



## Legislative Fiscal Bureau

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April 20, 2020

TO: Members  
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Summary of Provisions of 2019 Wisconsin Act 185

Attached is a summary of the provisions of 2019 Act 185 (Assembly Bill 1038), relating to the state government response to the COVID-19 pandemic.

Assembly Bill 1038 was introduced on April 13, 2020. The bill, as amended by Assembly Amendment 4, passed the Assembly on April 14. The Senate concurred in Assembly Bill 1038 on April 15. The bill was signed by the Governor on April 15 and was enacted as 2019 Wisconsin Act 185.

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Attachment

# Summary of Provisions

## 2019 Wisconsin Act 185

### ADMINISTRATION

#### 1. EMPLOYEE TRANSFER AUTHORITY

Authorize the Secretary of DOA to transfer any employee from one executive branch agency to another executive branch agency to provide services for the receiving agency during the public health emergency declared on March 12, 2020, by Executive Order 72. Specify that the receiving agency must pay all salary and fringe benefit costs of the employee during the time he or she is providing services for the receiving agency. Further, specify that any transfer would remain in effect until rescinded by the Secretary of DOA or 90 days after the public health emergency is terminated, whichever is earliest. Specify that an employee may not receive a salary increase upon transfer to a state agency, nor may an employee receive a salary increase upon return to the sending state agency. Require the Secretary of DOA to submit a report to the Joint Committee on Finance no later than June 1, 2020, and on the first day of each subsequent month during the emergency period, that provides information on all employee transfers. Specify that the report identify the number of employees transferred, the title of each employee transferred, the title the employee assumed at the receiving agency, and the reasons for each employee transfer.

[Act 185 Section: 105(8)]

#### 2. LIMITED-TERM EMPLOYEE HOURS

Specify that the Director of the Bureau of Merit Recruitment and Selection in DOA's Division of Personnel Management may increase or suspend the number of hours for a limited-term appointment for the duration of the public health emergency declared on March 12, 2020, by Executive Order 72. Under current law, a limited-term appointment is a provisional appointment for less than 1,040 hours per year.

[Act 185 Section: 83]

#### 3. USE OF ANNUAL LEAVE

Specify that a state employee may take annual leave within the first six months of the employee's probationary period upon initial appointment during the public health emergency declared on March 12, 2020, by Executive Order 72. Further, specify that if such an employee who has taken annual leave terminates his or her employment before earning annual leave equivalent to the amount of annual leave the employee has taken, the appointing authority would be required to

deduct the cost of the unearned annual leave from the employee's final pay.

Under current law, an employee, with the approval of his or her appointing authority, may anticipate the annual leave which he or she could earn during the current calendar year, but no employee is eligible to take annual leave until he or she has completed the first six months of a probationary period for an original job appointment unless the employee uses annual leave that he or she accrued while serving in an unclassified position.

[Act 185 Section: 84]

#### **4. STATE EMPLOYMENT FILINGS AND IN-PERSON MEETINGS**

Specify that a state employee does not waive his or her right to appeal an adverse employment decision if the employee does not timely file a complaint or appeal during the public health emergency declared on March 12, 2020, by Executive Order 72. Further, specify that the tolling period for an employee to file such a complaint with the appointing authority would begin 14 days after the termination of the declared public health emergency or extension. In addition, specify that an appointing authority or his or her designee is not required to meet with a complainant in person when conducting an investigation related to such a complaint filed by an employee during the public health emergency.

Under current law, to commence the grievance process for an adverse employment action, a state employee must file a complaint with the employee's appointing authority challenging the adverse employment decision against the employee no later than 14 days after the employee becomes aware of, or should have become aware of, the decision that is the subject of the complaint. Also under current law, an appointing authority or his or her designee who receives a timely complaint must conduct any investigation they consider necessary, meet with the employee in person, and issue a decision in writing no later than 14 days after the date on which the complaint is received.

[Act 185 Section: 85]

#### **5. LOW-INCOME ENERGY ASSISTANCE PROGRAM APPLICATION PERIOD**

Allow households to apply for heating assistance under the low-income home energy assistance program (LIHEAP) any time before December 31, 2020, rather than between October 1 and May 15, as under current law. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides Wisconsin an estimated \$8.0 million for the program to support costs associated with home energy bills and weatherization.

[Act 185 Section: 105(19)]

## **AGRICULTURE, TRADE AND CONSUMER PROTECTION**

### **1. RETURNS DURING COVID-19 EMERGENCY**

Prohibit a retail establishment from accepting the return of fresh or packaged food, cleaning supplies, personal care products, or paper products during the public health emergency declared on March 12, 2020, by Executive Order 72, or within 30 days after the emergency ends. However, allow a retailer to accept the return of food, personal care products, cleaning supplies, or paper products within seven days of purchase for any reason, or at any time if a product was contaminated due to improper production or packaging. Further, allow retail establishments to accept returns of other types of products at any time.

[Act 185 Section: 32]

### **2. COUNTY FAIR AID ELIGIBILITY**

Specify that any currently operating fair eligible to receive county fair aids would remain eligible to receive funding if that fair were cancelled as a result of the public health emergency declared under Executive Order 72, including any extension granted by legislative resolution.

Under current law, county fair aids may be provided to one fair per county, operated by either the county or its designee, except that any organization that received fair aids in 1950 remains eligible for funding as long as it has operated a fair each year since that time. The provision would ensure that any cancellation due to the current public health emergency would not render a fair ineligible to receive funding in future years. Fair aids are budgeted at \$456,400 GPR annually during the 2019-21 biennium and awards are capped at \$10,000 per fair, subject to further proration if total eligible reimbursements exceed the appropriated amount.

[Act 185 Section: 105(18)]

## **BOARD OF COMMISSIONERS OF PUBLIC LANDS**

### **1. AUTHORIZE TRUST FUND LOANS TO MUNICIPAL UTILITIES**

Allow BCPL to offer loans from the common school fund and other school trust funds to nonprofit municipal utilities during the state of emergency declared by the Governor under Executive Order 72, including any extension granted by the Legislature, and up to 60 days after the emergency declaration expires. Specify BCPL may offer loans to ensure that the utility is able to maintain liquidity during the emergency period, and authorize BCPL to issue loans for amounts and conditions

as may be agreed upon by a borrower. Further, specify that the Legislature determines the loans serve a public purpose.

Under current law, BCPL makes loans to school districts, municipalities, sewer districts and other public entities from the school trust funds that it manages. BCPL typically offers 10-year loans with low fixed interest rates. Under statute, BCPL loans must have an interest rate greater than 2%. BCPL does not charge a pre-payment penalty.

The public health emergency allows commercial and residential ratepayers to temporarily suspend utility payments without losing service. The provision is intended to allow BCPL to extend loans to municipal utilities so that they may continue to meet obligations in the event of a temporary loss of revenues.

[Act 185 Section: 105(9)]

## **BUDGET MANAGEMENT AND COMPENSATION RESERVES**

### **1. TRANSFERS FROM SUM SUFFICIENT APPROPRIATIONS**

Allow the Joint Committee on Finance to transfer up to \$75 million from sum sufficient appropriations during the public health emergency declared on March 12, 2020, by Executive Order 72, and for a period of up to 90 days after the termination of the public health emergency. Transferred funds could be used for expenditures related to the public health emergency.

Under current law, the Joint Committee on Finance can transfer funds between two appropriations or between two fiscal years in the same biennium if the transfer would eliminate unnecessary duplication of functions, result in a more efficient and effective method for performing programs, or more effectively carry out legislative intent. Such transfer must be for purposes which have been authorized or directed by the Legislature, and cannot change legislative intent. Current law does not allow a transfer from a sum sufficient appropriation to other types of appropriations.

[Act 185 Sections: 1 and 2]

## **BUILDING COMMISSION**

### **1. GENERAL OBLIGATION BONDING REFUNDING AUTHORITY**

Increase the bonding authorization for refunding of any outstanding tax-supported or self-amortizing state general obligation debt by \$725,000,000, from its current level of \$6,785,000,000 to \$7,510,000,000. These bonds could only be issued if the debt refinancing meets the current law requirement that the true interest costs of the state must be reduced. The authorization for this refunding bonding was last increased in 2017 Act 59 (the 2017-19 budget).

[Act 185 Section: 3]

## **CHILDREN AND FAMILIES**

### **1. CHILD CARE DEVELOPMENT BLOCK GRANT -- JFC APPROVAL OF CARES FUNDING INCREASE**

Provide that any additional child care development block grant funds the state receives under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 would be credited to two current FED block grant appropriations for child welfare services that fund aids to individuals and state operations costs. Further, provide that no moneys that are credited to these appropriations may be encumbered or expended except as provided under s. 16.54 of the statutes, which would make these additional funds subject to a 14-day passive review by the Joint Committee on Finance.

It is currently estimated that the state may receive an additional \$51.3 million FED in CCDBG funds under the CARES Act.

[Act 185 Section: 105(17)]

## **EMPLOYEE TRUST FUNDS**

### **1. REHIRED ANNUITANTS IN CRITICAL POSITIONS**

Specify that a Wisconsin Retirement System (WRS) participant who is hired by a participating employer during the public health emergency declared on March 12, 2020, by Executive Order 72 may elect to not suspend his or her annuity for the duration of the public health emergency if: (a) at

the time of terminating employment, the participant does not have an agreement with any participating employer to return to employment or enter into a contract to provide employee services; and (b) the position for which the annuitant is hired is a critical position. Further, specify that the current break-in-service requirement of 75 days would not apply to a participant who is hired for a critical position during the public health emergency if at least 15 days have elapsed between the termination of employment and becoming a participating employee. Require the head of each state agency and each local health department, based on guidance provided by the Secretary of the Department of Health Services, to determine which positions within the respective state agency or local government are critical, for the purposes of administering the provisions applicable to rehired annuitants.

Under current law, any WRS participant who retires on or after July 2, 2013, must suspend their annuity and become a participating WRS employee if they are employed in covered employment, or enter into a contract with a WRS employer, and are expected to work at least two-thirds of what is considered full-time employment by the Department of Employee Trust Funds. Also under current law, any WRS participant who retires on or after July 2, 2013, has a break-in-service requirement of 75 days between termination of employment and becoming a participating employee with a WRS employer. This separation from WRS employment must occur for an individual who applied for an annuity or lump sum payment to continue to qualify for an annuity or to retain the lump sum payment.

[Act 185 Sections: 4 thru 12 and 79]

## **2. LEAVES OF ABSENCE AND HEALTH INSURANCE**

Specify that, for the purposes of group health insurance coverage offered by the Group Insurance Board, an employee who returns from a leave of absence and who has not resumed active duty for at least 30 consecutive calendar days during the public health emergency declared on March 12, 2020, by Executive Order 72 is deemed to have ended or interrupted the leave of absence on March 12, 2020.

Under current law, a leave of absence is not deemed ended or interrupted until the employee has resumed active performance of duty for 30 consecutive calendar days for at least 50 percent of what is considered the employee's normal work time with the employer. Also under current law, a state or local public employer that provides its employees health insurance coverage through a plan offered by the Group Insurance Board must continue to pay required employer contributions, if any, toward the health insurance premium of an insured employee while the insured employee is on a leave of absence for the first three months of the leave of absence, or for the entire leave of absence if the insured employee is receiving temporary disability compensation. Under the provision, an employee of such an employer who returns from a leave of absence during the public health emergency declared on March 12, 2020, by Executive Order 72, and who was eligible to receive an employer contribution towards health insurance premiums prior to commencing the leave of absence, would be immediately eligible for the employer contribution towards the cost of health insurance premiums.

[Act 185 Section: 82]

## **GENERAL PROVISIONS**

### **1. GOVERNMENTAL DEADLINES AND TRAINING REQUIREMENTS DURING A PUBLIC HEALTH EMERGENCY**

Specify that a state or local governmental unit, during the public health emergency declared on March 12, 2020, by Executive Order 72, may suspend any deadline associated with a program or action that the state or local governmental unit administers or enforces. Define "emergency period" as the period covered by the public health emergency plus 30 days after the end of the emergency. Define "deadline" to mean any date certain by which, or any limitation as to time within which, an action or event is required to occur. Specify that a state or local governmental unit may not charge any interest or penalties that would otherwise apply with respect to the suspended deadlines. Specify that the suspension of deadlines would not apply to any elections-related deadlines. Specify that during the emergency period, a state or local unit of government may suspend any training requirements that are associated with programs the state or local unit of government administers or enforces. Specify that the provision would first apply to deadlines or training requirements during the public health emergency declared on March 12, 2020, including any extensions.

Specify that the suspension of deadlines does not apply to tax-filing deadlines with respect to tax revenues deposited to the general fund, certain taxes and fees deposited to the transportation fund, or to interest and penalties on property taxes payable in 2020 that are due after February 1, 2020, provided that the full amount of the payment is received on or before October 1, 2020. The tax-filing deadlines are described under "Revenue" and the waiver of interest in penalties for property tax purposes are described under "Shared Revenue and Tax Relief."

[Act 185 Sections: 81 and 106(2)]

### **2. IN PERSON APPEARANCE WAIVER**

Specify that the head or governing body of a state entity may waive a requirement imposed, administered, or enforced by the state entity that an individual appear in person during the public health emergency declared on March 12, 2020, by Executive Order 72 if the head or governing body finds that the waiver assists in the state's response to the public health emergency or that enforcing the requirement may increase the public health risk. Define "state entity" to mean any state agency, institution of higher education, association, society, or other body in state government, created or authorized to be created by the Constitution or any law that is entitled to expend moneys appropriated by law, including the Legislature, the Courts, and any authority.

[Act 185 Section: 80]

**3. EXEMPTION FROM CIVIL LIABILITY FOR MANUFACTURE OF MEDICAL SUPPLIES DURING COVID-19 EMERGENCY**

Exempt manufacturers, distributors, and sellers of emergency medical supplies that donate or sell their products in response to the COVID-19 public health emergency, as declared under federal law by either the President or federal Secretary of Health and Human Services, from civil liability associated with injury or death caused by those products. The manufacturer, distributor, or seller would be exempt from civil liability only if the product were sold or donated to a nonprofit organization or unit of government at a price that does not exceed the cost of production, defined to include only the cost of inputs, wages, operating the manufacturing facility, and transporting the product. Define emergency medical supplies as any medical equipment or supplies necessary to limit the spread of, or provide treatment for, a disease associated with the public health emergency, including life support devices, personal protective equipment, cleaning supplies, and any other item determined to be necessary by the Secretary of the Department of Health Services. Specify that the exemption would not apply if the death or injury were caused by a willful act or omission.

[Act 185 Sections: 99 thru 104]

**4. EXEMPTION TO 50 PIECE RULE FOR COVID-19 EMERGENCY**

Allow a person elected to state or local office who becomes a candidate for a national, state, or local government office to use public funds to pay for communications related to the public health emergency declared under Executive Order 72 (including any extension granted by legislative resolution) if the communications are made during the emergency period, or within 30 days after termination of the emergency period.

Under current law, with limited exceptions, a person elected to state or local office who becomes a candidate for a national, state, or local government office may not use public funds to pay for 50 or more pieces of substantially identical material during the campaign season.

[Act 185 Section: 105(13)]

**HEALTH SERVICES**

**1. TEMPORARY SUSPENSION OF MEDICAL ASSISTANCE PROVISIONS TO MEET CONDITIONS FOR ENHANCED FEDERAL MATCHING PERCENTAGE**

Authorize DHS to take certain actions, as described below, to satisfy criteria for qualifying for enhanced federal medical assistance percentage (FMAP) available during an emergency period declared in response to the novel coronavirus pandemic, as established by the federal Family First Coronavirus Response Act (FFCRA).

Under this provision, the Department is authorized to do the following on a temporary basis: (a) suspend monthly premiums for childless adults covered under the medical assistance (MA) program; (b) suspend the requirement that childless adults complete a health risk assessment questionnaire for childless adults, as a condition of MA eligibility; (c) delay the implementation of a community engagement requirement for childless adults until the date that is either: (1) 30 days after the day the federal government has approved the community engagement implementation plan; or (2) 30 days after the last day of the calendar quarter in which the last day of the declared federal public health emergency associated with the novel coronavirus pandemic occurs; and (d) maintain continuous enrollment of any MA beneficiary who is enrolled as of the date of passage of the FFCRA (March 18, 2020), or who subsequently enrolls in the program during the period of the federal public health emergency, until the end of the final month during which the federal public health emergency is in effect.

The Department of Health Services implemented the monthly premiums and health risk questionnaire beginning on February 1, 2020, under terms of a federal waiver applicable for Medicaid coverage for childless adults. The community engagement provision is another waiver provision, which has not yet been implemented. Under provisions established under 2017 Act 370, the deadline for implementation of this provision is currently April 29, 2020, although the federal government has not approved the final implementation plan.

The FFCRA increases each state's FMAP by 6.2 percentage points during any calendar quarter for which the COVID-19 federal public health emergency is in effect, provided that the state meets certain maintenance of effort criteria. This increase will apply, at a minimum to the first two quarters of 2020, January through March, and April through June. Based on current expenditure levels in the state's medical assistance program, the increase to the state's FMAP will increase federal Medicaid matching funds by approximately \$150 million per quarter, or approximately \$300 million over the two quarters covering the final six months of state fiscal year 2019-20.

In order to qualify for the FMAP increase, states must: (a) not adopt more restrictive eligibility standards, methodologies, or procedures for their Medicaid programs than were in effect on January 1, 2020; (b) not charge a higher premium for any eligibility groups than was in effect on January 1, 2020; (c) ensure that any person who was enrolled as of the date of enactment of the FFCRA or who enrolls during the federal public health emergency be eligible for benefits through the end of the month in which the public health emergency period ends; and (d) provide coverage of COVID-19 testing and treatment for Medicaid beneficiaries without cost sharing. With respect to premiums, a state is not ineligible for the FMAP increase during the 30-day period following the passage of the FFCRA (that is, through April 17, 2020), if it had a premium in effect on the date of passage that would otherwise not be in compliance with the maintenance of effort requirement.

Since the state's childless adult waiver provisions were implemented after January 1, 2020, the provisions must be suspended in order for the state to qualify for the enhanced FMAP. In addition, the state must make modifications to eligibility review processes to ensure continuous enrollment for MA beneficiaries during the federal public health emergency. The changes under this item, which are established in a nonstatutory provision, are intended to make the state eligible

to receive enhanced FMAP under the FFCRA.

[Act 185 Section: 105(1)]

## **2. LEGISLATIVE OVERSIGHT OF FEDERAL WAIVER REQUESTS RELATED TO THE COVID-19 PUBLIC HEALTH EMERGENCY**

Exempt a Department of Health Services request for a waiver, amendment to a waiver, or other federal approval from the current law provisions, enacted in 2017 Wisconsin Act 370, relating to legislative authorization for, and review of, such requests during the public health emergency declared by the Secretary of the federal Department of Health and Human Services on January 31, 2020, in response to the 2019 novel coronavirus. Provide that: (a) any approved state plan amendment that extends beyond the period of the federally-declared public health emergency must comply with the Act 370 provisions relating to legislative review of state plan amendments; and (b) all of the provisions in this item are temporary, and must comply with Act 370 provisions relating to legislative oversight, and, if applicable, review of state plan amendments.

Specify that such an exemption applies only if the request is any of the following:

*Relating to the medical assistance program.* Any of the following:

- Allowing providers to receive payments for services provided in alternative settings to recipients affected by 2019 novel coronavirus;
- Waiving preadmission screening and annual resident review requirements when recipients are transferred;
- Allowing hospitals who hold a state license but have not yet received accreditation from the Joint Commission to bill the medical assistance program during the 2019 novel coronavirus public health emergency;
- Waiving payment of the application fee to temporarily enroll a provider for 90 days or until the termination of the 2019 novel coronavirus public health emergency, whichever is longer;
- Waiving pre-enrollment criminal background checks for providers that are enrolled in the Medicare program to temporarily enroll the provider in the medical assistance program for 90 days or until the termination of the 2019 novel coronavirus public health emergency, whichever is longer;
- Waiving site visit requirements to temporarily enroll a provider for 90 days or until the termination of 2019 novel coronavirus public health emergency, whichever is longer;
- Ceasing revalidation of providers who are enrolled in the medical assistance program or otherwise directly impacted by the 2019 novel coronavirus public health emergency for 90 days or until termination of the public health emergency, whichever is longer;
- Waiving the requirement that physicians and other health care professionals be licensed in the state in which they are providing services if they have equivalent licensing in another state or

are enrolled in the federal Medicare program;

- Waiving prior authorization requirements for access to covered state plan or waiver benefits;
- Expanding the authority under Section 1905 (a) of the federal Social Security Act regarding nonemergency transportation to allow for reimbursement of any eligible individual under the medical assistance program, additional vendors, transportation for caregivers going to provide services to recipients, and meal delivery to medical assistance recipients;
- Waiving public notice requirements that would otherwise be applicable to state plan and waiver changes;
- Modifying the tribal consultation timelines specified in the medical assistance state plan to allow for consultation at the next future tribal health director meeting;
- Modifying the requirement under federal law to submit the state plan amendment by March 31, 2020, to obtain an effective date during the first calendar quarter of 2020;
- Simplifying program administration by allowing for temporary state plan flexibilities rather than requiring states to go through the state plan amendment submission and approval process;
- Waiving timely filing requirements for billing under federal law to allow time for providers to implement changes;
- Expanding hospital presumptive eligibility to include the population over age 65 and disabled;
- Allowing flexibility for submission of electronic signatures on behalf of a medical assistance recipient by application assistors if a signature cannot be captured in person;
- Waiving requirements for managed care organizations to complete initial and periodic recredentialing of network providers if the providers meet medical assistance provider enrollment requirements during the 2019 novel coronavirus public health emergency;
- Requiring managed care organizations to extend preexisting authorizations through which a medical assistance recipient has received prior authorization until the termination of the 2019 novel coronavirus public health emergency;
- Waiving sanctions under Section 1877 (g) of the Social Security Act relating to limitations on physician referral;
- Allowing flexibility in how a teaching physician is present with the patient and resident including real-time audio and video or access through a window;
- Waiving certain equipment requirements in hospital equipment maintenance requirement guidance issued on December 20, 2013, to maintain the health and safety of the hospitals' patients and providers;

- Creating provisions allowing for additional flexibilities to allow for the use in nursing homes of physician extenders in place of medical directors and attending physicians and telehealth options;
- Waiving notice of transfers within a nursing home due to medically necessary protection from the 2019 novel coronavirus;
- Waiving requirements to document sufficient preparation and orientation to residents to ensure a safer and orderly intrafacility nursing home transfer;
- Waiving requirements for a nursing home bedhold policy;
- Waiving the requirements for nursing home in-service education under federal law;
- Waiving nurse staffing information and posting of that information for nursing homes;
- Suspending the requirement that a pharmacist go monthly to the nursing home to do record review;
- Waiving or lessening requirements for a paid feeding assistant program in nursing homes and setting guidelines for training to assist with the 2019 novel coronavirus pandemic;
- Waiving the annual and quarterly screening of fire extinguishers and any other annual maintenance review for nursing homes;
- Allowing all clinical hours required under federal law to be online simulation;
- Waiving under federal law the loss of the Nurse Aide Training and Competency Evaluation Program;
- Waiving the requirements under federal law for training of paid feeding assistants;
- Allowing home health agencies to perform certifications, initial assessments, and determine homebound status remotely or by record review;
- Waiving life safety codes for intermediate care facilities for individuals with intellectual disabilities under federal law and for hospitals, hospices, nursing homes, critical access hospitals and intermediate care facilities for individuals with intellectual disabilities relating to fire alarm system maintenance and testing, automatic sprinkler and standpipe system inspection, testing, and maintenance, and inspection and maintenance of portable fire extinguishers.

*Relating to the home and community-based waiver programs of Family Care, IRIS, and Children's Long-Term Supports. Any of the following:*

- Allowing all waiver services and administrative requirements that that can be provided with the same functional equivalency of face-to-face services to occur remotely;
- Removing the requirement to complete a six-month progress report to reauthorize prevocational service;

- Removing the limitation that quotes from at least 3 providers must be obtained and submitted for home modifications;
- Removing the limitation preventing supportive home care from being provided in adult family homes and residential care apartment complexes;
- Removing the limitation preventing personal or nursing services for recipients in residential care apartment complexes;
- Removing the limitation that participants cannot receive other waiver services on the same day as receiving respite care;
- Allowing adult day service providers, prevocational providers, and supported employment providers to provide services in alternate settings;
- Allowing up to three meals per day for home delivered meals for Family Care and IRIS program enrollees and adding home delivered meals as a benefit in the Children's Long-Term Supports waiver;
- Removing the limitation on using moneys to relocate individuals from an institution or family home to an independent living arrangement;
- Allowing any individual with an intellectual or developmental disability to reside in a community-based residential facility with greater than eight beds;
- Modifying the scope of the child care benefit to allow for the provision of child care payments for children under the age of 12 in the program for direct care workers and medical workers who need access to child care during the emergency;
- Allowing for all home and community-based waiver services to be provided in temporary settings;
- Allowing home and community-based waiver services to be provided temporarily in an acute care hospital or in a short-term institutional stay;
- Allowing payment for home and community-based waiver services provided in settings outside this state;
- Allowing general retailers to provide assistive technology or communication aids;
- Allowing providers certified or licensed in other states or enrolled in the Medicare program to perform the same or comparable services in this state;
- Delaying provider licensing or certification reviews;
- Allowing DHS to waive provider qualifications as necessary to increase the pool of available providers;
- Allowing four-year background checks to be delayed;

- Expanding transportation providers to include individual and transportation network companies;
- Allowing noncertified individuals to provide home delivered meals;
- Allowing nursing students to provide allowable nursing services;
- Allowing parents to be paid caregivers for their minor children in the Children's Long-Term Supports program when providing a service that would otherwise have been performed and paid for by a provider;
- Allowing for qualified individuals to provide training to unpaid caregivers;
- Waiving choice of provider requirements;
- Waiving the managed care network adequacy requirements under federal law;
- Waiving requirements to complete initial and required periodic credentialing of network providers;
- Adding a verbal and electronic method to signing required documents;
- Allowing the option to conduct evaluations, assessments, and person-centered service planning meetings virtually or remotely in lieu of face-to-face meetings;
- Allowing the lessening of prior approval or authorization requirements;
- Allowing for data entry of incidents into the incident reporting system outside of typical timeframes;
- Waiving the requirement to distribute member-centered plans to essential providers;
- Allowing DHS to draw federal financing match for payments, such as hardship or supplemental payments, to stabilize and retain providers who suffer extreme disruptions to their standard business model or revenue streams as a result of the 2019 novel coronavirus;
- Allowing DHS to waive participant liability for room and board when temporarily sheltered at noncertified facilities;
- Allowing payment for home and community-based waiver services;
- Allowing managed care enrollees to proceed almost immediately to a state fair hearing without having a managed care plan resolve the appeal first by permitting DHS to modify the timeline for managed care plans to resolve appeals to one day so the impacted appeals satisfy the exhaustion requirements and give enrollees more time to request a fair hearing;
- Waiving public notice requirements that would otherwise be applicable to waiver changes;
- Modifying the tribal consultation timelines to allow for consultation at the next future

tribal health directors meeting;

- Waiving timelines for reports, required surveys, and notifications;
- Allowing the extension of the certification period of level-of-care screeners;
- Allowing the waiver of requirements related to home and community-based settings on a case by case basis in order to ensure the health, safety and welfare of affected beneficiaries under federal law;
- Applying any provisions under this paragraph automatically to the concurrent 1915 (b) waiver;
- Allowing the waiver enrollment or eligibility changes based on a completed functional screen resulting in a change in level-of-care;
- Allowing for continued enrollment in the Children's Long-Term Supports program past the ages of 18 and 21; and
- Allowing the suspension of involuntary disenrollment.

[Act 185 Section: 105(10)]

### **3. HOURS OF INSTRUCTIONAL PROGRAMMING FOR NURSE AIDES**

Prohibit the Department of Health Services from requiring an instructional program for nurse aides in Wisconsin to exceed the federally required minimum total training hours or minimum hours of supervised practical training.

Currently, nurse aides in Wisconsin are required to complete a minimum of 120 total training hours, including 32 hours of supervised practical training. Federal law currently requires nurse aides to complete 75 total training hours, including 16 hours of supervised practical training.

[Act 185 Section: 76]

### **4. PUBLIC HEALTH EMERGENCY DASHBOARD**

Provide that, during the state public health emergency declared on March 12, 2020, by Executive Order 72 and during the current national public health emergency, the entity that the state contracts with to collect, analyze, and disseminate health care information of hospitals and ambulatory surgery centers under Chapter 153 of the statutes must prepare and publish a public health emergency dashboard, using healthcare emergency preparedness program information collected by the state from acute care hospitals.

Specify that the published dashboards must include information to assist emergency response planning activities. Require the entity and DHS to enter a data use agreement and mutually agree to the healthcare emergency preparedness program information DHS will provide to

the entity, the information the entity will include in the dashboard, any publication schedule, and any other terms deemed necessary by the parties.

Currently, the Department of Administration contracts with the Wisconsin Hospital Association Information Center to collect, analyze and disseminate health care information from hospitals.

[Act 185 Section: 77]

## **5. MEDICAL ASSISTANCE INCENTIVE PAYMENTS TO ENCOURAGE PARTICIPATION IN HEALTH INFORMATION EXCHANGE**

Require the Department of Health Services to develop, under the MA program, a payment system based on performance to incentivize participation in health information data sharing to facilitate better patient care, reduced costs, and easier access to patient information.

Require DHS to establish performance metrics for the payment system that satisfy all of the following: (a) the metric must include participation by providers in a health information exchange at a minimum level of patient record access; (b) the payment under the payment system must increase as the participation level in the health information exchange increases; (c) the payment system must begin in the 2021 rate year; and (d) for purposes of this payment system, require DHS to seek any available federal moneys, including any money available for this purpose under the federal Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136), to assist small, rural providers with the costs of information technology setup to participate in the health information exchange.

[Act 185 Section: 105(20)]

## **6. SENIORCARE COVERAGE OF VACCINATIONS**

Expand the SeniorCare prescription drug assistance program to include coverage of vaccinations that are recommend for administration to adults by the federal Centers for Disease Control and Prevention's advisory committee on immunization practices and approved for the administration to adults by the Wisconsin Department of Health Services. Require DHS to provide reimbursement under SeniorCare for the administration of vaccinations to health care providers, including pharmacies and pharmacists, provided that the enrollee has met the program's deductible requirements or is not required to pay a deductible. Require the Department to use the same method of reimbursement for the ingredient and dispensing fees as is used for vaccinations under the medical assistance program. Require the Department to devise and distribute a claim form for use by health care providers for vaccinations. Specify that SeniorCare will only pay claims for vaccination costs that are not paid by other insurance coverage or benefit plans.

Authorize DHS to limit payment for vaccinations to claims that are submitted directly to the Department and specify that DHS may apply the same utilization and cost control procedures for vaccinations that apply under the medical assistance program.

SeniorCare is a program administered by DHS that provides assistance with the purchase of prescription drugs for enrollees. To be eligible, enrollees must be at least 65 years old and meet

income thresholds. Enrollees with an income exceeding 160% of the federal poverty level must meet a deductible requirements before becoming eligible for program benefits.

[Act 185 Sections: 15 thru 17]

## **7. RENEWAL OF EMERGENCY MEDICAL SERVICES CREDENTIALS**

Prohibit DHS from requiring an ambulance service provider, emergency medical services practitioner, or emergency medical responder that holds a license, training permit or certificate that has not been suspended or revoked, to renew that credential, or impose renewal requirements, such as continuing education, during the public health emergency declared on March 12, 2020, by Executive Order 72, and for the 60 days following the date that the state of emergency is terminated.

Specify that a renewal that occurs after the emergency period is not considered a late renewal if the application to renew the credential is received before the next applicable renewal date. Permit DHS, for that next applicable renewal date, to provide an exemption from, or reduction of, continuing education or other conditions of renewal.

[Act 185 Section: 105(16)]

## **INSURANCE**

### **1. NO COST SHARING FOR COVID-19 TESTING**

Require any self-insured health plan offered by a local government or school district, any health insurance policy, and any state health plan that generally covers testing for infectious diseases to provide coverage of testing for COVID-19 without imposing any copayment or coinsurance on the individual covered under the policy or plan, for any such testing done prior to March 13, 2021.

[Act 185 Sections: 92 and 96]

### **2. PROHIBIT COVERAGE DISCRIMINATION BASED ON COVID-19**

Prohibit any insurer, pharmacy benefit manager, or self-insured health plan from using a current or past diagnosis, or suspected diagnosis, of COVID-19, as the basis for doing the following: (a) establishing rules, applicable to an individual or employer or other group, for eligibility for enrollment, continued eligibility to remain enrolled, or renewal of coverage; (b) canceling coverage during a contract term; (c) establishing rates for coverage; or (d) refusing to grant a grace period for the payment of premium, if a grace period for payment of premium would generally be granted under the plan.

[Act 185 Sections: 13, 14, 20, 75, 78, 91, and 93 thru 95]

### **3. PRESCRIPTION DRUG LIMITS**

Prohibit any health insurance policy, state employee health plan, or self-insured health plan offered by a local government or school district, or a pharmacy benefit manager acting on behalf of a policy or plan from doing the following during the period covered by the state of emergency related to public health declared by the Governor on March 12, 2020, under Executive Order 72: (a) requiring prior authorization for early refills of a prescription drug or otherwise restrict the period of time in which a prescription drug may be refilled; or (b) imposing a limit on the quantity of prescription drugs that may be obtained if the quantity is no more than a 90-day supply. Specify that these restrictions do not apply to a prescription drug that is classified as a controlled substance by the Controlled Substances Board.

[Act 185 Sections: 90 and 97]

### **4. LIABILITY INSURANCE FOR PHYSICIANS AND NURSE ANESTHETISTS**

Specify that, during the public health emergency declared on March 12, 2020, under Executive Order 72, any physician or nurse anesthetist for whom Wisconsin is not a principal place of practice but who is authorized to practice in Wisconsin on a temporary basis, may fulfill the state's practice liability insurance requirements by filing with the Office of the Commissioner of Insurance a certificate of insurance for a policy of health care liability insurance issued by an insurer that is authorized in a jurisdiction accredited by the National Association of Insurance Commissioners. Specify that such a physician or nurse anesthetist may elect, in a manner specified by the Insurance Commissioner by rule, to be subject to the state's liability provisions and the state's injured patients and families compensation program.

Health care providers are generally required to obtain liability insurance coverage, issued by an insurer authorized to do business in Wisconsin, for \$1,000,000 per claim or occurrence and for \$3,000,000 for all claims or occurrences in a year. Liabilities in excess of those amounts are paid from the state's injured patients and families compensation program, which is funded from assessments collected on providers. This item would allow out-of-state physicians and nurse anesthetists who are authorized to practice in Wisconsin on a temporary basis during the declared public health emergency, to satisfy liability insurance requirements with a policy issued by an insurer authorized for business in another state or jurisdiction.

[Act 185 Section: 105(2)]

### **5. LIABILITY FOR PROVIDERS OF HEALTH SERVICES DURING COVID-19 PUBLIC HEALTH EMERGENCY**

Specify that any health care professional, health care provider, or employee, agent, or contractor of a health care professional or of a health care provider is immune from civil liability for the death of, or injury to, any individual or any damages caused by actions or omissions taken in providing services during the state of emergency related to COVID-19 declared by the Governor on March 12, 2020, under Executive Order 72, or during a period extending 60 days following the expiration of that state of emergency, if the following conditions apply: (1) the actions or omissions

do not involve reckless or wanton conduct or intentional misconduct; and (2) the actions or omissions relate to health services provided or not provided in good faith or are substantially consistent with either of the following: (a) any direction, guidance, recommendation, or other statement made by a federal, state, or local official to address the COVID-19 outbreak; or (b) any guidance published by the Department of Health Services, the federal Department of Health and Human Services (DHHS), or any divisions or agencies of DHHS relied upon in good faith.

Specify that the liability protections established under these provisions do not apply if: (a) current statutory protections indemnifying volunteer practitioners or health care facilities during a public health emergency apply; or (b) current statutory limitations on liability of state or local units of government, or public shelters during a public health emergency apply.

Under this provision, the term "health care professional" is defined as an individual who is licensed, registered, or certified by the Medical Examining Board or the Board of Nursing. The term "health care provider" is defined in reference to a current law provision related to health care services review (s. 146.38 of the statutes) but to also include an adult family home.

[Act 185 Section: 98]

## **6. OUT-OF-NETWORK CHARGES AND PAYMENTS DURING A PUBLIC HEALTH EMERGENCY RELATED TO COVID-19**

Specify that, during the public health emergency related to the COVID-19 outbreak declared by the Governor on March 12, 2020 under Executive Order 72, or during the 60-day period following the termination of that order, any defined network or preferred provider health plan may not require an enrollee to pay, including cost sharing, for a service, treatment, or supply rendered by a provider that is not in the plan's network more than the enrollee would pay if the service, treatment, or supply is rendered by an in-network provider, if the following apply: (a) the service, treatment, or supply is related to a diagnosis or treatment for COVID-19; and (b) the service, treatment, or supply is rendered by an out-of-network provider because no in-network provider is available due to the public health emergency. Specify that, in these circumstances, the plan must reimburse the out-of-network provider at 225 percent of the rate the federal Medicare program reimburses the provider for the same or a similar service, treatment, or supply in the same geographic area.

Specify that, during the declared public health emergency or following 60-day period, any health care provider or facility that renders a service, treatment, or supply to an enrollee of a defined network plan or preferred provider plan that does not include the health provider or facility in its network must accept as payment in full any payment that is at least 225 percent of the Medicare rate for a similar service, treatment, or supply in the same geographic area. Prohibit the provider from charging the enrollee an amount that exceeds the amount the provider or facility is reimbursed by the defined network plan or preferred provider plan.

Authorize the Insurance Commissioner to promulgate any rules necessary to implement these provisions.

[Act 185 Section: 89]

## **LEGISLATURE**

### **1. LEGISLATIVE AUDIT BUREAU CRITERIA AND REPORTING**

Specify in a nonstatutory provision that, beginning July 1, 2020, and continuing through June 30, 2021, the Legislative Audit Bureau must use risk-based criteria to review selected programs affected by the Act and selected expenditures made with funds authorized under the Act. Further, require the Legislative Audit Bureau to report the results of its reviews at least quarterly to the Joint Legislative Audit Committee and to the Legislature. Risk-based criteria could include review of expenditures at or above certain threshold levels or the review of more recently created statutory programs.

[Act 185 Section: 105(11)]

## **PUBLIC INSTRUCTION**

### **1. SCHOOL AND SCHOOL DISTRICT ACCOUNTABILITY REPORTS**

Prohibit the Department of Public Instruction from publishing school and school district accountability reports in the 2020-21 school year.

Under current law, DPI is required to publish accountability reports annually no later than November 30. The report cards issued each fall are based on data from assessments administered the previous spring.

[Act 185 Sections: 54 and 55]

### **2. PUPIL ASSESSMENTS**

Specify that current law requiring assessments to be administered annually to pupils attending school in a public school district, independent charter school, private choice school, or special needs scholarship program school would not apply in 2019-20. Current law requires pupils to be given annual reading test in the 3rd grade, as well as assessments adopted by the State Superintendent in the 4th, 8th, 9th, 10th, and 11th grades.

Specify that pupil performance on assessments in the 2019-20 school year could not be considered for the evaluation of teachers and principals under the statewide educator effectiveness system. Under current law, the educator effectiveness system must be based in part upon measures of pupil performance, including performance on state assessments.

Modify statutory language under the Opportunity Schools and Partnership Program (OSPP) to accommodate a one-year lapse in administering statewide assessments and publishing accountability reports. Under current law, a school district is subject to an OSPP if it is placed in the lowest performance category in the school district accountability reports published in the three previous school years; no districts currently meet those criteria.

[Act 185 Sections: 56, 58, 59, 67 thru 74, and 105(21)]

### **3. VIRTUAL INSTRUCTION REPORTS AND GUIDANCE**

Require school boards to submit a report to the Department of Public Instruction (DPI) by November 1, 2020, regarding virtual instruction provided during the public health emergency in the 2019-20 school year during which public schools are closed by the Department of Health Services. The report is to include the following: (a) whether or not virtual instruction was implemented in the school district during the public health emergency, and, if so, in which grades it was implemented; (b) if virtual instruction was implemented, the process for implementing the virtual instruction; (c) for each grade level, the average percentage of the 2019-20 school year curriculum that was provided to pupils, including curriculum provided in-person and virtually; (d) whether anything was provided to pupils during the 2020 summer to help pupils learn content that they missed because of the public health emergency and, if so, what was provided to pupils; (e) recommendations for best practices for transitioning to and providing virtual instruction when schools are closed; (f) any challenges or barriers the school board faced related to implementing virtual instruction during the public health emergency; (g) by position type, the number of staff members who were laid off during the public health emergency; (h) the number of lunches the school board provided during the public health emergency; and (i) the total amount by which the school board reduced expenditures during or because of the public health emergency in each of the following categories: utilities, transportation, food service, personnel (including reductions resulting from layoffs), and contract terminations. For purposes of the report, virtual instruction would include any instruction provided through means of the Internet, if the pupils participating in and instructional staff providing the instruction are geographically remote from each other.

Require DPI to compile and submit the information received from the school board reports to the appropriate standing committees of the Legislature no later than January 1, 2021.

Additionally, require DPI to post on its Internet site guidance to schools on best practices related to transitioning from virtual instruction to in-person instruction no later than June 30, 2020.

[Act 185 Section: 105(3)]

### **4. WAIVERS FOR PRIVATE SCHOOL CHOICE PROGRAMS, SPECIAL NEEDS SCHOLARSHIP PROGRAMS, AND INDEPENDENT CHARTER SCHOOLS**

Specify that, beginning on the first day of the public health emergency declared on March 12, 2020, by Executive Order 72, and ending on October 31, 2020, DPI could do any of the following:

- a. For the 2019-20 school year only, waive any requirement in Ch. 115 to 121 of state

statutes or administrative rules promulgated by DPI related to the special needs scholarship program and the private school choice programs; private schools participating in a choice program or the special needs scholarship program; or independent charter schools, including any requirement related to an authorizer, governing board, or operator; and

b. Establish an alternate deadline for any requirement in Ch. 115 to 121 of state statutes or administrative rules promulgated by DPI related to the special needs scholarship program or private school choice programs if the original deadline is either of the following: (a) a deadline that occurs during the period beginning on the first day of the public health emergency declared on March 12, 2020, and ending on October 31, 2020; or (b) a deadline for a requirement that impacts a date during the period beginning on the first day of the public health emergency declared on March 12, 2020, and ending on October 31, 2020.

Require that DPI notify the Legislative Reference Bureau (LRB) of each waiver or alternative deadline established. Require the LRB to publish a notice in the Wisconsin Administrative Register of the waiver or alternate deadline. Additionally, require DPI to post each waiver and alternate deadline on the Department's website.

[Act 185 Sections: 60 thru 62]

## **5. PRIVATE SCHOOL CHOICE PROGRAMS AND SPECIAL NEEDS SCHOLARSHIP PROGRAM -- FAILURE TO COMPLY WITH STATUTORY REQUIREMENTS**

Specify that, during the public health emergency declared on March 12, 2020, by Executive Order 72, if a private school participating in the program is closed for at least ten days by a local health officer or the Department of Health Services, DPI could not withhold payments from the school for failing to comply with statutory requirements or rules promulgated for the program in the school year in which the closure occurs or the following school year, if the following occur: (a) the private school submits information to DPI that explains how the school closure impacted the private school's ability to comply with the requirement and any action the school took to mitigate the consequences of not complying with the requirement; and (b) DPI determines that the private school's failure to comply with the requirement was caused by the closure.

[Act 185 Sections: 57, 64, and 66]

## **6. PRIVATE SCHOOL CHOICE PROGRAMS -- CASH AND INVESTMENT BALANCE**

Specify that the requirement under current law that a private school participating in the Milwaukee, Racine, or statewide choice programs maintains a cash and investment balance that is at least equal to its reserve balance would not apply to a school year that occurs during the public health emergency declared on March 12, 2020, by Executive Order 72.

[Act 185 Sections: 63 and 65]

**7. PRIVATE SCHOOLS -- WAIVER FOR DIRECT HOURS OF PUPIL INSTRUCTION REQUIREMENT**

Specify that in the 2019-20 school year, the governing body of a private school could request DPI to waive any requirement in the statutes governing K-12 schools (Chapters 115 to 121) or administrative rules promulgated under those statutes, related to providing hours of instruction, including the requirements for minimum hours of instruction for private schools participating in the Milwaukee, Racine, or statewide choice programs or in the special needs scholarship program.

[Act 185 Section: 105(22)]

**8. STATEWIDE PRIVATE SCHOOL CHOICE APPLICATION DEADLINES**

Specify that a private school participating in the statewide choice program in the 2020-21 school year could accept applications from eligible pupils until May 14, 2020. Require participating private schools to submit to DPI the number of pupils who have applied to attend the public school and the names of those applicants whose siblings have also applied to attend the private school by May 29, 2020.

Under current law, the application period for the statewide choice program extends from the first weekday in February to the third Thursday in April, and schools must submit applicant information to DPI by the first weekday in May. For the 2020-21 school year, the final application period for pupils attending a private school under the Racine program ends on September 14, 2020, and the final application period for Milwaukee pupils ends on January 5, 2021.

[Act 185 Section: 105(23)]

**9. MODIFY TIMELINE FOR OPEN ENROLLMENT PROGRAM**

Generally modify the various deadlines under the regular application procedure for the full-time open enrollment program for the 2020-21 school year to extend them by one month. Specifically, change the current law deadlines as follows:

a. Change the deadline by which a parent must submit an application from the last weekday in April to May 29, 2020.

b. Change the deadline by which a nonresident board is required to send a copy of the application to the resident district and DPI from the first weekday following the last weekday in April to June 1, 2020.

c. Change the date that school boards can begin acting on applications from May 1 to June 1, 2020.

d. Change the date by which a resident district must send required individualized education programs from the first Friday following the first Monday in May to June 8, 2020.

e. Change the date by which a resident district must send required disciplinary records

from the first Friday following the first Monday in May to June 5, 2020.

f. Change the date by which the nonresident board must notify an applicant of acceptance from the first Friday following the first Monday in June to July 2, 2020.

g. Change the date by which the resident board must notify an applicant of denial of enrollment from the second Friday following the first Monday in June to July 9, 2020.

h. Change the date by which the applicant must notify the nonresident board of their intent to attend from the last Friday in June to July 31, 2020, or within 10 days if a pupil is selected from a waiting list.

i. Change the date by which a nonresident board must notify the resident board of the names of pupils who will be attending from July 7 to August 7, 2020.

j. Change the date by which DPI must send an estimate of the amount of reimbursement for transportation costs of eligible low income pupils from the second Friday following the first Monday in May to June 12, 2020.

[Act 185 Section: 105(24)]

## REVENUE

### 1. INTERNAL REVENUE CODE UPDATE

GPR-Tax	-\$52,000,000
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Update income and franchise tax references to the Internal Revenue Code (IRC). For tax years beginning after December 31, 2017, create provisions adopting selected provisions in P.L. 116-136, the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES). Under current law, state tax references generally refer to the IRC in effect on December 31, 2017.

Decrease income and franchise taxes by an estimated \$4,500,000 in 2019-20 and \$47,500,000 in 2020-21, increase such revenues by an estimated \$8,200,000 in 2021-22, and decrease revenues by an estimated \$300,000 in 2022-23. The fiscal effect is attributable to the following CARES provisions adopted under the Act: (a) special rules for use of retirement funds; (b) partial deduction for charitable contributions; (c) suspension of limitation on certain charitable contributions; (d) telehealth services for high deductible health plans; (e) additional qualified expenses for health savings accounts; (f) payroll protection loan forgiveness exclusion; (g) exclusion for certain employer payments of student loans; and (h) depreciation of qualified improvement property. It should be noted that if the Act did not amend state law to conform with the provision described under "f", state taxes on businesses receiving loan forgiveness would be estimated higher by \$114.0 million in 2019-20, \$102.0 million in 2020-21, \$11.0 million in 2021-22, and a minimal amount thereafter.

Several CARES provisions were automatically adopted for state tax purposes: (a) waiver of

required minimum distributions; (b) single employer pension plan deadline extension; and (c) certain pension plans considered defined benefit plans. The Act further clarifies that state law applies to these provisions. However, because these provisions are automatically adopted under state law, the fiscal effect of these provisions is not included in the Act's estimated fiscal effect.

[Act 185 Sections: 23 thru 29]

## **2. INTEREST AND PENALTIES DUE ON TAXES OWED DURING THE PUBLIC HEALTH EMERGENCY**

Permit the Secretary of the Department of Revenue to waive interest and penalties for persons that owe, but fail to remit, general fund taxes, or taxes or fees that are deposited in the transportation fund, by the filing date if, in the Secretary's determination, that person failed to timely remit those taxes due to the effects of the coronavirus outbreak of 2020. Specify that the Secretary must make this determination on a case-by-case basis. Specify that this provision applies only to general fund taxes, or taxes and fees that are deposited in the transportation fund, with filing dates that fall within, and interest and penalties that accrue during, the public health emergency that was declared by the Governor on March 12, 2020, by Executive Order 72, including any extension of time authorized under a joint resolution by the Legislature. Estimate a minimal reduction in state tax revenues.

[Act 185 Section: 105(14)]

## **3. INCOME AND FRANCHISE TAX FILING EXTENSION**

President Trump declared a national emergency in response to the coronavirus outbreak on March 13, 2020. Following this declaration, the Treasury Department and Internal Revenue Service (IRS) announced on March 21, 2020, that the deadline for filing federal income tax returns is extended from April 15, 2020, to July 15, 2020. The IRS subsequently expanded that guidance on April 9, 2020, to provide that the extension generally applies to all taxpayers with a tax filing due date falling between April 1, 2020, and before July 15, 2020. In addition, taxpayers who make estimated income tax payments that would otherwise be due between April 1, 2020, and before July 15, 2020, can make such payments by July 15 without incurring any interest or penalties, regardless of amounts owed by a taxpayer. A taxpayer need not file any additional forms in order to qualify for this extended due date.

Wisconsin law provides similar treatment such that state income and franchise taxpayers with tax filing due dates between April 1, 2020, and before July 15, 2020, will have until July 15 to file their state income or franchise tax returns for tax year 2019, or make any tax year 2020 estimated payment that would otherwise have been due during that period, without interest, penalty, or underpayment interest applying until that date.

## **SAFETY AND PROFESSIONAL SERVICES**

### **1. HEALTH CARE PROVIDER CREDENTIAL RENEWALS**

Specify that a health care provider credential, as defined below, is not subject to renewal, or any other conditions for renewal, including continuing education, and remains valid during the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension, and continuing for 60 days after the end of the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension. Specify that these changes are notwithstanding the Department's general statutory authority and requirements relating to notice of renewals; renewal dates, fees, and applications; and late renewals, as well as the applicable statutory provisions for the health care provider credentials, but subject to any professional discipline imposed on the credential.

Specify that a renewal that occurs subsequent to the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension, is not subject to the statutory late renewal fee if the application to renew the credential is received before the next applicable renewal date. Notwithstanding the applicable statutory provisions for the health care provider credentials, the applicable credentialing board may, for that next applicable renewal date, provide an exemption from, or reduction of, continuing education or other conditions for renewal.

*Definition.* For these purposes, define a "health care provider credential" to mean any credential issued under the following state statutory chapters: Board of Nursing (ch. 441); Dentistry Examining Board (ch. 447); Medical Practices (ch. 448); Pharmacy Examining Board (ch. 450); Psychology Examining Board (ch. 455); Massage Therapy and Bodywork Therapy (ch. 460); or Radiographers and Limited X-Ray Machine Operators (ch. 462).

[Act 185 Section: 86]

### **2. TEMPORARY PRACTICE BY FORMERLY CREDENTIALLED HEALTH CARE PROVIDERS**

Allow certain health care professionals formerly credentialed in Wisconsin to temporarily practice in the state without a current Wisconsin credential in the following circumstances.

*Conditions of Temporary Practice.* Specify that, notwithstanding statutory prohibitions on practicing as a nurse, nurse-midwife, chiropractor, dentist, dental hygienist, physician, physician assistant, perfusionist, respiratory care practitioner, physical therapist, podiatrist, dietitian, occupational therapist, occupational therapist assistant, optometrist, pharmacist, acupuncturist, psychologist, clinical social worker, marriage and family therapist, professional counselor, psychotherapist, hearing instrument specialist, speech-language pathologist, audiologist, massage therapist or body work therapist unless credentialed under the appropriate statutory section, a health care provider may provide services within the scope of the credential that the health care provider previously held if all of the following apply: (a) practice by the health care provider is

necessary for an identified health care facility to ensure the continued and safe delivery of health care services; (b) the identified health care facility's needs reasonably prevented the health care provider from obtaining a credential before beginning to provide health care services at the facility; (c) the health care provider applies for a temporary credential or permanent credential within ten days of beginning to provide health care services at a health care facility; and (d) the health care facility notifies the Department of Safety and Professional Services within five days of the date on which the health care provider begins providing health care services at the facility.

Require that a health care provider who provides services authorized by a temporary credential granted under these provisions, must maintain malpractice insurance that satisfies the requirements of the profession for which the health care provider has been licensed or certified.

Specify that this provision does not apply 30 days after the conclusion of the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension.

*Authority to Waive Credential Fees.* Provide that, during the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension, DSPS may waive fees for applications for an initial credential and renewal of a credential for registered nurses, licensed practical nurses, nurse-midwives, dentists, physicians, physician assistants, perfusionists, respiratory care practitioners, pharmacists, psychologists, clinical social workers, independent social workers, social workers, marriage and family therapists, professional counselors, and clinical substance abuse counselors.

*Definitions.* Define "health care provider" to mean an individual who was at any time within the past five years, but is not currently, any of the following, if the individual's credential was never revoked, limited, suspended, or denied renewal: (a) a nurse under ch. 441 of the Wisconsin state statutes; (b) a chiropractor licensed under ch. 446 of the Wisconsin state statutes; (c) a dentist licensed under ch. 447 of the Wisconsin state statutes; (d) a physician, physician assistant, or perfusionist licensed under ch. 448 or a respiratory care practitioner certified under ch. 448 of the Wisconsin state statutes; (e) a physical therapist or physical therapist assistant licensed under ch. 448 or who holds a compact privilege under ch. 448 of the Wisconsin state statutes; (f) a podiatrist licensed under ch. 448 of the Wisconsin state statutes; (g) a dietitian certified under ch. 448 of the Wisconsin state statutes; (h) an athletic trainer licensed under ch. 448 of the Wisconsin state statutes; (i) an occupational therapist or occupational therapy assistant licensed under ch. 448 of the Wisconsin state statutes; (j) an optometrist licensed under ch. 449 of the Wisconsin state statutes; (k) a pharmacist licensed under ch. 450 of the Wisconsin state statutes; (l) an acupuncturist certified under a pharmacist licensed under ch. 451 of the Wisconsin state statutes; (m) a psychologist licensed under ch. 455 of the Wisconsin state statutes; (n) a social worker, marriage and family therapist, or professional counselor licensed under ch. 457 or an independent social worker or social worker certified under ch. 457 of the Wisconsin state statutes; (o) a speech-language pathologist or audiologist licensed under ch. 459 of the Wisconsin state statutes; or (p) a massage therapist or bodywork therapist licensed under ch. 460 of the Wisconsin state statutes.

Define "health care facility" to mean a system, care clinic, care provider, long-term care facility, or any other health care facility where health care services are provided.

Define "temporary credential" to mean a visiting, locum tenens, temporary, or similar non-permanent license or certificate.

[Act 185 Sections: 105(4)&(5)]

### **3. TEMPORARY PRACTICE BY HEALTH CARE PROVIDERS CREDENTIALLED IN ANOTHER STATE**

Allow certain health care professionals credentialed in another state or territory to temporarily practice in Wisconsin without a Wisconsin credential in the following circumstances.

*Conditions of Temporary Practice.* Specify that, notwithstanding statutory prohibitions on practicing as a nurse, nurse-midwife, chiropractor, dentist, dental hygienist, physician, physician assistant, perfusionist, respiratory care practitioner, physical therapist, podiatrist, dietitian, occupational therapist, occupational therapist assistant, optometrist, pharmacist, acupuncturist, psychologist, clinical social worker, marriage and family therapist, professional counselor, psychotherapist, hearing instrument specialist, speech-language pathologist, audiologist, massage therapist or body work therapist unless credentialed under the appropriate statutory section, a health care provider may provide services within the scope of the credential that the health care provider holds if all of the following apply: (a) practice by the health care provider is necessary for an identified health care facility to ensure the continued and safe delivery of health care services; (b) the identified health care facility's needs reasonably prevented the health care provider from obtaining a credential before beginning to provide health care services at the facility; (c) the health care provider applies for a temporary credential or permanent credential within ten days of beginning to provide health care services at a health care facility; and (d) the health care facility notifies the Department of Safety and Professional Services within five days of the date on which the health care provider begins providing health care services at the facility.

Require that a health care provider who provides services authorized by a temporary credential granted under these provisions, must maintain malpractice insurance that satisfies the requirements of the profession for which the health care provider has been licensed or certified.

Specify that this provision does not apply 30 days after the conclusion of the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension.

*Definitions.* Define "health care provider" to mean an individual who holds a valid, unexpired license, certificate, or registration granted by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as the acts that any of the following are licensed or certified to perform: (a) a nurse under ch. 441 of the Wisconsin state statutes; (b) a chiropractor licensed under ch. 446 of the Wisconsin state statutes; (c) a dentist licensed under ch. 447 of the Wisconsin state statutes; (d) a physician, physician assistant, or perfusionist licensed under ch. 448 or a respiratory care practitioner certified under ch. 448 of the Wisconsin state statutes; (e) a physical therapist or physical therapist assistant licensed under ch. 448 or who holds a compact privilege under ch. 448 of the Wisconsin state statutes; (f) a podiatrist licensed under ch. 448 of the Wisconsin state statutes; (g) a dietitian certified under ch. 448 of the

Wisconsin state statutes; (h) an athletic trainer licensed under ch. 448 of the Wisconsin state statutes; (i) an occupational therapist or occupational therapy assistant licensed under ch. 448 of the Wisconsin state statutes; (j) an optometrist licensed under ch. 449 of the Wisconsin state statutes; (k) a pharmacist licensed under ch. 450 of the Wisconsin state statutes; (l) an acupuncturist certified under a pharmacist licensed under ch. 451 of the Wisconsin state statutes; (m) a psychologist licensed under ch. 455 of the Wisconsin state statutes; (n) a social worker, marriage and family therapist, or professional counselor licensed under ch. 457 or an independent social worker or social worker certified under ch. 457 of the Wisconsin state statutes; (o) a speech-language pathologist or audiologist licensed under ch. 459 of the Wisconsin state statutes; or (p) a massage therapist or bodywork therapist licensed under ch. 460 of the Wisconsin state statutes.

Define "health care facility" to mean a system, care clinic, care provider, long-term care facility, or any other health care facility where health care services are provided.

Define "temporary credential" to mean a visiting, locum tenens, temporary, or similar non-permanent license or certificate.

[Act 185 Section: 105(6)]

#### **4. PRESCRIPTION ORDER EXTENSIONS DURING THE CURRENT PUBLIC HEALTH EMERGENCY**

Expand the manner in which a pharmacist can extend a prescription order. Specify that if a pharmacist receives a request for a prescription to be refilled and the prescription cannot be refilled under current state statutes governing initial fills and refills, the pharmacist may, subject to certain statutory conditions, extend the existing prescription order and dispense the drug to the patient, if the pharmacist has not received and is not aware of written or oral instructions from the prescribing practitioner prohibiting further dispensing pursuant to or extension of the prescription order.

Prohibit a pharmacist from extending a prescription order under this section if: (a) a prescribing practitioner has indicated, by writing on the face of the prescription order or, with respect to a prescription order transmitted electronically, by designating in electronic format the phrase "No extensions," or words of similar meaning; (b) the prescription is for a drug that is a controlled substance; or (c) if a prescription order was previously extended for that particular patient during the period covered by a public health emergency declared by the Governor, including any extension of that public health emergency.

Further, prohibit a pharmacist acting under this provision from extending a prescription order to dispense more than a 30-day supply of the prescribed drug, except that if the drug is typically packaged in a form that requires a pharmacist to dispense the drug in a quantity greater than a 30-day supply, the pharmacist may extend the prescription order as necessary to dispense the drug in the smallest quantity in which it is typically packaged.

Require that a pharmacist, at the earliest reasonable time after acting under this provision, notify the prescribing practitioner or his or her office. However, specify that the pharmacist is not required to attempt to procure a new prescription order or refill authorization for the drug by

contacting the prescribing practitioner or his or her office prior to acting under this provision. Authorize the pharmacist, after acting under this provision, to notify the patient or other individual that any further refills will require the authorization of a prescribing practitioner.

Specify that the authority granted under this provision applies only during the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension, and continuing for 30 days after the end of the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension. During that time, clarify that this paragraph supersedes existing circumstances under which a pharmacist may extend a prescription order to the extent of any conflict.

[Act 185 Sections: 87 and 88]

## **5. AUTOPSIES AND CREMATION OF BODIES OF PERSONS WHO DIED OF COVID-19**

For the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension, specify that:

- If a physician, coroner, or medical examiner has signed the death certificate of a deceased person and listed COVID-19 as the underlying cause of death, a coroner or medical examiner must issue a cremation permit to cremate the corpse of that deceased person without viewing the corpse;
- If a physician, coroner, or medical examiner has signed the death certificate of a deceased person and listed COVID-19 as the underlying cause of death, a coroner or medical examiner must issue, within 48 hours after the time of death, a cremation permit for the cremation of a corpse of a deceased person;
- If the underlying cause of a death is determined to be COVID-19, the person required to sign the death certificate must provide an electronic signature on the death certificate within 48 hours after the death occurs; and
- If an individual who has been diagnosed with COVID-19 dies while he or she is in the legal custody of the Department of Corrections and confined to a correctional facility located in this state, the coroner or medical examiner may perform a limited examination of the deceased individual instead of a full autopsy, which may include an external examination of the body of the deceased individual, a review of the deceased individual's medical records, or a review of the deceased individual's radiographs.

Define "COVID-19" to mean an infection caused by the SARS-CoV-2 coronavirus.

Under current law, a coroner or medical examiner must view the corpse of a deceased person before issuing a cremation permit, and the corpse may not be cremated within 48 hours after the death unless the death was caused by a contagious or infectious disease.

[Act 185 Section: 105(15)]

## **SHARED REVENUE AND TAX RELIEF**

### **1. INTEREST AND PENALTIES ON 2020 PROPERTY TAXES**

For any property taxes payable in 2020 that are due after April 1, 2020, allow taxation districts, after making a general or case-by-case finding of hardship, to waive any interest charges and penalties for a late installment payment, provided that the full amount of the payment is received on or before October 1, 2020. Specify that a taxation district may not waive interest and penalties otherwise due unless the county board of the county where the taxation district is located first adopts a resolution authorizing such a waiver and the taxation district subsequently adopts a similar resolution. Require that the resolution establish criteria for determining hardship. For any property taxes payable in 2020 that are delinquent after October 1, 2020, specify that interest charges and penalties would begin accruing as of October 1, 2020. Consider any payment received on or before October 1, 2020, or by an installment date after October 1, 2020, to be timely for the purposes of allowing taxpayers to submit a claim to appeal unlawful taxes, excessive taxes, or for taxes paid in protest due to an outstanding contested assessment. Require counties that have adopted a waiver resolution to settle any taxes, interest, or penalties collected on or before July 31, 2020, on August 20, 2020, and to settle the remainder of any unpaid taxes, interest, or penalties on September 20, 2020. Specify that the August 20, 2020, settlement is to be distributed proportionally to underlying taxing jurisdictions.

[Act 185 Sections: 22d, 30, 31, and 105(25)]

### **2. 2020 ANNUAL TOWN AND MUNICIPAL BOARD OF REVIEW MEETINGS**

Allow a town board, or if the town board is unable to meet, the town chair to postpone its annual meeting to a date that is not during the period beginning on the first day the public health emergency declared on March 12, 2020, by Executive Order 72 and ending 60 days after the termination of that order. Further, specify that for the 2020 assessment roll, regardless of whether the roll is complete at the time of the 45-day period beginning on the fourth Monday in April, the Board of Review may post a Class 1 notice that the Board has adjourned and will proceed as required under the current law notice requirements for Board of Review sessions.

[Act 185 Sections: 18, 19, 21, and 22]

## **WISCONSIN ECONOMIC DEVELOPMENT CORPORATION**

### **1. WEDC REPORT**

Require the Wisconsin Economic Development Corporation to submit to the Governor and the chief clerk of each house of the Legislature, no later than June 30, 2020, a report that includes a plan for providing support to the major industries in this state that have been adversely affected by the COVID-19 public health emergency, including tourism, manufacturing, agriculture, forest products, construction, retail, and services.

[Act 185 Section: 105(26m)]

## **WORKFORCE DEVELOPMENT**

### **1. TEMPORARY SUSPENSION OF THE UNEMPLOYMENT INSURANCE WAITING WEEK**

Provide that the waiting week requirement under current law would not apply with respect to benefit years that begin after March 12, 2020, and before February 7, 2021. Require the Department of Workforce Development (DWD) to seek the maximum amount of federal reimbursement for unemployment insurance (UI) benefits that are payable for the first week of a claimant's benefit year as a result of the application of this provision.

Under current law, a UI claimant's waiting period is the first week of a claimant's benefit year for which the claimant is otherwise eligible for regular benefits. During a claimant's waiting period, no benefits are payable to the claimant. The waiting period does not affect a claimant's maximum benefit amount, which is 26 weeks of regular state benefits. However, claimants who do not reach the state's 26-week limit effectively receive one less week of benefits due to the waiting week requirement. A claimant must serve one waiting week per benefit year.

The CARES Act provides 100% federal funding of the first week of regular UI benefits for states with no waiting week through December 31, 2020, plus administrative expenses incurred to implement this provision. Under the Act, states may enter into an agreement with the U.S. Department of Labor (USDOL) for this funding if the state law, including a waiver of state law, provides that compensation is paid to individuals for their first week of regular unemployment without a waiting week. An agreement implementing this and other UI-related provisions of the CARES Act was signed by the DWD Secretary and USDOL on March 28, 2020. The Families First Coronavirus Response Act also requires states to commit to "ease eligibility requirements and access" to UI benefits, including waiving the waiting week, to be eligible for additional federal UI program administrative funding.

[Act 185 Sections: 37 and 38]

## **2. NON-CHARGING EMPLOYER UNEMPLOYMENT INSURANCE ACCOUNTS**

Require the Department of Workforce Development, when processing claims for UI benefits and evaluating work-share plans, to determine whether a claim or plan is related to the public health emergency (PHE) declared by the Governor under Executive Order 72.

Provide that if a claim or plan is related to a PHE, regular benefits for that claim for weeks occurring after March 12, 2020, and before December 31, 2020, not be charged to an employer as normally provided. Instead, under the provision, UI benefits for those weeks would be charged to either: (a) the balancing account of the UI trust fund, for claims attributable to contribution employers subject to regular unemployment payroll taxes; or (b) DWD's existing interest and penalties account, for claims attributable to reimbursable employers that are not subject to contribution requirements.

Under the provision, PHE non-charging provisions would not apply: (a) if the employer fails to timely and adequately provide any information required by the Department; (b) to any benefits paid or reimbursed by the federal government, including the portion of any benefits reimbursed by the federal government for reimbursable employers; (c) to a claim for regular benefits that is a combined wage claim; (d) to work-share benefits reimbursed by the federal government; or (e) to certain benefits chargeable based on employment with the federal government.

Require the Secretary of DWD, to the extent permitted under federal law, to seek advances to the state's UI trust fund from the federal government so as to allow Schedule D, the lowest unemployment tax rate schedule, to remain in effect through the end of calendar year 2021.

Under current law, some UI benefit payments are not charged to a specific employer but are instead charged to the balancing account. The state's UI balancing account is supported by the solvency tax paid by contribution employers and any interest earned on the state's UI trust fund balance. There are seven basic categories of benefit payments charged to the balancing account: 10% write-offs, quits, misconduct, substantial fault, continued employment, approved training, and second benefit year. In the past, there have been other benefit programs that have been charged to the balancing account, including in 2002 when state temporary supplemental benefits were charged to the account.

Reimbursable employers, including almost all governmental units and certain nonprofit organizations, finance unemployment claims on a reimbursement basis as they are filed by employees. The provision would make payment for such claims from a separate appropriation under DWD funded by certain UI interest and penalty revenues, if claims are determined to be related to the public health emergency.

[Act 185 Sections: 36, 39, 40, 49 thru 53, 105(27m), and 106(1)]

## **3. WORK-SHARE PLAN REQUIREMENTS**

Temporarily suspend certain requirements of voluntary work-share plans submitted by employers, beginning with Act 185's effective date of April 17, 2020, through December 31, 2020.

Specify that, during the suspension period: (a) work-share plans must cover at least two positions that are filled on the effective date of the work-share program, rather than at least the greater of 20 positions or 10% of employees in a work unit under current law; (b) the maximum reduction in working hours under a work-share program may be either 60% of the normal hours per week of the employees included under a work-share plan, or any other maximum provided by federal law, whichever is greater, rather than the 50% reduction provided under current law; (c) work-share plans may cover any employees of the employer; rather than be limited to a particular work unit of the employer as provided in current law, and; (d) reduced working hours need not be apportioned equitably among employees in the work-share program.

The provision would continue all other current work-share program implementation and reporting requirements during the suspension period, including a minimum 10% reduction in working hours of covered employees.

Require the Department to allow employers to submit applications under this section using an online form, and require DWD to assist employers with submitting applications and developing work-share plans.

Provide that, with respect to a work-share plan approved during the suspension period, the plan becomes effective on the later of the Sunday after approval of a work-share plan, or any Sunday after that day if otherwise specified in the plan. Under current law, a work-share plan becomes effective no earlier than the Sunday of the second week beginning after approval.

Specify that an employer's work-share program would be governed by the law that was in effect when the plan or modification was last approved by DWD. Allow an employer with a work-share plan in effect prior to the suspension period to apply to modify the plan during the suspension period. Any modified plan under this provision would be governed by the work-share law in effect during the suspension period.

Allow the DWD Secretary to waive compliance with any temporary change required under this provision, in whole or in part, to the extent necessary to permit continued federal certification of the state's UI program, or if necessary for the state to qualify for full federal financial participation in the cost of administration of the state's work-share program and in the financing of UI benefits to employees participating in the work-share program.

Work-share programs, which are also called "short-term compensation programs" under federal law, are designed to provide a prorated unemployment benefit for employees of employers who voluntarily make an agreement with the state to reduce work hours instead of laying off workers. For states that currently have a federally approved work-share program, like Wisconsin, the CARES Act would provide 100% federally funded UI benefits through December 31, 2020. Under current law, Wisconsin's work-share program is funded entirely through the employer's UI account.

[Act 185 Sections: 41 thru 48]

#### **4. WORKER'S COMPENSATION BENEFITS FOR COVID-19 INJURIES**

Specify that, for the purposes of worker's compensation benefits, an injury to a first

responder found to be caused by COVID-19 during the public health emergency declared by the Governor under s. 323.10, on March 12, 2020, by Executive Order 72, and ending 30 days after the termination of the order, is presumed to be caused by the individual's employment. In applying the presumption, specify: (a) the person must have been exposed to others with confirmed cases of COVID-19 in the course of employment; and (b) the person must have received a specific diagnosis of COVID-19 by a physician or by a positive COVID-19 test. Further, provide a claim may be rebutted by any specific evidence that the injury was caused by exposure to COVID-19 outside of the first responder's work for the employer.

Define "first responder" to mean an employee of, or volunteer for, an employer that provides firefighting, law enforcement, or medical treatment of COVID-19, and who has regular, direct contact with, or is regularly in close proximity to, patients or other members of the public requiring emergency services, within the scope of the individual's work for the employer.

Provide that certain benefits entitlements and conditions under current law for exposure to non-disabling toxic or hazardous materials would not apply to an employee whose injury claim is presumed to be caused by COVID-19 during the period specified in this provision.

In general, Wisconsin worker's compensation law allows compensation for cases of death or injury in the course of one's employment. Current law defines "injury" as mental or physical harm to an employee caused by accident or disease. Although the provision would apply specifically to first responders, current law would not preclude worker's compensation claims from persons in other occupations who are exposed to the novel coronavirus in the course of their employment. However, claims for employees in other occupations not listed would have to establish an injury or death related to COVID-19 was a result of the employment.

[Act 185 Sections: 33 and 34]

## **5. EMPLOYEE RECORDS DURING A PUBLIC HEALTH EMERGENCY**

Provide that during the period covered by a state of emergency related to a public health emergency declared by the Governor, an employer is not required to provide an employee's personnel records within seven working days after an employee makes a request to inspect his or her personnel records, and an employer is not required to provide the inspection at a location reasonably near the employee's place of employment during normal working hours.

The statutes provide an employee or former employee has a right, with some exceptions, to inspect an employer's personnel documents that are used or have been used to determine the employee's qualifications for employment, promotion, transfer, additional compensation, termination or other disciplinary action, as well as view the employer's medical records of the employee. An employee may make such a request up to two times each calendar year. The provision would suspend, only during a public health emergency, the application of the two requirements described that employers must otherwise follow in accommodating an inspection request.

[Act 185 Section: 35]