



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #406

FoodShare Employment and Training Program -- Make Program Voluntary, Remove all FoodShare Sanctions, and Expand Exemptions from Program Participation Requirements (DHFS -- Medical Assistance -- Administration and FoodShare)

Bill Section

[LFB 2007-09 Budget Summary: Page 297, #5 (part)]

CURRENT LAW

FoodShare Employment and Training Program (FSET). Federal law requires that, as a condition of eligibility for food stamp benefits, certain household members comply with work requirements, including: (a) registering for work at the time of application and every 12 months after initial registration; (b) participating in an employment and training program, if assigned by the state agency, to the extent required by the state agency; (c) participating in a workfare program, if assigned by the state agency; (d) providing the state agency or its designee with sufficient information regarding employment status or availability for work; (e) reporting to an employer to whom referred by the state agency or its designee if the potential employment meets suitability requirements specified in federal law; (f) accepting a bona fide offer of suitable employment; and (g) not voluntarily, and without good cause, quitting a job of 30 or more hours a week or reducing work effort to less than 30 hours a week. Federal law exempts certain individuals from these work requirements.

States are required to design and operate FSET programs that consist of one or more employment and training components described in federal rules. These components include: (a) a job search program; (b) a job search training program, which may include job skills assessments, training in techniques for employability, job placement services, or other direct training or support activities, including educational programs; (c) a workfare program; (d) a program designed to improve the employability of household members through actual work

experience or training, or both, and to enable individuals to move promptly into regular public or private employment; (e) a project, program or experiment, such as a supported work program, aimed at accomplishing the purpose of the FSET program; (f) educational programs or activities to improve basic skills or otherwise improve employability, including educational programs such as high school or equivalent educational programs, remedial education programs to achieve a basic literacy level, and instructional programs in English as a second language; and (g) a program designed to improve the self-sufficiency of recipients through self-employment.

Sanctions for Noncompliance with FSET Requirements. Federal rules identify permissible disqualification periods for individuals who do not comply with FSET program requirements.

Wisconsin's statutes specify the following disqualification periods. For a first occurrence of noncompliance (without good cause), the individual may be disqualified from receiving FoodShare benefits for one month or until the person complies with the work requirement, whichever is later. For a second occurrence, the individual may be disqualified from receiving FoodShare benefits for three months, or until the person complies with the work requirements, whichever is later. For a third or subsequent occurrence of noncompliance, the individual may be disqualified from receiving FoodShare benefits for six months, or until the person complies with the work requirements, whichever is later.

Federal law establishes greater sanctions for able-bodied adults without dependents (ABAWDs). In Wisconsin, ABAWDs are FoodShare recipients who: (a) are not under the age of 18, or 50 years old or older; (b) do not live in a household with a minor child; (c) are not pregnant; and (d) do not meet any exemption criterion for the FSET program.

Under federal law, enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the federal welfare reform legislation that replaced the aid to families with dependent children program with the temporary assistance for needy families program), ABAWDs are limited to three months of food stamp benefits in a 36-month period if they fail to meet certain work-related requirements. However, Wisconsin has received a waiver of this requirement, based on high unemployment rates in areas of Wisconsin where most ABAWD FoodShare recipients reside. In order to be designated as an area with a high unemployment rate, an area's unemployment rate must be at least 20% above the national average unemployment rates during a recent 24-month time period. In Wisconsin, these areas had unemployment rates ranging from 5.9% to 10.3%.

In addition, federal law permits states to exempt up to 15% of the ABAWDs from the sanction provisions.

State and Local Administration. DHFS contracts with the Department of Workforce Development (DWD) to administer the FSET program. DWD contracts with Wisconsin Works (W-2) agencies to provide FSET services. Under the current contracts, W-2 is administered at the local level as follows: (a) 45 counties are served by county human/social services agencies; (b)

26 counties outside of Milwaukee County are served by non-county agencies; and (c) four non-county agencies cover five regions in Milwaukee County. These agencies may subcontract with Job Service or other employment contractors. FSET agencies have discretion on the number of hours per week they assign each program participant. However, total individual hours of participation in the program, together with any hours of subsidized or unsubsidized work, cannot exceed 120 hours per month.

Caretaker Exemption from the Work Requirement. In addition, the statutes permit, but do not require, DWD to require all able FoodShare recipients between the ages of 18 to 60 who are not participants in a W-2 employment position to participate in the FSET program, except: (a) caretakers of a child under the age of 12 weeks; and (b) individuals who are enrolled at least half-time in a recognized school, training program, or institution of higher education. Such individuals must comply with the other requirements for FoodShare eligibility.

GOVERNOR

Make Program Voluntary. Reduce funding by \$709,200 (-\$354,600 GPR and -\$354,600 FED) annually to reflect projected reductions in state and county costs of administering the FSET program by permitting, but not requiring, individuals to participate in the FSET program as a condition of receiving FoodShare benefits. This item includes: (a) reducing funding for FSET services (-\$250,000 GPR and -\$250,000 FED annually); and (b) eliminating funding for FSET fair hearings (-\$104,600 GPR and -\$104,600 FED annually). No statutory changes have been requested because the administration believes such a policy change is allowable under current law.

Expand Exemptions from FSET Requirement. Increase the number of individuals who would be exempt from the FSET program requirements by prohibiting DHFS from requiring any FoodShare recipient who is a caretaker of a child under the age of 26 weeks to participate in the FSET program.

The Governor's proposal to transfer the program from DWD to DHFS is addressed in a separate paper.

DISCUSSION POINTS

1. Under the Governor's proposal, both ABAWDs and other FoodShare recipients would participate in the FSET program on a voluntary basis. ABAWDs would not be required to participate in FSET if the current waiver is extended and exemptions to the FSET requirements are approved by the United States Department of Agriculture, Food and Nutrition Service (FNS), the federal administering agency. Counties would continue to offer FSET services to FoodShare recipients who wished to participate in the program, since federal law requires states to administer FSET programs and make these services available to certain groups of food stamp recipients.

2. The state's current waiver exempts ABAWDs who fail to meet minimum FSET

work participation requirements from the 36-month period of ineligibility for FoodShare benefits (during which time they may receive a maximum of three months of FoodShare benefits). The current waiver applies to ABAWDs in 10 counties and seven cities, because these areas have high unemployment rates. In other areas of the state, the federal FoodShare sanctions for ABAWDs still apply.

Table 1 lists the counties and cities that are currently exempt from the ABAWD 36-month disqualification period.

TABLE 1

Counties

Adams	Forest	Langlade
Ashland	Iron	Marquette
Bayfield	Juneau	Menominee
		Rusk

Cities

Beloit	Manitowoc	West Bend
Green Bay	Milwaukee	
Kenosha	Racine	

Under the current waiver, FNS stipulated that DHFS could exempt all remaining ABAWDs in the state under the 15% exemption.

3. DHFS has requested an extension of the current ABAWD waiver, which would exempt a total of 21 counties and seven cities. This waiver was approved by the regional USDA office and is currently under review at the national office. USDA has indicated that Wisconsin will receive notice by the end of April. Should the waiver be granted, it would be retroactive to April 1, 2007. DHFS expects USDA to approve the extension.

Table 2 lists the counties and cities in which DHFS proposes to exempt ABAWDs from the 36-month disqualification period.

TABLE 2

**Individuals in Counties and Cities Exempt from ABAWD 36-Month Disqualification Period
(Proposed)**

Counties

Adams	Juneau	Oneida
Ashland	Langlade	Racine
Bayfield	Marinette	Rusk
Burnett	Marquette	Sawyer
Forest	Menominee	Taylor
Florence	Milwaukee	Vilas
Iron	Oconto	Washburn

Cities

Appleton	Janesville	West Bend
Beloit	Kenosha	
Green Bay	Manitowoc	

4. Currently, many individuals lose eligibility for FoodShare benefits due to their failure to comply with FSET requirements. According to DHFS, of the 94,100 FSET participants who were required to participate in 2005-06, 68,900 (73%) were sanctioned for noncompliance. On average, approximately 5,700 unduplicated individuals are sanctioned each month due to non-participation in FSET activities.

5. The administration's primary argument for making FSET a voluntary program is that no person who meets the financial eligibility requirements for the program would lose their FoodShare benefits due to failure to comply with a work requirement. Based on the average number of individuals subject to sanctions each month and the average FoodShare payment level, it is estimated that eliminating the current sanctions would increase 100% federal FoodShare benefits to Wisconsin residents by approximately \$5.5 million annually (5,700 individuals x \$80 per month x 12 months). In addition to directly helping the individuals and families who receive these federal benefits, the increase in federally-funded benefits may help the local economies to which the families belong.

6. In addition, county and tribal income maintenance agencies spend time referring, tracking, sanctioning, and re-authorizing sanctioned participants. While the Governor's proposal would eliminate time local income maintenance (IM) staff currently spend relating to these sanctions, the bill would not reduce funding to IM agencies to reflect anticipated savings in IM staff time. Any savings in staff time relating to FoodShare sanctions would be available to support other

IM activities.

7. Additionally, income maintenance workers and hearing examiners spend time attending hearings conducted by the Department of Administration's Division of Hearing and Appeals. DHFS expended approximately \$104,600 GPR in 2005-06 to support fair hearings conducted by DOA relating to these cases. Since these costs would no longer be incurred, the Governor's budget bill would delete this amount of base funding from DHFS that would otherwise support the costs of these hearings.

8. The bill would reduce funding for FSET services by \$500,000 (-\$250,000 GPR and -\$250,000 FED) annually. This amount represents approximately 6.2% of the total base funding budgeted for FSET services (approximately \$8.1 million, all funds). This funding reduction recognizes a likely decrease in the number of FoodShare recipients who would voluntarily participate in the FSET program, and the uncertainty regarding the reduction in the demand for services funded under the FSET program.

9. Because the FSET program has been mandatory in Wisconsin since its inception, it is difficult to know what would happen if program participation became voluntary. However, it is assumed that participation would likely decrease if the program is no longer mandatory. Given this, the Committee could choose to reduce funding for services, either by the amount recommended by the Governor, or by a greater amount. Since funding for these services is 50% GPR and 50% FED, any reduction in GPR would result in an equal reduction in FED.

10. South Carolina is the only other state that currently has a voluntary FSET program. Following its change to a voluntary program, the number of individuals participating in South Carolina's FSET program decreased by 90%. In Wisconsin, in 2005-06, of the 28,300 FSET participants who were not sanctioned, 3,200 were voluntary. Given that only 11% of non-sanctioned participants are voluntary, it may be reasonable to assume that the South Carolina experience is applicable to Wisconsin.

However, there may be substantial fixed costs counties and W-2 agencies incur in offering FSET services. If participation in the program decreased 90%, there would unlikely be a corresponding 90% decrease in program costs. For this reason, if the Committee determines that participation in the program will decrease significantly if the program became voluntary, it could reduce funding for FSET services by more than the amount of the funding reduction in the Governor's bill.

For example, the Committee could reduce funding for services to reflect an assumption that there would be a 50% decrease in the number of clients that would voluntarily participate in the program, beginning in calendar year 2008. Under this alternative, if participation decreased by 90%, rather than 50%, counties would be better able to serve clients who voluntarily participate in the program. Under this alternative, the Committee could reduce funding for FSET services by an additional \$1,165,400 (\$582,700 GPR and \$582,700 FED) in 2007-08 and \$2,830,600 (\$1,415,300 GPR and \$1,415,300 FED) in 2008-09.

11. On the other hand, some argue that FoodShare, like other forms of public assistance, should be connected to work. As a result of the FSET program, in 2006, approximately 15,000 FSET participants obtained jobs, 10,000 of which were full-time jobs and were expected to last more than 30 days. Allowing individuals to participate in FSET on a voluntary basis removes the tie between benefits and work, and may eliminate the incentive for individuals to work.

12. Since the statutes already permit, but do not require, nonexempt individuals to participate in the FSET program, the administration has indicated that it will make the FSET program entirely voluntary for all nonexempt FoodShare recipients, including ABAWDs, unless legislation is enacted to require individuals to participate in the program.

If the Committee determines that it wishes to retain a mandatory program, SB 40 could be amended to specify that nonexempt FoodShare recipients are required to participate in the FSET program. Under this alternative, the Committee would restore funding for the program that would be deleted under the Governor's bill, and the current statutory sanctions for noncompliance with the FSET program requirements would apply to all mandatory participants, including ABAWDs. However, the ABAWDs would not be subject to the 36-month period of ineligibility for FoodShare due to their failure to comply with the FSET requirements.

13. SB 40 contains a provision to extend the amount of time an eligible caretaker of a newborn infant could receive a monthly W-2 grant from 12 weeks, under current law, to 26 weeks. In relation to this provision, SB 40 would also extend the FSET exemption for caretakers of infants from 12 weeks, under current law, to 26 weeks. The Governor's provision to extend FSET exemptions to caretakers with children under the age of 26 weeks could be deleted from the bill if the Committee adopts the Governor's provision to make the program entirely a voluntary program. However, if the Committee wished to modify the statutes to require DHFS to administer a mandatory program (where participants would be subject to the state sanctions), the Committee could retain this provision.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.

ALT 1	Change to Bill Funding	Change to Base Funding
GPR	\$0	- \$709,200
FED	<u>0</u>	<u>- 709,200</u>
Total	\$0	- \$1,418,400

2. Approve the Governor's funding modifications. However, delete the provision that would extend the work requirement exemption to caretakers with children under the age of 26 weeks to participate in the FSET program, since all caretakers would no longer be required to participate in the FSET program as a condition of receiving FoodShare benefits.

ALT 2	Change to Bill Funding	Change to Base Funding
GPR	\$0	- \$709,200
FED	<u>0</u>	<u>- 709,200</u>
Total	\$0	- \$1,418,400

3. Modify the Governor's recommendation by: (a) deleting the provision that would extend the work requirement exemption to caretakers with children under the age of 26 weeks to participate in the FSET program, since all caretakers would no longer be required to participate in the FSET program as a condition of receiving FoodShare benefits; and (b) reducing funding for the program by \$1,165,400 (\$582,700 GPR and \$582,700 FED) in 2007-08 and \$2,830,600 (\$1,415,300 GPR and \$1,415,300 FED) in 2008-09 to reflect a funding level for services that assumes a 50% caseload decrease.

ALT 3	Change to Bill Funding	Change to Base Funding
GPR	- \$1,998,000	- \$2,707,200
FED	<u>- 1,998,000</u>	<u>- 2,707,200</u>
Total	- \$3,996,000	- \$5,414,400

4. Delete all of the Governor's provisions. Instead, modify current law to: (a) require able individuals who are 18 to 60 years of age who are not participants in a Wisconsin Works employment position to participate in the employment and training program, if required under federal law; and (b) specify that ABAWDs would not be subject to the 36-month period disqualification period, if the state obtains required waivers of federal law. Increase funding in the bill by \$709,200 (\$354,600 GPR and \$354,600 FED annually).

ALT 4	Change to Bill Funding	Change to Base Funding
GPR	\$709,200	\$0
FED	<u>709,200</u>	<u>0</u>
Total	\$1,418,400	\$0

5. Delete all of the Governor's provisions, except the provision that would increase the number of individuals who would be exempt from the FSET program requirements by prohibiting DHFS from requiring any FoodShare recipient who is a caretaker of a child under the age of 26 weeks to participate in the FSET program. In addition, modify current law to: (a) require able individuals who are 18 to 60 years of age who are not participants in a Wisconsin Works employment position to participate in the employment and training program, if required under federal law; and (b) specify that ABAWDs would not be subject to the 36-month period disqualification period, if the state obtains required waivers of federal law. Increase funding in the

bill by \$709,200 (\$354,600 GPR and \$354,600 FED annually).

ALT 5	Change to Bill Funding	Change to Base Funding
GPR	\$709,200	\$0
FED	<u>709,200</u>	<u>0</u>
Total	\$1,418,400	\$0

6. Delete provision.

ALT 6	Change to Bill Funding	Change to Base Funding
GPR	\$709,200	\$0
FED	<u>709,200</u>	<u>0</u>
Total	\$1,418,400	\$0

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