

COMMERCE/WEDC/DATCP/DSPS

Omnibus Motion

[LFB Papers #145, #232 thru #251, and #785 and #786]

Motion:

Move to adopt the following provisions related to the Department of Commerce and the Wisconsin Economic development Corporation (WEDC):

1. *Increase Employee Contributions for Pensions and Health Insurance [LFB Issue Paper #232]*. Adopt the modification to delete an additional \$80,900 FED, \$726,700 PR, and \$276,700 SEG annually to reflect fringe benefit cost reductions for Commerce Safety and Buildings Division, Environmental Regulatory Services Division, and administrative staff who are transferred to the Department of Safety and Professional Services (DSPS).

In addition, delete an additional \$243,900 GPR annually in WEDC to reflect fringe benefit cost reductions for Commerce economic and community development staff who would be transferred to WEDC.

2. *Harbor Assistance Program [LFB Issue Paper #233]*. Adopt the modification that would restore the statutory provision that requires the Department of Transportation (DOT) to establish criteria for evaluating harbor assistance grants, but delete the requirement that DOT consult with Commerce in establishing the criteria.

3. *Main Street Program [LFB Issue Paper #234]*. Adopt Alternative #2 to apply the current law Main Street statutory provisions to WEDC (excluding provisions related to state classified positions, the Council on Main Street, the current Commerce appropriation for fee deposits, and the Main Street annual report). In addition, specify that WEDC expend at least \$250,000 annually on the Main Street program.

4. *Small Business Clean Air Assistance Program and Small Business Environmental Council [LFB Issue Paper #235]*. Adopt Alternative A1 and B3. Alternative A1 would approve the Governor's recommendation to repeal the small business clean air assistance program in Commerce. It would also delete: (a) \$237,200 PR annually in the WEDC PR appropriation for receipt of 2010-11 unencumbered balances from repealed Commerce appropriations; and (b) the transfer of the 2010-11 unencumbered balance of the small business clean air assistance appropriation to the WEDC PR appropriation. Under this alternative DNR would assume full responsibility for the federal small business clean air assistance program.

Alternative B3 would transfer the Small Business Environmental Council and its duties to DNR, and would delete the references in Council membership and duties to Commerce.

5. *Manufactured Housing Rehabilitation and Recycling Program [LFB Issue Paper #236]*. Adopt Alternative 1, which would approve the Governor's recommendation and errata request to: (a) transfer the manufactured housing rehabilitation and recycling program to DSPPS; (b) repeal the separate appropriation for the program; (c) amend the main Safety and Buildings general operations PR appropriation to specify the manufactured home title fees be deposited in that appropriation; (d) provide expenditure authority of \$59,100 PR annually in DSPPS for the program; and (e) reduce expenditure authority by \$59,100 PR annually in WEDC. In addition, Alternative 1 would: (a) delete the transfer of the 2010-11 unencumbered appropriation balance to WEDC; and (b) transfer the 2010-11 unencumbered balance of the repealed separate appropriation to the Safety and Buildings general operations PR appropriation on the effective date of the bill.

6. *General Business and Industrial Development Duties [LFB Issue Paper #237]*. Adopt the technical modification that would delete the statutory provision under Commerce industrial development functions that requires Commerce to perform such other functions as the Governor may direct to aid in the industrial development of the state [s. 560.03(7)].

7. *Transfer of Dairy 2020 Functions and Administration of Investment Tax Credits To the Department of Agriculture and Consumer Protection [LFB Issue Paper #238]*. Adopt Alternatives #1 and #4 to modify the Governor's request as follows:

a. Transfer from the Department of Commerce to the Department of Agriculture, Trade and Consumer Protection administration of the following programs: (1) Dairy 2020, including the Dairy 2020 early planning grant (EPG) and Milk Volume Production (MVP) loan financial assistance programs; and (2) certification, allocation and verification of the dairy manufacturing facility investment tax credit, food processing plant and food warehouse investment tax credit, meat processing facility investment tax credit, and woody biomass harvesting and processing tax credit. Provide \$64,900 GPR annually with 1.0 economic development consultant position in DATCP for administration of the programs (same as the bill). In addition, provide \$200,000 GPR annually from the Wisconsin Economic Development Corporation (WEDC) in a newly created, annual appropriation in DATCP to fund Dairy 2020 EPGs and MVP loans. Require all records and tangible personal property related to certification of tax credit claimants to be transferred from Commerce to DATCP. Specify all Commerce administrative rules in effect for administration of the tax credit programs remain in effect until any designated expiration date, or until the rules are modified or repealed by DATCP (Alternative #1). In addition, provide 0.5 GPR position beginning in 2011-12 in DATCP (no additional funds would be provided).

b. Transfer administrative responsibilities for the electronic medical records tax credit from Commerce to the Department of Revenue (DOR). Provide DOR with rule making authority to administer the credit. (Alternative #4);

c. Adopt the Governor's recommendation to transfer administration of the film production tax credits from Commerce to the Department of Tourism. Provide Tourism with rule-making authority to administer the tax credit.

8. *Transfer State Relocation Unit [LFB Issue Paper #239]*. Adopt the modification that would transfer the state Relocation Unit, including staff and related funding to the Department

of Administration (DOA) as follows: (a) transfer administration of the Relocation Unit to DOA; (b) provide 1.0 GPR position to DOA; and (c) transfer annual funding of \$101,200 GPR from WEDC to DOA.

9. *Small Business Innovation Research Grants Transfer [LFB Issue Paper #240]*. Adopt the modification that would delete the SBIR grant program, and the MBD program revenue repayments appropriation [s. 20.165(1)(ir)] and \$510,500 PR annual expenditure authority from DSPS.

10. *Brownfields Redevelopment Positions and Funding [LFB Issue Paper #241]*. Adopt the modification that would delete the brownfields redevelopment activities appropriation [s. 20.165(2)(qa)], including \$194,000 SEG annually and 2.0 SEG positions under DSPS.

11. *Gifts and Grants [LFB Issue Paper #242]*. Adopt Alternative 2 to reestimate the total amount received by the Department of Safety and Professional Services by -\$12,000 PR annually.

12. *Bureau of Minority Business Development Positions [LFB Issue Paper #243]*. Adopt the modification that would make the following changes to the bill: (a) delete \$250,900 GPR and 2.0 GPR positions annually from DSPS; (b) transfer \$184,600 GPR and 2.0 GPR positions annually from DSPS to DOA, Office of Business Development; (c) transfer the disabled veteran-owned, woman-owned, and minority-owned business certification fees appropriation to DOA; and (d) increase the Wisconsin Economic Development Corporation (WEDC) operations and programs appropriation by \$250,900 GPR annually.

13. *Women's Business Initiative Corporation Grant Program [LFB Issue Paper #244]*. Adopt the modification that would delete administration of the Women's Business Initiative Corporation (WBIC) grant program, including statutory provisions, the WBIC grants appropriation [s. 20.165(1)(fw)], and \$99,000 GPR annual funding, from DSPS. Increase the Wisconsin Economic Development Corporation (WEDC) operations and programs appropriation [s. 20.192(1)(a)] by \$99,000 GPR annually.

14. *Unclassified Division Administrators and Bureau Directors [LFB Issue Paper #245]*. Adopt Alternatives 2 and 4, which would: (a) provide statutory authorization under Chapter 230 for eight unclassified administrators in DSPS; (b) delete statutory authorization for four unclassified administrators in the Department of Regulation and Licensing (DRL); (c) provide statutory authorization for DSPS for two unclassified bureau directors; (d) delete statutory authorization for DRL for five unclassified bureau directors; (e) transfer two unclassified administrators from Commerce to DSPS; (e) provide civil service protections to the four classified incumbent bureau directors if the incumbents were transferred from Commerce to unclassified positions in DSPS; (f) delete the civil service protection to a classified administrator of the Commerce Division of Administrative Services transferred to an unclassified position in DSPS (no such position exists); and (g) include a technical correction to delete the current authorization for Commerce to employ six unclassified administrators.

15. *Regulation of Thermal System Insulation Installation [LFB Issue Paper #246]*.

Adopt Alternative 1 to: (a) approve the Governor's recommendation to repeal the requirement that Commerce regulate installation of thermal system insulation; and (b) repeal the Thermal System Insulation Council.

16. *Reallocation of Funds within DSPS [LFB Issue Paper #247]*. Adopt Alternative 4, which would delete the provision related to authorizing the Secretary of the Department of Administration (DOA) to reallocate funding within DSPS before July 1, 2013. DSPS and DOA could submit one or more requests, as needed, for changes in expenditure authority under s. 13.10 or s. 16.515.

17. *Decrease PECFA Awards Appropriation [LFB Issue Paper #248]*. Adopt Alternative 1 to approve the Governor's recommendation to decrease by \$4,550,000 SEG annually the PECFA awards appropriation.

18. *Private Sewage System Replacement and Rehabilitation Grant Program [LFB Issue Paper #249]*. Adopt Alternatives 1 and 4. Alternative 1 would approve the Governor's recommendation to delete \$476,400 GPR annually from the private sewage system replacement and rehabilitation grant program to provide \$2,338,600 GPR annually for grants, and to increase the WEDC GPR appropriation by \$476,400 GPR annually. Alternative 4 would adopt the administration's recommendation to: (a) provide \$74,600 GPR and 1.0 GPR position annually to DSPS for administration of the program; and (b) delete \$74,600 GPR annually from WEDC.

19. *Eliminate Housing Positions and Transfer Commerce Housing Programs in WHEDA [LFB Issue Paper #250]*. Adopt Alternative 2, which would transfer housing programs from Commerce to DOA (instead of to WHEDA), as follows: (a) delete \$5,063,000 GPR, \$1,013,700 PR, and \$34,632,400 FED annually from WHEDA; (b) change all references in the bill that transfer housing programs and appropriations to WHEDA, to instead specify DOA; (c) provide DOA with \$5,081,400 GPR and 6.05 GPR positions, \$1,013,700 PR, \$34,467,400 FED and 18.95 FED positions annually; (d) transfer all positions and all incumbent employees holding those positions in Commerce performing duties primarily related to the housing programs, as determined by the Secretary of DOA, to DOA on the effective date of the bill, and specify employees transferred under the provision would have the same rights and employment status, and would not be required to serve a probationary period; (e) transfer from Commerce to DOA, the authority to request certain surplus real property, at no cost, from other state agencies; and (f) transfer from Commerce to DOA, the requirement to report on the impact of proposed administrative rules on housing and state housing policy.

In addition to approving Alternative 2, specify that one of the 25.0 housing positions provided in DOA would be unclassified division administrator. Amend Chapter 230 to increase the authorization under DOA for unclassified positions by one division administrator.

20. *Fire Department Dues Distribution Reestimate [LFB Issue Paper #251]*. Provide \$494,400 PR in 2011-12 and \$744,400 PR in 2012-13 to reestimate the fire dues distribution to local governments that maintain eligible fire departments.

21. *Convert Recycling Surcharge to Economic Development Surcharge [LFB Issue*

Paper #785]. Adopt Alternative #1 to approve the Governor's recommendation to rename the recycling surcharge the "economic development surcharge" and deposit the surcharge in the economic development fund. Create a new, segregated revenue, continuing appropriation funded with economic development fund revenues [s. 20.192 (1) (r)] under the Wisconsin Economic Development Corporation (WEDC) to fund economic development programs administered by WEDC. Reestimate annual economic development surcharge revenues to be \$23,400,000 (rather than \$22 million under the bill).

22. *Wisconsin Economic Development Corporation--Agency Funding, Personnel, and Functions [LFB Issue Paper #786]*. Adopt Alternatives # 2 c., d., and e. to modify the Governor's recommendation to establish a funding level for Wisconsin Economic Development Corporation (WEDC) operations and programs as follows: (a) approve the Governor's recommendation to provide \$18,743,700 GPR in 2011-12, \$16,399,600 GPR in 2012-13, \$38,850,000 SEG in 2011-12 and \$39,850,000 SEG in 2012-13, annually to establish a funding level for the WEDC; (b) increase expenditure authority for the WEDC program revenue appropriation for transferred general fund moneys from the Department of Commerce [s. 20.192(1)(k)] by \$1,638,800 PR in 2011-12 and decrease expenditure authority by \$4,861,200 in 2012-13, to provide expenditure authority of \$6,500,000 PR in 2011-12 and \$0 in 2012-13; (c) delete \$16,390,600 FED annually in WEDC to reflect projected federal allocations of \$20 million each year; and (d) specify that all powers and duties assigned to WEDC under the statutes shall be exercised by the WEDC Board of Directors, unless the Board delegates the power or duty to an employee of WEDC.

23. *Wisconsin Economic Development Corporation--Economic Development Program Funding [LFB Issue Paper #786]*. Delete \$15,660,800 SEG in 2011-12 and \$16,660,800 SEG in 2012-13 from the WEDC economic development fund, programs appropriation [s. 20.192 (1) (r)]. Provide \$15,660,800 GPR in 2011-12 and \$16,660,800 GPR in the WEDC operations and programs appropriation [s. 20.192 (1) (a)] to provide economic development program funding that would offset the reduction in funding from the segregated economic development fund.

24. *Transfer of Housing-Related Regulations to Safety and Professional Services [LFB Issue Paper #145]*. Adopt Alternative #1 to delete the provision and maintain housing-related regulations in DATCP.

25. *Working Lands Initiative -- Repeal Farmland Preservation Conversion Fee [LFB Issue Paper #136]*. Specify that any conversion fees related to farmland preservation zoning changes that are collected by a political subdivision in 2011 prior to the bill's effective date are to be retained by the political subdivision for farmland preservation planning, zoning and compliance monitoring. (This provision would clarify prior Committee action, which adopted the Governor's recommended repeal of the conversion fee for rezoning land from farmland preservation zoning districts.)

26. *Building Code Changes That Increase the Cost of One- and Two-Family Dwellings*. Move to prohibit the Department of Commerce (Department of Safety and Professional Services under the bill) from promulgating any rule, if the proposed rule increases the cost of constructing or remodeling a one- or two-family dwelling by more than \$1,000, unless the following procedures are

followed:

a. Require that when the Department performs an economic impact analysis under the requirements of 2011 Act 21, it must include an analysis of whether the proposed rule would add more than \$1,000 to the cost of constructing or remodeling a one- or two-family dwelling.

b. If the Joint Committee for Review of Administrative Rules determines that the rule would add more than \$1,000 to the cost of a one- or two-family dwelling, the Department could not promulgate the rule, unless legislation is enacted to authorize the Department to promulgate the rule.

c. Specify that if a bill is enacted authorizing the Department to promulgate the rule change that increases the cost of constructing or remodeling a one- or two-family dwelling by more than \$1,000, the Department would follow the normal process of promulgating an administrative rule change.

d. Specify that the procedures under the motion would apply notwithstanding the s. 101.60 purpose clause of the one- and two-family dwelling code related to promoting interstate uniformity in construction standards.

27. *Regulation of Residential Conveyances.* Move to exclude the following from the definition of conveyances for purposes of regulation under the safety code, licensing, and permitting requirements for persons who install conveyances: (a) a vertical platform lift, inclined platform lift, and stairway chair lift serving an individual residential dwelling unit; (b) a personnel hoist; and (c) a material hoist.

28. *Underground Storage Tank Regulations.* Move to prohibit Commerce (DSPS under the bill) from requiring owners or operators of existing underground storage tank systems to place existing pipe connections at the top of the tank and beneath all freestanding pumps and dispensers, that routinely contain product, within secondary containment sumps before December 31, 2020.

Note:

Building Code Changes That Increase the Cost of One- and Two-Family Dwellings. Currently, s. 101.60 of the statutes states that the purpose of the one- and two-family dwelling code is "to establish statewide construction standards and inspection procedures for one- and two-family dwellings and to promote interstate uniformity in construction standards by authorizing the Department to enter into reciprocal agreements with other states which have equivalent standards."

Currently, s. 101.63 requires the Department of Commerce to promulgate administrative rules for the construction and inspection of one- and two-family dwellings and components thereof. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, including plumbing.

Many of the rules promulgated by Commerce adopt model codes created by the International Code Council, such as the International Building Code.

It is unknown how the motion would affect the state's ability to maintain uniformity in construction standards with other states.

Section 227.01(10) of the statutes defines "proposed rule" as all or any part of an agency's proposal to promulgate a rule.

Regulation of Residential Conveyances. Under 2005 Act 456, the Department of Commerce Division of Safety and Buildings is required to promulgate administrative rules for the safe installation and operation of conveyances, and licensing requirements for persons who construct, install, alter, service, replace, or maintain conveyances. (Under the budget bill, this function would be transferred to the Department of Safety and Professional Services, along with the Division of Safety and Buildings.)

Under s. 101.981 (1)(c) of the statutes, "conveyance" means an elevator, an escalator, a dumbwaiter, a belt manlift, a moving walkway, a platform lift, a personnel hoist, a material hoist and a stairway chair lift, and any other similar device, such as an automated people mover, used to elevate or move people or things, as provided in the rules of the Department. "Conveyance" does not include a grain elevator, a ski lift or towing device, or an amusement or thrill ride.

Under s. 101.981 (1)(g), "material hoist" means a hoist, other than a personnel hoist, that is used to raise or lower materials during construction, alteration, or demolition of a building or structure. Under s. 101.981 (1)(h), "personnel hoist" means a hoist that is installed inside or outside a building or structure during the construction, alteration, or demolition of the building or structure and that is used to raise and lower workers, other personnel, and materials which the hoist is designed to carry.

Under s. 101.981 (2) the Department is required to promulgate rules with additional definitions, to the extent the Department deems necessary for the proper administration and enforcement of the subchapter. The Department is authorized to, by rule, modify the definitions described above and other definitions of conveyances. The Department is required, to the extent practicable, to ensure that any definitions or modifications promulgated in rule are consistent with national, industry-wide safety standards governing matters regulated by the subchapter.

Commerce promulgated rule Comm 5.003 (10g), effective in 2009, which excludes from the definition of conveyances: (a) a platform lift, stairway chair lift and any other similar device serving an individual residential dwelling unit; (b) a personnel hoist; and (c) a material hoist.

Underground Storage Tank Regulations. Administrative rule Comm 10.500 (5)(d) requires owners or operators of existing underground storage tank systems to place existing pipe connections at the top of the tank and beneath all freestanding pumps and dispensers, that routinely contain product, within secondary containment sumps by December 31, 2014.

This motion would modify the funding and positions in the Departments of Safety and Professional Services (DSPS), Administration (DOA), Agriculture, Trade and Consumer Protection (DATCP), Natural Resources (DNR), and the Wisconsin Economic Development Corporation (WEDC) as follows:

Motion Change to Bill

<u>Agency</u>	<u>Fund</u>	<u>2011-12</u>	<u>2012-13</u>	<u>Biennial Total</u>	<u>Positions</u>
DSPS	GPR	-459,900	-459,900	-919,800	-3.00
	FED	-80,900	-80,900	-161,800	0.00
	PR	-727,200	-477,200	-1,204,400	0.00
	SEG	<u>-470,700</u>	<u>-470,700</u>	<u>-941,600</u>	<u>-2.00</u>
	Total	<u>-\$1,738,700</u>	<u>-\$1,488,700</u>	<u>-\$3,227,400</u>	<u>-5.00</u>
WEDC	GPR	\$15,391,000	\$16,391,000	\$31,782,000	
	FED	-16,390,600	-16,390,600	-32,781,100	
	PR	1,342,500	-5,157,500	-3,815,000	
	SEG	<u>-15,660,800</u>	<u>-16,660,800</u>	<u>-32,321,600</u>	
	Total	<u>-\$15,317,900</u>	<u>-\$21,817,900</u>	<u>-\$37,135,800</u>	
WHEDA	GPR	-\$5,063,000	-\$5,063,000	-\$10,126,000	
	FED	-34,632,400	-34,632,400	-69,264,800	
	PR	-1,013,700	-1,013,700	-2,027,400	
	SEG	<u>0</u>	<u>0</u>	<u>0</u>	
	Total	<u>-\$40,709,100</u>	<u>-\$40,709,100</u>	<u>-\$81,418,200</u>	
DOA	GPR	\$5,367,200	\$5,367,200	\$10,734,400	9.05
	FED	34,467,400	34,467,400	68,934,800	18.95
	PR	1,045,200	1,045,200	2,090,400	0.00
	SEG	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00</u>
	Total	<u>\$40,879,800</u>	<u>\$40,879,800</u>	<u>\$81,759,600</u>	<u>28.00</u>
DATCP	GPR	\$200,000	\$200,000	\$400,000	0.5
	FED	0	0	0	
	PR	0	0	0	
	SEG	<u>0</u>	<u>0</u>	<u>0</u>	
	Total	<u>\$200,000</u>	<u>\$200,000</u>	<u>\$400,000</u>	
ALL AGENCIES	GPR	\$15,435,300	\$16,435,300	\$31,870,600	6.55
	FED	-16,636,500	-16,636,500	-32,273,000	18.95
	PR	646,800	-5,603,200	-4,956,400	0.00
	SEG	<u>-16,131,500</u>	<u>-17,131,500</u>	<u>-33,263,000</u>	<u>-2.00</u>
	Grand Total	<u>-\$16,685,900</u>	<u>-\$22,935,900</u>	<u>-\$39,621,800</u>	<u>23.50</u>