



WISCONSIN LEGISLATIVE COUNCIL

JOINT LEGISLATIVE COUNCIL MINUTES

Room 412 East, State Capitol
Madison, Wisconsin

March 26, 2009
8:15 – 11:30 a.m.

[The following is a summary of the March 26, 2009 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 Risser 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 mentioned that there are eight new Council members. Those members are: Senators Kreitlow, Schultz, and Wirsch; and Representatives Black, Berceau, Sheridan, Staskunas, and Vos.

He explained that the previous Joint Legislative Council established 11 special committees in addition to the State-Tribal Relations and Law Revision Committees. Eight of these committees are reporting at this meeting.

Co-Chair Risser explained to the Council that the Ho-Chunk Nation Legislature and the Stockbridge-Munsee Tribe recently nominated members to the State-Tribal Relations committee. He said that this Special Committee is unique in that, by statute, public members are nominated by the various tribes or the Great Lakes Inter-Tribal Council. Because of the unique nomination process for this Special Committee, membership nominations need to be addressed on a timely basis. He asked that the Council approve these appointments to the Special Committee at today's meeting. In addition, the appointment of an additional member to the Strengthening Wisconsin Families committee will also be considered.

Next, Co-Chair Risser 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. He added that amendments to bills are also better suited to the legislative process and standing committee activity.

Last, Co-Chair Risser 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 Risser asked that the roll be taken. A quorum was noted present.

COMMITTEE MEMBERS

PRESENT:

Sen. Fred Risser and Rep. Marlin Schneider, Co-Chairs; Sens. Spencer Coggs, Alberta Darling, Russell Decker, Scott Fitzgerald, Sheila Harsdorf, Pat Kreitlow, Mark Miller, Judy Robson, Dale Schultz, and Robert Wirch; and Reps. Joan Ballweg, Terese Berceau, Spencer Black, Jeff Fitzgerald, Dean Kaufert, Tom Nelson, Mark Pocan, Michael Sheridan, Tony Staskunas, and Robin Vos.

COUNCIL STAFF PRESENT:

Terry C. Anderson, Director; Don Dyke, Chief of Legal Services; Joyce Kiel, Rachel Letzing, Mary Matthias, Don Salm, Anne Sappenfield, Ron Sklansky, and Russ Whitesel, Senior Staff Attorneys; Scott Grosz, Jessica Karls, Larry Konopacki, and Melissa Schmidt, Staff Attorneys; David L. Lovell and Dan Schmidt, Senior Analysts; Lindsay Read, Intern; and Julie Learned and Kelly Mautz, Administrative Assistants.

APPEARANCES:

Rep. Mark Gottlieb, Chair, Special Committee on Differences in Laws Applicable to Cities and Villages; Sen. Spencer Coggs, Chair, and Rep. Jeff Mursau, Vice Chair, Special Committee on State-Tribal Relations; Sen. Jim Sullivan, Chair, Special Committee on Enhancing Recreational Trails for Non-Motorized Use; Sen. John Lehman, Chair, Special Committee on School Safety; Sen. Tim Carpenter, Chair, Special Committee on High-Risk Juvenile Offenders; Sen. Lena Taylor and Rep. Steve Kestell, Co-Chairs, Strengthening Wisconsin Families; Sen. Judy Robson, Chair, and Rep. Al Ott, Member, Regional Transportation Authority; and Sen. Julie Lassa, Chair, Special Committee on Performance-Based Disease Management Programs for Large Populations.

**Approval of the Minutes of the Committee's
December 12, 2007 Meeting**

Co-Chair Risser asked for a motion to approve the December 12, 2007 minutes of the Joint Legislative Council.

Sen. Decker moved, seconded by Sen. Miller, that the minutes of the December 12, 2007 meeting be approved. The motion was adopted by unanimous consent.

**Committee Report No. 2 of the
Special Committee on Differences in Laws
Applicable to Cities and Villages**

Representative Mark Gottlieb, Chair, reported on the work of the committee and described the bill draft recommended to the Joint Legislative Council.

Co-Chair Risser asked for a motion to approve LRB-0568/2.

Co-Chair Schneider moved, seconded by Sen. Decker, that LRB-0568/2, relating to establishing and changing compensation for city and village elective offices; signing village contracts; bidding procedure for village public construction contracts; officer-of-the-peace status of village officers; publication by the city clerk of fund receipts and disbursements; village and 4th class city regulation of political signs; liability of counties and cities for mob damage; means of providing police and fire protection by cities and villages; holdover status of appointed city and village officers; use of the s. 32.05 procedure in villages for certain housing and urban renewal condemnation; and application of public contract bidder prequalification to 1st class cities, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 22 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, Staskunas, and Vos); Noes, 0; and Absent, 0.

**Committee Report No. 4 of the
Special Committee on State-Tribal Relations and
Membership Appointments**

Senator Spencer Coggs, Chair, and Representative Jeff Mursau, Vice Chair, Special Committee on State-Tribal Relations, highlighted the major points in the three drafts recommended to the Joint Legislative Council.

Co-Chair Risser asked if there was a motion for introduction *en masse*.

Co-Chair Schneider moved, seconded by Sen. Miller, that the following three drafts recommended by the Special Committee on State-Tribal Relations, be introduced by the Joint Legislative Council:

- 1. LRB-1241/1, relating to providing benefits and protections to tribal schools and tribal school pupils and staff similar to those provided to private schools and private school pupils and staff.*
- 2. LRB-1366/1, relating to administration of grant funds under the county-tribal cooperative law enforcement program.*
- 3. LRB-1367/1, relating to liability for actions of tribal law enforcement officers when enforcing state laws.*

The motion passed on a roll call vote as follows: Ayes, 22 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, Staskunas, and Vos); Noes, 0; and Absent, 0.

Co-Chair Risser asked for unanimous consent to nominate Mr. David Brown and Mr. Gregg Duffek as public members to the State-Tribal Relations committee.

Co-Chair Risser asked for unanimous consent to appoint Mr. David Brown nominated by the Ho-Chunk Nation and Mr. Gregg Duffek nominated by the Stockbridge-Munsee Community as public members to the Special Committee on State-Tribal Relations. There was no objection to the motion and the members were appointed.

Committee Report No. 6 of the Special Committee on Enhancing Recreational Trails for Non-Motorized Use

Senator Jim Sullivan, Chair, Special Committee on Enhancing Recreational Trails for Non-Motorized Use, reported on the activities of the committee and described the three drafts recommended to the Joint Legislative Council.

Co-Chair Risser asked if there was a motion for introduction *en masse*. Senator Decker asked to have WLC: 0343/3 be voted on separately, but agreed to have WLC: 0243/2 and WLC: 0377/2 be voted on *en masse*. There was no objection.

Sen. Kreitlow moved, seconded by Rep. Ballweg, that the following two drafts recommended by the Special Committee on Enhancing Recreational Trails for Non-Motorized Use, be introduced by the Joint Legislative Council:

- 1. WLC: 0243/2, relating to trespass by operators of snowmobiles, all-terrain vehicles, and other off-road vehicles.*

2. *WLC: 0377/2, relating to creating a nonmotorized recreation and transportation trails council.*

The motion passed on a roll call vote as follows: Ayes, 22 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, Staskunas, and Vos); Noes, 0; and Absent, 0.

Sen. Robson moved, seconded by Rep. Black, that WLC: 0343/3, relating to nonmotorized trail maintenance, granting rule-making authority, and making appropriations, be introduced by the Joint Legislative Council. The motion passed on a roll call vote of Ayes, 13 (Sens. Risser, Coggs, Darling, Kreitlow, Miller, and Robson; and Reps. Schneider, Black, Berceau, Nelson, Pocan, Sheridan, and Staskunas); Noes, 9 (Sens. Decker, Fitzgerald, Harsdorf, Schultz, and Wirch; and Reps. Ballweg, Fitzgerald, Kaufert, and Vos); and Absent, 0.

Committee Report No. 3 of the Special Committee on School Safety

Senator John Lehman, Chair, Special Committee on School Safety, reported on the work of the committee and described the committee's two recommended bill drafts.

Rep. Sheridan moved, seconded by Sen. Coggs, that LRB-1741/P3, relating to school safety plans, pupil records, and school bullying, be introduced by the Joint Legislative Council. The motion passed on a roll call vote of Ayes, 22 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, Staskunas, and Vos); Noes, 0; and Absent, 0.

Sen. Robson moved, seconded by Sen. Decker, that LRB-1740/2, relating to adjusting a school district's revenue limit for certain school safety expenditures, be introduced by the Joint Legislative Council. The motion passed on a roll call vote of Ayes, 17 (Sens. Risser, Coggs, Darling, Decker, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Nelson, Pocan, Sheridan, and Staskunas); Noes, 5 (Sens. Fitzgerald and Harsdorf; and Reps. Fitzgerald, Kaufert, and Vos); and Absent, 0.

Committee Report No. 1 of the Special Committee on High-Risk Juvenile Offenders

Senator Tim Carpenter, Chair, Special Committee on High-Risk Juvenile Offenders, reported on the work of the committee and described the committee's five recommended drafts.

Co-Chair Risser asked if there was a motion for introduction *en masse*. Representative Vos asked to have LRB-1756/1 voted on separately. There was no objection.

Sen. Decker moved, seconded by Sen. Robson, that the following four drafts recommended by the Special Committee on High-Risk Juvenile Offenders, be introduced by the Joint Legislative Council:

1. *LRB-1753/1, relating to an examination of the juvenile in a proceeding for waiver of juvenile court jurisdiction.*
2. *LRB-1754/1, relating to the criteria for waiver of adult criminal court jurisdiction over a juvenile and transfer of the case to juvenile court.*
3. *LRB-1758/1, relating to creating a rebuttable presumption of retaining juvenile court jurisdiction in waiver proceedings involving a first offender.*
4. *WLC: 0378/1, relating to waiver to adult court.*

The motion passed on a roll call vote as follows: Ayes, 20 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Kaufert, Nelson, Pocan, Sheridan, and Staskunas); Noes, 2 (Reps. Fitzgerald and Vos); and Absent, 0.

Sen. Decker moved, seconded by Sen. Robson, that LRB-1756/1, relating to funding to counties to cover increase in juvenile corrections costs be introduced by the Joint Legislative Council. The motion passed on a roll call vote of Ayes, 22 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, Staskunas, and Vos); Noes, 0; and Absent, 0.

Committee Report No. 5 of the Special Committee on Strengthening Wisconsin Families

Senator Lena Taylor, Co-Chair, and Representative Steve Kestell, Co-Chair, Special Committee on Strengthening Wisconsin Families, presented the report of the Special Committee and gave a brief description of WLC: 0125/2, LRB-1912/2, and WLC: 0303/2.

Co-Chair Risser asked if there was a motion for introduction *en masse*.

Sen. Miller moved, seconded by Sen. Schultz, that the following three drafts recommended by the Special Committee on Strengthening Wisconsin Families, be introduced by the Joint Legislative Council:

1. *WLC: 0125/2, relating to children who are involved in multiple systems of care and their families, and making an appropriation.*

2. *LRB-1912/2, relating to child abuse and neglect prevention grants.*
3. *WLC: 0383/4, relating to requiring notice to relatives when a child is taken into custody and disclosure of information to relatives for the purpose of facilitating a relationship or placement.*

The motion passed on a roll call vote as follows: Ayes, 22 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, Staskunas, and Vos); Noes, 0; and Absent, 0.

Co-Chair Risser asked for unanimous consent to nominate Ms. Wanda Montgomery as a public member to the Special Committee on Strengthening Wisconsin Families.

Co-Chair Risser asked for unanimous consent to appoint Wanda Montgomery as a public member to the Special Committee on Strengthening Wisconsin Families. There was no objection to the motion and Ms. Montgomery was appointed.

Committee Report No. 8 of the Special Committee on Regional Transportation Authority

Senator Judy Robson, Chair, Special Committee on Regional Transportation Authority, presented the report of the Special Committee and gave a brief description of WLC: 0063/2. She was joined by past Chair Representative Al Ott who commented on the committee process and recommendations.

Rep. Black moved, seconded by Sen. Risser, that WLC: 0063/2, relating to the creation of regional transit authorities, and making appropriations, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 14 (Sens. Risser, Coggs, Darling, Harsdorf, Miller, and Robson; and Reps. Schneider, Black, Berceau, Kaufert, Nelson, Pocan, Sheridan, and Staskunas); Noes, 8 (Sens. Decker, Fitzgerald, Kreitlow, Schultz, and Wirch; and Reps. Ballweg, Fitzgerald, and Vos); and Absent, 0.

Committee Report No. 7 of the Special Committee on Performance-Based Disease Management Programs for Large Populations

Senator Julie Lassa, Chair, Special Committee on Performance-Based Disease Management Programs for Large Populations, reported on the work of the committee and described the committee's seven recommended drafts.

Co-Chair Risser asked if there was a motion for introduction *en masse*.

Rep. Black moved, seconded by Sen. Robson, that the following four drafts recommended by the Special Committee on Performance-Based Disease Management Programs for Large Populations, be introduced by the Joint Legislative Council:

1. *WLC: 0389/2, relating to health care homes.*
2. *WLC: 0388/2, relating to school nutrition.*
3. *WLC: 0387/2, relating to physical fitness assessments.*
4. *WLC: 0399/1, relating to traditional neighborhood development ordinances, mixed-use zoning, Department of Transportation planning for bicycle and pedestrian ways, and the state housing strategy plan.*

The motion passed on a roll call vote as follows: Ayes, 20 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, and Schultz; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, and Staskunas); Noes, 1 (Sen. Wirch); and Absent, 1 (Rep. Vos).

Co-Chair Schneider moved, seconded by Co-Chair Risser, that WLC: 0384/2, be amended as follows:

1. *Page 3, line 8: delete the material beginning with “In” and ending with “care” on line 14 and substitute:*

“Credits may be provided under the program only for costs related to electronic medical records systems that are certified or are being upgraded to become certified as specified under section 3301(C)(5)(A) of the American Recovery and Reinvestment Act of 2009.”.

2. *Page 3, line 14: delete “further”.*
3. *Page 3, line 18: after that line insert:*

“SECTION 5. 560.204 (4) of the statutes is amended to read:

560.204 (4) The department, in consultation with the department of revenue, shall promulgate rules to administer this section. The rules shall establish penalties that apply to a credit recipient that commits a breach as defined in s. 13400 (1) (A) of the American Recovery and Reinvestment Act of 2009.”.

NOTE: The American Recovery and Reinvestment Act of 2009 defines “breach” as follows:

“(1) BREACH.—

(A) IN GENERAL.—The term “breach” means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information.

(B) EXCEPTIONS.—The term “breach” does not include—

(i) any unintentional acquisition, access, or use of protected health information by an employee or individual acting under the authority of a covered entity or business associate if—

(I) such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate; and

(II) such information is not further acquired, accessed, used, or disclosed by any person; or

(ii) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and

(iii) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.”.

Co-Chair Risser called for a voice vote on the question and the amendment was adopted.

Co-Chair Schneider moved, seconded by Co-Chair Risser, that WLC: 0384/2, relating to the electronic medical records tax credit, be introduced by the Joint Legislative Council, as amended. The motion passed on a roll call vote as follows: Ayes 21 (Sens. Risser, Coggs, Darling, Decker, Fitzgerald, Harsdorf, Kreitlow, Miller, Robson, Schultz, and Wirch; and Reps. Schneider, Ballweg, Black, Berceau, Fitzgerald, Kaufert, Nelson, Pocan, Sheridan, and Staskunas); Noes, 0; and Absent, 1 (Rep. Vos).

Co-Chair Schneider moved, seconded by Sen. Robson, that WLC: 0385/2, relating to a quality rating system for child care, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes 13 (Sens. Risser, Coggs, Darling, Miller, Robson, and Wirch; and Reps. Schneider, Black, Berceau, Nelson, Pocan, Sheridan, and Staskunas); Noes, 7 (Sens. Decker, Fitzgerald, Harsdorf, and Schultz; and Reps. Ballweg, Fitzgerald, and Kaufert); and Absent, 2 (Sen. Kreitlow; and Rep. Vos).

WLC: 0397/1, relating to physical education teachers, was tabled due to a lack of a motion to introduce the proposal.

Other Business

Co-Chair Risser clarified that members must be present to vote. Once the balloting begins, it will be held open until all members have arrived and voted or until the adjournment of the Council meeting. Members will not be allowed to register their vote until the co-chair calls for the roll call vote on the measure and must register their vote prior to the meeting's adjournment.

Adjournment

The meeting was adjourned at 11:30 a.m.

TCA:ksm;wu