

LEGISLATURE APPROVES BUDGET BILL—GOVERNOR’S SIGNATURE PENDING

On June 16, the Senate passed the Budget Bill after approving the amendments to the bill made by the Assembly. The Assembly amendments make several important changes to the Budget Repair Bill (“BRB”) as discussed below. The Budget Bill now awaits the governor’s signature, which may include partial vetoes to the legislation.

The Assembly passed the Budget Bill on June 15, as modified by an omnibus amendment (Assembly Amendment 1 to AA1 to ASA1 to AB40). The Amendment incorporates several of the changes to the Budget Repair Bill discussed in the memo provided earlier this week. The Legislative Fiscal Bureau has released a memo discussing the changes to the BRB, which can be found at: <http://wispolitics.com/1006/110615LFBmemo.pdf>.

Assembly Amendment 1 to AA1 strips AA1 of the provisions that were intended to incorporate the BRB into the Budget Bill. The provisions incorporating the BRB no longer became necessary when the Supreme Court issued its decision on June 14th allowing the BRB to become law. However, ASA 1, as finally modified by AA1, makes the following changes to the BRB:

1. Pre-Tax Treatment of Employee WRS Contributions.

The assembly amendments to the Budget Bill allow mandated WRS contributions from employees to be made from the employee’s pre-tax income for purposes of federal and state income taxes but not for federal employment (FICA) taxes.

2. “Grandfathering” Current Public Safety Employees To Allow Them To Bargain Mandated WRS Contributions.

The amendments continue to allow public safety employees to bargain over WRS contributions for those public safety employees employed by municipal employers prior to the effective date of the bill. However, a municipal employer is prohibited from bargaining to pay the employee-required contributions of a public safety employee who first becomes employed by a municipal employer on or after the effective date of the bill.

3. Expansion of WRS Contribution Exemption to Nonrepresented Law Enforcement Managerial Employees.

The amendments limit the required WRS contribution for “nonrepresented law enforcement or firefighting managerial employees” to the percentage of WRS contribution paid by “represented law enforcement personnel.” This provision only applies to law enforcement managerial personnel employed by a municipal employer on the effective date of the bill and represented law enforcement personnel employed by a municipal employer on the effective date of the bill who subsequently become nonrepresented managerial personnel with the same

municipal employer. The terms “nonrepresented law enforcement managerial employee” and “represented law enforcement personnel” are not defined in amendments.

4. **Removal of Public Safety Employees’ Right to Bargain Over Health Insurance and Expansion of Public Safety Employee Exemption for State Plan.**

Under the BRB, health insurance is a prohibited subject of bargaining except for public safety employees. The amendments modify the BRB and make “[t]he design and selection of health care coverage plans” a prohibited subject of bargaining for public safety employees.

Moreover, the BRB prohibited counties that participate in the state health plan (State Plan) from paying more than 88% of the average premium cost of 1st tier health plans beginning January 1, 2012. The BRB exempted public safety employees from these restrictions on State Plan premium contributions. The amendments limit the required premium contributions for “nonrepresented law enforcement or firefighting managerial employees” to the premium contribution paid by “represented law enforcement personnel.” This provision only applies to law enforcement managerial personnel employed by a municipal employer on the effective date of the bill and represented law enforcement personnel employed by a municipal employer on the effective date of the bill who subsequently become nonrepresented managerial personnel with the same municipal employer. This will likely impact State Plan premium contributions for a limited time as premium contribution to the State Plan becomes a prohibited subject of bargaining upon expiration of the current collective bargaining agreement for law enforcement personnel.

5. **Effective Date for Employee WRS Contributions.**

The amendments clarify that mandated employee contributions to WRS will begin on any pay period following the effective date of the Budget Bill. The specific effective date will be determined by the Department of Administration.

6. **Exemption for Transit Employees and Certain Medical Service Providers in Door and Waushara Counties.**

Under the BRB, the only class of employees exempt from the changes to the collective bargaining laws was “public safety employees.” The amendments include certain medical service providers within the definition of “public safety employee.” Also, the exemption from changes to collective bargaining laws also applies to “transit employees.” The Wisconsin Employment Relations Commission will determine who is defined as a transit employee based upon whether a municipal employer would lose federal funding under 49 USC 5333(b) if the employee is not a transit employee. Transit employees retain all current rights related to collective bargaining including the right to bargain employer payment of the employee share of WRS contributions and right to bargain the provisions of employee health insurance plans.

7. Timing of Certification Vote.

The BRB requires all collective bargaining units containing at least one “general municipal employee” to undergo annual certification votes to determine whether to continue union representation. The amendments clarify that the first vote relating to certification shall be held in the third month beginning after the effective date of the Budget Bill. The WERC will assess and collect a certification fee for each election that is conducted.

8. Referendum Requirement for Increase in Base Wages.

The BRB required that a municipality conduct a referendum to allow the municipality to offer a wage increase to general municipal employees beyond the CPI threshold. It was not entirely clear if the referendum requirement applied only to those general municipal employees represented by a bargaining unit. The referendum clarifies that the referendum requirement applies only to represented general municipal employees.

9. Offers By Municipal Employers When There Is A Decrease in CPI

The amendments provide that if there is a decrease or no change in the CPI, municipal employers would be prohibited from bargaining for any change in total base wages for represented general municipal employees. In other words, the amendments to the BRB provide that a municipal employer is not required to offer the decrease in base wages consistent with CPI. Instead, the municipal employer will freeze base wages under those circumstances.

10. Interest Arbitration Factors for Represented Public Safety Employees.

The amendments require arbitrators in interest arbitrations involving public safety employees to give greater weight to the economic conditions in the jurisdiction of the municipal employer than the arbitrator gives to the factors under sec. 111.77(6)(bm).

We will continue to analyze the legislation as affected by any vetoes of the governor. In the meantime, for further information on legislative and legal developments, please visit: the Wisconsin Counties Association’s website at www.wicounties.org, our website at www.phillipsborowski.com, the Wheeler Report at www.thewheelerreport.com, or WisPolitics at www.wispolitics.com. We also encourage you to contact us with questions or concerns: atp@phillipsborowski.com, djb@phillipsborowski.com or pch@phillipsborowski.com.