



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3559/1  
CMH:med:ph

## 2011 SENATE BILL 570

March 15, 2012 - Introduced by Senators LASSA and VINEHOUT, cosponsored by Representatives JORGENSEN, ROYS, TURNER and RINGHAND. Referred to Committee on Senate Organization.

1     **AN ACT to renumber and amend** 16.705 (2); **to amend** 16.705 (8) (a); and **to**  
2           **create** 16.705 (2) (b) and (c) and 16.705 (8) (am) of the statutes; **relating to:**  
3           cost-benefit analyses and continued appropriateness reviews when state  
4           agencies contract for services.

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### *Analysis by the Legislative Reference Bureau*

Currently, the Department of Administration (DOA) or any state agency to which DOA delegates purchasing authority may contract for services if the services can be performed more efficiently or economically by contract than by state employees. Also, under current law, if a state agency enters into or renews a contract for services that involves an estimated expenditure of more than \$25,000, the agency must conduct either a uniform cost-benefit analysis, for a new contract, or a continued appropriateness review, for a contract renewal. This bill exempts from this requirement services that federal or state law requires to be performed by contract; services that are incidental to the purchase of a commodity; services that are substantially dissimilar to services a state employee performs; and services that must be provided per a contract, license, or warranty by the original equipment manufacturer or publisher. Also, under the bill, no cost-benefit analysis or continued appropriateness review may be conducted by contract and no cost-benefit analysis may be shown to any bidder until a letter of intent to contract has been issued.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 16.705 (2) of the statutes is renumbered 16.705 (2) (a) and amended  
2 to read:

3           16.705 (2) (a) The department shall promulgate rules for the procurement of  
4 contractual services by the department and its designated agents, including but not  
5 limited to rules prescribing approval and monitoring processes for contractual  
6 service contracts; except as provided in par. (b), a requirement for agencies to  
7 conduct a uniform cost-benefit analysis of each proposed contractual service  
8 procurement involving an estimated expenditure of more than \$25,000 in accordance  
9 with standards prescribed in the rules; and, except as provided in par. (b), a  
10 requirement for agencies to review periodically, and before any renewal, the  
11 continued appropriateness of contracting under each contractual services  
12 agreement involving an estimated expenditure of more than \$25,000.

13           (d) Each officer requesting approval to engage any person to perform  
14 contractual services shall submit to the department written justification for such  
15 contracting which shall include a description of the contractual services to be  
16 procured, justification of need, justification for not contracting with other agencies,  
17 a specific description of the scope of contractual services to be performed, and  
18 justification for the procurement process if a process other than competitive bidding  
19 is to be used. The department may not approve any contract for contractual services  
20 unless it is satisfied that the justification for contracting conforms to the  
21 requirements of this section and ss. 16.71 to 16.77.

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1           **SECTION 2.** 16.705 (2) (b) and (c) of the statutes are created to read:

2           16.705 (2) (b) 1. A cost-benefit analysis or continued appropriateness review  
3 is not required for the following services:

4           a. Services that federal or state law requires to be performed by contract.

5           b. Services that are incidental to the purchase of a commodity.

6           c. Services that are substantially dissimilar to services performed by state  
7 employees or that state employees have not performed historically and are not able  
8 to perform without significant retraining or investment in infrastructure or capital.

9           d. Services that must be provided per a contract, license, or warranty by the  
10 original equipment manufacturer or publisher unless the contract, license, or  
11 warranty has expired or is no longer valid.

12           2. If an agency is exempted from the cost-benefit analysis or continued  
13 appropriateness review under subd. 1. c. only, the department must include in the  
14 report submitted under sub. (8) the services that the agency determined were exempt  
15 under subd. 1. c.

16           (c) 1. Neither a cost-benefit analysis nor a continued appropriateness review  
17 may be conducted by contract.

18           2. A cost-benefit analysis may not be shown to a bidder prior to the issuance  
19 of a letter of intent to contract.

20           **SECTION 3.** 16.705 (8) (a) of the statutes is amended to read:

21           16.705 (8) (a) A summary of the cost-benefit analyses completed by agencies  
22 in compliance with rules promulgated by the department under sub. (2) (a).

23           **SECTION 4.** 16.705 (8) (am) of the statutes is created to read:

