



1995 ASSEMBLY BILL 126

February 14, 1995 - Introduced by Representatives SILBAUGH, UNDERHEIM, PROSSER, VRAKAS, FOTI, GOETSCH, LEHMAN, DUFF, LORGE, GROBSCHMIDT, ROBSON, ALBERS, HARSDFORF, AINSWORTH, HAHN, OWENS, DOBYNS, TURNER, BALDWIN, GROTHMAN, ZUKOWSKI and OLSEN, cosponsored by Senators RUDE, BUETTNER, SCHULTZ and WINEKE. Referred to Committee on State Affairs.

1 **AN ACT** *to renumber and amend* 19.45 (12); *to amend* 13.10 (3) and 19.58 (1);
2 and *to create* 19.45 (12) (a) 1. and 2., (b) and (c) and (13) of the statutes;
3 **relating to:** requests for increased appropriations to state agencies and
4 positions of state employes on policies of state agencies.

Analysis by the Legislative Reference Bureau

Under the code of ethics for state public officials and employes, no state agency or officer or employe thereof may present any request, or knowingly utilize any interests outside the agency to present any request, to either house of the legislature or any member or committee thereof, for appropriations that exceed the amount requested by the agency in the agency's most recent biennial budget request, which is submitted to the department of administration in each even-numbered year. Violators are subject to a forfeiture (civil penalty) of not more than \$5,000 for each violation, and intentional violators are subject to a fine of not less than \$100 nor more than \$5,000 or imprisonment for not more than one year, or both, for each violation (a misdemeanor).

This bill provides that an officer of a state agency who is not an employe of the agency is not subject to the prohibition. The bill provides that an employe of a state agency may seek additional appropriations for the agency upon receiving written approval of the governor or the secretary of administration. The bill also clarifies that the prohibition does not affect the rights of an employe to request increased appropriations while acting in his or her capacity as a private citizen, if the request is made while the employe is not engaged in official duties.

In addition, the bill prohibits an employe of a state agency from taking a position on a matter of official policy of the agency by which he or she is employed when acting in an official capacity or when engaged in official duties except when testifying, with the approval of his or her agency head, or when responding to questions. The bill also prohibits an employe of a state agency, when the employe is

acting in an official capacity or engaged in official duties, from initiating action which encourages legislative or executive decisions that are different from the official policy of the agency by which he or she is employed. The latter provision does not apply to lawful disclosures under the law which prohibits reprisals for disclosure of certain information ("whistleblower law"). The provision also does not apply to representation of a labor organization, or of an employe by an authorized representative of such an organization, on any matter affecting the employer-employe relationship.

Lastly, the bill deletes the current misdemeanor penalty for intentional violations. Under the bill, all violations are subject only to the existing civil penalty.

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

1 **SECTION 1.** 13.10 (3) of the statutes is amended to read:

2 13.10 (3) All requests for action by the committee shall be filed with the
3 secretary of the committee in writing and shall contain a statement of the action
4 requested, the purposes therefor, the statutory provision authorizing or directing the
5 performance of the action, and such other information as the committee may require.

6 The governor shall submit a recommendation on the request to the committee. The
7 committee shall afford all such requests a public hearing and the secretary of the
8 committee shall give public notice of the time and place of such hearing. The

9 committee shall not act upon any request that is submitted in violation of s. 19.45
10 (12) or (13).

11 **SECTION 2.** 19.45 (12) of the statutes is renumbered 19.45 (12) (a) (intro.) and
12 amended to read:

13 19.45 (12) (a) (intro.) No agency, as defined in s. 16.52 (7), ~~or officer or~~ any
14 employe thereof may present any request, or knowingly utilize any interests outside
15 the agency to present any request, to either house of the legislature or to any member
16 or committee thereof, for appropriations which exceed the amount requested by the

1 agency in the agency's most recent request submitted under s. 16.42~~7~~, except as
2 follows:

3 **SECTION 3.** 19.45 (12) (a) 1. and 2., (b) and (c) and (13) of the statutes are created
4 to read:

5 19.45 **(12)** (a) 1. An employe of such an agency may seek additional
6 appropriations for the agency upon receiving written approval from the governor or
7 the secretary of administration.

8 2. An employe of such an agency may seek additional appropriations for the
9 agency while acting in his or her capacity as a private citizen, if the request is made
10 while the employe is not engaged in official duties.

11 (b) An employe of an agency under par. (a) may take a position on a matter of
12 official policy of the agency by which he or she is employed when acting in an official
13 capacity or when engaged in official duties only when testifying, with the approval
14 of his or her agency head, or when responding to questions.

15 (c) An officer of an agency under par. (a) who is not an employe of the agency
16 may present any request to either house of the legislature or to any member or
17 committee thereof.

18 (13) No employe of an agency under par. (a) during the time when the employe
19 is acting in an official capacity or engaged in official duties, initiate action which
20 encourages legislative or executive decisions that are different from the official policy
21 of the agency by which he or she is employed. This paragraph does not apply to an
22 employe who lawfully discloses information under s. 230.81 or files a complaint
23 under s. 230.85 (1). This paragraph does not apply to representation of a labor
24 organization, as defined in s. 5.02 (8m), or of an employe by an authorized

1 representative of such an organization, on any matter affecting the
2 employer-employee relationship.

3 **SECTION 4.** 19.58 (1) of the statutes is amended to read:

4 19.58 (1) Any person who intentionally violates any provision of this
5 subchapter, except s. 19.45 (12), or a any code of ethics adopted or established under
6 s. 19.45 (11) (a) or (b) shall be fined not less than \$100 nor more than \$5,000 or
7 imprisoned for not more than one year in the county jail or both.

8 (END)