

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, OCTOBER 29, 2001 AT 9:30 A.M.

Room 301-B, City Hall

S-233	Highways; Veteran Cemeteries		
S-248 and A-518	Municipalities; Sale of Telecommunications and E-mail Services		
S-291 and A-570	Municipalities; Maintenance of Grass and Weeds		
A-529	Retired Peace Officers; Weapons		
A-573	Heat Detectors; Public Buildings		
A-584	Utility Payment; Shared Revenues		
	Oppose Unless Amended Version 1 (LRB-3598/1)		9-14-01
AJR-64	Local Government; Spending Decisions		

2001 SENATE BILL 233

August 16, 2001 - Introduced by Senators BURKE, MOEN, COWLES and ROESSLER, cosponsored by Representatives BOCK, MUSSER, GRONEMUS, LASSA, BERCEAU, SYKORA, TURNER, ALBERS, WILLIAMS, CARPENTER, HAHN, BLACK, HUNDERTMARK and LIPPERT. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

1 AN ACT *to amend* 80.03 (1); and *to create* 86.085 of the statutes; relating to:
2 prohibiting construction of a new highway through a veterans cemetery.

Analysis by the Legislative Reference Bureau

Under current law, no town highway may be constructed through or upon a cemetery without the consent of those having control of the cemetery. Also under current law, the department of veterans affairs may construct and operate state veterans cemeteries, which are exempt from the requirements of other cemeteries. One requirement governing other cemeteries is that no person may construct or open a highway through or upon property used for the burial of the dead without the consent of the property owner.

This bill prohibits the construction of a new highway within any portion of a state or federal veterans cemetery unless the person having legal control of the cemetery determines that the highway is necessary for purposes related to the cemetery and that person consents to the highway construction.

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

3 SECTION 1. 80.03 (1) of the statutes is amended to read:
4 80.03 (1) ~~No~~ Except as provided in s. 86.085, no town highway shall be laid out
5 through or upon any cemetery without the consent of those having the control of the

2001 SENATE BILL 248

September 20, 2001 - Introduced by Senators SHIBILSKI, BRESKE, MOEN, ROSENZWEIG, WELCH; KANAVAS, M. MEYER, HUELSMAN and HANSEN, cosponsored by Representatives KEDZIE, HUEBSCH, SUDER, GRONEMUS, MUSSER, STONE, SERATTI, FREESE, PETTIS, WALKER, SKINDRUD, NASS and D. MEYER. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

1 **AN ACT** *to renumber* 196.203 (2) and 196.50 (2) (c); *to renumber and amend*
2 196.499 (15) and 196.50 (4); *to amend* 196.50 (4) (title), 198.12 (6) and 198.22
3 (6); and *to create* 196.203 (2) (b), 196.499 (15) (b), 196.50 (2) (c) 2., 196.50 (4)
4 (a), 196.50 (4) (c) and 196.50 (4) (d) of the statutes; **relating to:** prohibiting
5 certain governmental subdivisions from providing or selling certain
6 telecommunications services and Internet access services and from making
7 certain transfers of telecommunications transmission facilities.

Analysis by the Legislative Reference Bureau

This bill prohibits governmental subdivisions from taking certain actions regarding telecommunications and Internet access services. The bill defines "governmental subdivision" as any of the following: 1) a city, village, town, or county; 2) a special purpose district; 3) an instrumentality or corporation of a city, village, town, county, or special purpose district; or 4) a combination or subunit of any of the foregoing. However, "governmental subdivision" does not include a public library board or a public library system.

Under the bill, a governmental subdivision is, with certain exceptions, subject to three prohibitions. First, a governmental subdivision may not provide a telecommunications service, as defined under current law, directly or indirectly to a member of the public. Current law defines "telecommunications service" to include

SENATE BILL 248

the conveyance of voice, data, or other information at any frequency over any part of the electromagnetic spectrum, except that "telecommunications service" does not include cable television service or audio or video broadcast service. The bill defines "member of the public" as any person except a governmental subdivision.

Second, a governmental subdivision may not sell, lease, or transfer for consideration a transmission facility to another person if the transmission facility is used to furnish a telecommunications service directly or indirectly to a member of the public. The bill defines "transmission facility" as any plant or equipment used to transmit a telecommunications service by wire, optics, radio signal, or other means, except that "transmission facility" does not include any conduit, pole, tower, or other structure that supports the plant or equipment used to transmit the telecommunications service.

Third, a governmental subdivision may not sell an Internet access service directly or indirectly to a member of the public. The bill defines "Internet access service" as a service that enables a user to obtain access to content, information, electronic mail, or any other service offered over the Internet.

The bill provides three exceptions to the prohibitions described above. First, the prohibitions do not apply to a governmental subdivision that, under a contract or agreement for the sharing of services or facilities, provides a telecommunications service; sells, leases, or transfers for consideration a telecommunications facility; or sells an Internet access service, to any of the following: 1) a state agency; 2) a school district; 3) a cooperative educational service agency; 4) a technical college district; 5) a public library board or system; 6) a federally recognized Indian tribe or band located in this state; 7) a fire department or volunteer fire company; or 8) a local government unit. The bill defines "local government unit" as any of the following: 1) a political subdivision, as defined under the bill; 2) a special purpose district; 3) an instrumentality or corporation of a political subdivision or special purpose district; 4) a combination or subunit of any of the foregoing; or 5) a combination of a state agency and any of the foregoing.

The second exception applies only to the prohibition on selling, leasing, or transferring for consideration a transmission facility. This prohibition does not apply to sales of substantially all of the transmission facilities owned by a governmental subdivision to a telecommunications carrier, telecommunications utility, or alternative telecommunications utility. The third exception applies to a governmental subdivision that is subject to a contract in effect on the effective date of the bill. If the contract contains provisions that are inconsistent with the bill's prohibitions, then the governmental subdivision may perform its obligations, or exercise its rights, under the contract until the contract expires, or is extended, modified, or renewed, whichever occurs first.

Finally, the bill prohibits the public service commission from allowing a governmental subdivision to provide telecommunications services as a telecommunications carrier, telecommunications utility, or alternative telecommunications utility.

2001 SENATE BILL 291

October 23, 2001 - Introduced by Senators GROBSCHMIDT, COWLES, HUELSMAN, SCHULTZ and DARLING, cosponsored by Representatives WARD, STONE, GRONEMUS, MONTGOMERY, LADWIG, RYBA, TURNER, HAHN, MUSSER, JESKEWITZ, DUFF, OWENS, AINSWORTH, OTT, PLOUFF, SINICKI, BOYLE, PLALE, HUBER, COLON and FREESE. Referred to Committee on Insurance, Tourism, and Transportation.

- 1 AN ACT *to create* 85.07 (9) and 349.28 of the statutes; **relating to:** maintenance
2 of grass and weeds below a specified height on department of transportation
3 land abutting highways.

Analysis by the Legislative Reference Bureau

Current law requires every person to destroy all noxious weeds on lands that the person owns, occupies, or controls, including on public lands. Current law also requires a highway patrolman on all federal, state, and county highways to destroy all noxious weeds on the portion of highways that the highway patrolman patrols. The governing body of any town, city, or village (municipality) or the county board of any county may, by ordinance or resolution, declare any weed to be noxious within the municipality's or county's boundaries. A municipality may also appoint a weed commissioner, who has authority to enter land and destroy noxious weeds, and then charge the landowner for the cost of destruction.

This bill allows the governing body of any municipality to adopt a resolution requiring the department of transportation (DOT) to comply with an ordinance or resolution of the municipality relating to the maintenance of grass and weeds at or below a specified height, of not less than 12 inches, on any land owned, occupied, or controlled by DOT that abuts the roadway of a highway, including land within or abutting the highway right-of-way, and that is located within the corporate limits of the municipality. DOT may contract with any municipality or private entity for performance of such maintenance work. If DOT neglects to maintain grass or weeds on the specified property at or below the height required by the municipality, and the

SENATE BILL 291

municipality has provided reasonable notice to DOT of its failure to comply with the requirement, the municipality may enter upon the land and cut, trim, or mow, or cause any person to enter upon the land to cut, trim, or mow, the grass or weeds. DOT must compensate a municipality for the reasonable cost of cutting, trimming, or mowing grass or weeds, upon submission to DOT of an itemized account for the work, verified under oath, within one month following the work.

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.** 85.07 (9) of the statutes is created to read:

2 **85.07 (9) GRASS AND WEED CONTROL.** The department shall comply with any
3 applicable ordinance or resolution specified in s. 349.28 (1) and shall make any
4 payment required under s. 349.28 (2).

5 **SECTION 2.** 349.28 of the statutes is created to read:

6 **349.28 Authority to regulate length of grass and weeds on department**
7 **land abutting highways. (1)** The governing body of any municipality may adopt
8 a resolution requiring the department to comply with an ordinance or resolution of
9 the municipality relating to the maintenance of grass and weeds at or below a
10 specified height, of not less than 12 inches, on any land owned, occupied, or controlled
11 by the department that abuts the roadway of any highway, including land within or
12 abutting the highway right-of-way, and that is located within the corporate limits
13 of the municipality.

14 **(2) (a)** If the department neglects to maintain grass or weeds in violation of an
15 applicable ordinance or resolution specified in sub. (1) after the municipality has
16 provided reasonable notice to the department that the department is not in
17 compliance with the ordinance or resolution, the municipality may cut, trim, or mow,

2001 ASSEMBLY BILL 529

October 8, 2001 - Introduced by Representatives MUSSER, PETTIS, SUDER, NASS, KAUFERT, BIES, GUNDERSON, OWENS, SYKORA, GROTHMAN and HUEBSCH. Referred to Committee on Criminal Justice.

1 **AN ACT** *to renumber and amend* 941.23 and 941.235 (2); and *to create* 941.23
2 (1), 941.235 (2) (b) and 941.237 (3) (am) of the statutes; **relating to:** retired
3 peace officers carrying a weapon.

Analysis by the Legislative Reference Bureau

Current law contains a number of prohibitions relating to carrying weapons. First, current law prohibits a person from carrying a concealed and dangerous weapon. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both. Second, current law prohibits a person from going armed with a firearm in a government building. A person who violates this prohibition may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. Third, current law generally prohibits a person from intentionally going armed with a handgun in a tavern or a restaurant with a liquor license. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both. None of these prohibitions, however, apply to a peace officer, which is a person vested by law with a duty to maintain public order to make arrests for crime.

This bill exempts retired peace officers from the coverage of the prohibitions described above. The bill defines a "retired peace officer" as a person who has retired from active service as a peace officer and who, immediately upon retirement from

ASSEMBLY BILL 529

active service, qualified for a pension based at least in part on his or her service as a peace officer.

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

1 SECTION 1. 941.23 of the statutes is renumbered 941.23 (2) and amended to
2 read:

3 941.23 (2) Any person except a peace officer or a retired peace officer who goes
4 armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor.

5 SECTION 2. 941.23 (1) of the statutes is created to read:

6 941.23 (1) In this section, "retired peace officer" means a person who has
7 retired from active service as a peace officer and who, immediately upon retirement
8 from active service, qualified for an annuity under the Wisconsin retirement system,
9 the retirement system of any 1st class city, or any retirement system established
10 under chapter 201, laws of 1937.

11 SECTION 3. 941.235 (2) of the statutes is renumbered 941.235 (2) (intro.) and
12 amended to read:

13 941.235 (2) (intro.) This section does not apply to any of the following:

14 (a) A peace officers or armed officer.

15 (c) Armed forces or military personnel who go armed in the line of duty or to any.

16 (d) Any person duly authorized by the chief of police of any city, village or town,
17 the chief of the capitol police or the sheriff of any county to possess a firearm in any
18 building under sub. (1).

19 SECTION 4. 941.235 (2) (b) of the statutes is created to read:

20 941.235 (2) (b) A retired peace officer, as defined in s. 941.23 (1).

21 SECTION 5. 941.237 (3) (am) of the statutes is created to read:

2001 ASSEMBLY BILL 573

October 16, 2001 - Introduced by Representatives STEINBRINK, STARZYK, GUNDERSON, AINSWORTH, SINICKI and RYBA, cosponsored by Senator BURKE. Referred to Committee on Housing.

1 AN ACT *to renumber* 101.645 (3), 101.745 (4) and 101.925 (4); *to renumber and*
2 *amend* 101.145 (4) (except 101.145 (4) (title)); *to amend* 101.145 (title),
3 101.145 (2), 101.145 (3) (a), 101.145 (3) (b), 101.645 (title), 101.645 (2), 101.745
4 (title), 101.745 (2), 101.745 (3), 101.925 (title), 101.925 (2) and 101.925 (3); and
5 *to create* 101.145 (4) (b), 101.645 (3) (b), 101.745 (4) (b) and 101.925 (4) (b) of
6 the statutes; **relating to:** requiring heat detectors in certain buildings and
7 dwellings.

Analysis by the Legislative Reference Bureau

Current law requires smoke detectors to be installed in various types of buildings. For example, the owner of a public building that is used for sleeping or lodging, such as an apartment house or hotel, and that is constructed on or after May 23, 1978, must install a smoke detector in the basement, at the head of any stairway on each floor level, and in or near each sleeping unit in the building. In addition, the manufacturer of a manufactured home that is built during this same time period must install a smoke detector in the home. Similarly, the manufacturer of any manufactured building must install a smoke detector on each floor level of the building other than the attic or storage area. In addition, the owner of a one-family or two-family dwelling must install a smoke detector in the basement and on each floor level of the dwelling other than the attic or storage area.

ASSEMBLY BILL 573

This bill requires the owner of a public building that is used for sleeping or lodging and the owner of a one-family or two-family dwelling to install a heat detector in any attic in the building or dwelling. The bill also requires any person who manufactures a manufactured home or manufactured building on or after the date that the bill takes effect to install a heat detector in any attic in the home or building. A heat detector installed under the bill must be approved by the department of commerce and must be designed to activate at a fixed temperature and when the temperature rises at or above a specified rate.

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

1 **SECTION 1.** 101.145 (title) of the statutes is amended to read:

2 **101.145 (title) Smoke detectors and heat detectors.**

3 **SECTION 2.** 101.145 (2) of the statutes is amended to read:

4 **101.145 (2) APPROVAL.** ~~A~~ Any smoke detector or heat detector required under
5 this section shall be approved by underwriters laboratory.

6 **SECTION 3.** 101.145 (3) (a) of the statutes is amended to read:

7 **101.145 (3) (a)** The owner of a residential building shall install any smoke
8 detector or heat detector required under this section according to the directions and
9 specifications of the manufacturer ~~of the smoke detector.~~

10 **SECTION 4.** 101.145 (3) (b) of the statutes is amended to read:

11 **101.145 (3) (b)** The owner of a residential building shall maintain any ~~such~~
12 smoke detector that is located in a common area of that residential building and any
13 heat detector that is located in that residential building.

14 **SECTION 5.** 101.145 (4) (except 101.145 (4) (title)) of the statutes is renumbered
15 101.145 (4) (a) and amended to read:

16 **101.145 (4) (a)** The owner of a residential building, the initial construction of
17 which is commenced before, on, or after May 23, 1978, shall install and maintain a
18 functional smoke detector in ~~the~~ all of the following locations:

2001 ASSEMBLY BILL 584

October 18, 2001 -- Introduced by Representatives HOVEN, BIES, DUFF, HAHN, HUNDERTMARK, LADWIG, LASSA, LIPPERT, MONTGOMERY, MUSSER, OTT, STARZYK, STEINBRINK, STONE, SUDER, TOWNSEND, UNDERHEIM, URBAN and VRAKAS, cosponsored by Senators MOEN, ROESSLER, SCHULTZ, SHIBILSKI and WELCH. Referred to Committee on Energy and Utilities.

1 AN ACT *to repeal* 79.04 (1) (c) 3.; *to amend* 20.835 (1) (d), 79.01 (2), 79.03 (3) (a),
2 79.03 (4), 79.04 (1) (a), 79.04 (1) (b) 3., 79.04 (1) (c) 1., 79.04 (2) (a), 79.04 (2) (am)
3 3. and 79.04 (2) (b); *to repeal and recreate* 79.04 (2) (a); and *to create* 20.835
4 (1) (dm), 79.01 (2m), 79.04 (1) (am), 79.04 (1) (c) 4., 79.04 (2) (ad), 79.04 (2) (c),
5 79.04 (5) and 79.04 (6) of the statutes; **relating to:** public utility shared revenue
6 payments and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, generally, the property of a public utility is subject to a state tax rather than local property taxes. Instead of collecting property taxes on such property, municipalities and counties receive payments from the shared revenue account based on the value of public utility property located in the municipalities and counties. The amount of a municipality's payment is equal to the value of public utility property located in the municipality, not exceeding \$125,000,000 for each utility, multiplied by either three mills, for a town, or six mills, for a city or village. However, the payment may not exceed an amount that is equal to \$300 multiplied by the municipality's population. The amount of a county's payment is equal to the value of public utility property located in each municipality within the county, not exceeding \$125,000,000 for each utility, multiplied by either three mills, for a city or village located within the county, or six mills, for a town located within the county. However, the amount of the county's payment may not exceed an amount that is equal to \$100 multiplied by the county's population.

ASSEMBLY BILL 584

Under this bill, beginning in 2003, the payments to municipalities and counties related to public utility property is paid from the public utility distribution account, which is created by the bill, instead of the shared revenue account. Under the bill, the amount of a municipality's payment related to public utility property is equal to the value of public utility property located in the municipality, not exceeding the following amounts for each utility, multiplied by either three mills, for a town, or six mills, for a city or village: in 2003, \$140,000,000; in 2004, \$160,000,000; in 2005, \$185,000,000; in 2006 and subsequent years, \$250,000,000. However, the amount of the payment may not exceed the following amounts multiplied by the municipality's population: in 2003, \$450; in 2004, \$650; in 2005, \$950; in 2006 and subsequent years, \$1,200.

Under the bill, if a power production plant is built on the site of an existing or decommissioned power production plant or on brownfields, and operates at a power production capacity of at least 50 megawatts, the municipality in which the plant is located receives an additional payment equal to the value of the production plant, not exceeding the following amounts, multiplied by one mill, for a production plant that is neither coal-powered nor nuclear-powered, or by two mills, for a production plant that is coal-powered: in 2003, \$140,000,000; in 2004, \$160,000,000; in 2005, \$185,000,000; in 2006 and subsequent years, \$250,000,000.

Under the bill, the amount of a county's payment related to public utility property is equal to the value of public utility property located in the county, not exceeding the following amounts for each utility, multiplied by either three mills, for a city or village located within the county, or six mills, for a town located within the county: in 2003, \$140,000,000; in 2004, \$160,000,000; in 2005, \$185,000,000; in 2006 and subsequent years, \$250,000,000. However, the amount of the payment may not exceed the following amounts multiplied by the county's population: in 2003, \$225; in 2004, \$325; in 2005, \$475; in 2006 and subsequent years, \$600.

Under the bill, if a power production plant is built on the site of an existing or decommissioned power production plant or on brownfields, and operates at a power production capacity of at least 50 megawatts, the county in which the plant is located receives an additional payment equal to the value of the production plant, not exceeding the following amounts, multiplied by one mill, for any production plant that is not nuclear-powered: in 2003, \$140,000,000; in 2004, \$160,000,000; in 2005, \$185,000,000; in 2006 and subsequent years, \$250,000,000.

Under current law, if public utility property is decommissioned and thereby subject to local property taxes, the municipalities and counties in which the property is located no longer receive shared revenue payments based on the value of that property. Under the bill, shared revenue payments related to decommissioned utility property are phased out over five years.

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:

2001 ASSEMBLY JOINT RESOLUTION 64

October 8, 2001 – Introduced by Representatives F. LASEE, SUDER, MUSSER, McCORMICK, SYKORA and SKINDRUD, cosponsored by Senators WELCH and ROESSLER. Referred to Committee on Tax and Spending Limitations.

1 ***To amend*** section 8 of article VIII; and ***to create*** section 8 (3) of article VIII and
2 section 11 of article VIII of the constitution; **relating to:** the vote on bills that
3 would increase certain tax rates or make certain taxing and spending decisions;
4 and elector approval for certain taxing and spending decisions by the state and
5 local governmental units, emergency taxes, required reserves, state mandates,
6 continuation of state payments to other governmental units, refunds of
7 amounts in excess of the approved amounts and reduction of tax rates to reflect
8 the excess of revenues over expenditures (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2001 legislature on first consideration, requires elector approval for certain taxing and spending decisions by the state and local governmental units, such as exceeding a spending limit or imposing new taxes, increasing tax rates, extending expiring taxes, or making tax changes causing net tax revenue gains; requires that emergency taxes imposed by the state meet certain conditions; requires governmental units to establish reserves, which may be expended only by a two-thirds vote; prohibits the state from imposing any part of the costs of a new program or service, or an increase in an existing program or service, on local governmental units, unless the state makes an appropriation to pay for those costs; and requires governmental units to

refund amounts in excess of the approved amounts and reduce tax rates to reflect the excess of revenues over expenditures.

This proposal also requires a two-thirds vote in each house of the legislature to pass a bill to increase the rate of the state sales tax or any of the rates of the income tax or franchise tax or for taxing and spending decisions subject to elector approval under the proposal.

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

Resolved by the assembly, the senate concurring, That:

SECTION 1. Section 8 of article VIII of the constitution is amended to read:

[Article VIII] Section 8 (1) On the passage in either house of the legislature of any law ~~which that~~ imposes, continues or renews a tax, or increases the rate of the state sales tax or increases any of the rates of the income tax or franchise tax, or exceeds the limit under section 11 (3) (a) of this article or the requirements of section 11 (4) (b) of this article, or creates a debt or charge, or makes, continues or renews an appropriation of public or trust money, or releases, discharges or commutes a claim or demand of the state, ~~the question vote shall be taken by yeas and nays, which shall be duly ayes and noes, and the names of the members voting for, and the names of the members voting against,~~ passage of the bill shall be entered on the journal; and.

~~(2) For any vote under sub. (1), three-fifths of all the members elected to such the current membership of each house shall in all such cases be required to constitute a quorum therein.~~

SECTION 2. Section 8 (3) of article VIII of the constitution is created to read:

[Article VIII] Section 8 (3) The passage in either house of the legislature of any law to increase the rate of the state sales tax or to increase any of the rates of the income tax or franchise tax or to exceed the limit under section 11 (3) (a) of this article