public would be unlikely to anticipate. *Buswell v. Tomah Area School District*, 2007 WI 71, 301 Wis. 2d 178, 732 N.W.2d 804, 05-2998. The supreme court declined to review the validity of the procedure used to give notice of a joint legislative committee on conference alleged to violate the sub. (3) 24-hour notice requirement. The court will not determine whether internal operating rules or procedural statutes have been complied with by the legislature in the course of its enactments and will not intermeddle in what it views, in the absence of constitutional directives to the contrary, to be purely legislative concerns. *Ozanne v. Fitzgerald*, 2011 WI 43, 334 Wis. 2d 70, 798 N.W.2d 436, 11-0613. Under sub. (1) (b), a written request for notice of meetings of a governmental body should be filed with the chief presiding officer or designee and a separate written request should be filed with each specific governmental body. 65 Atty. Gen. 166. The method of giving notice pursuant to sub. (1) is discussed. 65 Atty. Gen. 250. The specificity of notice required by a governmental body is discussed. 66 Atty. Gen. 143, 195. The requirements of notice given to newspapers under this section is discussed. 66 Atty. Gen. 230. A town board, but not an annual town meeting, is a "governmental body" within the meaning of the open meetings law. 66 Atty. Gen. 237. News media who have filed written requests for notices of public meetings cannot be charged fees by governmental bodies for communication of the notices. 77 Atty. Gen. 312. A newspaper is not obligated to print a notice received under sub. (1) (b), nor is governmental body obligated to pay for publication. *Martin v. Wray*, 473 F. Supp. 1131 (1979).

Duchek, Michael

From: Kovach, Robert
Sent: Tuesday, April 28, 2015 1:01 PM
To: Duchek, Michael
Subject: RE: Meeting notices

Yes let's go with that. 24 hours for most things, but 14 days for ordinance changes.

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Duchek, Michael
Sent: Tuesday, April 28, 2015 12:58 PM
To: Kovach, Robert
Subject: RE: Meeting notices

Rob,

I think what we discussed on the phone was only changing notice requirements when ordinances are going to be discussed. But there was also a request to change notice for most other meetings from 24 hours (current law) to 5 days. Do you want that change too, or do you want to stick with 24 hours for most meetings?

-Mike

From: Gallagher, Michael
Sent: Tuesday, April 28, 2015 12:45 PM
To: Duchek, Michael
Subject: FW: Meeting notices

I think this e-mail was meant for you.

Michael P. Gallagher
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Kovach, Robert
Sent: Tuesday, April 28, 2015 12:11 PM
To: Gallagher, Michael
Subject: Meeting notices

Dear Mike,

Here is a revision to our proposal on "notice of meetings" - amendment to sec. 19.84.

I have changed the general notice time back to 5 days. For emergencies 2 hours notice is allowed, same as current law, I think.

I would like a new (3)(b) providing for 14 days notice if an agenda item involves ordinance (local law) changes. This is the heart of our goal. If an agenda item is the reappointment of Dudley Doright to the City zoning board or the police chief's request to buy bullet-proof vests with a federal grant, a short notice period is fine. What we want to stop is the last minute proposal of ordinances which have been drafted in secret for two or three weeks and are then noticed on Friday at 4 pm for a 9 am meeting on the following Tuesday.

Btw, I think the LRB 1684/1 draft which we came up with before is unnecessary because we don't need a special weekend or holiday rule -- the current 24 hour notice law excludes Sundays and holidays in the computation of time due to the general computation of time statute - sec. 990.001(4).

Let me know what you think!

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1684/P2
MED:cjs:cs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** to create 19.84 (3m) of the statutes; relating to: required notice under
2 the open meetings law.

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1

(END)