



WISCONSIN LEGISLATIVE COUNCIL

JOINT LEGISLATIVE COUNCIL MINUTES

Room 412 East, State Capitol
Madison, Wisconsin

March 14, 2007
8:30 - 10:40 a.m.

[The following is a summary of the March 14, 2007 meeting of the Joint Legislative Council. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting and a copy of the registration form listing those who attended. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Co-Chair Wieckert called the meeting to order and gave a brief report on the status of the Joint Legislative Council study committee work and membership change within the Council. He announced the newest members: Senators Breske, Carpenter, Coggs, Darling, and Harsdorf; and Representatives Ballweg, Berceau, Fitzgerald, Gottlieb, Pohan, and Rhoades.

He stated that the Council is in the process of a spring symposium series. Three sessions have been held covering the topics of the developmental disabilities program, the University of Wisconsin (UW) Research Park and Wisconsin economy, and media relations. He noted that the final session will be held on March 21, at 8:30 a.m., in Room 412 East, and the topic is effective criminal justice strategies. The average attendance at each symposium has been near 50 people. He said that many legislators had already provided positive feedback.

He explained that the previous Joint Legislative Council established 18 special committees in addition to the State-Tribal Relations and Law Revision Committees. Seven of these committees are reporting at this meeting.

Co-Chair Wieckert also mentioned that it is customary to consider reintroduction of some bills that were approved by the previous Council, but due to the lateness of their introduction, they did not receive complete legislative consideration. Typically, he said, this is done by a one "blanket" motion.

Next, Co-Chair Wieckert pointed out that each Special Committee has its own Web page at the Legislative Council Web site. All documents and hearing recordings are available there. He noted that

public testimony would not be received today and reminded the members that all bills recommended today will enter into the standard legislative process so there is ample time for testimony during the standing committee hearings.

Last, Co-Chair Wieckert explained certain Council rules:

- ▶ Members must be physically present to vote. If you are not here when the vote is taken, your vote cannot be recorded.
- ▶ Twelve affirmative votes are required, by statute, for a recommendation to be introduced to the Legislature.
- ▶ If amendments are to be offered, they must be in writing.

After making his remarks, Co-Chair Wieckert asked that the roll be taken. A quorum was noted present.

COMMITTEE MEMBERS
PRESENT:

Rep. Steve Wieckert and Sen. Fred Risser, Co-Chairs; Reps. Joan Ballweg, Terese Berceau, Jeff Fitzgerald, Mark Gottlieb, Dean Kaufert, Mark Pocan, Kitty Rhoades, and Marlin Schneider; and Sens. Tim Carpenter, Spencer Coggs, Alberta Darling, Russell Decker, Scott Fitzgerald, Sheila Harsdorf, Alan Lasee, Mark Miller, and Judy Robson.

COMMITTEE MEMBERS
EXCUSED:

Reps. Michael Huebsch and Jim Kreuser; and Sen. Roger Breske.

COUNCIL STAFF PRESENT:

Terry C. Anderson, Director; Laura Rose, Deputy Director; Don Dyke, Chief of Legal Services; John Stolzenberg, Chief of Research Services; Joyce Kiel, Mary Matthias, Mark Patronsky, Don Salm, Anne Sappenfield, Ron Sklansky, Richard Sweet, and Russ Whitesel, Senior Staff Attorneys; Jessica Karls, Larry Konopacki, and Rachel Letzing, Staff Attorneys; David L. Lovell and Dan Schmidt, Senior Analysts; Christina Enders, Council Intern; and Kelly Mautz and Wendy Ulrich, Administrative Assistants.

APPEARANCES:

Alison Bergum, Policy Analyst/Research, and Sara Gustafson, Project Coordinator, UW Population Health Institute; Sen. Scott Fitzgerald, Chair, Special Committee on Applicability of Open Meetings Law to Quasi-Governmental Bodies; Rep. Steve Wieckert, Chair, Special Committee on Uniform Debt Management Services; Rep. Mark Gottlieb, Chair, Special Committee on Highway Weight Limits; Sen. Alberta Darling, Chair, Special Committee on Review of Crimes Against Children; Rep. Terry Musser, Chair, Special Committee on State-Tribal Relations; and Sen. Alan Lasee, Chair, Special Committee on Navigability and Drainage Ditches.

Approval of the Minutes of the Committee's April 26, 2006 Meeting

Co-Chair Wieckert asked for a motion to approve the April 26, 2006 minutes of the Joint Legislative Council.

Rep. Schneider moved, seconded by Sen. Carpenter, that the minutes of the April 26, 2006 meeting be approved. The motion was adopted by unanimous consent.

Approval of Changes to Certain Special Committees

Co-Chair Wieckert pointed out a motion that was at the Council members' places. He explained that this motion made the following changes to some of the Special Committees:

1. Appointing Senator Lena Taylor as a new Member to the Special Committee on Affirmative Action.
2. Appointing as a Public Member to the Special Committee on Affirmative Action Maria Monteagudo, Director of the City of Milwaukee's Department of Employee Relations, to replace Public Member Charles Coleman, City of Milwaukee Diversity and Outreach Office, who has resigned.
3. Appointing as a Public Member Rose Alcalá-Ament of DePere to the Special Committee on Affirmative Action, to replace Public Member Camille Solberg, who has resigned.
4. Appointing Representative Terry Musser Chair of the Special Committee on Recodification of Chapter 21, Military Affairs, to replace Senator Ron Brown who is no longer a legislator.
5. Appointing Senator Scott Fitzgerald and Representative Gary Bies to the Special Committee on State-Tribal Relations.

Co-Chair Wieckert asked for a motion to approve the above motion.

Rep. Schneider moved, seconded by Rep. Ballweg, that the motion to make the above-mentioned changes to certain special committees be approved. The motion was adopted by unanimous consent.

Report on Evidence-Based Health Policy Project, by Sara Gustafson, Project Coordinator, and Alison Bergum, Policy Analyst/Research, UW Population Health Institute

Co-Chair Wieckert announced that the Council would be receiving a report on our cooperative effort relative to evidence-based health information. This cooperative effort involves the UW Center for

Population Health, the La Follette School, and the Council. He and Co-Chair Risser have appointed delegates of the Council to advise this group. They are: Representatives Berceau, Rhoades, and Wieckert; and Senators Darling, Miller, and Robson.

Next, Co-Chair Wieckert introduced Sara Gustafson, Project Coordinator, and Alison Bergum, Policy Analyst/Research, UW Population Health Institute.

Ms. Bergum and Ms. Gustafson shared a PowerPoint presentation with the Council members on *Advancing Evidence-Based Health Policy in Wisconsin: Policy Alternatives within a Non-Partisan Setting*. This presentation is available on our Web site at <http://www.legis.state.wi.us/lc>.

Co-Chair Wieckert and other Council members thanked them for their informative presentation.

Reports of 2007 Special Committees

Special Committee on Applicability of Open Meetings Law to Quasi-Governmental Bodies

Senator Scott Fitzgerald, Chair, reported on the activities of the committee and presented the report to the Council members.

He began by stating that the Open Meetings Law applies to meetings of various governmental bodies and that the term “governmental body” also includes a “quasi-governmental corporation.” He stated that the Attorney General has often considered what type of entity constitutes a quasi-governmental corporation and has concluded that the determination is a factual one based on a number of nonexclusive factors.

Senator Fitzgerald noted that the Special Committee met three times and narrowed its focus to the applicability of the Open Meetings Law to an economic development corporation. He indicated that the committee considered draft legislation applying the Open Meetings Law to an economic development corporation when the corporation meets both of the following criteria:

1. It is a nonprofit entity.
2. It receives at least 50% of its funds from governmental bodies or at least 1/2 of its board or officers consists of public officials or public employees.

Senator Fitzgerald stated that: (1) members of the Special Committee representing the media believed that the 50% standards were too high and would prevent the public from participating in decisions of public importance; (2) members of the Special Committee representing economic development corporations believed that the draft legislation should entirely exempt an economic development corporation from the Open Meetings Law because business planning cannot be most effective while under public scrutiny; and (3) members of the Special Committee representing local governments held that current law is acceptable and no new legislation is needed. Seeing no consensus among the members, Senator Fitzgerald permanently adjourned the proceedings of the Special Committee.

Finally, Senator Fitzgerald noted that, on March 8, the Wisconsin Court of Appeals asked the Wisconsin Supreme Court to determine the meaning of the term “quasi-governmental corporation” in the case of *State v. Beaver Dam Area Development Corporation*.

He stated that the Supreme Court has not yet decided to take the case.

Co-Chair Wieckert thanked Senator Fitzgerald for the work on this topic, even though it did not result in the introduction of any legislation.

Special Committee on Uniform Debt Management Services

Co-Chair Risser in the Chair. Representative Wieckert, Chair of the Special Committee, reported on the activities of the committee and described LRB-0917/1, relating to adopting the Uniform Debt-Management Services Act.

He stated that LRB-0917/1 will replace current subchapter II of chapter 218 of the Wisconsin statutes which regulates adjustment service companies. Adoption of this draft will provide uniform comprehensive regulation of debt counseling and management services in Wisconsin.

Last, he noted that the draft was approved by unanimous vote of committee members and is supported by the Department of Financial Institutions.

Co-Chair Risser asked if there was any discussion on this proposal. Hearing none, he asked for a motion for introduction.

Sen. Risser moved, seconded by Sen. Robson, that LRB-0917/1, relating to adopting the Uniform Debt-Management Services Act, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 18 (Reps. Wieckert, Ballweg, Berceau, Fitzgerald, Gottlieb, Pocan, Rhoades, and Schneider; and Sens. Risser, Carpenter, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Lasee, Miller, and Robson); Noes, 0; and Absent, 4 (Reps. Huebsch, Kaufert, and Kreuser; and Sen. Breske).

[Rep. Kaufert would have voted Aye had he been present.]

Special Committee on Highway Weight Limits

Co-Chair Wieckert in the Chair. Representative Mark Gottlieb, Chair, Special Committee on Highway Weight Limits, briefly reported on the actions of the committee and described LRB-1866/1, relating to requiring the Department of Transportation (DOT) to study vehicle size and weight limits.

He said that his goal for this committee was to rework Wisconsin’s highway weight limit laws. However, based on testimony, the committee recognized that the highway weight limit laws in Wisconsin were so complex that there was no way to simply our own laws and make them more compatible with the laws of other states.

He said that the committee learned of a recent study of truck size and weight limits in Minnesota. In the study, Minnesota assessed changes to the truck size and weight limit laws that would strike a balance between benefits to the Minnesota economy resulting from appropriate size and weight limits; and continuing public safety and protection of state roads and bridges.

Representative Gottlieb said that the Special Committee saw the benefit of a similar study in Wisconsin. The bill draft recommended by the Special Committee requires the DOT to contract for a study of Wisconsin truck size and weight limit laws, to identify changes in those laws that would have a net benefit to Wisconsin's economy, and to submit the report to the Legislature no later than January 1, 2009.

After some discussion on the cost of the study to DOT, and energy consumption, Co-Chair Wieckert asked if there was a motion to introduce this proposal.

Sen. Harsdorf moved, seconded by Rep. Schneider, that LRB-1866/1, relating to requiring the DOT to study vehicle size and weight limits, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 18 (Reps. Wieckert, Ballweg, Berceau, Fitzgerald, Gottlieb, Pocan, Rhoades, and Schneider; and Sens. Risser, Carpenter, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Lasee, Miller, and Robson); Noes, 0; and Absent, 4 (Reps. Huebsch, Kaufert, and Kreuser; and Sen. Breske).

[Rep. Kaufert would have voted Aye had he been present.]

Special Committee on Review of Crimes Against Children

Senator Alberta Darling, Chair, Special Committee on Review of Crimes Against Children, reviewed the work of the committee and highlighted the key points in LRB-1721/1 (relating to the offenses of sexual assault of a child; prosecution and statute of limitations for sexual assault of a child; and modifications to other offenses against children). She also asked that the Council introduce these recommendations as companion bills in both houses of the Legislature.

Council members asked about how current law relates to sexual activity between teenagers and whether the committee had considered modifying current law. Senator Darling responded that the committee's recommendations do not address this issue. Council members also asked about the rationale for and fiscal impact of increasing the penalty for causing great bodily harm to a child from a Class C to Class E felony. Senator Darling said that committee members believed the increased penalty was more appropriate for the offense and was consistent with other offenses in ch. 948, Stats. Several Council members commended Senator Darling for the work she did on a very difficult subject.

Co-Chair Wieckert asked if there was a motion for introduction.

Rep. Schneider moved, seconded by Sen. Carpenter, that LRB-1721/1, relating to crimes against children and providing penalties, be introduced, as companion bills, by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 18 (Reps. Wieckert, Ballweg,

Berceau, Fitzgerald, Gottlieb, Pocan, Rhoades, and Schneider; and Sens. Risser, Carpenter, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Lasee, Miller, and Robson); Noes, 0; and Absent, 4 (Reps. Huebsch, Kaufert, and Kreuser; and Sen. Breske).

[Rep. Kaufert would have voted Aye had he been present.]

Special Committee on State-Tribal Relations

Representative Terry Musser, Chair, Special Committee on State-Tribal Relations, began by describing the committee, including its membership, and purpose. He next described the three recommendations before the Council:

- ▶ LRB-1915/1, relating to liability for the actions of tribal law enforcement officers when enforcing state law.
- ▶ LRB-1916/1, relating to treatment in the statutes of Great Lakes Indian Fish and Wildlife Commission wardens.
- ▶ LRB-1646/2, relating to providing benefits to tribal schools and tribal school pupils similar to those provided to private schools and private school pupils.

Last, he mentioned that versions of these three drafts were introduced by the Council last session. He asked that, if introduced by the Council, these drafts be introduced as companion bills.

Co-Chair Wieckert asked if there was any discussion on these drafts. Hearing none:

Sen. Risser moved, seconded by Sen. Coggs, that the three drafts recommended by the Special Committee on State-Tribal Relations be voted on en masse and introduced as companion bills in the 2007-08 Legislative Session. The motion passed on a roll call vote as follows: Ayes, 18 (Reps. Wieckert, Ballweg, Berceau, Fitzgerald, Gottlieb, Pocan, Rhoades, and Schneider; and Sens. Risser, Carpenter, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Lasee, Miller, and Robson); Noes, 0; and Absent, 4 (Reps. Huebsch, Kaufert, and Kreuser; and Sen. Breske).

[Rep. Kaufert would have voted Aye had he been present.]

Special Committee on Navigability and Drainage Ditches

Senator Alan Lasee, Chair, Special Committee on Navigability and Drainage Ditches, reported on the work of the committee and described the committee's recommended drafts:

- ▶ WLC: 0065/2, relating to appeals from the determination that a stream is navigable, mapping of navigable streams, the exemption for certain drainage ditches from certain permit requirements, and notices in forms for building permit applications and

for offers to purchase real property regarding wetlands and navigable streams and requiring rule-making.

- ▶ WLC: 0091/1, relating to creating a presumption of reasonableness for drainage district board orders.

He pointed out that WLC: 0065/2 contains the bulk of the Special Committee's recommendations.

After Council members discussed the rule-making and other provisions of WLC: 0065/2:

Sen. Risser moved, seconded by Sen. Carpenter, that WLC: 0065/2, relating to appeals from the determination that a stream is navigable, mapping of navigable streams, the exemption for certain drainage ditches from certain permit requirements, and notices in forms for building permit applications and for offers to purchase real property regarding wetlands and navigable streams and requiring rule-making, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 13 (Reps. Wieckert, Ballweg, Berceau, Fitzgerald, and Schneider; and Sens. Risser, Carpenter, Coggs, Darling, Fitzgerald, Harsdorf, Lasee, and Robson); Noes, 3 (Reps. Gottlieb and Rhoades; and Sen. Miller); and Absent, 6 (Reps. Huebsch, Kaufert, Kreuser, and Pocan; and Sens. Breske and Decker).

[Rep. Kaufert and Sen. Decker would have voted Aye had they been present.]

Sen. Lasee moved, seconded by Sen. Carpenter, that WLC: 0091/1, relating to creating a presumption of reasonableness for drainage district board orders, be introduced by the Joint Legislative Council. The motion failed on a roll call vote as follows: Ayes, 10 (Reps. Wieckert, Ballweg, Fitzgerald, Gottlieb, Rhoades, and Schneider; and Sens. Darling, Fitzgerald, Harsdorf, and Lasee); Noes, 6 (Rep. Berceau; and Sens. Risser, Carpenter, Coggs, Miller, and Robson); and Absent, 6 (Reps. Huebsch, Kaufert, Kreuser, and Pocan; and Sens. Breske and Decker).

[Rep. Kaufert would have voted Aye had he been present. Sen. Decker would have voted No had he been present.]

Special Committee on Nuclear Power

Co-Chair Wieckert announced that Representative Phil Montgomery, Chair, Special Committee on Nuclear Power, had requested that this report be deferred to a later meeting by the Joint Legislative Council in order to make further preparations for the report.

Consideration of Certain 2005 JLC Bills for Reintroduction

Co-Chair Wieckert stated that he is recommending that the Joint Legislative Council consider reintroduction of two bills introduced in the 2005 Session which were not enacted. He noted that these proposals were identified in a memorandum distributed to the members of the Council: They are:

- ▶ 2005 Senate Bill 460, relating to municipal boundary agreements and the use of alternative dispute resolution in municipal boundary disputes; and
- ▶ 2005 Senate Bill 461, relating to Department of Administration advisory review of certain annexations.

Rep. Gottlieb moved, seconded by Rep. Wieckert, that the two drafts recommended by the Special Committee on Municipal Annexation be voted on en masse and introduced as companion bills into the Legislature. The motion passed on a roll call vote as follows: Ayes, 16 (Reps. Wieckert, Ballweg, Berceau, Fitzgerald, Gottlieb, Rhoades, and Schneider; and Sens. Risser, Carpenter, Coggs, Darling, Fitzgerald, Harsdorf, Lasee, Miller, and Robson); Noes, 0; and Absent, 6 (Reps. Huebsch, Kaufert, Kreuser, and Pocan; and Sens. Breske and Decker).

[Rep. Kaufert and Sen. Decker would have voted Aye had they been present.]

Other Business

There was no other business to come before the Joint Legislative Council.

Adjournment

The meeting was adjourned at 10:40 a.m.

TCA:wu;ksm