



2013 ASSEMBLY BILL 905

April 1, 2014 - Introduced by Representative RIEMER. Referred to Committee on Jobs, Economy and Mining.

1 **AN ACT to amend** 49.155 (1m) (a) 3r. and 49.175 (1) (k); **to repeal and recreate**
2 49.163; and **to create** 13.94 (1) (r), 13.94 (1s) (c) 9., 20.437 (2) (em) and 20.437
3 (2) (g) of the statutes; **relating to:** the Transform Milwaukee Jobs program and
4 the Transitional Jobs program, granting rule-making authority, and making
5 appropriations.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Children and Families (DCF) is required to establish a Transform Milwaukee Jobs program (program) in Milwaukee County and, to the extent that funding is available, may establish a Transitional Jobs program (program) outside of Milwaukee County in one or more geographic areas in the state with relatively high rates of unemployment and childhood poverty. Under either program, DCF pays an employer, or a person with which DCF contracts to administer the program (contractor), that employs a program participant a wage subsidy that is equal to the wage the employer or contractor pays the participant, up to 40 hours per week at minimum wage. The employer or contractor must employ the participant at least 20 hours per week at a location in this state and pay at least minimum wage, although the employer, or contractor with the approval of DCF, may pay the participant more than the wage subsidy. An individual may participate in a program for a maximum of 1,040 hours, which is equivalent to 26 40-hour weeks. In addition to paying the wage subsidy, DCF may reimburse an employer or contractor for certain taxes, unemployment insurance contributions or taxes, and

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worker's compensation insurance premiums that are attributable to employment of the participant.

To be eligible to participate in a program, an individual must be at least 18 years old, and, if over 24 years old, must be the parent or primary relative caregiver of a child under the age of 18. The individual must have household income below 150 percent of the poverty line, be unemployed for at least four weeks, be ineligible to receive unemployment insurance benefits, and not be participating in a Wisconsin Works (W-2) employment position. A program participant may be eligible for a child care subsidy under Wisconsin Shares, which generally provides child care subsidies for participants in W-2, if the program participant needs child care services in order to participate in the program.

DCF may administer a program or contract with any person, including a W-2 agency, county department, local workforce development board, or community action agency, to perform administrative functions, including determining eligibility, providing or identifying employers to provide jobs for eligible individuals, providing job orientation and employment services, and maintaining participant demographic, eligibility, and employment records. DCF may recover an overpayment from a participant that results from a misrepresentation about his or her eligibility, and must recover an overpayment from a contractor that results from a failure to comply with the contract or to meet performance standards established by DCF.

This bill replaces the Transform Milwaukee Jobs program and the Transitional Jobs program (former programs) with one statewide program called the Transitional Jobs program (TJP), established for the purposes of helping unemployed and underemployed persons gain, through wage-paying employment, the skills needed to move into unsubsidized employment and assisting employers to create new jobs. To be eligible for TJP, an individual must be a state resident who is at least 18 years old, must have an annual household income below 200 percent of poverty, and must have been unemployed or employed for fewer than 30 hours per week, or any combination of those, for at least four consecutive weeks. In addition, the individual must sign an agreement to reimburse DCF for the amounts that DCF pays under the program to reimburse employers for costs attributable to the individual, except for any amounts that are paid for time the individual works at a job under TJP while the individual is also participating in a trial employment match program job under W-2.

DCF administers TJP and must promulgate rules for its operation, annually submit a report on its operation to the legislature and the governor, and conduct periodic evaluations of its effectiveness. In addition, DCF is required to contract with a person (contractor), which may include a W-2 agency, county department, local workforce development board, or community action agency, to perform administrative functions in each county, including determining eligibility, providing or identifying employers to provide jobs for eligible individuals, providing job orientation and employment services, and maintaining participant demographic, eligibility, and employment records.

Under TJP, if an eligible individual requests a transitional job (TJ) from the contractor in the county in which the individual resides, the individual must be offered a TJ if DCF has provided sufficient funding for the administration of TJP in

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that county. DCF must establish a waiting list if demand for jobs exceeds the funding available. While there is no limit on how long an individual may participate in TJP, an individual may work in any one TJ for a maximum of 1,040 hours actually worked. An individual with a TJ must work at least eight hours per week but not more than 40 hours per week in the TJ, must wait at least four weeks between TJs, and, unless he or she has other employment in the regular labor market for at least 20 hours per week, must seek permanent employment in the regular labor market while working in a TJ and between TJs. As under the former programs, a TJP participant may be eligible for a child care subsidy under Wisconsin Shares if he or she needs child care services in order to participate in TJP.

Under TJP, an employer or contractor that employs a TJP participant must pay the participant for hours actually worked at not less than the federal or state minimum wage, whichever is higher. DCF must pay an employer or contractor that employs a TJP participant a subsidy that is equal to the federal or state minimum wage, whichever is higher, for each hour of work actually performed by the individual and for which the employer or contractor has paid the individual a wage, although the employer, or contractor with the approval of DCF, may pay the individual more than the wage subsidy. DCF must also pay the employer or contractor for costs incurred by the employer or contractor that are attributable to the employment of the individual for certain taxes, unemployment insurance contributions or taxes, and worker's compensation insurance premiums.

As under the former programs, DCF may recover an overpayment from a TJP participant resulting from a misrepresentation about eligibility and must recover an overpayment from a contractor resulting from a failure to comply with the contract or to meet performance standards. The bill requires the Legislative Audit Bureau periodically to perform both financial and performance evaluation audits of TJP. The bill appropriates \$50,000,000 of general purpose revenue in fiscal year 2015-16 and \$100,000,000 of general purpose revenue in fiscal year 2016-17 for TJP.

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

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

1 **SECTION 1.** 13.94 (1) (r) of the statutes is created to read:

2 13.94 (1) (r) Periodically, perform financial audits and performance evaluation
3 audits of the Transitional Jobs program under s. 49.163 and file copies of the reports
4 of the audits with the distributees specified in par. (b).

5 **SECTION 2.** 13.94 (1s) (c) 9. of the statutes is created to read:

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1 13.94 (1s) (c) 9. The department of children and families for the cost of the
2 audits under sub. (1) (r).

3 **SECTION 3.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
4 the following amounts for the purposes indicated:

	2015-16	2016-17
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6 **20.437 Department of Children and Families**

7 (2) ECONOMIC SUPPORT

(em) Transitional Jobs program	50,000,000	100,000,000
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9 **SECTION 4.** 20.437 (2) (em) of the statutes is created to read:

10 20.437 (2) (em) *Transitional Jobs program.* The amounts in the schedule for
11 the Transitional Jobs program under s. 49.163.

12 **SECTION 5.** 20.437 (2) (g) of the statutes is created to read:

13 20.437 (2) (g) *Transitional job reimbursements.* All moneys received under s.
14 49.163 (6) (b) 2., for the Transitional Jobs program under s. 49.163.

15 **SECTION 6.** 49.155 (1m) (a) 3r. of the statutes, as affected by 2013 Wisconsin Act
16 113, is amended to read:

17 49.155 (1m) (a) 3r. Participate in the ~~Transform Milwaukee Jobs program, or~~
18 ~~the~~ Transitional Jobs program, under s. 49.163.

19 **SECTION 7.** 49.163 of the statutes, as affected by 2013 Wisconsin Acts 20 and
20 113, is repealed and recreated to read:

21 **49.163 Transitional Jobs program. (1) DEFINITIONS.** In this section:

22 (a) “Employer” means a person in this state who is required to file a quarterly
23 federal tax return under section 3121 of the Internal Revenue Code (26 USC 3121).

24 (b) “Program” means the Transitional Jobs program under this section.

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1 (c) “Transitional job” means a job under the program.

2 (d) “Wisconsin Works” has the meaning given in s. 49.141 (1) (p).

3 (e) “Wisconsin Works employment position” has the meaning given in s. 49.141
4 (1) (r).

5 **(2) ESTABLISHMENT OF PROGRAM.** The department shall establish the
6 Transitional Jobs program to help unemployed and underemployed Wisconsin
7 residents gain, through wage-paying employment, the skills needed to move as
8 quickly as possible into unsubsidized employment and to assist employers in
9 Wisconsin in creating new jobs.

10 **(3) ELIGIBILITY FOR PROGRAM.** To be eligible to participate in the program, an
11 individual must satisfy all of the following criteria:

12 (a) Be a Wisconsin resident who is at least 18 years of age.

13 (b) Have an annual household income that is below 200 percent of the poverty
14 line.

15 (c) Be unemployed or employed for fewer than 30 hours per week, or a
16 combination of those, for at least 4 consecutive weeks.

17 (d) Except for an individual specified in sub. (6) (a) 2., sign a reimbursement
18 agreement under sub. (6) (a) 1.

19 **(4) PROGRAM DESCRIPTION.** The program shall include all of the following
20 features and requirements:

21 (a) An individual who requests a transitional job from the person with which
22 the department has contracted under sub. (5) (b) to administer the program in the
23 county in which the individual resides and who satisfies the eligibility criteria under
24 sub. (3) shall be offered a transitional job under the terms and conditions specified
25 in this subsection, if the department has provided sufficient funding to the person

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1 administering the program in the county in which the individual resides. To the
2 extent that requests for transitional jobs by eligible individuals exceed the funding
3 available for the jobs, the department shall establish a waiting list based on an
4 individual's length of unemployment or underemployment and other factors related
5 to an individual's need for work.

6 (b) An individual may work in a transitional job for a maximum of 1,040 hours
7 actually worked and may work in additional transitional jobs as long as he or she
8 continues to satisfy the eligibility criteria under sub. (3). After working in a
9 transitional job, however, an individual is ineligible to work in another transitional
10 job for at least 4 weeks.

11 (c) While an individual is employed in a transitional job and during any period
12 of ineligibility between transitional jobs required under par. (b), unless the
13 individual has other employment in the regular labor market for at least 20 hours
14 per week, the individual is required to seek permanent employment, as defined by
15 the department, in the regular labor market.

16 (d) 1. Except as provided in subd. 2., an individual who obtains a transitional
17 job must work at that job at least 8 hours per week but may not work at that job more
18 than 40 hours per week.

19 2. An individual working in a transitional job who has other employment in the
20 regular labor market may not work at the transitional job more hours than would
21 make his or her total work hours at the transitional job and the other employment
22 more than 40 hours per week.

23 (e) The department shall determine and specify in a contract whether a
24 contractor under sub. (5) (b) or an employer is the individual's employer of record.
25 The employer of record shall pay the individual for hours actually worked at not less

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1 than the federal or state minimum wage, whichever is higher, that applies to the
2 individual.

3 (f) The department shall pay an employer, or a contractor under sub. (5) (b),
4 that employs an individual in a transitional job at a location in this state a subsidy
5 equal to the federal minimum wage or the state minimum wage, whichever is higher,
6 for each hour of work actually performed by the individual and for which the
7 employer or contractor has paid the individual a wage, as well as amounts for all of
8 the following costs actually incurred by the employer or contractor that are
9 attributable to the employment of the individual in the transitional job:

- 10 1. Federal social security and Medicare taxes.
- 11 2. State and federal unemployment insurance contributions or taxes, if any.
- 12 3. Worker's compensation insurance premiums, if any.

13 (g) An employer, or, subject to the approval of the department, a contractor
14 under sub. (5) (b), that employs an individual participating in the program may pay
15 the individual an amount that exceeds any wage subsidy paid to the employer or
16 contractor by the department under par. (f).

17 (h) The employment of an individual under this section may not do any of the
18 following:

- 19 1. Have the effect of filling a vacancy created by an employer terminating a
20 regular employee or otherwise reducing its work force for the purpose of hiring an
21 individual under this section.
- 22 2. Fill a position when any other person is on layoff or strike from the same or
23 a substantially equivalent job within the same organizational unit.
- 24 3. Fill a position when any other person is engaged in a labor dispute regarding
25 the same or a substantially equivalent job within the same organizational unit.

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1 **(5) ADMINISTRATION.** (a) The department shall administer the program. In
2 addition to any other duties specified in this section, the department shall do all of
3 the following:

4 1. Promulgate any rules necessary for the operation of the program.

5 2. Cooperate with the legislative audit bureau in the performance of the audits
6 under s. 13.94 (1) (r).

7 3. Annually, submit a report on the operation of the program to the legislature
8 under s. 13.172 (2) and to the governor.

9 4. Conduct, or enter into arrangements with independent academic or research
10 organizations to conduct, periodic evaluations of the effectiveness of the program in
11 reducing poverty and unemployment; helping unemployed and underemployed
12 Wisconsin residents gain, through wage-paying employment, the skills needed to
13 move as quickly as possible into unsubsidized employment; and assisting employers
14 in Wisconsin in creating new jobs.

15 (b) The department shall contract with a person, which may include a
16 Wisconsin Works agency; county department under s. 46.215, 46.22, or 46.23; local
17 workforce development board established under 29 USC 2832; or community action
18 agency under s. 49.265, in each county to administer the program in that county. The
19 department, or the person or persons with which the department contracts under
20 this subsection, shall do all of the following:

21 1. Determine the eligibility of applicants for the program.

22 2. Provide, or identify employers to provide, jobs for individuals transitioning
23 to unsubsidized employment from unemployment, underemployment, limited work
24 history, foster care, or other circumstances identified by the department.

25 3. Conduct job orientation activities.

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1 4. Provide employment services, as specified by the department, for program
2 participants.

3 5. Maintain and update participant demographic, eligibility, and employment
4 records in the manner required by the department.

5 **(6) REIMBURSEMENTS.** (a) 1. To participate in the program, an individual must
6 agree, in writing, to reimburse the department for all amounts that the department
7 pays to an employer or contractor under sub. (4) (f) that are attributable to the
8 employment of the individual under the program.

9 2. Notwithstanding subd. 1., an individual is not required to sign a
10 reimbursement agreement or to reimburse the department for amounts paid under
11 sub. (4) (f) on behalf of the individual for time worked in a transitional job while the
12 individual is also participating in a trial employment match program job under s.
13 49.147 (3), including an individual placed in a trial employment match program job
14 under s. 49.159 (1) (b) 2.

15 (b) 1. The department shall promulgate rules establishing the terms and
16 conditions of reimbursement. The rules shall provide for reimbursement by
17 performance of in-kind services and shall set out the criteria for approving in-kind
18 reimbursement.

19 2. The department shall credit all reimbursements paid under this subsection
20 to the appropriation account under s. 20.437 (2) (g).

21 **(7) RECOVERY OF OVERPAYMENTS.** (a) The department may recover from any
22 individual participating, or who has participated, in the program any overpayment
23 resulting from a misrepresentation by the individual as to any criterion for eligibility
24 under sub. (3).

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1 (b) The department shall recover from a contractor under sub. (5) (b) any
2 overpayment resulting from the failure of the contractor to comply with the terms
3 of the contract or to meet performance standards established by the department.

4 **SECTION 8.** 49.175 (1) (k) of the statutes, as affected by 2013 Wisconsin Act 113,
5 is amended to read:

6 49.175 (1) (k) *Transform Milwaukee and Transitional Jobs programs.* For
7 contract costs under the Transform Milwaukee Jobs program and the Transitional
8 Jobs program under s. 49.163, 2013 stats., \$3,750,000 in fiscal year 2013-14 and
9 \$5,000,000 in fiscal year 2014-15.

10 **SECTION 9. Initial applicability.**

11 (1) This act first applies to individuals who apply for the Transitional Jobs
12 program on the effective date of this subsection.

13 **SECTION 10. Effective date.**

14 (1) This act takes effect on July 1, 2015.

15 (END)