

1987 Assembly Bill 442

Date of enactment: **March 10, 1988**  
Date of publication: **March 16, 1988**

## 1987 Wisconsin Act 142

AN ACT *to repeal* 15.107 (6), 16.76 (2), 16.96 (2) (dx) and (e), 16.96 (4), 16.97 (5) and 20.911; *to amend* 15.07 (1) (cm), 15.101 (6), 15.105 (5), 15.105 (6), 16.006 (title) and (1) (intro.), 16.006 (1) (c), 16.006 (3) (intro.), 16.006 (4), 16.007 (1), 16.75 (3), 16.75 (4) (a) 5, 16.76 (title), 16.76 (3) (a), 16.96 (2) (dm), 16.96 (3) (a), 20.505 (1) (a), 20.855 (8), 20.905 (2), 73.01 (2), 799.05 (3) and 985.08 (1); and *to create* 16.007 (6) (b) 4, 16.85 (5) and 16.959 of the statutes, *relating to*: charges for dishonored drafts presented to the state; the energy conservation duties of the department of administration; discontinuance of the anemometer loan program administered by the department of administration; the return date for small claims garnishment actions against the state;

establishment of a minimum claim for consideration by the claims board; abolition of the council on data processing in the department of administration; publishing fees for legal notices; population estimate procedure; appointment of the employes of the tax appeals commission; the state employes merit award board; state contracts for continuing provision of materials, supplies, equipment or contractual services; changing the reporting date of a department of administration report to the council on small and minority business opportunities; membership of the state capitol and executive residence board; and reports of state public depositories.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of administration, and introduced by the law revision committee under s. 13.83 (1) (c) 4, stats. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 15.07 (1) (cm) of the statutes is amended to read:

15.07 (1) (cm) The terms of members of the personnel board shall expire on July 1. ~~The terms of members of the state employes merit award board shall expire on July 1.~~ The term of one member of the ethics board shall expire on each May 1. The terms of members of the radioactive waste review board shall expire as specified under s. 15.105 (11) (c). The terms of the 3 members of the land conservation board appointed under s. 15.135 (4) (b) 2 shall expire on January 1. The terms of members of the real estate board shall expire on July 1.

NOTE: This SECTION changes the expiration date of the terms of members of the state employes merit award board (renamed the state employes suggestion board by the bill) to make it consistent with the expiration date generally used for other boards. See also SECTION 42.

SECTION 2. 15.101 (6) of the statutes is amended to read:

15.101 (6) (title) STATE EMPLOYES SUGGESTION BOARD. The state employes merit award suggestion board shall have the program responsibilities specified for the board under s. 16.006.

NOTE: Changing the name of the state employes merit award board will eliminate confusion over the program's relationship to the merit pay component of the state's annual pay plan. The amendment is also consistent with the promotional effort currently under way to reinvigorate the program. See also SECTIONS 4, 6, 7, 8, 9 and 29.

SECTION 3. 15.105 (5) of the statutes is amended to read:

15.105 (5) STATE CAPITOL AND EXECUTIVE RESIDENCE BOARD. There is created a state capitol and executive residence board, attached to the department of administration under s. 15.03, consisting of the secretary of administration or the secretary's designee, the director of the historical society, ~~the head of the engineering function in~~ an architect or engineer employed by the department of administration or his or her designee appointed by the secretary of administration, 3 senators and 3 representatives to the assembly appointed as are the members of standing committees in their respective houses, and 7 citizen members appointed

for staggered 6-year terms of whom at least 2 shall be architects licensed in this state, one shall be a landscape architect and 3 shall be interior designers.

NOTE: The current statute provides that the head of the engineering function in the department of administration (DOA) is a member of the state capitol and executive residence board. The purpose of the amendment is to broaden the range of individuals who would be qualified for this position so the secretary of administration has the discretion to pick a qualified person who also has time available to perform the functions of this position. It will also give the secretary an opportunity to rotate the appointment periodically among other eligible agency personnel.

SECTION 4. 15.105 (6) of the statutes is amended to read:

15.105 (6) (title) STATE EMPLOYES SUGGESTION BOARD. There is created in the department of administration a state employes merit award suggestion board consisting of 3 persons ~~who may, at least one of whom shall be a state officer or employe officer or employe~~, appointed for ~~3-year~~ 4-year terms.

NOTE: Changing the terms of members of the state employes merit award board (renamed the state employes suggestion board by the bill) from 3 to 4 years is intended to provide more continuity to the board and will permit the chairperson to be elected for 2 successive annual terms. Requiring at least one member of the board to be a state officer or employe confirms current practice.

SECTION 5. 15.107 (6) of the statutes is repealed.

NOTE: The bureau of information and telecommunications management in DOA, in accordance with s. 16.97 (2), stats., is responsible for the review of agency data processing plans and processes. The bureau coordinates its efforts with all state agencies and reports on an ongoing basis to the secretary of administration. The bureau has established a data processing advisory group which meets monthly. The bureau has also established a statewide Wisconsin data processing directors council, which includes representatives from all agencies. The advisory group and the directors council now provide advice to DOA in the development of the state's data processing planning. The council on data processing, which is abolished by this SECTION, has not met regularly for several years. See also SECTIONS 28 and 31.

SECTION 6. 16.006 (title) and (1) (intro.) of the statutes are amended to read:

**16.006 (title) State employes suggestion board. (1) DUTIES.** (intro.) The state employes merit award suggestion board shall:

SECTION 7. 16.006 (1) (c) of the statutes is amended to read:

16.006 (1) (c) Make and render ~~merit~~ awards to or for the benefit of state employes nominated to receive them in accordance with such plan or plans.

SECTION 8. 16.006 (3) (intro.) of the statutes is amended to read:

16.006 (3) AWARDS. (intro.) The board may determine the nature and extent of the ~~merit~~ awards to be made under this section which may include, but shall not be limited to, the following:

SECTION 9. 16.006 (4) of the statutes is amended to read:

16.006 (4) RULES. The board may promulgate rules governing the operation of any plan or plans established under this section, the eligibility and qualifications of state employees participating therein, the character and quality of suggestions and accomplishments submitted for consideration, the method of their submission and the procedure for their review, nominations for ~~merit~~ awards, and the kind, character and value of such awards, and such other rules as are necessary for the proper administration of this section or for the accomplishment of the purposes thereof.

NOTE: SECTIONS 6 to 9 make changes conforming to the change of the name of the state employees merit award board to the state employees suggestion board. See also SECTIONS 2, 4 and 29.

SECTION 10. 16.007 (1) of the statutes is amended to read:

16.007 (1) PURPOSE. The claims board shall receive, investigate and make recommendations on all claims of \$10 or more presented against the state which are referred to the board by the department. No claim or bill relating to such a claim shall be considered by the legislature until a recommendation thereon has been made by the claims board.

SECTION 11. 16.007 (6) (b) 4 of the statutes is created to read:

16.007 (6) (b) 4. Payment of any claim of less than \$10.

NOTE: It costs approximately \$10 for the state to process a claim submitted to the claims board and issue a check. SECTION 10, proposed by the claims board, requires that the amount of a claim against the state which is submitted to the claims board must exceed the estimated \$10 cost of processing the claim. Under SECTION 11, a claim for less than \$10 may be paid without submission to the board if DOA finds that payment of the claim is justified.

SECTION 13. 16.75 (3) of the statutes is amended to read:

16.75 (3) The department may let contracts in excess of funds available. Except in the cases to which s. 18.10 (1) applies, any such contract shall state in substance that its continuance beyond the limits of funds already available is contingent upon appropriation of the necessary funds. Contracts, ~~except those specified in s. 16.76 (2),~~ may be for any term deemed to be in the best interests of the state but the terms and provisions for renewal or extension, if any, shall be incorporated in the bid specifications and the contract document.

NOTE: This SECTION deletes a reference to state continuing agreements and flexible contracts, which are deleted by the bill. See also SECTIONS 16 to 18.

SECTION 14. 16.75 (4) (a) 5 of the statutes is amended to read:

16.75 (4) (a) 5. By ~~May~~ October 1 of each year, submit a report to the council on small and minority business opportunities which evaluates the performance of small Wisconsin businesses submitting bids or proposals to the state and makes recommendations for increased involvement of such businesses in submitting competitive bids and proposals under this section.

NOTE: Under the current statute, DOA must submit an annual report to the council on small and minority business opportunities. The required report has 2 components: a narrative of department activities and recommendations and a financial analysis of the extent of small business participation in selling to the state. DOA can provide the narrative report by May, but cannot obtain the financial information from the bureau of financial operations in DOA until after the state officially closes its books on July 30. An October 1 reporting date allows DOA to present one integrated, analytical and, therefore, more useful report to the council.

SECTION 16. 16.76 (title) of the statutes is amended to read:

**16.76 (title) Form of contracts; continuing contracts.**

SECTION 17. 16.76 (2) of the statutes is repealed.

NOTE: Section 16.76 (2), stats., relates to continuing agreements and flexible contracts and provides that these may not exceed one year's duration, but may be renewed twice for one-year periods. Current s. 16.75 (3), stats., states that contracts except those in s. 16.76 (2), stats., may be for any term deemed to be in the best interests of the state. The definitions of continuing agreements and flexible contracts are unclear and result in confusion, particularly when read in conjunction with s. 16.75 (3), stats. The repeal of s. 16.76 (2), stats., eliminates this confusion and allows contracts to be written for terms judged to be in the best interests of the state.

SECTION 18. 16.76 (3) (a) of the statutes is amended to read:

16.76 (3) (a) Prices established in a continuing agreements and term contracts contract to provide materials, supplies, equipment or contractual services over a period of time may be lowered due to general market conditions, but prices shall not be subject to increase for 90 calendar days from the date of award. ~~Any~~ The contractor shall submit any proposed price increase proposed shall be submitted under a continuing contract to the department at least 30 calendar days before the proposed effective date of the price increase, and. Any price increase shall be limited to fully documented cost increases to the contractor which are demonstrated the contractor demonstrates to be industrywide. The conditions under which price increases may be granted shall be expressed in bidding documents and contracts ~~or agreements.~~

NOTE: This SECTION deletes reference to state continuing agreements, repealed by SECTION 17, but retains and clarifies a reference to contracts for a continuing supply of materials, supplies, equipment or services.

SECTION 19. 16.85 (5) of the statutes is created to read:

16.85 (5) To promote the use of energy conservation methods in state-owned facilities, to implement and refine a statewide energy monitoring system and to develop and implement initiatives of replacing fossil fuels with renewable energy fuels.

NOTE: DOA currently undertakes work related to energy conservation in state-owned facilities. This SECTION provides that promotion of energy conservation methods in state facilities, implementation and refinement of a statewide energy monitoring system, and development and implementation of initiatives to replace fossil fuels with renewable energy fuels are statutory responsibilities of DOA.

SECTION 22. 16.959 of the statutes is created to read:

**16.959 Wind energy.** The department shall:

(1) Promote the use of wind energy systems. "Wind energy system" means equipment which converts and then transfers or stores energy from the wind into usable forms of energy.

(2) Gather and disseminate information on wind characteristics and the economic feasibility of using wind energy systems in the state.

(3) Offer assistance to persons interested in installing a wind energy conversion system.

(4) Train university of Wisconsin system extension staff to assist persons interested in siting wind energy conversion systems.

(5) Publish a list, at intervals not to exceed 6 months, of reputable manufacturers and distributors of wind energy conversion systems in the upper mid-west region of the United States.

SECTION 23. 16.96 (2) (dm) of the statutes is amended to read:

16.96 (2) (dm) The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on August 10 if the final certified results of such censuses are received by the department before July 1 in the year in which the determination is being made. The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on October 10 if the final certified results of such censuses are received by the department before October 1 in the year in which the determination is made. If a municipality or county notifies the department in writing by ~~September 15~~ October 1 of its intention to contract for a special census with the U.S. bureau of the census in support of a challenge to the August 10 population determination, and if the final certified results of such a special census are received by the department before ~~June 1~~ July 15 in the following year, the department shall adjust the preceding October 10 population estimate to reflect the results of the special census. If a special census is unavailable, the department may use the best information from ~~a the most recent federal decennial or mid-decade census.~~ The department shall report the adjusted population determination shall be reported to the department of revenue before September 15 August 1 of the year subsequent to the challenge. Upon making such population adjustments, the department of revenue shall correct shared revenue distributions under subch. I of ch. 79 shall be cor-

~~rected~~ according to s. 79.08. Federal The department shall prorate census results for census dates occurring after the reference date of any population determination shall be prorated back to the reference date of the estimate for all municipalities under par. (a). If a municipality contracts with the U.S. bureau of the census for a special census, the municipality shall assure that the results of such special census shall be are certified to the department not later than 30 days after the release of the census results by the U.S. bureau of the census.

NOTE: Changing the September 15 deadline for counties and municipalities to notify DOA of their intention to contract for a special federal census from September 15 to October 1 makes s. 16.92 (2) (dm), stats., consistent with the requirements and intent in s. 16.96 (2) (b), stats. The U.S. bureau of the census has severely reduced the size of staff assigned to handle special census work. The time needed to complete a special census and to certify the results has increased significantly and experience has demonstrated that counties and municipalities often are unable to meet the June 1 deadline for submitting certified results of a special census to DOA. Extending the date for submittal to July 15 will provide counties and municipalities with additional time to submit census results. Another change eliminates the term "mid-decade" census because such a census is no longer feasible.

The purpose of moving the adjusted population determination report deadline from September 15 to August 1 is to permit adjustment of the past year or current population estimates used for per capita revenue sharing. Section 79.08, stats., limits changes in payment allocations by the department of revenue (DOR) to a one-year time span, not later than August 15 of the year following a shared revenue distribution. By requiring DOA to report by August 1, DOR will have 14 days for final wrap up of any fiscal changes. The current September 15 deadline is too late to be of any use to DOR. See also SECTION 43 (2).

SECTION 24. 16.96 (2) (dx) and (e) of the statutes are repealed.

NOTE: Originally created to facilitate certain temporary administrative procedures related to the 1980 decennial census, s. 16.96 (2) (dx), stats., is no longer needed. Section 16.96 (2) (e), stats., sets forth the duties of the coordinating council for population information, a nonstatutory council which was disbanded in 1982. See also SECTION 26.

SECTION 25. 16.96 (3) (a) of the statutes is amended to read:

16.96 (3) (a) Establish a demographic services center to develop and administer such systems needed to carry out the functions required under subs. (1) and (2) to maintain a current repository of appropriate published and computer retrievable federal census information and cooperate with state agencies and regional planning agencies so that the department's population estimates, projections and published reports will be useful for the many planning and other purposes for which they are required. The center shall coordinate population information development and use. The department may enter into agreements with state and local agencies or regional planning agencies for their assistance in the preparation of population estimates, projections and forecasts.

NOTE: The added language concerning the demographic service center is retained from s. 16.96 (4), stats., which is repealed by SECTION 26.

SECTION 26. 16.96 (4) of the statutes is repealed.

NOTE: Section 16.96 (4), stats., requires consultation by DOA with the coordinating council for population information. The council was disbanded in 1982. See also SECTION 24.

SECTION 28. 16.97 (5) of the statutes is repealed.

NOTE: This SECTION deletes the duties of the council on data processing, which is abolished by this bill. See also SECTIONS 5 and 31.

SECTION 29. 20.505 (1) (a) of the statutes is amended to read:

20.505 (1) (a) *General program operations.* The amounts in the schedule for administrative supervision, policy and fiscal planning and management services and for the payment of awards pursuant to s. 16.006 and to defray the expenses incurred by the ~~merit award~~ state employees suggestion board and the building commission not otherwise appropriated.

NOTE: This SECTION reflects the change in the name of the state employees merit award board to the state employees suggestion board. See also SECTIONS 4, 6, 7, 8 and 9.

SECTION 31. 20.855 (8) of the statutes is amended to read:

20.855 (8) **DATA PROCESSING SERVICE CENTERS.** (k) *Wilson street regional data processing service center.* The amounts in the schedule to provide for the repurchase of supplies, equipment, software and supporting staff costs at the Wilson street regional data processing service center and for research and development to acquire new or improved data processing technology. All moneys received from data processing services provided primarily to state agencies by the Wilson street regional data processing service center shall be credited to this appropriation. The secretary of administration, ~~after consultation with the council on data processing,~~ shall prescribe limits and procedures for the utilization of moneys appropriated under this paragraph for research and development.

(ka) *Hill farms regional data processing service center.* The amounts in the schedule to provide for the repurchase of supplies, equipment, software and supporting staff costs at the Hill farms regional data processing service center, and for research and development to acquire new or improved data processing technology. All moneys received from data processing services provided primarily to state agencies by the Hill farms regional data processing service center shall be credited to this appropriation. The secretary of administration, ~~after consultation with the council on data processing,~~ shall prescribe limits and procedures for the utilization of moneys appropriated under this paragraph for research and development.

(kb) *GEF regional data processing service center.* The amounts in the schedule for the repurchase of supplies, equipment, software and supporting staff costs at the GEF regional data processing service center, and for research and development to acquire new or improved data processing technology. All moneys received from data processing services provided primarily to state agencies by the GEF regional data processing service center shall be credited to this

appropriation. The secretary of administration, ~~after consultation with the council on data processing,~~ shall prescribe limits and procedures for the utilization of moneys appropriated under this paragraph for research and development.

NOTE: This SECTION deletes references to the council on data processing, which is abolished by this bill. See also SECTIONS 5 and 28.

SECTION 32. 20.905 (2) of the statutes is amended to read:

20.905 (2) **PROTESTED PAYMENT.** If a personal check tendered to make any payment to the state is not paid by the bank on which it is drawn, or if a demand for payment under a debit or credit card transaction is not paid by the bank upon which demand is made, the person by whom the check has been tendered or the person entering into the debit or credit card transaction shall remain liable for the payment of the amount for which the check was tendered or the amount agreed to be paid by debit or credit card and for all legal penalties, additions and a charge of \$5, ~~and in such case set by the depository selection board which is comparable to charges for unpaid drafts made by establishments in the private sector.~~ In addition, the officer to whom the check was tendered or to whom the debit or credit card was presented may, if there is probable cause to believe that a crime has been committed, provide any information or evidence relating to the crime to the district attorney of the county having jurisdiction over the offense for prosecution as provided by law. If any license has been granted upon any such check or any such debit or credit card transaction, the license shall be subject to cancellation for the nonpayment of the check or failure of the bank to honor the demand for payment authorized by debit or credit card.

NOTE: Currently, the statutes require a charge of \$5 to be added when a bad check is received by the state. Private sector businesses charge from \$5 to \$10 for bad checks. The costs for processing these checks has not been calculated, but it is thought to be high because of the extensive manual effort required. This change would allow the depository selection board to periodically establish a rate commensurate with that charged by private businesses. See also SECTION 43 (1).

SECTION 33. 20.911 of the statutes is repealed.

NOTE: This SECTION eliminates the requirement for financial institutions serving as state public depositories to file monthly and quarterly reports with DOA. The state treasurer's office and DOA believe that s. 20.911, stats., has not been observed, followed or enforced since 1955, the year of creation of the state investment fund. Prior to creation of the fund, the state treasurer placed money for investment purposes in interest-bearing accounts of numerous different banks throughout the state. This is no longer the method of operation with the investment fund and, therefore, s. 20.911, stats., is obsolete.

SECTION 34. 73.01 (2) of the statutes is amended to read:

73.01 (2) **EMPLOYEES.** The ~~department of administration~~ chairperson of the commission may appoint, under the classified service, such employees for the commission as are necessary.

NOTE: There are several boards, commissions and divisions attached to DOA for administrative purposes only under s. 15.03, stats. All of these agencies, except the tax appeals commission, have independent authority to appoint subordinate staff. This proposed change allows the chairperson of the tax appeals commission to make appointments in the classified service, so that the commission's powers will be consistent with the powers of other boards, commissions and divisions attached to DOA.

SECTION 40. 799.05 (3) of the statutes is amended to read:

799.05 (3) RETURN DATE. Every summons shall specify a return date and time. Except in eviction actions and garnishment actions under s. 812.23, the return date shall be not less than 8 days nor more than 30 days from the issue date, and service shall be made not less than 8 days prior to the return date. In eviction actions, the return date shall be not less than 5 days nor more than 30 days from the issue date, and service shall be made not less than 5 days prior to the return date. In garnishment actions under s. 812.23, the return date shall be the date specified under s. 812.23 (4). The clerk shall set the day and hour at which the summons is returnable.

NOTE: In garnishment actions under ch. 812, stats., DOA is allowed 20 days from the date of service to return an answer to a garnishee summons if the state is the garnishee. The answer is to show the indebtedness for liability of earnings or property to the employe. In small claims actions, the return date cannot be less than 8 days nor more than 30 days from the summons issue date, not the date of receipt. Because DOA processes most payrolls biweekly, DOA frequently does not meet the court answer date. The court then sends a notice of adjournment and indicates that it will enter a judgment against the state at the new answer date if no answer is received. The amendment of sub. (3) eliminates the administrative time and costs associated with the extra notices.

SECTION 41. 985.08 (1) of the statutes is amended to read:

985.08 (1) The fee for publishing a legal notice shall be not more than 14 cents per standard line for the first insertion and not more than 11 cents per standard line for each subsequent insertion. The charge for the publication of a facsimile ballot shall be computed as if the area occupied by the ballot were set in standard lines. If a legal notice contains tabulated matter, then

the fees allowable for the area containing such matter shall be increased 50% of the standard line base rate without adjustment for circulation premium. Composed matter shall be interpreted as being tabular when it contains 2 or more justifications per line. The minimum fee for any legal notices shall be \$2. The maximum rate ~~herein~~ specified in this subsection shall be adjusted each 2 years, the ~~first~~ adjustment to be effective on January 1, 1970, of each even-numbered year to reflect the relevant change in costs of the newspaper publishing industry as compared with such costs on ~~December 1, 1967~~ October 1 of the 3rd year preceding that January 1, as determined by the ~~chief of the state printing section in the~~ chief of the state printing section department in consultation with representatives of the daily and weekly newspaper industry of the state. In making ~~such the~~ the determination the ~~chief of the state printing section department~~ department shall base the ~~same~~ determination upon the factors of wage and newsprint costs in the proportions determined by ~~him~~ the department to be proper.

NOTE: This SECTION allows DOA to begin the process of calculating legal notice rate changes on October 1, rather than December 1, for an effective date of January 1. This will give staff adequate lead time to calculate allowable rate increases and notify the affected newspapers before the rate change goes into effect. Other changes in this SECTION delete outmoded language that no longer accurately reflects the organizational structure within DOA.

SECTION 42. **Nonstatutory provisions; initial terms.** Notwithstanding section 15.07 (1) (cm), 1985 stats., and section 15.105 (6) of the statutes, as affected by this act, the term of the member of the state employes suggestion board which was scheduled to expire on July 1, 1988, shall expire on May 1, 1989; the term of the member of the state employes suggestion board which was scheduled to expire on July 1, 1989, shall expire on May 1, 1989; and the term of the member of the state employes suggestion board which was scheduled to expire on July 1, 1990, shall expire on May 1, 1991. All succeeding appointees to the board shall serve for terms prescribed by law.

SECTION 43. **Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

- (1) ADMINISTRATION.
- (b) *Charges for dishonored checks.*

A	B	C
Statute Sections	References Deleted	References Inserted
15.101 (3)	20.905 (1)	20.905 (1) and (2)

- (2) REVENUE.
- (a) *Correction of shared revenue distributions.*

A	B	C
Statute Sections	References Deleted	References Inserted
15.431 (intro.)	none	16.96 (2) (dm)