



## 1995 ASSEMBLY BILL 206

March 15, 1995 - Introduced by Representatives KREIBICH, JENSEN, FREESE, DOBYNS, MUSSER, LEHMAN, VRAKAS, NASS, LADWIG, SKINDRUD, ALBERS, WARD, SCHNEIDERS, HUEBSCH, AINSWORTH, OWENS, HAHN, GOETSCH, ZUKOWSKI, WALKER, OLSEN and SERATTI, cosponsored by Senators SCHULTZ, DARLING and BUETTNER. Referred to Committee on Government Operations.

1     **AN ACT to repeal** 13.04 (1) (title) and 13.04 (2); **to renumber** 13.04 (1) (a) to (d);  
2             **to renumber and amend** 13.04 (1) (e) and 16.417 (2); **to amend** 16.417 (title)  
3             and 16.417 (1) (b); **to repeal and recreate** 16.417 (1) (a); and **to create** 16.417  
4             (1) (c) and 16.417 (2) (b) of the statutes; **relating to:** service by elective state  
5             officials in other salaried state positions.

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### *Analysis by the Legislative Reference Bureau*

Currently, under the common law doctrine of compatibility of offices, an elective state official may hold another state position if the nature and duties of the position are not such as to make it improper from considerations of public policy for an elective state official to hold that position, except that no member of the legislature may, during the term for which the member was elected, be appointed or elected to any civil office which was created or the emoluments of which have been increased during the term for which the member was elected. A member of the legislature who is appointed to or employed in another compatible salaried state position may be paid only that part of the salary for the position which exceeds the salary paid to the member as a legislator.

Currently, no individual who is employed or retained in a full-time position or capacity with a state agency or authority, except the world dairy center authority, may hold any other position or be retained in any other capacity with a state agency or with such an authority from which the individual receives, directly or indirectly, more than \$12,000 from the agency or authority as compensation for the individual's services during the same year. The law does not apply to an individual who has a full-time appointment for less than 12 months, during a period of time that is not included in the appointment.

This bill prohibits, subject to the current exception, any elective state official from holding any other position or being retained in any other capacity with any

agency or authority, except an unsalaried position or unpaid service with an agency or authority that is compatible with the official's duties, the emoluments of which are limited to reimbursement for actual and necessary expenses incurred in the performance of those duties.

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

1           **SECTION 1.** 13.04 (1) (title) of the statutes is repealed.

2           **SECTION 2.** 13.04 (1) (a) to (d) of the statutes are renumbered 13.04 (1) to (4).

3           **SECTION 3.** 13.04 (1) (e) of the statutes is renumbered 13.04 (5) and amended  
4 to read:

5           13.04 (5) Nothing in this ~~subsection~~ section shall prevent the concurrent  
6 appointment of an incumbent legislator to an unsalaried part-time state position  
7 created during the legislator's current legislative term when the emoluments for  
8 such position are limited to reimbursement for actual and necessary expenses  
9 incurred in the performance of the duties of the position and when the duties of such  
10 position are not incompatible with the legislator's duties as a member of the  
11 legislature.

12           **SECTION 4.** 13.04 (2) of the statutes is repealed.

13           **SECTION 5.** 16.417 (title) of the statutes is amended to read:

14           **16.417** (title) ~~Limitation on Dual employment or retention.~~

15           **SECTION 6.** 16.417 (1) (a) of the statutes is repealed and recreated to read:

16           16.417 (1) (a) "Agency" means an office, department, independent agency,  
17 institution of higher education, association, society or other body in state  
18 government created or authorized to be created by the constitution or any law, which  
19 is entitled to expend moneys appropriated by law, including the legislature and the  
20 courts, but not including an authority.

1           **SECTION 7.** 16.417 (1) (b) of the statutes is amended to read:

2           16.417 (1) (b) “Authority” means a body created under ch. 231, 232 ~~or~~, 234 or  
3           235.

4           **SECTION 8.** 16.417 (1) (c) of the statutes is created to read:

5           16.417 (1) (c) “Elective state official” has the meaning given in s. 13.62 (6).

6           **SECTION 9.** 16.417 (2) of the statutes is renumbered 16.417 (2) (a) and amended  
7           to read:

8           16.417 (2) (a) No individual other than an elective state official who is  
9           employed or retained in a full-time position or capacity with an agency or authority  
10          may hold any other position or be retained in any other capacity with an agency or  
11          authority from which the individual receives, directly or indirectly, more than  
12          \$12,000 from the agency or authority as compensation for the individual’s services  
13          during the same year.

14          (c) No agency or authority may employ any individual or enter into any contract  
15          in violation of this subsection.

16          (d) The department shall annually check to assure that no individual violates  
17          this subsection. The department shall order any individual whom it finds to be in  
18          violation of this subsection to forfeit that portion of the economic gain that the  
19          individual realized in violation of this subsection.

20          (e) The attorney general, when requested by the department, shall institute  
21          proceedings to recover any forfeiture incurred under this subsection which is not  
22          paid by the individual against whom it is assessed.

23          (f) This subsection does not apply to an individual who has a full-time  
24          appointment for less than 12 months, during any period of time that is not included  
25          in the appointment.

