

MEMORANDUM

TO: The Honorable Tony Evers, Governor, State of Wisconsin
The Honorable Robin Vos, Speaker, Wisconsin State Assembly
The Honorable Scott Fitzgerald, Majority Leader, Wisconsin State Senate

FROM: Mark D. O'Connell, Executive Director

DATE: April 7, 2020

SUBJECT: County Requests for State Support During COVID-19 Pandemic

The United States, including the State of Wisconsin, is in the midst of a public health crisis. Wisconsin's 72 counties are at the forefront of the COVID-19 pandemic, providing vital public health and public safety services. As state leaders considering action to address the impacts of this pandemic on the state and its local units of government, the Wisconsin Counties Association (WCA), on behalf of all of its members, respectfully requests that you consider the following measures to assist counties in addressing the crisis:

- State funding to assist counties in covering costs associated with health, human services and emergency personnel, specifically their significant overtime costs.
- State funding to assist counties in covering costs associated with PPE purchases.
- State funding to offset dramatic increases in county public health department costs.
- State funding to assist counties in covering costs associated with purchasing remote work equipment for emergency personnel and other essential employees.
- State funding to assist counties with significant cost overruns in nursing homes and jails.
- Changes to state statute to allow WRS retirees to return to work (on a temporary basis) without having to suspend their annuity.
- Changes to state statute to eliminate the 75-day waiting period for WRS retirees before they can return to work.
- Creation of a state fund—in place of county worker's compensation coverage—to provide income continuation during a period of isolation or recuperation relating to COVID-19.

- Providing temporary immunity from civil liability to certain health care facilities (including local government facilities used as temporary health care facilities) and certain health care providers for the provision of healthcare services related to COVID-19.¹
- Authorize counties to borrow funds for purposes of funding cash flow and operational needs.

The items identified above will, if granted, greatly assist counties in continuing to provide services to the citizens of Wisconsin in this time of dire need and, as well, create a firm foundation for counties to resume their important work once the crisis abates. We look forward to continuing discussions surrounding these and additional means by which to strengthen the state and county partnership.

Please do not hesitate to contact the Wisconsin Counties Association if you need additional information on any of the requests.

Thank you for your consideration.

¹ See attached drafting instructions

Drafting Instructions:

The proposed temporary immunity from civil liability is needed for certain health care facilities and health care providers acting in good faith while treating COVID-19 patients and operating under the unique and unprecedented situation created by the pandemic. Healthcare facilities and providers are facing unprecedented shortages in equipment and hospital bed space. As such many temporary measures are being taken, including the use, or likely future use, of many local government facilities as temporary healthcare facilities. This provision is intended to limit the exposure of such providers and facilities, and has been implemented by a variety of other states to date. Draft language follows:

"Health care facility" refers to any system, care clinic, care provider, long-term care facility, or any other health care facility where health care services are or may be provided, including, without limitation any modular field treatment facility or other temporary site or facility designated by the Wisconsin Department of Health Services, any local health officer, or any local unit of government for temporary use for the purpose of providing essential services in support of the State's COVID-19 response.

"Health care provider" has the meaning given in Wis. Stat. § 146.8 1(1)(a) through (hg), (i) through (k), and (q) through (s).

Notwithstanding any provision of the Wisconsin Statutes, or any administrative rules, policies, procedures, or other regulations, any health care provider or health care facility shall be immune from suit for civil liability for any injury or death alleged to have been sustained and caused by, arising out of, relating to, or in the administration of the health care provider's or health care facility's acts or omissions undertaken in good faith while providing health care services in support of the State's COVID-19 response, including, without limitation, acts or omissions by one or more of a health care facility's agents, officers, employees, servants, representatives or volunteers, or acts or omissions undertaken because of a lack of resources, attributable to the COVID-19 pandemic, that renders the health care provider or health care facility unable to provide the level or manner of care that otherwise would have been required in the absence of the COVID-19 pandemic and which resulted in the damages at issue, provided that nothing in this order shall remove or limit any immunity conferred by any provision of the Wisconsin Statutes or other applicable law. Administration shall include provision of health care measures, as well as management and operation of programs and locations involved in support of the State's COVID-19 response. Such immunity shall not extend to acts or omissions that constitute a crime, fraud, malice, or willful misconduct. The immunity conferred by this order applies to acts or omissions subject to this order occurring at any time during the Health Emergency in Response to the COVID-19 Coronavirus declared on March 12, 2020 pursuant to Executive Order #72, including any period of extension or renewal, including acts or omissions occurring prior to the issuance of this order attributable to the COVID-19 response effort.

