LEGISLATIVE HEARING CALENDAR

Positions to be taken by the City of Milwaukee on the following bills will be discussed by the

COMMITTEE ON JUDICIARY-LEGISLATION

MONDAY, JUNE 27, 2005 AT 2:30 PM

Room 301-B City Hall

SB-202 AB-414	Smoking in restaurants and bowling centers and the regulation of smoking by counties, cities, villages and towns.
	State Budget
	Federal Cable Legislation

2005 – 2006 LEGISLATURE

LRB–0963/8
RNK:jld:rs

2005 SENATE BILL 202

May 10, 2005 – Introduced by Senators S. FITZGERALD, BRESKE, A. LASEE, KANAVAS, KEDZIE and GROTHMAN, cosponsored by Representatives J. FITZGERALD, COLON, HUNDERTMARK, KRAWCZYK, VAN ROY, MUSSER, MEYER, OTT, STONE, F. LASEE, AINSWORTH, ALBERS, BIES, HONADEL, KLEEFISCH, LAMB, SUDER and WOOD. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

AN ACT ***to repeal*** 101.123 (2) (c); ***to renumber*** 101.123 (1) (a); ***to amend*** 101.123 (1) (f), 101.123 (1) (g) and 101.123 (4) (a) 1.; and ***to create*** 101.123 (1) (ab), 101.123 (2) (d), 101.123 (3) (e), 101.123 (3) (h), 101.123 (3m) and 101.123 (4) (a) 2m. of the statutes; **relating to:** smoking in restaurants and bowling centers and the regulation of smoking by counties, cities, villages, and towns.

Analysis by the Legislative Reference Bureau

Current law, with certain exceptions, prohibits smoking in enclosed, indoor areas within specified buildings and facilities, including restaurants with a capacity of more than 50 individuals. Among those places that are exempt from the prohibition are taverns holding a "Class B" intoxicating liquor license or Class "B" fermented malt beverage license issued by a municipality (liquor license) and restaurants holding a liquor license, if the sale of alcohol beverages accounts for more than 50 percent of the restaurant's receipts.

This bill expands the general prohibition against smoking in restaurants so that the prohibition applies regardless of the restaurant's capacity. The bill also creates a new exception to this general prohibition. Under the bill, the prohibition against smoking in restaurants does not apply to the bar area of a restaurant if the sale of food in the bar area is only incidental to the sale of alcohol beverages.

Current law, with certain exceptions, authorizes a person in charge of any building or facility where smoking is prohibited to designate smoking areas within the building or facility. This bill provides that a person in charge of a restaurant may not designate an area of a restaurant as a smoking area unless smoking is otherwise allowed in that restaurant.

Current law does not prohibit smoking in bowling centers. This bill prohibits smoking in bowling centers unless the bowling center meets certain conditions. In order for the bowling center to be exempt from the general prohibition against smoking, the bowling center must not be primarily devoted to the sale of alcohol, must prohibit smoking on each bowling lane when the bowling center is holding youth league play, must have an adequate ventilation system, must establish periods of time when smoking is prohibited in the bowling center, and must provide the same service to nonsmoking customers in a smoke–free area that it provides to smoking customers.

Current law provides that a county, city, village, or town (local government) may enact ordinances and a school district may adopt policies that protect the health and comfort of the public if those ordinances or policies comply with the purpose of state laws regulating smoking. This bill specifies that a local government may not enact or enforce an ordinance or adopt or enforce a resolution regulating smoking unless the ordinance or resolution strictly conforms with state law.

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

SECTION 1. 101.123 (1) (a) of the statutes is renumbered 101.123 (1) (ag).

SECTION 2. 101.123 (1) (ab) of the statutes is created to read:

101.123 **(1)** (ab) "Bowling center" means premises on which one or more bowling lanes are located.

SECTION 3. 101.123 (1) (f) of the statutes is amended to read:

101.123 **(1)** (f) "Restaurant" means an establishment defined in s. 254.61 (5) ~~with a seating capacity of more than 50 persons~~.

SECTION 4. 101.123 (1) (g) of the statutes is amended to read:

101.123 **(1)** (g) "Retail establishment" means any store or shop in which retail sales is the principal business conducted, except a tavern operating under a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license~~, and except bowling centers~~.

SECTION 5. 101.123 (2) (c) of the statutes is repealed.

2005 ASSEMBLY BILL 414

May 10, 2005 – Introduced by Representatives J. FITZGERALD, COLON, HUNDERTMARK, KRAWCZYK, VAN ROY, MUSSER, MEYER, OTT, STONE, F. LASEE, AINSWORTH, ALBERS, BIES, HONADEL, KLEEFISCH, LAMB, SUDER and WOOD, cosponsored by Senators S. FITZGERALD, BRESKE, A. LASEE, KANAVAS, KEDZIE and GROTHMAN. Referred to Committee on State Affairs.

AN ACT *to repeal* 101.123 (2) (c); *to renumber* 101.123 (1) (a); *to amend* 101.123 (1) (f), 101.123 (1) (g) and 101.123 (4) (a) 1.; and *to create* 101.123 (1) (ab), 101.123 (2) (d), 101.123 (3) (e), 101.123 (3) (h), 101.123 (3m) and 101.123 (4) (a) 2m. of the statutes; **relating to:** smoking in restaurants and bowling centers and the regulation of smoking by counties, cities, villages, and towns.

Analysis by the Legislative Reference Bureau

Current law, with certain exceptions, prohibits smoking in enclosed, indoor areas within specified buildings and facilities, including restaurants with a capacity of more than 50 individuals. Among those places that are exempt from the prohibition are taverns holding a "Class B" intoxicating liquor license or Class "B" fermented malt beverage license issued by a municipality (liquor license) and restaurants holding a liquor license, if the sale of alcohol beverages accounts for more than 50 percent of the restaurant's receipts.

This bill expands the general prohibition against smoking in restaurants so that the prohibition applies regardless of the restaurant's capacity. The bill also creates a new exception to this general prohibition. Under the bill, the prohibition against smoking in restaurants does not apply to the bar area of a restaurant if the sale of food in the bar area is only incidental to the sale of alcohol beverages.

Current law, with certain exceptions, authorizes a person in charge of any building or facility where smoking is prohibited to designate smoking areas within the building or facility. This bill provides that a person in charge of a restaurant may not designate an area of a restaurant as a smoking area unless smoking is otherwise allowed in that restaurant.

Current law does not prohibit smoking in bowling centers. This bill prohibits smoking in bowling centers unless the bowling center meets certain conditions. In order for the bowling center to be exempt from the general prohibition against smoking, the bowling center must not be primarily devoted to the sale of alcohol, must prohibit smoking on each bowling lane when the bowling center is holding youth league play, must have an adequate ventilation system, must establish periods of time when smoking is prohibited in the bowling center, and must provide the same service to nonsmoking customers in a smoke–free area that it provides to smoking customers.

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101.123 **(1)** (g) "Retail establishment" means any store or shop in which retail sales is the principal business conducted, except a tavern operating under a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license~~, and except bowling centers~~.

SECTION 5. 101.123 (2) (c) of the statutes is repealed.

Summary of the 2005-07 Joint Committee on Finance Budget
Impact on City of Milwaukee
(Comparison to Governor's Executive Budget))

6/23/05

LOCAL AID AND TAXES

Shared Revenue

The Joint Committee on Finance accepted the Governor's recommendation and funded the Shared Revenue program at the existing level of $854.7 million for all municipal and county governments.

Property Tax Levy Limits

The Governor's levy limit program was deleted and replaced with a three-year levy limit similar to Assembly Bill 58, vetoed by the Governor this spring. The levy limit would allow levy increases equal to the percentage increase in equalized value due to net new construction. It would exclude levies for school borrowing, tax increments, and debt service payments authorized by a referendum after July 1, 2005. It would also include a provision for referendum approval to exceed the levy limit in any given year.

Expenditure Restraint Program (ERP)

The Governor's recommendation to change the expenditure restraint program to a levy restraint program was deleted and the existing structure and funding level were restored.

Bonus Expenditure Restraint Payments – Additional $10 million Statewide

The Governor's recommendation to create a new bonus program was deleted.

Shared Revenue – Utility Aid

The Joint Committee on Finance adopted a new formula for the distribution of Utility Aid payments. The changes will go into effect over the next 4 years and will result in a lower aid payment to the city, from $845,000 to about $490,000. However, it also eliminates the tax exemption for utility owned general structures and substations. This will increase tax levy collections by about $810,000. The net impact of this provision will be approximately $450,000 in additional revenue for the city.

School Levy Credit

The Governor's proposed increase of $150 million in the school levy credit beginning in 2007 was reduced to $50 million. Also, the Governor's proposal to change the existing mechanism for distributing the school levy credit to a proportion to each school district's share of general school aids was deleted.

Local Revenue Sharing Agreements

Local governments will receive expanded authority to encourage growth and gain efficiencies by allowing counties to enter into revenue sharing agreements with municipalities or other counties and by expanding the scope of revenues that may be allocated under local revenue sharing agreements to include state payments and fees.

Payment for Municipal Services
The Governor's recommendation was accepted. Funding for this program was recommended at the same level as the previous biennium.

Computer Aid Payments
The Governor's recommendation was accepted. Statewide, funding for computer aid payments was reduced by $6 million in FY06 due to anticipated changes in valuation. It is unclear whether the city will receive the same payment since it depends on value. The payment date for FY07 payments was pushed back several weeks in order to fund it in the next biennium.

EDUCATION

Library Aids
The Governor's recommendation was accepted. Public Library System Aid will increase by 9.3% over the previous biennium by shifting funds from the Universal Service Fund to pay for a portion of the aid. MCFLS will receive an increase of approximately $125,000 in 2006 and an additional increase of $110,000 in 2007 for a total biennial increase of $360,000.

Interlibrary Loan and the Regional Library for the Blind and Physically Handicapped are funded at the same level as the previous biennium, and did not receive requested increases to fully cover costs.

General Equalization Aids for Public Schools
The Governor's recommendation to provide an additional $700,000,000 in school aids over the biennium was reduced by $328.4 million. The total reduction for MPS will be approximately $12 million in 2005-6 and $28 million in 2006-7. The Joint Committee on Finance also reduced the revenue limit per pupil adjustment from to $120 in 2005-6 and $100 in 2006-7 and thereafter.

Rolling Average for Revenue Limit Calculation
The Governor recommended setting a school district's revenue limit at the greater amount determined by using either a three-year or five-year rolling average of pupil enrollment for both the current and prior year calculations. The Joint Committee on Finance deleted this recommendation.

Qualified Economic Offer
The Governor recommended repealing the authority of a school district to avoid binding arbitration by offering a qualified economic offer (QEO) of 3.8% to its employees. With the repeal of the QEO, teachers would bargain in the same manner as other unionized public employees. The Joint Committee on Finance deleted this provision as it had no state fiscal impact.

SAGE Program
The Governor's recommendation to increase expenditure authority to offset the increasing costs to operate the Student Achievement Guarantee in Education (SAGE) program was deleted. The reimbursement rate for this program has not increased since 1996-97. The Joint Committee on

Finance also adopted a provision that would provide MPS with some flexibility in the SAGE program class sizes between 15 and 25 students.

Four-Year-Old Kindergarten
The Governor recommended providing $3 million in biennial expenditure authority to support a four-year-old kindergarten start-up grant program. The Joint Committee on Finance deleted the provision.

Bilingual-Bicultural Education Aid Increase
The Governor recommended increasing expenditure authority for bilingual-bicultural aid by $2.4 million over the biennium. The increase will help to offset the costs that school districts pay for their bilingual-bicultural educational programs and maintain the state's share of bilingual-bicultural costs at 12 percent. The Joint Committee on Finance approved this provision.

In-State Tuition for Undocumented State Residents
The Governor recommended an initiative to allow undocumented residents meeting certain criteria access to in-state tuition at state universities and technical colleges. The Joint Committee on Finance deleted this provision.

Biomedical Technology Alliance
The Joint Committee on Finance added $2.5 million in funding for support of the Biomedical Technology Alliance. This is a collaborative initiative to unite research efforts amongst five members: the University of Wisconsin-Milwaukee, the Medical College of Wisconsin, Marquette University, University of Wisconsin-Parkside and the Milwaukee School of Engineering.

ECONOMIC DEVELOPMENT

Homeless Veterans Pilot Program
The Joint Committee on Finance adopted a $234,600 provision over the biennium for a demonstration program that would provide housing vouchers to chronically homeless veterans. The vouchers would provide for housing in the City of Milwaukee Housing Authority developments.

DWD – Milwaukee Office
The Joint Committee on Finance recommended closing the Division of Workforce Solution's Milwaukee regional office. This action would eliminate 11 positions and eliminate state administration of TANF-related programs.

Brownfields Initiative
The Governor recommended continuing funding of $7 million in each year of the biennium for this grant program. The Joint Committee on Finance approved the recommendation.

Super Employment Development Zone Program
The Governor recommended this new $5 million program in 2006-07 to help create jobs in extremely depressed areas of the state – areas where unemployment equals or exceeds 150 percent of the statewide average. The provision was deleted by the Joint Committee on Finance.

Training Assistance Grant Program
The Governor recommended a new $2.5 million per year program to award job training grants to businesses that create a significant number of new, high paying jobs in the state or introduce a capital investment that would retain jobs. The Joint Committee on Finance deleted the provision.

Enterprise Development Zones – State Tax Credits Increased
The Governor recommended eliminating the cap on the number of enterprise development zones the department may designate without Joint Committee on Finance approval. The 79-zone cap applies even if the total funding available was not utilized. This is consistent with the city's legislative package. The Joint Committee on Finance voted to increase the cap by 4 zones, rather than eliminating it. The total amount of tax credits available under the program was also increased to $243 million, an increase of $6 million.

Grow Wisconsin – Reed Act
The Governor recommended providing $1million in each year of the biennium to provide funding for job center to help those on unemployment insurance re-enter the workforce. The Joint Committee on Finance deleted the provision.

TRANSPORTATION

Vehicle Registration Fee
The Governor recommended increasing vehicle registration fees. The Joint Committee on Finance deleted these increases.

General Transportation Aids
Funding for municipalities was increased by $2.83 million or 1% in 2006 and an additional $5.72 million or 2% in 2007. The city may not realize any of this increase since we are not adding lane-miles and our average costs are declining. However, it may help mitigate the reductions experienced by Milwaukee over the past several years (preliminary estimates indicate the city will still lose $600,000 in 2006). The Joint Committee on Finance approved this recommendation.

Lift Bridge Aids
The Governor provided an increase to fully fund 100% of the costs associated with lift bridge maintenance. This provision was adopted by the Joint Committee on Finance.

Amtrak Hiawatha Service
The Governor recommended funding of $3.3 million for Wisconsin's share of the Hiawatha Amtrak service from Milwaukee to Chicago over the biennium. This was a substantial increase, intended to offset an anticipated reduction in the State of Illinois' commitment to fund 25% of the state match. The Joint Committee on Finance deleted this appropriation and provided a

smaller appropriation in its contingency account, in the case federal funding and Illinois funding are restored.

Metra Commuter Rail - Regional Transit Authority
The Joint Committee on Finance approved the Governor's recommendation to provide $800,000 for the final engineering of the proposed Kenosha-Racine-Milwaukee Metra commuter rail system.

Additionally, the committee adopted a provision to create a three-county Regional Transit Authority to govern the new system and determine viable long-range financing. Short-term revenue would be derived from a $2 vehicle rental fee on all rentals in the three counties. The authority board would be comprised of seven members – two from the City of Milwaukee, one from Milwaukee County, one from Kenosha County, one from the City of Kenosha, one from Racine County, and one from the City of Racine. Six votes would be required to expend any authority funds.

Marquette Interchange
The Governor recommended providing $345.4 million in FY06 to complete this project. $213.1 million of this funding was new general obligation borrowing authority supported by the transportation fund. The Joint Committee on Finance deleted the bonding provision and funded the project with transportation fund revenue. It also extended payment for the project into the next biennium by financing the project based on date of expenditure, rather than date of encumbrance.

Other Southeastern Wisconsin Highways
The Governor recommended providing $68.6 million in additional funding over the biennium for the rehabilitation of other parts of the southeastern Wisconsin freeway system. An additional $29.2 million was recommended for preliminary engineering of the I-94 South corridor.

The Joint Committee on Finance accepted this recommendation and provided an additional $38 million in funding to begin preliminary engineering on the USH 45 – Zoo interchange project.

Tax Refund Intercept Program (TRIP)
The Governor recommended accepting TRIP certification through the use of driver's license numbers, rather than requiring a social security number. This provision was adopted by the Joint Committee on Finance.

HEALTH AND HUMAN SERVICES

Medicaid
Although caseloads are climbing and federal cost sharing is decreasing, eligibility and benefit standards remain constant. To fund the program, Doyle sought to transfer $180 million from the Injured Patients and Families Compensation Fund. The Joint Committee on Finance deleted the transfer and provided General Purpose Revenue to fully fund the program.

Medical Assistance Coverage for Youths Leaving Foster Care

The Governor recommended extending coverage to youths who, on their 18th birthday, are in out-of home care in foster homes, group homes, residential care centers or medical institutions. Coverage is effective January 1, 2007 and provided that youth remain eligible until their 21st birthday. The Joint Committee on Finance deleted this provision.

NATURAL RESOURCES AND ENVIRONMENT

Harbor Assistance Grants

The Governor recommended $11.4 million in bonding and $1.9 million in transportation funding over the biennium to improve Wisconsin's harbors. This is a $9.1 million increase over the current biennium. Of this amount, $8.1 million was designated for specific projects in northeastern Wisconsin and the remaining $3.3 million was unspecified. The Joint Committee on Finance reduced the amount for unspecified projects by $1 million.

To strengthen and promote cities as centers of opportunity, leadership, and governance.

National League of Cities

1301 Pennsylvania Ave., N.W.
Washington, D.C. 20004-1763
202-626-3000
Fax: 202-626-3043
www.nlc.org

June 9, 2005

The Honorable Ted Stevens
Chairman
U.S. Senate Committee on Commerce, Science and Transportation
508 Dirksen Office Building
Washington, DC 20510

The Honorable Daniel Inouye
Co-Chairman
U.S. Senate Committee on Commerce, Science and Transportation
508 Dirksen Office Building
Washington, DC 20510

Dear Senators Stevens and Inouye:

Much has been said this week about the possibility of nationalizing the franchising process for video programming. I write on behalf of the 18,000 cities and towns represented by the National League of Cities to share with you the important roles that local government plays in the franchising process and our concerns with any proposal that would eliminate local franchising authority. In short, nationalizing franchising would limit the benefits of head-to-head video competition to a chosen few and would cause chaos in our streets across the country.

Local government strongly endorses promoting competition for all consumers and treating like services alike. The elected leaders of our nation's cities and towns stand ready and willing to welcome video competition in their communities.

We must insist, however, that the benefits of competition come to all citizens. Physical, head-to-head competition is the most important way that our citizens will receive lower prices and better services. Current suggestions to remove local government from the franchising process will undermine this goal. Local elected leaders currently ensure that reasonable deployment schedules are established so that no neighborhood is considered unworthy of competition.

Cities' management of the rights of way protects public safety. While citizens want better programming at lower prices, they do not want potholes in their roads, water main breaks, and traffic jams during rush hour as a consequence. Yet local government's ability to ensure that public safety is maintained would be severely jeopardized without authority over the physical rights of way established through the franchising process.

Local management of the rights of way not only protects public safety, but also preserves competition. Individual providers have no incentive to ensure that their equipment leaves room for the new entrant of tomorrow or does not interfere with their competitors' infrastructure.

Allegations that local permission is difficult to acquire are not accurate. The franchising process is open and quick for those companies that do not seek to use the process to cherry pick who they will serve or obtain a regulatory advantage over their competitors. Cities stand by their obligation to ensure all similar services are treated the same.

Although the local franchising system protects important goals, this does not mean it cannot be streamlined. Local government stands ready to engage with Congress as it considers changes and reforms to the existing system consistent with our mutual goals of promoting competition for all our citizens.

Very truly yours,

Donald J. Borut

Donald J. Borut
Executive Director

cc: Senate Commerce Committee

FOLEY

FOLEY & LARDNER LLP
ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET, N.W., SUITE 500
WASHINGTON, D.C. 20007-5143
TELEPHONE: 202.672.5300
FACSIMILE: 202.672.5399
WWW.FOLEY.COM

MEMORANDUM

CLIENT-MATTER NUMBER
074365-0105

TO: Sharon Cook, Director,
Intergovernmental Relations

FROM: Ted Bornstein

DATE: June 23, 2005

RE: Cable and Telephone Franchise Legislation

The issue: Companies in the telecommunications industry (such as SBC) are petitioning the federal government to assert exclusive jurisdiction over IP services (Internet Protocol – video, voice and data) based on the theory that such services are inherently interstate information services. Telecommunications companies argue that this would bring more cable competition to consumers, and that local franchises delay competition and consumer choice.

Rep. Joe Barton (R. TX), Chairman of the House Energy and Commerce Committee, is planning to introduce legislation that would make major changes in the Telecommunications Act of 1996 in the next couple of weeks. (It should be noted that Chairman Barton has said that introduction of a bill is imminent several times over the past few months and not delivered on the promise.) In recent days he has said that his goal is to pass a major telecommunications bill in the House by the time Congress recesses for the summer on July 29. Chairman Barton's goals for the bill include:

- asserting federal jurisdiction over all IP (Internet Protocol) applications
- eliminating the traditional franchise obligations of new entrants in the TV market
- establishing circumstances in which telecom carriers and other entities can deliver Internet phone service and content over the local networks controlled by phone companies and cable operators.
- Giving the FCC a deadline to place E911 obligations on Internet-based phone providers.
- Providing guidelines for the FCC to change the rules governing national phone subsidies and the "intercarrier compensation" system by which telecommunications carriers pay one another to complete calls

Opposition from local governments (as presented by the National League of Cities and the US Conference of Mayors): Legislation like Chairman Barton's proposal and H.R. 214, introduced by Representatives Cliff Stearns (R. FL) and Rick Boucher (D. VA), would undermine the authority of local governments to manage and receive compensation for use of public property on behalf of the public, to tax local telecommunications services, and to provide for essential public services. A federal deregulatory approach that immunizes VoIP (Voice over Internet Protocol) and other IP-based service providers from many of the traditional public obligations of communications service providers could preempt the state and local imposition of taxes and fees on those services and cost state and local government budgets billions of dollars per year.

The National League of Cities suggests that cities make the following requests of Congress:

- Preserve local authority to manage public rights-of-way for the benefit of everyone
- Reform the collection and administration of communications taxes in a manner that preserves revenue and local authority to establish taxes consistent with local needs
- Protect and enhance local ability to provide for homeland and hometown security by providing access to spectrum and funding for interoperable equipment, and requiring accelerated deployment of E911 (wireless 911 calls) in new generations of communications services
- Protect local ability to facilitate or offer advanced communications services to their citizens
- Preserve local powers to protect and promote the health, safety, and welfare of its citizens.

Wisconsin U.S. Representative Tammy Baldwin serves on the Energy and Commerce Committee, which has primary jurisdiction over telecommunications legislation.

On the Senate side, Commerce Committee Chairman Ted Stevens (R. Alaska) and ranking Democrat Dan Inouye (D. HI) have conducted listening sessions around the country with the telecommunications industry and other interested parties. It does not appear that either of them is ready to introduce legislation to revise the Telecommunications Act. At this time, the Senate is not expected to act on telecommunications legislation this year.