



WISCONSIN LEGISLATIVE COUNCIL

STATE-TRIBAL RELATIONS

Thornberry Creek at Oneida
4470 North Pine Tree Road
Oneida, WI

November 9, 2012
10:30 a.m. – 3:00 p.m.

[The following is a summary of the November 9, 2012 meeting of the Special Committee on State-Tribal Relations. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Mursau called the committee to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Jeffrey Mursau, Chair; Sen. Kathleen Vinehout, Vice-Chair; Reps. Janet Bewley, Nick Milroy, Jim Steineke, and Duey Stroebel; Sens. Jim Holperin and Dale Schultz; and Public Members Gary Besaw, Melinda Danforth, Marvin Defoe, Jon Greendeer, Jordan Martinson, Chris McGeshick, and William Morrow.

COMMITTEE MEMBER EXCUSED: Rep. Roger Rivard; and Public Members Dee Ann Allen and Gregg W. Duffek.

TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT: Kelly Jackson, Department of Transportation (DOT); Quinn Williams, Department of Natural Resources (DNR); and Thomas Ourada, Department of Revenue.

TECHNICAL ADVISORY COMMITTEE MEMBER EXCUSED: Tom Bellavia, Department of Justice (DOJ); David O'Connor, Department of Public Instruction; Margaret McGrath, Department of Workforce Development; and John Tuohy, Department of Children and Families.

COUNCIL STAFF PRESENT: David L. Lovell, Senior Analyst, and David Moore, Staff Attorney.

APPEARANCES: Paul Ninham, Councilman, and Melinda Danforth, Councilwoman, Oneida Nation of Wisconsin; Greg Matson, Vice-Chairman, Oneida Nation of Wisconsin; Mitchell Warren, Director, Bureau of Vehicle Services, and Reed McGinn, Legislative Liaison, Division of Motor Vehicles, DOT; Walt Neverman, Director, Crime Information Bureau, DOJ; and Dave Walz, DNR.

Welcome

Melinda Danforth, Councilwoman, Oneida Nation of Wisconsin

Public Member Melinda Danforth welcomed the committee to Thornberry Creek at Oneida. She said that she hoped the committee members who participated in the tour at the reservation were able to learn more about the services the tribe provides to its members. She then introduced Oneida Councilman Paul Ninham to open the meeting with a prayer.

Paul Ninham, Councilman, Oneida Nation of Wisconsin

Mr. Ninham offered a prayer in the Oneida language. He told the committee that the prayer is the same one that the Oneida Tribe uses at the beginning of its meetings, and that the prayer gives thanks to the Creator and acknowledges a responsibility to carry out duties and responsibilities we have toward each other.

Greg Matson, Vice-Chairman, Oneida Nation of Wisconsin

Oneida Vice-Chairman Greg Matson welcomed the committee to Thornberry Creek and thanked all of the committee members for their participation. He asked the committee members to approach the meeting with open minds and wished the committee a productive meeting.

Opening Remarks and Introductions

Chair Mursau welcomed the members of the committee. He said that he looked forward to a productive meeting.

Senator Holperin thanked Ms. Danforth, Mr. Ninham, and Mr. Matson for organizing an informative tour of the reservation for the committee. Senator Holperin said that it was clear from the tour that the Oneida Tribe has a visionary social and economic plan.

Approval of the Minutes of the September 25, 2012 Meeting

Senator Holperin moved, seconded by Senator Schultz, to approve the minutes of the September 25, 2012 meeting. The motion passed unanimously.

Tribally-Issued Motor Vehicle License Plates; Briefing

Mitchell Warren, Director, Bureau of Vehicle Services, and Reed McGinn, Legislative Liaison, Division of Motor Vehicles, Department of Transportation

Mr. Warren explained that Wisconsin law provides that the state and tribes may engage in reciprocity agreements for issuing tribal license plates. Of the six tribes that have reciprocity agreements with the state, all currently issue tribal license plates except for the Red Cliff Band, which is preparing to do so soon. Mr. Warren told the committee that because the tribes register the vehicles for which they issue tribal license plates, the Division of Motor Vehicles (DMV) does not have the same type of information on these vehicles that it has for vehicles registered directly with DMV.

Accordingly, when a law enforcement officer runs a query on a tribally issued license plate--except for plates issued by the Oneida Tribe--the query only returns the name of the owner of the vehicle. The query does not, however, return any registration information or vehicle information, as it would for plates issued by DMV. As a result, it may be more difficult and take more time for a law enforcement officer to obtain necessary information to resolve a traffic stop involving a vehicle with tribally issued license plates.

Mr. Warren told the committee that when a law enforcement officer runs a query on a plate issued by the Oneida Tribe, the query returns the same information as it would for any plate issued directly by DMV. This is because DMV engaged in a project with Oneida recently to enter the tribe's data into the DMV database. Mr. Warren told the committee that the approach DMV and Oneida took has generally worked, but is not necessarily the only solution to linking a tribe's data with DMV. He said that DMV would work with any of the tribes who would like their vehicle registration data available through the DMV database.

Chair Mursau asked Mr. Warren to provide the committee with guidelines with respect to what DMV would need from the tribes to undertake such a project and what such a project might cost.

Walt Neverman, Director, Crime Information Bureau, Department of Justice

Mr. Neverman explained that the TIME (Transaction Information for the Management of Enforcement) System is a statewide information sharing system that distributes information to law enforcement officers. This system is linked to various state, national, and international databases and can return information depending on the type of query made. He explained that because Oneida has submitted its registration data to DMV, a law enforcement officer anywhere in the nation can query an Oneida license plate and receive the same type of information that would be received for any plate that had been registered with DMV directly.

Local Government Property Insurance Fund

WLC: 0025/1, Relating to Allowing American Indian Tribes and Bands to Insure Governmental Facilities Under the Local Government Property Insurance Fund

Mr. Lovell explained that staff from the Office of the Commissioner of Insurance (OCI) told the committee, at the September 25 meeting, that one way in which the state could help tribal governments insure tribal facilities would be to open the local government property insurance fund to tribes. WLC: 0025/1 allows tribes to participate in the local government property insurance fund.

Mr. Lovell also described areas in which WLC: 0025/1 modifies elements of the local government property insurance fund to address issues unique to tribes. For example, current law contains a mechanism for the state to intercept past due premiums from local governments. No such mechanism exists with respect to the tribes, so the draft provides that if the premium due by a tribe is more than 90 days past due, the policy is suspended and no claims may be paid during the time the policy is suspended.

Senator Schultz requested clarification. Mr. Lovell said that the intent is that no claim could be paid on any loss occurring during the period of suspension. The committee agreed to revise the draft to be explicit on this point.

Senator Vinehout moved, seconded by Ms. Danforth, to recommend that the Joint Legislative Council introduce WLC: 0025/1, as amended in committee discussion, in the 2013 Legislative Session. The motion passed on a vote of Ayes, 14 (Reps. Mursau, Bewley, Steineke, and Stroebel; Sens. Vinehout, Holperin, and Schultz; and Public Members Besaw, Danforth, Defoe, Greendeer, Martinson, McGeshick, and Morrow); Noes, 0; and Absent, 4 (Reps. Milroy and Rivard; and Public Members Allen and Duffek).

Intoxicated Driver Program

WLC: 0029/1, an Amendment to WLC: 0005/2, Relating to Tribal Facilities' Participation in the Intoxicated Driver Program

Mr. Lovell told the committee that after the committee voted to recommend legislation relating to tribal facilities' participation in the intoxicated driver program (IDP) at the September 25 meeting, it came to his attention that the process provided in the draft, as approved, lacked a mechanism to ensure the Department of Transportation (DOT) receives information about offenders who obtain required assessments from tribal clinics. Accordingly, he explained that WLC: 0029/1 amends WLC: 0005/2 to require a tribal facility participating in the IDP to: (1) notify the relevant county agency whenever an individual who is required to receive an assessment chooses to receive that assessment through the tribal facility; and (2) execute all of the responsibilities of a county assessment facility under the IDP, including providing necessary information to DOT.

Chair Mursau asked for unanimous consent to reconsider the vote by which the committee had recommended that the Joint Legislative Council introduce WLC: 0005/2 in the 2013 Legislature. There was no objection.

Representative Bewley moved, seconded by Senator Vinehout, to adopt WLC: 0029/1. The motion passed on a vote of Ayes, 13 (Reps. Mursau, Bewley, and Milroy; Sens. Vinehout, Holperin, and Schultz; and Public Members Besaw, Danforth, Defoe, Greendeer, Martinson, McGeshick, and Morrow); Noes, 1 (Rep. Stroebel); and Absent, 4 (Reps. Rivard and Steineke; and Public Members Allen and Duffek).

Senator Holperin moved, seconded by Senator Vinehout, to recommend that the Joint Legislative Council introduce WLC: 0005/2, as amended, in the 2013 Legislature. The motion passed on a vote of Ayes, 13 (Reps. Mursau, Bewley, and Milroy; Sens. Vinehout, Holperin, and Schultz; and Public Members Besaw, Danforth, Defoe, Greendeer, Martinson, McGeshick, and Morrow); Noes, 1 (Rep. Stroebel); and Absent, 4 (Reps. Rivard and Steineke; and Public Members Allen and Duffek).

Transport of Game

WLC: 0002/2, Relating to the Transportation in this State of Game Taken in Another State or on Indian Land

Mr. Lovell explained that Chair Mursau directed committee staff to draft WLC: 0002/2 following the committee's September 25, 2012 meeting. WLC: 0002/2 revises WLC: 0002/1 to incorporate suggestions proposed by DNR staff at that meeting. He told the committee that under this draft, game taken by a member of a federally recognized Indian tribe or band on a reservation or trust land in the state that is transported off the reservation or trust land is treated the same as game taken in another state and transported into Wisconsin. Additionally, the draft requires that any game taken in another state or on Indian land must be tagged if the game is of a species DNR requires to be tagged.

Mr. McGeshick objected to the requirement in the draft that a member of an Indian tribe or band be required to carry a tribally issued hunting license or, for members of tribes that do not issue hunting licenses, a tribal membership card to transport game off of a reservation or trust land. Following discussion, there was general agreement to remove this provision from the draft.

Senator Holperin moved, seconded by Senator Schultz, to recommend that the Joint Legislative Council introduce WLC: 0002/2, as amended in committee discussion, in the 2013 Legislative Session. The motion passed on a vote of Ayes, 13 (Reps. Mursau, Bewley, Milroy, and Stroebel; Sens. Vinehout, Holperin, and Schultz; and Public Members Besaw, Defoe, Greendeer, Martinson, McGeshick, and Morrow); Noes, 0; Absent, 4 (Reps. Rivard and Steineke; and Public Members Allen and Duffek); and Not Voting, 1 (Public Member Danforth).

Powers of Tribal Conservation Wardens

Memo No. 3, Authorizing Tribal Conservation Wardens to Enforce State Conservation Laws on Reservations and on Off-Reservation Trust Lands (November 2, 2012)

Mr. Moore told the committee that, at Chair Mursau's direction, committee staff began exploring legislation options to the issue raised at the September 25 meeting with respect to the authority of tribal conservation wardens to enforce state conservation laws against nonmembers. Current law authorizes Great Lakes Indian Fish and Wildlife Commission (GLIFWC) wardens and tribal law enforcement officers to enforce state law in certain circumstances, so the committee discussed developing legislation that would give similar authority to tribal conservation wardens.

Mr. Moore explained that Memo No. 3, which was prepared for the committee's discussion of this topic, contains options for creating legislation that is specific to tribal conservation wardens. However, he told the committee that it appears that a tribal conservation warden could exercise state jurisdiction under the statute authorizing tribal law enforcement officers to enforce state laws as long as the training, certification, and liability requirements of the statute are met. The training and certification requirements in this statute are the same ones GLIFWC wardens and DNR wardens must also meet.

There was general agreement among the committee to refrain from developing legislation specific to tribal conservation wardens at this point; however, several public members indicated they might be interested in revisiting the issue after consulting with their conservation departments.

Other Business

Representative Milroy told the committee that he would like the committee to study the topic of authorizing tribal law enforcement officers to participate in the Wisconsin Retirement System. Chair Mursau asked staff to brief the committee on this topic at its next meeting.

Plans for Future Meetings

The next meeting will be held at the call of the chair.

Adjournment

The meeting was adjourned at 3:00 p.m.

DM:jal