



1997 SENATE BILL 335

October 29, 1997 – Introduced by Senator BURKE, cosponsored by Representative JENSEN. Referred to Joint committee on Finance.

1 **AN ACT** *to renumber* 94.73 (15); *to amend* 13.489 (2) and 46.46 (2); and *to create*
2 23.36, 84.03 (2), 85.05 and 94.73 (15) (b) of the statutes; **relating to:** evaluating
3 proposed major highway projects; adjustments to appropriations of the
4 department of transportation to reflect federal highway aid changes; joint
5 committee on finance approval of any plan for the expenditure of income
6 augmentation funds for any purpose other than augmenting federal revenues;
7 agreement between the department of natural resources and Indian tribes or
8 bands concerning the issuing of fishing or hunting approvals or the registration
9 of all-terrain vehicles, boats or snowmobiles; a study on paving state bicycle
10 trails; adjustment of agricultural chemical cleanup surcharges; and requiring
11 the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Transportation

Current law requires that any major highway project, unlike other construction projects undertaken by the department of transportation (DOT), receive the approval of the transportation projects commission (TPC) and the legislature before the project may be constructed. A major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes 5 miles or more

in length to the highway; or improvement of an existing multilane divided highway to freeway standards.

This bill requires DOT to promulgate rules by April 1, 1998, establishing a process for numerically evaluating projects considered for enumeration as a major highway project. The rules must establish a minimum score that a project must meet or exceed before DOT may recommend the project to the TPC for enumeration.

This bill requires DOT to submit each fiscal year to the joint committee on finance (JCF) for its review a plan regarding appropriation adjustments by DOT that are necessary to reflect the actual levels of federal highway aid for this state for the applicable federal year. The plan must be submitted by December 1 (except in the 1997-98 fiscal year) or, if applicable federal legislation has not been enacted, within 30 days of such enactment. The plan's appropriation adjustments may not be implemented without the approval of JCF.

Health and family services

Under current law, the department of health and family services (DHFS) may expend federal foster care and adoption assistance, medicare and medical assistance funds that are received as a result of income augmentation activities for which the state has contracted (income augmentation funds) to support costs that are exclusively related to the operational costs of augmenting federal revenues. Current law also permits DHFS to expend income augmentation funds for purposes that are not exclusively related to the operational costs of augmenting federal revenues, but only if the secretary of administration approves a plan submitted to him or her by DHFS for the proposed use of those funds for those purposes. This bill requires the secretary of administration, if he or she approves a plan submitted by DHFS, to submit the plan to JCF. Under the bill, if the cochairpersons of JCF do not notify the secretary of administration within 14 days after the date of submittal of the plan that JCF has scheduled a meeting to review the plan, DHFS may implement the plan. If, however, within those 14 days the cochairpersons of JCF notify the secretary of administration that JCF has scheduled a meeting to review the plan, DHFS may implement the plan only with the approval of JCF.

Natural resources

Under current law, the department of natural resources (DNR) issues fishing licenses and stamps (fishing approvals) and also administers the registration program for snowmobiles and all-terrain vehicles (ATVs). Under current law, if DNR and the Lac du Flambeau band of the Lake Superior Chippewa (Lac du Flambeau) have in effect an agreement under which the Lac du Flambeau agree to limit their treaty-based, off-reservation rights to fish, the Lac du Flambeau may elect to do any of the following:

1. Issue fishing approvals that are equivalent to fishing approvals issued by DNR.
2. Issue most DNR fishing approvals.
3. Register snowmobiles.
4. Register ATVs.

Current law imposes restrictions on the amount of the fees that the Lac du Flambeau may collect or retain for these approvals and registrations and the purposes for which the Lac du Flambeau may use the fees.

This bill requires approval by JCF of any other agreement between DNR and any Indian tribe or band (tribe) if the agreement affects the harvesting of fish or game in the state and if the agreement allows the tribe to issue hunting or fishing approvals to nontribal members or allows the tribe to register snowmobiles, boats or ATVs belonging to nontribal members.

This bill requires that DNR submit a report to the legislature on the feasibility of paving state bicycle trails.

Agriculture

Under current law, the department of agriculture, trade and consumer protection (DATCP) collects surcharges related to pesticides, fertilizers and soil or plant additives. The surcharges are used to fund the agricultural chemical cleanup program. The surcharges are set by statute, except that DATCP may, by rule, adjust the amount of the surcharges in order to maintain funding of between \$2,000,000 and \$5,000,000 for the agricultural chemical cleanup program at the end of each fiscal year. DATCP may not increase the surcharges above the amounts set by statute.

This bill provides that, if DATCP proposes to promulgate an emergency rule changing the amount of agricultural chemical cleanup surcharges, DATCP must first notify JCF. If, within 14 days after the notification, the cochairpersons of JCF notify DATCP that JCF has scheduled a meeting to review the proposed emergency rule, DATCP may not begin the emergency rule-making process until JCF approves the proposed rule.

Other

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

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

1 **SECTION 1.** 13.489 (2) of the statutes is amended to read:
 2 13.489 (2) DEPARTMENT TO REPORT PROPOSED PROJECTS. The Subject to s. 85.05,
 3 the department of transportation shall report to the commission not later than
 4 September 15 of each even-numbered year and at such other times as required under
 5 s. 84.013 (6) concerning its recommendations for adjustments in the major highway
 6 projects program under s. 84.013.

7 **SECTION 2.** 23.36 of the statutes is created to read:

1 **23.36 Natural resources agreements with federally recognized**
2 **American Indian tribes and bands. (1)** In this section, “tribe or band” means a
3 federally recognized American Indian tribe or band.

4 **(2)** Before the department and a tribe or band enter into any agreement that
5 affects the regulation of the harvest of fish or game in the state, the department shall
6 first obtain the approval of the proposed agreement by the joint committee on finance
7 if the proposed agreement will authorize or recognize any of the following:

8 (a) The issuance by the tribe or band of hunting or fishing approvals under ch.
9 29 to persons who are not members of the tribe or band.

10 (b) The registration or certification by the tribe or band of all-terrain vehicles,
11 boats or snowmobiles that are not owned by persons who are members of the tribe
12 or band.

13 **SECTION 3.** 46.46 (2) of the statutes, as created by 1997 Wisconsin Act 27, is
14 amended to read:

15 46.46 **(2)** If the department proposes to use any moneys from the appropriation
16 account under s. 20.435 (8) (mb) for any purpose other than the purpose specified in
17 sub. (1), the department shall submit a plan for the proposed use of those moneys to
18 the secretary of administration. If the secretary of administration approves the plan,
19 he or she shall submit the plan to the joint committee on finance. If the
20 cochairpersons of the committee do not notify the secretary of administration within
21 14 working days after the date of submittal of the plan that the committee has
22 scheduled a meeting for the purpose of reviewing the plan, the department may
23 implement the plan. If within 14 working days after the date of the submittal by the
24 secretary of administration the cochairpersons of the committee notify him or her

1 that the committee has scheduled a meeting for the purpose of reviewing the plan,
2 the department may implement the plan only with the approval of the committee.

3 **SECTION 4.** 84.03 (2) of the statutes is created to read:

4 84.03 (2) APPROPRIATION ADJUSTMENTS. (a) In the 1997-98 fiscal year and in
5 each fiscal year thereafter, the department shall submit to the joint committee on
6 finance for review and approval a plan identifying how the department proposes to
7 adjust its appropriations for the applicable fiscal year to reflect the actual levels of
8 federal aid for this state for that fiscal year under the federal Intermodal Surface
9 Transportation Efficiency Act of 1991, as amended, or a substantially similar
10 subsequent federal legislative act establishing levels of federal aid for this state. The
11 plan shall be submitted not later than December 1, or 30 days after the applicable
12 federal legislation for that fiscal year has been enacted, whichever is later.

13 (b) The appropriation adjustments in a plan submitted under par. (a) may not
14 be implemented as proposed without the approval of the joint committee on finance.

15 **SECTION 5.** 85.05 of the statutes is created to read:

16 **85.05 Evaluation of proposed major highway projects.** The department
17 by rule shall establish a procedure for numerically evaluating projects considered for
18 enumeration under s. 84.013 (3) as a major highway project. The evaluation
19 procedure may include any criteria that the department considers relevant. The
20 rules shall establish a minimum score that a project shall meet or exceed when
21 evaluated under the procedure established under this section before the department
22 may recommend the project to the transportation projects commission for
23 consideration under s. 13.489.

24 **SECTION 6.** 94.73 (15) of the statutes, as created by 1997 Wisconsin Act 27, is
25 renumbered 94.73 (15) (a).

1 **SECTION 7.** 94.73 (15) (b) of the statutes is created to read:

2 94.73 (15) (b) If the department proposes to promulgate a rule under par. (a)
3 using the procedures under s. 227.24, the department shall notify the cochairpersons
4 of the joint committee on finance before beginning those procedures. If the
5 cochairpersons of the committee do not notify the secretary that the committee has
6 scheduled a meeting for the purpose of reviewing the proposed rule, the department
7 may begin the procedures under s. 227.24. If, within 14 working days after the date
8 of the department's notification, the cochairpersons of the committee notify the
9 secretary that the committee has scheduled a meeting for the purpose of reviewing
10 the proposed rule, the department may not begin the procedures under s. 227.24
11 until the committee approves the proposed rule.

12 **SECTION 9137. Nonstatutory provisions; natural resources.**

13 (1) REPORT ON PAVING BICYCLE TRAILS. By July 1, 1998, the department of natural
14 resources shall submit a report to the chief clerk of each house of the legislature for
15 distribution to the appropriate standing committees in the manner provided in
16 section 13.172 (3) of the statutes on the feasibility of paving state bicycle trails,
17 including factors such as the effects of paving on trail maintenance and usage and
18 the applicability to this state of similar efforts in other states.

19 **SECTION 9149. Nonstatutory provisions; transportation.**

20 (1) APPROPRIATION ADJUSTMENTS. Notwithstanding section 84.03 (2) (a) of the
21 statutes, as created by this act, the department of transportation shall submit the
22 plan required under section 84.03 (2) (a) of the statutes, as created by this act, for
23 fiscal year 1997-98 not later than 30 days after the effective date of this subsection,
24 or 30 days after the applicable federal legislation for fiscal year 1997-98 has been
25 enacted, whichever is later.

1 (2) EVALUATION OF PROPOSED MAJOR HIGHWAY PROJECTS. The secretary of
2 transportation shall submit in proposed form the rules required under section 85.05
3 of the statutes, as created by this act, to the legislative council staff under section
4 227.15 (1) of the statutes no later than April 1, 1998.

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(END)