LRB–1477/1
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2001 ASSEMBLY BILL 175

March 7, 2001 – Introduced by Representatives POWERS, HAHN, LA FAVE, KREIBICH, TOWNSEND, SYKORA and REYNOLDS, cosponsored by Senator ERPENBACH. Referred to Committee on Personal Privacy.

AN ACT ***to amend*** 40.07 (1) (intro.), (2) and (3), 230.13 (1) (intro.) and 233.13 (intro.); and ***to create*** 19.32 (1w) and (2g), 19.356 and 19.36 (10) of the statutes; **relating to:** access to public employee personnel records and certain other public records containing personally identifiable information.

Analysis by the Legislative Reference Bureau

Under current law, any requester has a right to inspect or copy any public record unless otherwise provided under statutory or common law or unless, under a "balancing test" derived from common law, the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing that access. See s. 19.35 (1), stats., and *State ex rel. Youmans v. Owens*, 28 Wis.2d 672, 682–83 (1965) and *Hathaway v. Green Bay School District*, 116 Wis. 2d 388, 395–96 (1984). If a custodian fails to provide prompt access to a requested record or to make this demonstration, a requester may obtain a court order requiring a custodian to provide access to a record. See s. 19.37 (1), stats.

In *Woznicki v. Erickson*, 202 Wis.2d 178, 192–193 (1996), the Wisconsin supreme court held that a district attorney must notify any individual who is the subject of a record which the district attorney proposes to release to a requester prior to release, and that the individual may appeal a decision to release a record to circuit court, which must determine whether permitting access would result in harm to the privacy or reputational interests of the subject individual that outweigh the public interest in allowing access. In *Milwaukee Teachers Education Assn. v. Milwaukee Bd. of School Directors*, 227 Wis. 2d 779, 799 (1999), the supreme court expanded this

Currently, access to some of these records may be denied under specific laws governing these records or under the common law "balancing test."

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

SECTION 1. 19.32 (1w) and (2g) of the statutes are created to read:

19.32 **(1w)** "Public employee" means an individual who is employed by an authority, other than an individual holding an elective office.

(2g) "Record subject" means an individual about whom personally identifiable information is contained in a record.

SECTION 2. 19.356 of the statutes is created to read:

19.356 Notice to record subject; right of action. (1) Except as authorized in this section or as otherwise provided by statute, no authority is required to notify a record subject prior to providing to a requester access to a record containing information pertaining to that record subject, and no person is entitled to judicial review of the decision of an authority to provide a requester with access to a record.

(2) If an authority decides to permit access to a record created or maintained by the authority under s. 19.35 (1) as a result of the authority's investigation into a disciplinary matter or possible violation of a statute, rule, regulation, or policy of the authority, the authority shall, before permitting access and within 72 hours after making the decision to permit access, serve written notice of that decision on any record subject to whom that record pertains, either by registered mail with return receipt signed by the addressee or by personally serving the notice on the subject. The notice shall briefly describe the requested record and include a description of the rights of the record subject under subs. (3) and (4).

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2001 ASSEMBLY BILL 205

March 15, 2001 – Introduced by Representatives LA FAVE, TOWNSEND, RYBA, MILLER, STASKUNAS, J. LEHMAN, CULLEN, KREUSER, RICHARDS and COGGS, cosponsored by Senators PLACHE, BURKE, ROSENZWEIG, DARLING and COWLES. Referred to Committee on Urban and Local Affairs.

AN ACT ***to renumber and amend*** 815.39; ***to amend*** 254.595 (1), 254.595 (2), 254.595 (3) (a), 254.595 (4) and 815.44 (1); and ***to create*** 815.39 (2) and 823.23 of the statutes; **relating to:** receiverships for public nuisance.

Analysis by the Legislative Reference Bureau

Under current law, if real property, other than an owner–occupied one–family or two–family dwelling, is in violation of a municipal building code provision that concerns health or safety, the municipality or an interested party may commence an action to have the property declared a health hazard. Under the law, a receiver may be appointed to manage and control the property if a court finds that the property is a health hazard and that the owner has not abated that hazard. This bill allows the court to declare such property to be a nuisance and allows the court to permit cities, villages, and towns to create a receivership to take control of residential property that is declared a nuisance and abate that nuisance.

The bill also allows 1st or 2nd class cities to ask a court to appoint a receiver to manage and control residential property, including a single–family dwelling, that is declared a nuisance for other reasons, including because it is dilapidated, used as a place of gambling, for the delivery or manufacture of a drug, or as a meeting place for a criminal gang. The bill requires that the owner of the residential property be given notice of the intent to petition a court for the appointment of receiver at least 60 days before filing the petition, to give the owner time to abate the nuisance.

If a court determines that abatement is required and that the owner will not rehabilitate the property, the court shall appoint a receiver. A receiver created by the

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2001 ASSEMBLY BILL 233

March 20, 2001 – Introduced by COMMITTEE ON STATE AND LOCAL FINANCE (SELECT). Referred to Committee on State and Local Finance (Select).

AN ACT ***to repeal*** 66.0817 (1) to (7); ***to renumber and amend*** 66.0817 (intro.); and ***to amend*** 66.0807 (2) and 198.14 (4) of the statutes; **relating to:** the procedures used by a city, village, or town to sell or lease a municipal public utility plant.

Analysis by the Legislative Reference Bureau

Under current law, a municipality (a city, village, or town) may sell or lease any public utility plant that it owns only by completing a number of steps that must be performed according to a specified time table. The steps include the following: enacting an ordinance or resolution that summarizes the proposed terms of a sale or lease and that authorizes the negotiation of a preliminary agreement with a prospective purchaser; submitting a preliminary agreement to the department of transportation (DOT) or the public service commission (PSC) for a determination of whether the sale or lease is in the public interest; fixing the price and terms of the transaction by DOT or PSC if the transaction is found to be in the public interest; submitting the proposed transaction to the electors of the municipality for a referendum; and requiring that if the referendum is approved, the sale or lease be consummated within one year of the referendum, unless the time is extended by DOT or PSC, or the transaction is void.

This bill repeals all of the steps that must be completed. Under the bill, a municipality may sell or lease any public utility plant it owns in any manner that it considers appropriate.