



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #225

### **Wisconsin Works Time Limit Changes (DCF -- Economic Support and Child Care)**

[LFB 2009-11 Budget Summary: Page 152, #2]

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#### **CURRENT LAW**

Public assistance for children in need had been provided under the aid to families with dependent children (AFDC) program beginning in 1935. However, in 1996, the federal government enacted the Personal Responsibility and Work Opportunity Reconciliation Act, which replaced the AFDC program with a block grant program called temporary assistance for needy families (TANF). Under the TANF program, public assistance benefits are funded with block grants to states, and states are required to contribute state funds under maintenance-of-effort provisions. Although the TANF program allows states to develop, operate, and implement their own public assistance programs, the federal legislation imposes work requirements and time limits on recipients of TANF benefits, and eliminates the federal entitlement to public assistance that was provided under the AFDC program. The federal time limit for receiving assistance is 60 months.

At the state level, the Department of Children and Families (DCF) administers Wisconsin Works (W-2), the state's TANF work program. Participants in W-2 are assigned by the local W-2 agency to either unsubsidized employment or one of three types of subsidized employment: (a) trial jobs; (b) community service jobs (CSJs); or (c) transitional placements. A participant from Kenosha County, Marathon County, or Milwaukee could also be placed in a real work, real pay pilot position, which is similar to a trial job. In order to be eligible for a W-2 employment position for any month, an individual must meet certain financial and nonfinancial eligibility requirements.

*Trial jobs and Real Work, Real Pay Placements.* A trial job provides work experience and training to assist participants to move into unsubsidized employment. The W-2 agency pays a maximum wage subsidy of \$300 to an employer that employs a participant in a trial job and

agrees to make good faith efforts to retain the participant as a permanent, unsubsidized employee after the wage subsidy is terminated. The employer is also required to provide worker's compensation coverage. In a real work, real pay position, instead of the \$300 maximum wage subsidy, the W-2 agency must reimburse the employer for up to 100% of all of the following costs related to the W-2 participant's employment: (a) federal social security taxes; (b) state and federal unemployment contributions or taxes, if any; and (c) worker's compensation insurance premiums, if any.

*Community Service Jobs.* A CSJ is intended to provide work experience and training to assist participants to move into unsubsidized employment or a trial job. CSJs are limited to projects that DCF determines would serve a useful public purpose or to projects whose cost is partially or wholly offset by revenue generated by such projects.

*Transitional Placements.* In order to be eligible for a W-2 transitional placement, an individual must meet one or more of the following requirements: (a) the individual has been incapacitated for a period of at least 60 days or will be incapacitated for a period of at least 60 days (as determined by the W-2 agency on the basis of an independent assessment); (b) the individual is needed in the home because of the illness or incapacity of another member of the W-2 group; or (c) the individual is incapable of performing a trial job or CSJ.

*Technical College Program.* Finally, CSJ and transitional placement participants may participate in a technical college program if all of the following are met: (a) the technical college education program is likely to lead to employment; (b) the participant maintains full-time status and regularly attends all classes; (c) the participant maintains a grade point average of at least 2.0 or equivalent; and (d) the participant is employed or engages in a CSJ or transitional placement for 25 hours per week. Participation in the technical college placement is limited to two years.

*State Sixty-Month Time Limit.* In addition to the financial and nonfinancial eligibility requirements, the length of time an adult in a W-2 group may receive benefits is limited to 60 months. The months do not have to be consecutive. The time limit begins on the date when the individual has attained the age of 18 and applies to the total number of months in which the individual has actively participated in the job opportunities and basic skills (JOBS) program (on or after October 1, 1996) under prior law, has received benefits under a subsidized W-2 employment position, or has received benefits in Wisconsin or any other state that were funded by federal TANF dollars. The 60-month limit is based on the length of time an individual participates in a subsidized W-2 employment position or other TANF program.

*Time Limits for Subsidized W-2 Employment Positions.* A W-2 participant may participate in a trial job for a maximum of three months, with an opportunity for a three-month extension under circumstances determined by the W-2 agency. An individual may participate in more than one trial job, but generally may not exceed a total of 24 months of participation in all trial job placements, which need not be consecutive.

An individual may participate in a CSJ for a maximum of six months, with an opportunity for a three-month extension under circumstances approved by DCF, or the W-2 agency with DCF's approval. An individual may participate in more than one community service job, but generally may not exceed a total of 24 months of participation in all community service job placements, which need not be consecutive.

An individual may participate in a transitional placement for a maximum of 24 months, which need not be consecutive.

DCF, or the W-2 agency with DCF's approval, may grant an extension of the 24-month limit for each W-2 subsidized employment position on a case-by-case basis. For trial job and CSJ participants, the participant must have made all appropriate efforts to find unsubsidized employment and local labor market conditions must preclude a reasonable job opportunity for that participant, as determined by the agency and approved by DCF. For CSJs, the W-2 agency with DCF's approval must also determine that no trial jobs are available.

*Hours for Subsidized Employment Activities.* A W-2 agency may require a CSJ participant to work up to 30 hours per week and to participate in educational and training activities for up to 10 hours per week, for a total of 40 hours per week.

For technical college placements, the participant may be required to work up to 25 hours per week and participate in education and training activities for up to 15 hours per week, for a total of 40 hours per week.

For transitional placements, participants may be required to engage in work (and assigned counseling activities) for up to 28 hours per week and to participate in education and training activities for up to 12 hours per week, for a total of 40 hours per week.

## **GOVERNOR**

Modify the W-2 program requirements regarding the maximum time limit for receipt of benefits, the maximum time limit for participation in each employment position, and the maximum hours required for employment versus education and training activities as follows:

*Maximum Time Limit for Receipt of Assistance.* Specify that the total number of months in which an individual or any adult member of the individual's W-2 group receives assistance under a subsidized W-2 employment position, under another program from Wisconsin or another state funded with TANF dollars, or under the former JOBS program (on or after October 1, 1996) does not exceed the 60-month federal time limit, whether or not consecutive.

*Maximum Time Limit for Subsidized W-2 Employment Positions.* Eliminate the current 24-month limits on the amount of time an individual may participate in each of the subsidized employment positions under W-2.

*Maximum Hours for Subsidized Employment Activities.* Specify that a W-2 agency could not require a participant in a CSJ, technical college placement, or transitional placement to spend more than 40 hours per week in combined activities of education, training, and work. The bill would eliminate the distinction between the maximum number of hours for work activities and the maximum number of hours for educational and training activities. Instead, the bill would create a maximum of 40 hours per week for all activities.

These provisions would first apply to individuals participating in W-2 on October 30, 2009, or on the 30<sup>th</sup> day after publication of the budget bill, whichever is later.

## **DISCUSSION POINTS**

### **60-Month Time Limit**

1. Currently there are provisions under state law and under federal law that are similar, but not exactly the same, because the W-2 program was created prior to the passage of the federal TANF legislation. One of these provisions is the 60-month time limit for participation in W-2. Under state law, the 60-month time limit is based on the length of time an individual participates in a subsidized W-2 employment position or other TANF program. Under federal law, the 60-month time limit is based on the length of time an individual receives TANF assistance. The federal definition of assistance includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses.

2. DCF indicates that the use of these two separate definitions of the 60-month time limit presents some difficulties. Some activities are subject to one clock, but not the other clock. For example, W-2 participants placed in a trial job would have their employment count toward the 60-month limit under state law. However, these participants are actually receiving wages from their employers, not cash benefits, so this activity would not count toward the federal 60-month time limit on receipt of assistance. This requires W-2 agency workers to track activities for each definition of the 60-month time limit and makes it difficult for the agency workers to accurately track the activities. DCF also notes that these two separate definitions are difficult to explain to W-2 participants, and difficult for W-2 participants to understand.

3. In the one-year period from May, 2008, through April, 2009, there were 177 W-2 participants who had reached 60 months on their state 60-month time limit and reached 60 or fewer months on the federal 60-month time limit. Of these 177 participants, 99 reached the federal 60-month time limit, and another 28 reached between 50 and 59 months on their federal 60-month time limit. The remaining 50 W-2 participants had 10 or more months left on the federal 60-month time limit.

4. AB 75 would adopt the federal definition of the 60-month time limit (Alternative A1). DCF states that the change to apply the federal 60-month time limit would make tracking

activities for reporting requirements easier for W-2 agency workers and would make the participation requirements easier for W-2 participants to understand. In addition, because the state definition of the 60-month time limit was created before the federal definition of the 60-time limit, DCF argues that it could not have been the intent of the Legislature to have a different state requirement than that required under federal law.

5. On the other hand, the Committee could delete this provision. Although the 60-month time limit defined under state law was created prior to the federal definition of the 60-month time limit, the state law definition was created with Wisconsin's state W-2 program in mind. W-2 agency workers and W-2 participants have existed and worked with these two definitions for approximately 12 years.

### **24-Month Time Limit**

6. W-2 was established with the intent that W-2 participants would move up a "ladder" of placements within the program and ultimately into unsubsidized employment. Depending on the capabilities of the individual, the W-2 participant could start on the lowest rung of the ladder, (a transitional placement), move up to the next rung (a CSJ), move up to the top rung (a trial job), and then move to unsubsidized employment. The limit of 24 months for each employment position is an attempt to ensure that W-2 participants keep moving up the ladder.

7. The goal of moving up the ladder and out of W-2 did not occur as expected. Currently, individuals who apply for W-2 and who are determined eligible are placed in an employment position. Generally, they remain in that same position until they leave the W-2 program.

8. Transitional placements generally consist of individuals with significant barriers to work, such as severe mental illnesses or learning disabilities, that indicate a need for supplemental security income (SSI) or social security disability insurance (SSDI) determinations. Because of the lengthy delay in receiving these determinations (average of two years), participants placed in transitional placements are given assistance in applying for SSI or SSDI and remain in these placements until the receipt of the SSI or SSDI determination. The 24-month limit may be extended several times while waiting for the federal determinations. Generally, these individuals exit the placement with SSI payments or SSDI payments and do not move up to CSJs.

9. Trial jobs are very limited. In April, 2009, there were only nine individuals placed in trial jobs. Therefore, the goal to move all CSJ participants into trial jobs is not realistic because there are insufficient trial jobs to place them into. As a result, individuals placed in a CSJ usually remain in a CSJ until they leave the W-2 program. Again, the 24-month limit may be extended several times until the W-2 participant is able to find unsubsidized employment.

10. In March, 2009, 43 W-2 participants in Milwaukee reached their 24-month time limit. Of these cases, 32 of them received an extension, six moved to unpaid placements (case management services), one left W-2, three moved to another paid W-2 employment position, and

one more was determined to be "other." In April, 2009, of those who left employment placements that receive cash benefits, 60% left between one and three months after starting to receive assistance, 18% left between four and six months, 11% left between seven and 12 months, 10% left between 13 and 60 months. It appears that this provision affects less than 10% of the paid W-2 placement caseload, and that approximately 75% of this population receives an extension under current law.

11. AB 75 would remove the 24-month time limit on each employment position (Alternative B1). DCF indicates that monitoring the time limits and the time limit extensions is administratively burdensome to the W-2 agencies and elimination of the time limits would result in administrative savings to the W-2 agencies.

12. On the other hand, the Committee could delete this provision (Alternative B2). The 24-month time limit was established to try to quickly move W-2 participants to unsubsidized employment. In addition, extensions are available if more than 24 months are needed for a participant to move to unsubsidized employment.

13. Alternatively, the Committee could establish another limit for each employment position, such as 36 months (Alternative B3). This would give W-2 agencies more time to accomplish the goals of either assisting transitional placement participants in receiving SSI or SSDI payments or to move CSJs into unsubsidized employment, but it would also retain the incentive to quickly move participants into unsubsidized employment. As under current law, extensions of the limit could be given on a case-by-case basis.

14. However, any limit on the amount of time an individual can participate in an employment position would require W-2 agency workers to track when a participant is reaching the limit and preparing a review for an extension of the limit, which would result in fewer savings to the W-2 program.

15. As discussed above, the 60-month time limit on the receipt of TANF assistance would continue to apply, regardless of whether there are time limits on participation in the specific types of W-2 employment positions.

### **Limits on Work Hours and Education and Training Hours**

16. Currently, state law provides a maximum number of hours a CSJ, transitional, placement, or technical college placement participant may be assigned to work per week (30, 28, and 25 hours respectively) and education and training (10, 12, and 15 hours respectively), for a total maximum of 40 hours per week. The intent is to allow for training, but emphasize work.

17. DCF indicates that this structure negatively impacts the W-2 program in two ways. First, the maximum limit on the number of hours of work per week negatively impacts the state's participation rates. For example, under federal law, transitional placement participants must be assigned to 20 hours per week of core activities and at least 10 additional hours of core or noncore activities, for a total of 30 hours. However, the maximum number of work hours for transitional

placements is 28 hours. Therefore, many transitional placement participants do not meet their work participation requirements, which results in the state failing to meet its work participation rate. Second, other W-2 participants may need more training and education before they are ready for unsubsidized employment. For example, a participant may have adequate work experience and education but lack interviewing or resumé writing skills. Additional education and training hours would assist in moving the participant to unsubsidized employment sooner.

18. AB 75 would eliminate the distinction between the maximum number of hours for work and the maximum number of hours for education and training to eliminate these issues (Alternative C1). Instead, AB 75 would require a maximum of 40 hours for all activities. As a result, W-2 agencies would have more flexibility in assigning more work hours to W-2 participants to meet federal work participation rates or more education and training if that is what W-2 participants would need to move to unsubsidized employment sooner. In addition, individuals with a long employment history who are losing their jobs may need additional training in order to move back into the workforce.

19. The Committee could delete this provision (Alternative C2). Some would argue that removing the maximum number of hours for education and training would essentially convert W-2 into a college program and eliminate the emphasis on work. Capping the number of hours dedicated to education and training would ensure that work is the primary focus of the W-2 program.

## **ALTERNATIVES**

### **A. 60-Month Time Limit**

1. Approve the Governor's recommendation to change the 60-month time limit under state law to match the definition of the 60-month time limit under federal law.
2. Delete provision.

### **B. 24-Month Time Limit**

1. Approve the Governor's recommendation to eliminate the current 24-month limits on the amount of time an individual may participate in each of the subsidized employment positions under W-2.
2. Modify current law to create a 36-month time limit on the amount of time an individual may participate in each of the subsidized employment positions under W-2, rather than a 24-month time limit.
3. Delete provision.

**C. Limits on Work Hours and Education and Training Hours**

1. Approve the Governor's recommendation to eliminate the distinction between the maximum number of hours for work activities and the maximum number of hours for educational and training activities. Instead, create a maximum of 40 hours per week for all activities.

2. Delete provision.

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