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Joint Committee on Finance

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Kickapoo Valley Reserve and Lower Wisconsin State Riverway Board (Tourism)

[LFB 2015-17 Budget Summary: Page 430, #3, Page 286, #2, and Page 308, #14]

CURRENT LAW

Kickapoo Valley Reserve. The Kickapoo Valley Reserve (KVR) consists of approximately 8,600 acres of land north of La Farge in Vernon County. The property was the site of a U.S. Army Corps of Engineers dam and reservoir project on the Kickapoo River that was abandoned around 1975. The Corps transferred ownership of approximately 7,400 acres to the State of Wisconsin in December, 2000. Additionally, 1,200 acres were transferred to the Bureau of Indian Affairs in trust for sites sacred to the Ho-Chunk Nation. A 1997 memorandum of understanding between the state and the Ho-Chunk Nation stipulates the entire 8,600 acres will be managed as one property.

The Reserve is managed by the 11-member Kickapoo Reserve Management Board (KRMB). Board members are appointed by the Governor from candidates recommended by nearby municipalities, school boards, or the Ho-Chunk Nation, and members are to be residents of the municipalities surrounding the Reserve or of the Kickapoo River watershed, or are to have interests in the environment, tourism, education, or the cultural resources of the Kickapoo River area. Day-to-day functions of the Reserve are overseen by an executive director appointed by the KRMB. The executive director and all Reserve staff serve in the unclassified service. The Reserve has 4.0 authorized permanent positions under current law and the bill.

The KRMB was created by 1993 Act 349 and was initially administratively attached to the Department of Administration (DOA). It has been administratively attached to Tourism since 1996. KVR staffing and operations also are budgeted as a separate program under Tourism. Under s. 15.03 of the statutes, Tourism is to provide the KRMB limited administrative functions such as personnel, payroll, budget, fiscal and accounting services under terms of the

administrative attachment. Reserve policy, rules, and operational plans are independently established by the KRMB. The KRMB is to consult and cooperate with several state agencies, however, including the Department of Natural Resources (DNR), regarding the management of the Reserve.

Most administrative functions of the Kickapoo Valley Reserve are funded by the forestry account of the segregated conservation fund. Additional functions are supported by program revenues generated by: (a) educational programming offered to the public and local schools; (b) admissions and camping fees; and (c) other land usage fees, including revenues from timber harvests and leases of Reserve lands for agricultural production. Policing of Reserve property is supported by tribal gaming PR and is carried out both by Reserve staff and by sworn law enforcement officers working as limited-term employees. As the Reserve is state property and exempt from property taxation, the state pays aids in lieu of taxes to local governments and school districts. These payments are funded by forestry SEG.

Lower Wisconsin State Riverway Board. The Lower Wisconsin State Riverway Board (LWSRB) was created under 1989 Act 31. The Riverway extends approximately 92 miles from below the dam at Prairie du Sac to the confluence with the Mississippi River near Prairie du Chien and encompasses approximately 79,300 acres. By statute, the Board consists of nine members, with one member from each of the counties the Riverway flows through including: Crawford, Dane, Grant, Iowa, Richland, and Sauk. The six members from each affected county are required to be either a local city or village official representing lands abutting the Riverway, or a town official representing lands located within the Riverway or a resident of a town with lands within the Riverway or a resident of a city or village that abuts the Riverway. These six members are nominated by the county boards and appointed by the Governor. The three other members are appointed by the Governor and subject to Senate confirmation; they are required to represent recreational user groups, and must not be residents of any of the affected counties.

Under current law, the LWSRB is administratively attached to Tourism. Prior to 1995 Act 27, the LWSRB was attached to the DNR. DNR remains responsible for: (a) administering a land acquisition program within the LWSRB boundaries; (b) promoting to Riverway users an appreciation of the area's physical characteristics, history, traditions and culture; and (c) promulgating rules, applicable to lands only in the Riverway, that minimize the effect of timber cutting on Riverway aesthetics.

GOVERNOR

Transfer the administrative attachments of the Kickapoo Valley Reserve/Kickapoo Reserve Management Board and the Lower Wisconsin State Riverway Board from Tourism to DNR. Transfer 4.0 KVR positions from Tourism to DNR and transfer associated funding to DNR. (The administration indicates transfer amounts include a calculation error.)

In addition to the funding and position transfers, the bill includes standard directives: (a) transferring all KVR assets, liabilities, tangible personal property and current contracts from Tourism to DNR; and (b) providing for the transfer of incumbent KVR employees, and

preserving all rights and statuses employees may have earned prior to transfer. The transfer would take effect on the day after the bill's publication date.

As the LWSRB is budgeted as a separate agency, no positions or funding transfers are necessary to accomplish the transfer of the administrative attachment from Tourism to DNR.

DISCUSSION POINTS

1. The governing boards of the following four entities are placed under various types of administrative attachment or oversight by the Department of Tourism: (a) the Kickapoo Reserve Management Board; (b) the Lower Wisconsin State Riverway Board; (c) the Arts Board; and (d) the State Fair Park Board. The following discussion points briefly discuss the nature of each board's attachment to, or placement under, the Department.

Kickapoo Reserve Management Board

2. The statutes require the KRMB to appoint an executive director, who may hire additional unclassified positions up to the number authorized for the Reserve (4.0 currently). The statutes further provide salaries for the Reserve executive director and staff are to be set by the KRMB, subject to other restrictions in the statutes or the state compensation plan. The Division of Administrative Services in the Department of Administration (DOA) performs payroll and technical administrative tasks for KVR's human resources management, as is the case for Tourism and several other smaller state agencies, boards, offices and commissions. Tourism must approve certain payment vouchers submitted by KVR, including those for travel and vouchers for payment to vendors exceeding \$2,500, per Tourism policy. In most cases, human resources and compensation decisions made by the KRMB are executed by Tourism or DOA in accordance with KRMB's directives. However, Tourism and the KVR report there have been instances in which KRMB decisions for employee compensation were overturned or only partially approved, due to restrictions Tourism interpreted as applying to all executive branch agencies, including KVR as a budgeted component of Tourism. Under the bill, DNR would assume responsibility for KVR accounting, payroll, and human resources functions. DNR reports it would expect to continue the same degree of oversight on KVR requests as was exercised by Tourism.

3. Although KRMB is administratively attached to Tourism under s. 15.03 of the statutes, and the Board is granted certain hiring and compensation authorities by statute, the Kickapoo Valley Reserve also is budgeted under Tourism. This differs from the LWSRB and the State Fair Park Board, which are budgeted as separate entities. Tourism reports in most cases the Department has forwarded KRMB's biennial budget requests without change for subsequent consideration by the Governor. However, because KVR is budgeted under Tourism, which is an executive branch agency, the Department and KVR report in certain instances the Tourism Secretary or other Tourism officials have amended or cancelled KVR requests that were interpreted as being contrary to other statewide administrative or gubernatorial directives in place at the time. DNR reports it would expect to continue the same degree of oversight on KVR requests as was exercised by Tourism.

Lower Wisconsin State Riverway Board

4. The LWSRB is budgeted as a separate state agency and, since 1995 Act 27, has been attached to Tourism under s. 15.03 of the statutes. The LWSRB has authority to appoint 2.0 permanent employees in the unclassified service, and the Board may establish employee salaries, subject to other provisions in the statutes and the state compensation plan. Because the LWSRB is budgeted separately from other agencies, Tourism reports it does not have authority to modify or delete requests relating to budget submission or employee compensation in the manner in which it oversees the same for KVR. Tourism currently provides accounting support for the LWSRB, including processing travel and certain other payment vouchers. DOA executes LWSRB human resources and payroll functions, as is the case with KVR. Under the bill, the LWSRB would continue to be budgeted as a separate agency but would be attached to DNR rather than Tourism. DNR indicates that, under the bill, the LWSRB would continue to submit their own budget, with possible assistance from DNR finance staff in terms of budget instructions. In addition, DNR, like Tourism, would not require LWSRB to seek approval from the Department for requests relating to employee compensation. DNR would be responsible for LWSRB payroll, accounting, and human resources functions under the bill.

State Fair Park Board

5. Like the LWSRB, the State Fair Park Board is attached to Tourism under s. 15.03 of the statutes and is budgeted as a separate agency. The State Fair Park Board is to appoint a director in the unclassified service, and the director is to appoint staff in the unclassified service, up to the number of positions authorized for the agency (48.0 in 2014-15). The Board and director are to establish salaries for State Fair Park employees, subject to provisions in the statutes and the state compensation plan. Compensation for the State Fair Park director is dictated in part by statutory provisions assigning various agency executives or senior staff to specified executive salary groups (ESGs).

6. Despite the administrative attachment of State Fair Park to Tourism, State Fair Park currently conducts its own human resources, payroll, procurement, and budgeting functions. (Provisions in the bill would transfer human resources and information technology functions from State Fair Park to DOA, and the administration also indicates it intends to begin exercising current authorities to centralize procurement functions for several state agencies, including State Fair Park.) Also, the statutes specifically require Tourism to forward all personnel and biennial budget requests made by the State Fair Park Board without change, unless the State Fair Park Board requests or consents to such change. Tourism reports it has no involvement in reviewing or submitting personnel or budget materials from State Fair Park.

Arts Board

7. The Arts Board is a 15-member, Governor-appointed body responsible for promoting the development of the arts in Wisconsin through grants and other programming assistance. Members have three-year terms and must be residents of the state known for their concern for the arts. Membership also must include at least two persons from each of the northwest, northeast, southwest and southeast areas of the state. Beginning with 2011 Act 32, the Arts Board is created

within, and budgeted as a separate program under, the Department of Tourism. As a result, all Arts Board administrative functions are carried out by Tourism or DOA, and budgeting and employee compensation are carried out under the direction of the Tourism Secretary. 2011 Act 32, however, retained the authority of the Arts Board to appoint its own Executive Secretary, who oversees the daily operations of the Arts Board staff.

8. The administration indicates the KVR/KRMB and LWSRB transfers to DNR are intended to align the boards and their managed areas with an agency more closely aligned programmatically. Additionally, the bill would transfer Tourism's accounting services to DOA under bill provisions intended to centralize accounting, human resources and information technology services from smaller agencies. Tourism's accounting staff executes responsibilities required for the administratively attached boards that are not otherwise provided by DOA.

9. The Kickapoo Valley Reserve and Kickapoo Reserve Management Board were both a product of a years-long planning effort conducted by citizens of the area, according to a University of Wisconsin–Extension history of the Reserve. Land acquisition for the proposed federal dam project involved the purchase of properties of several dozen landowners, although many were not willing to relinquish their properties. (At the same time, according to the UW–Extension history, others had purchased land with the expectation of an increase in tourism development and water-based recreation.) The course of the dam project, including the buy-outs of area landowners and the subsequent failure of the project, were viewed as unsatisfactory by opponents or supporters of each. The Reserve reports DNR was active in the process of conducting required environmental assessments, namely those involving endangered species, and the assessments were a factor in the ultimate failure of the dam project. Both the administration of the dam project and its failure were also perceived as inconsiderate of local preferences. The local planning efforts into the 1990s revealed a strong desire in the area for a locally based governance structure to direct the future use of the land. Ultimately, the KVR and the KRMB were created in state statute in 1994, Congress formally cancelled the Kickapoo River dam project and provided for a transfer of lands in 1996, and the Reserve was subsequently established as an area for public outdoor recreational activity.

10. KVR and DNR cooperate on some activities under current law and practice. For example, the KVR's northeastern boundaries abut Wildcat Mountain State Park. Reserve staff report the properties conduct cross-promotions for events or activities at each property, and the two are parties to mutual aid agreements with local law enforcement. KVR also reports it has occasionally consulted with DNR foresters on timber management, and the Reserve has been able to at times receive DNR assistance in other Reserve maintenance, such as for a recent streambank restoration. The Reserve reports DNR is only able to provide technical expertise or assistance to KVR to the extent DNR has available staffing and funds, and to the extent the Reserve or a specific project meet eligibility criteria for any funding involved. In addition, approximately 3,600 acres of the KVR are designated as a state natural area by DNR and the Natural Areas Preservation Council. The designation does not substantially alter the primacy of the KRMB in establishing operations and use policies for the Reserve, however.

11. Since the Reserve's creation, interested persons and groups in the Kickapoo Valley have generally viewed the KVR/KRMB governance affiliation with Tourism as significantly

preferable to such an affiliation with DNR. This sentiment derives from the history of the Kickapoo River dam project. Some KVR-area residents have expressed opposition to the bill provision, particularly if any change in the administration of the Reserve were to increase DNR's authority over the Reserve at the expense of the KRMB.

12. The Committee could consider adopting the Governor's recommendation with respect to each attached board (Alternatives A1 and B1). It could be argued that an administrative attachment to DNR is more appropriate for KVR/KRMB and LWSRB than an attachment to Tourism. For instance, the Reserve has many attributes similar to those of state parks, and an administrative attachment may provide additional opportunities for collaboration between the entities. It also may be that an administrative attachment to DNR may enhance KVR opportunities to compete for DNR funding for Reserve maintenance projects. As described earlier, LWSRB was originally attached to DNR, and DNR also remains responsible for certain promotional and regulatory activities pertaining to the LWSRB.

13. The administration reports funding to be provided the KVR under the bill does not properly account for certain standard budget adjustments and fringe benefit rate differentials between Tourism and DNR. Correcting the calculations would result in an annual increase of \$5,000 to the KVR budget (Alternative A1).

14. Because KVR and DNR have demonstrated the ability to collaborate on mutually beneficial projects, and because certain DNR responsibilities relating to LWSRB would not change under the bill, it could be argued switching administrative attachment is unnecessary. Further, the bill would place KVR's funding and positions within the DNR budget for lands, parks and forestry programs. Although DNR reports at this time it expects to execute the administrative attachment in a similar fashion to Tourism, it could be argued that the bill would leave in place current structures that would provide DNR discretion over KVR/KRMB activities or requests. This could allow for KRMB decisions to be reversed in whole or in part. It is possible such instances could be disfavored locally and viewed as contrary to the intention behind the KRMB's creation and structure. The Committee could, therefore, consider deleting the Governor's recommendation (Alternatives A2 and B2).

15. Deleting the provision would result in the KVR/KRMB and LWSRB remaining attached to Tourism. To the extent the bill may retain provisions transferring accounting and similar functions to DOA, any such services currently provided by Tourism would likely be provided to the attached boards by DOA. The Committee could consider specifying the administrative attachment of KVR/KRMB and the LWSRB to DOA (Alternatives A3 and B3). Such an alternative would again place KVR/KRMB with the agency to which it was attached upon the Reserve's inception in state law. Such an alternative would also provide for a more direct attachment to the agency (DOA) that is proposed to be responsible for payroll, human resources, accounting and other services of smaller state agencies. However, it also could be argued that DOA is an inappropriate attachment as compared to either Tourism or DNR from a programmatic perspective. KVR/KRMB and the LWSRB are primarily concerned with outdoor recreation and natural resource management, which more closely align with the missions of Tourism or DNR. Boards currently administratively attached to DOA tend to be those with general government functions.

16. The Committee could consider providing for different administrative attachments for KVR/KRMB and LWSRB. For instance, in light of the differing histories and functions of the KVR/KRMB and LWSRB, the Committee could consider retaining the Governor's recommendation with respect to the LWSRB attachment but alter or delete the attachment recommended for the KVR/KRMB.

17. In addition to adopting, modifying or deleting the Governor's recommendation as described in separate points, the Committee could consider alternatives that would modify the treatment of the KVR/KRMB and LWSRB for budgeting and other oversight purposes. The Committee could consider specifying KVR/KRMB is to be budgeted as a separate agency (Alternative A4a). This alternative would substantially remove budgeting from the oversight of the attached agency and provide additional autonomy for the KRMB. The alternative also would make the statutory treatment of KVR/KRMB more consistent with that of the LWSRB. Although biennial budget requests from the KRMB would still be subject to approval by the Governor to be included in biennial budget bills, and appropriation levels would remain subject to legislative determinations in budget legislation, it could be argued the KRMB would have a greater degree of budgeting and management independence than may currently exist. Modifying the KVR/KRMB attachment in such a fashion also may be more acceptable to parties otherwise opposed to the provision as recommended by the Governor.

18. The Committee could also consider specifying that the agency to which KVR/KRMB and the LWSRB are attached is to forward budget requests of the KRMB and LWSRB without modification unless consented to by the attached board (Alternatives A4b and B4). Current law contains this language for several boards or commissions administratively attached to larger agencies, including for the State Fair Park Board, as noted earlier.

ALTERNATIVES

A. Kickapoo Valley Reserve/Kickapoo Reserve Management Board

1. Adopt the Governor's recommendation, as corrected, to provide an additional \$1,100 PR, \$300 tribal gaming PR and \$3,600 forestry SEG annually; or

ALT A1	Change to Bill
PR	\$2,800
SEG	<u>7,200</u>
Total	\$10,000

2. Delete the Governor's recommendation and delete \$900 PR and \$2,400 SEG annually. (The Kickapoo Valley Reserve/Kickapoo Reserve Management Board would remain administratively attached to Tourism.)

ALT A2	Change to Bill
PR	- \$1,800
SEG	<u>- 4,800</u>
Total	- \$6,600

3. Delete the Governor's recommendation. Instead, administratively attach the Kickapoo Reserve Management Board to the Department of Administration.

4. In addition, specify one or both of the following:

a. The Kickapoo Valley Reserve/Kickapoo Reserve Management Board is to be budgeted as a separate agency; or

b. Biennial budget requests as determined by the Kickapoo Reserve Management Board are to be forwarded without change, unless changes are agreed to by the KRMB.

B. Lower Wisconsin State Riverway Board

Administratively attach the Lower Wisconsin State Riverway Board to one of the following agencies:

1. The Department of Natural Resources (Governor's recommendation);

2. The Department of Tourism (current law); or

3. The Department of Administration.

4. In addition, specify that biennial budget requests as determined by the Lower Wisconsin State Riverway Board are to be forwarded without change, unless changes are agreed to by the LWSRB.

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