



Wisconsin Briefs

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CONSTITUTIONAL AMENDMENT GIVEN “FIRST CONSIDERATION” APPROVAL BY THE 2011 WISCONSIN LEGISLATURE

INTRODUCTION

One proposal to amend the Wisconsin Constitution was adopted on first consideration by the 2011 Wisconsin Legislature relating to the creation of a transportation fund and a department of transportation. It is eligible for second consideration by the 2013 Legislature.

Sections Affected	Resolutions	Subject
Article IV, Sec. 9 (a); Article VIII, Sec. 11	2011 Senate Joint Resolution 23 (Enrolled Joint Resolution 4)	Creating a transportation fund and a department of transportation

Legislative passage of a constitutional amendment on “first consideration” is the first step in the amending process. According to Article XII, Section 1, of the Wisconsin Constitution, amendments must be adopted by two successive legislatures and ratified by the electorate.

On first consideration, a proposed change is offered as a joint resolution that does not have to be submitted to the governor for approval. If the resolution is adopted by both houses, the resolution must be published for three consecutive months prior to the next general election. Then, a second joint resolution embodying the identical constitutional text must be offered on “second consideration” in the next legislature, and the wording of the proposed amendment must be approved without change. The second joint resolution specifies the wording of the ballot question(s) and sets the date for submitting the question(s) to the people at a statewide election. (The portions of the joint resolution relating to the ballot question and referendum date can be amended.)

CREATING A TRANSPORTATION FUND AND A DEPARTMENT OF TRANSPORTATION

A. Analysis

Currently, the revenues generated by use of the state transportation system may be deposited into any fund as provided by law. This proposed constitutional amendment, proposed to the 2011 Legislature on first consideration, requires that such revenues be deposited into a transportation fund, and requires the legislature to create such a fund and a department of transportation.

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

B. Text

SECTION 1. Section 9 of article IV of the constitution is renumbered section 9 (1) of article IV.

SECTION 2. Section 9 (2) of article IV of the constitution is created to read: [Article IV] Section 9 (2) The legislature shall provide by law for the establishment of a department of transportation and a transportation fund.

SECTION 3. Section 11 of article VIII of the constitution is created to read: [Article VIII] Section 11. All funds collected by the state from any taxes or fees levied or imposed for the licensing of motor vehicle operators, for the titling, licensing, or registration of motor vehicles, for motor vehicle fuel, or for the use of roadways, highways, or bridges, and from taxes and fees levied or imposed for aircraft, airline property, or aviation fuel or for railroads or railroad property shall be deposited only into the transportation fund or with a trustee for the benefit of the department of transportation or the holders of transportation-related revenue bonds, except for collections from taxes or fees in existence on December 31, 2010, that were not being deposited in the transportation fund on that date. None of the funds collected or received by the state from any source and deposited into the transportation fund shall be lapsed, further transferred, or appropriated to any program that is not directly administered by the department of transportation in furtherance of the department's responsibility for the planning, promotion, and protection of all transportation systems in the state except for programs for which there was an appropriation from the transportation fund on December 31, 2010. In this section, the term "motor vehicle" does not include any all-terrain vehicles, snowmobiles, or watercraft.

SECTION 4. Numbering of new provision. If another constitutional amendment ratified by the people creates the number of any provision created in this joint resolution, the chief of the legislative reference bureau shall determine the sequencing and the numbering of the provisions whose numbers conflict.

C. Background

Wisconsin initiated a coordinated system of road improvements with the creation of the state highway commission in 1911. Under the commission, transportation projects and state transportation aids to county and local governments were financed through dedicated state property tax levies, motor vehicle fees, and, eventually, motor fuel taxes. These revenues were all deposited in the general fund and appropriated for transportation expenditures from the general fund as needed. Chapter 310, Laws of 1939, created a motor vehicle department to oversee motor vehicle registration, licensing, and inspection, as well as the promotion of highway safety.

Chapter 358, Laws of 1945, created a highway fund to receive all revenues from motor vehicle registrations, operator's license fees, motor fuel taxes, and federal transportation aids, and placed it at the disposal of the highway commission for projects and aids authorized by law. As part of the reorganization of state government in 1967, the motor vehicle department was combined with the highway commission and the aeronautics commission to form the department of transportation. The secretary of transportation was placed in charge of the highway fund. The 1973 budget created a transportation aids fund, also under the secretary of transportation, primarily to accept federal transportation aids and general fund revenues appropri-

ated for transportation purposes. Chapter 29, Laws of 1977, combined the functions of the two funds, creating the modern transportation fund.

Throughout this one hundred year period, the transportation fund, the department of transportation, and their predecessors were statutory creations; as such, their duties could be modified and their funds appropriated for non-transportation purposes by the legislature without any constitutional constraint. Several recent budget acts have included transfers of funds from the transportation fund to the general fund for non-transportation purposes. The 2003 and 2005 budgets each authorized specific transfers to the general fund. The 2007 and 2009 legislatures authorized the secretary of administration to lapse funds from the transportation fund to the general fund, without specifying an amount. This resulted in more transfers from the transportation fund during the period 2007 to 2011.

The first attempt to codify the transportation fund and the department of transportation as constitutional entities whose function could not be interfered with statutorily occurred in 2009. More general constitutional amendments making it harder to transfer funds from statutorily created segregated funds date back to 2005.

Two joint resolutions were introduced to create a constitutional transportation fund and department of transportation in April 2011. Representative Jerry Petrowski introduced Assembly Joint Resolution 31, which failed to pass. Senator Randy Hopper introduced Senate Joint Resolution 23.

D. Legislative Action

Senate Joint Resolution 23

To renumber section 9 of article IV; and to create section 9 (2) of article IV and section 11 of article VIII of the constitution; relating to: creation of a department of transportation, creation of a transportation fund, and deposit of funds into the transportation fund (first consideration).	05-17.	S.	Read a second time	284
	05-17.	S.	Ordered to a third reading	284
	05-17.	S.	Rules suspended	285
	05-17.	S.	Read a third time and adopted , Ayes 26, Noes 6	285
2011	05-17.	S.	Senator Kapanke added as a coauthor	283
04-20. S. Introduced by Senators Hopper, Lazich, Olsen, Schultz, Leibham, Harsdorf and Hansen ; cosponsored by Representatives Petrowski, Endsley, Knilans, Farrow, Kestell, Jacque, Ziegelbauer, Nygren, Nerison, Spanbauer, T. Larson, Petryk, Thiesfeldt, LeMahieu, Kleefisch, Strachota, Steineke, Bies, Kaufert, Brooks, Williams, Van Roy, Tranel, Klenke, Kerkman, Rivard, Honadel, Jorgensen and Zepnick.	05-17.	S.	Ordered immediately messaged	286
	05-17.	A.	Rules suspended and taken up	330
	05-17.	A.	Read a second time	330
	05-17.	A.	Ordered to a third reading	330
	05-17.	A.	Rules suspended	330
	05-17.	A.	Received from Senate	330
	05-17.	A.	Read	330
	05-17.	A.	Ordered immediately messaged	330
	05-17.	A.	Read a third time and concurred in , Ayes 82, Noes 11, Paired 4	330
	05-18.	S.	Received from Assembly concurred in	295
	05-19.	S.	Report correctly enrolled on 5-19-2011	297
04-20. S. Read first time and referred to committee on Transportation and Elections	05-26.	S.	Deposited in the office of the Secretary of State on 5-26-2011	307
05-10. S. Public hearing held.	06-06.	S.	Published 6-10-2011, 8-4-2011, 9-11-2011, 10-8-2011	319
05-12. S. Executive action taken.				
05-12. S. Report adoption recommended by committee on Transportation and Elections, Ayes 4, Noes 0				273
05-12. S. Available for scheduling.				
05-16. S. Placed on calendar 5-17-2011 pursuant to Senate Rule 18(1)				280