



2007 ASSEMBLY BILL 738

January 29, 2008 - Introduced by Representatives HILGENBERG, JORGENSEN, NELSON, SHILLING, GRONEMUS, ZEPNICK, MUSSER, TURNER, BERCEAU, HIXSON, BOYLE, SHERIDAN, GARTHWAITE, MASON, HRAYCHUCK, FIELDS, STASKUNAS, KREUSER, HEBL and VRUWINK, cosponsored by Senators ROESSLER, HARSDORF, TAYLOR, SCHULTZ, HANSEN and KREITLOW. Referred to Committee on Insurance.

1 **AN ACT to amend** 13.172 (1), 13.48 (13) (a), 13.62 (2), 13.95 (intro.), 16.002 (2),
2 16.004 (4), 16.004 (5), 16.045 (1) (a), 16.41 (4), 16.417 (1) (a), 16.52 (7), 16.528
3 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.70 (2), 16.765 (1), 16.765 (2), 16.765 (4),
4 16.765 (5), 16.765 (6), 16.765 (7) (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2),
5 16.865 (8), 71.26 (1) (be), 77.54 (9a) (a), 100.45 (1) (dm), 101.177 (1) (d), 230.03
6 (3) and 285.59 (1) (b); and **to create** 20.147, 40.02 (54) (k), 70.11 (41p) and
7 chapter 238 of the statutes; **relating to:** creating a Catastrophic Care
8 Authority and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates the Catastrophic Care Authority (CCA). An authority is a public body corporate and politic with a board of directors that is created by state law but that is not a state agency. The board of directors of CCA consists of the commissioner of insurance, or the commissioner's designee, as a nonvoting member and 13 other members who will serve four-year terms, including a majority party senator and a majority party representative to the assembly, appointed by the senate majority leader and the speaker of the assembly, respectively, and a minority party senator and a minority party representative to the assembly, appointed by the senate minority leader and the assembly minority leader, respectively. Nine other members

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are nominated by the governor and appointed with the advice and consent of the senate and consist of a health care provider and representatives of a health insurance company, a small employer, Wisconsin labor unions, health benefit purchasing cooperatives, and the public interest. The board must appoint an executive director, who may not be a member of the board.

Because CCA is not a state agency, numerous laws that apply to state agencies do not apply to CCA. However, CCA is treated like a state agency in the following respects, among others: 1) it is generally subject to the open records and open meetings laws; 2) it is treated like a state agency for purposes of the law regulating lobbying; 3) it is subject to state purchasing requirements and must use a competitive bid or proposal process whenever contracting for services; 4) it is exempt from income tax, sales and use tax, and property taxes; 5) the Code of Ethics for Public Officials and Employees covers CCA; 6) it is to be treated as a state agency for all purposes under the Wisconsin Retirement System; and 7) it is subject to auditing by the Legislative Audit Bureau.

CCA is unlike a state agency in many other ways, including: 1) it may approve its own budget without going through the state budgetary process; 2) its employees are not state employees, are not included in the state system of personnel management, and are hired outside the state hiring system; and 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules. Unlike most authorities under current law, CCA may not issue bonds.

CCA must study options and develop recommendations for implementing a reinsurance program to provide reinsurance to groups or individuals, or both, in the state for catastrophic claims under group or individual, or both, health insurance policies. By September 15, 2009, CCA must submit a report to the secretary of administration with its recommendations for implementing the reinsurance program. CCA must develop and administer any reinsurance program for which legislation is enacted that authorizes or requires CCA to do so. CCA may contract with a vendor to administer any reinsurance program that is implemented, and must contract with an independent entity for annual program and financial evaluations of an implemented reinsurance program. CCA may make recommendations to the governor on the impact of allowing health benefit purchasing cooperatives to participate in any implemented reinsurance program and on proposals to reduce health insurance premiums for American Indian tribes and bands in the state and other sectors of the group health insurance market. CCA may explore other ways to lower health care costs, including considering options for comprehensive health care reform. The bill also appropriates general purpose revenue to CCA for initial and operating costs.

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

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

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1 **SECTION 1.** 13.172 (1) of the statutes, as affected by 2007 Wisconsin Act 20, is
2 amended to read:

3 13.172 (1) In this section, “agency” means an office, department, agency,
4 institution of higher education, association, society, or other body in state
5 government created or authorized to be created by the constitution or any law, that
6 is entitled to expend moneys appropriated by law, including the legislature and the
7 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
8 ch. 231, 233, 234, 238, or 279.

9 **SECTION 2.** 13.48 (13) (a) of the statutes is amended to read:

10 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
11 facility that is constructed for the benefit of or use of the state, any state agency,
12 board, commission or department, the University of Wisconsin Hospitals and Clinics
13 Authority, the Fox River Navigational System Authority, the Catastrophic Care
14 Authority, or any local professional baseball park district created under subch. III
15 of ch. 229 if the construction is undertaken by the department of administration on
16 behalf of the district, shall be in compliance with all applicable state laws, rules,
17 codes and regulations but the construction is not subject to the ordinances or
18 regulations of the municipality in which the construction takes place except zoning,
19 including without limitation because of enumeration ordinances or regulations
20 relating to materials used, permits, supervision of construction or installation,
21 payment of permit fees, or other restrictions.

22 **SECTION 3.** 13.62 (2) of the statutes, as affected by 2007 Wisconsin Act 20, is
23 amended to read:

24 13.62 (2) “Agency” means any board, commission, department, office, society,
25 institution of higher education, council, or committee in the state government, or any

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1 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
2 234, 237, 238, or 279, except that the term does not include a council or committee
3 of the legislature.

4 **SECTION 4.** 13.95 (intro.) of the statutes, as affected by 2007 Wisconsin Act 20,
5 is amended to read:

6 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
7 known as the “Legislative Fiscal Bureau” headed by a director. The fiscal bureau
8 shall be strictly nonpartisan and shall at all times observe the confidential nature
9 of the research requests received by it; however, with the prior approval of the
10 requester in each instance, the bureau may duplicate the results of its research for
11 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director’s
12 designated employees shall at all times, with or without notice, have access to all
13 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
14 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
15 the Lower Fox River Remediation Authority, the Catastrophic Care Authority, and
16 the Fox River Navigational System Authority, and to any books, records, or other
17 documents maintained by such agencies or authorities and relating to their
18 expenditures, revenues, operations, and structure.

19 **SECTION 5.** 16.002 (2) of the statutes, as affected by 2007 Wisconsin Act 20, is
20 amended to read:

21 16.002 (2) “Departments” means constitutional offices, departments, and
22 independent agencies and includes all societies, associations, and other agencies of
23 state government for which appropriations are made by law, but not including
24 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and in chs. 231, 232,
25 233, 234, 235, 237, 238, and 279.

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1 **SECTION 6.** 16.004 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
2 amended to read:

3 16.004 (4) **FREEDOM OF ACCESS.** The secretary and such employees of the
4 department as the secretary designates may enter into the offices of state agencies
5 and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under
6 chs. 231, 233, 234, 237, 238, and 279, and may examine their books and accounts and
7 any other matter that in the secretary's judgment should be examined and may
8 interrogate the agency's employees publicly or privately relative thereto.

9 **SECTION 7.** 16.004 (5) of the statutes, as affected by 2007 Wisconsin Act 20, is
10 amended to read:

11 16.004 (5) **AGENCIES AND EMPLOYEES TO COOPERATE.** All state agencies and
12 authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs.
13 231, 233, 234, 237, 238, and 279, and their officers and employees, shall cooperate
14 with the secretary and shall comply with every request of the secretary relating to
15 his or her functions.

16 **SECTION 8.** 16.045 (1) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
17 is amended to read:

18 16.045 (1) (a) "Agency" means an office, department, independent agency,
19 institution of higher education, association, society, or other body in state
20 government created or authorized to be created by the constitution or any law, that
21 is entitled to expend moneys appropriated by law, including the legislature and the
22 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
23 ch. 149 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

24 **SECTION 9.** 16.41 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
25 amended to read:

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1 16.41 (4) In this section, “authority” means a body created under subch. II of
2 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, 237, 238, or 279.

3 **SECTION 10.** 16.417 (1) (a) of the statutes is amended to read:

4 16.417 (1) (a) “Agency” means an office, department, independent agency,
5 institution of higher education, association, society, or other body in state
6 government created or authorized to be created by the constitution or any law, that
7 is entitled to expend moneys appropriated by law, including the legislature and the
8 courts, but not including an authority or the body created under subch. III of ch. 149
9 or under ch. 238.

10 **SECTION 11.** 16.52 (7) of the statutes, as affected by 2007 Wisconsin Act 20, is
11 amended to read:

12 16.52 (7) **PETTY CASH ACCOUNT.** Petty cash account. With the approval of the
13 secretary, each agency that is authorized to maintain a contingent fund under s.
14 20.920 may establish a petty cash account from its contingent fund. The procedure
15 for operation and maintenance of petty cash accounts and the character of
16 expenditures therefrom shall be prescribed by the secretary. In this subsection,
17 “agency” means an office, department, independent agency, institution of higher
18 education, association, society, or other body in state government created or
19 authorized to be created by the constitution or any law, that is entitled to expend
20 moneys appropriated by law, including the legislature and the courts, but not
21 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
22 231, 233, 234, 237, 238, or 279.

23 **SECTION 12.** 16.528 (1) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
24 is amended to read:

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1 16.528 (1) (a) “Agency” means an office, department, independent agency,
2 institution of higher education, association, society, or other body in state
3 government created or authorized to be created by the constitution or any law, that
4 is entitled to expend moneys appropriated by law, including the legislature and the
5 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
6 ch. 149 or in ch. 231, 233, 234, 237, 238, or 279.

7 **SECTION 13.** 16.53 (2) of the statutes, as affected by 2007 Wisconsin Act 20, is
8 amended to read:

9 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
10 invoice, the agency shall notify the sender of the invoice within 10 working days after
11 it receives the invoice of the reason it is improperly completed. In this subsection,
12 “agency” means an office, department, independent agency, institution of higher
13 education, association, society, or other body in state government created or
14 authorized to be created by the constitution or any law, that is entitled to expend
15 moneys appropriated by law, including the legislature and the courts, but not
16 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
17 231, 233, 234, 237, 238, or 279.

18 **SECTION 14.** 16.54 (9) (a) 1. of the statutes, as affected by 2007 Wisconsin Act
19 20, is amended to read:

20 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
21 institution of higher education, association, society or other body in state
22 government created or authorized to be created by the constitution or any law, which
23 is entitled to expend moneys appropriated by law, including the legislature and the
24 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
25 ch. 149 or in ch. 231, 233, 234, 237, 238, or 279.

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1 **SECTION 15.** 16.70 (2) of the statutes, as affected by 2007 Wisconsin Act 20, is
2 amended to read:

3 16.70 (2) “Authority” means a body created under subch. II of ch. 114 or subch.
4 III of ch. 149 or under ch. 231, 232, 233, 234, 235, 237, 238, or 279.

5 **SECTION 16.** 16.765 (1) of the statutes, as affected by 2007 Wisconsin Act 20,
6 is amended to read:

7 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
8 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
9 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
10 Fox River Remediation Authority, the Catastrophic Care Authority, and the Bradley
11 Center Sports and Entertainment Corporation shall include in all contracts executed
12 by them a provision obligating the contractor not to discriminate against any
13 employee or applicant for employment because of age, race, religion, color, handicap,
14 sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual
15 orientation as defined in s. 111.32 (13m), or national origin and, except with respect
16 to sexual orientation, obligating the contractor to take affirmative action to ensure
17 equal employment opportunities.

18 **SECTION 17.** 16.765 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
19 is amended to read:

20 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
21 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
22 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
23 Fox River Remediation Authority, the Catastrophic Care Authority, and the Bradley
24 Center Sports and Entertainment Corporation shall include the following provision
25 in every contract executed by them: “In connection with the performance of work

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1 under this contract, the contractor agrees not to discriminate against any employee
2 or applicant for employment because of age, race, religion, color, handicap, sex,
3 physical condition, developmental disability as defined in s. 51.01 (5), sexual
4 orientation or national origin. This provision shall include, but not be limited to, the
5 following: employment, upgrading, demotion or transfer; recruitment or recruitment
6 advertising; layoff or termination; rates of pay or other forms of compensation; and
7 selection for training, including apprenticeship. Except with respect to sexual
8 orientation, the contractor further agrees to take affirmative action to ensure equal
9 employment opportunities. The contractor agrees to post in conspicuous places,
10 available for employees and applicants for employment, notices to be provided by the
11 contracting officer setting forth the provisions of the nondiscrimination clause”.

12 **SECTION 18.** 16.765 (4) of the statutes, as affected by 2007 Wisconsin Act 20,
13 is amended to read:

14 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
15 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
16 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
17 Fox River Remediation Authority, the Catastrophic Care Authority, and the Bradley
18 Center Sports and Entertainment Corporation shall take appropriate action to
19 revise the standard government contract forms under this section.

20 **SECTION 19.** 16.765 (5) of the statutes, as affected by 2007 Wisconsin Act 20,
21 is amended to read:

22 16.765 (5) The head of each contracting agency and the boards of directors of
23 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
24 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
25 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation

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1 Authority, the Catastrophic Care Authority, and the Bradley Center Sports and
2 Entertainment Corporation shall be primarily responsible for obtaining compliance
3 by any contractor with the nondiscrimination and affirmative action provisions
4 prescribed by this section, according to procedures recommended by the department.
5 The department shall make recommendations to the contracting agencies and the
6 boards of directors of the University of Wisconsin Hospitals and Clinics Authority,
7 the Fox River Navigational System Authority, the Wisconsin Aerospace Authority,
8 the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River
9 Remediation Authority, the Catastrophic Care Authority, and the Bradley Center
10 Sports and Entertainment Corporation for improving and making more effective the
11 nondiscrimination and affirmative action provisions of contracts. The department
12 shall promulgate such rules as may be necessary for the performance of its functions
13 under this section.

14 **SECTION 20.** 16.765 (6) of the statutes, as affected by 2007 Wisconsin Act 20,
15 is amended to read:

16 16.765 (6) The department may receive complaints of alleged violations of the
17 nondiscrimination provisions of such contracts. The department shall investigate
18 and determine whether a violation of this section has occurred. The department may
19 delegate this authority to the contracting agency, the University of Wisconsin
20 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
21 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
22 the Lower Fox River Remediation Authority, the Catastrophic Care Authority, or the
23 Bradley Center Sports and Entertainment Corporation for processing in accordance
24 with the department's procedures.

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1 **SECTION 21.** 16.765 (7) (intro.) of the statutes, as affected by 2007 Wisconsin
2 Act 20, is amended to read:

3 16.765 (7) (intro.) When a violation of this section has been determined by the
4 department, the contracting agency, the University of Wisconsin Hospitals and
5 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
6 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
7 Fox River Remediation Authority, the Catastrophic Care Authority, or the Bradley
8 Center Sports and Entertainment Corporation, the contracting agency, the
9 University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational
10 System Authority, the Wisconsin Aerospace Authority, the Health Insurance
11 Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the
12 Catastrophic Care Authority, or the Bradley Center Sports and Entertainment
13 Corporation shall:

14 **SECTION 22.** 16.765 (7) (d) of the statutes, as affected by 2007 Wisconsin Act 20,
15 is amended to read:

16 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
17 further violations of this section and to report its corrective action to the contracting
18 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
19 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
20 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
21 Authority, the Catastrophic Care Authority, or the Bradley Center Sports and
22 Entertainment Corporation.

23 **SECTION 23.** 16.765 (8) of the statutes, as affected by 2007 Wisconsin Act 20,
24 is amended to read:

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1 16.765 (8) If further violations of this section are committed during the term
2 of the contract, the contracting agency, the Fox River Navigational System Authority,
3 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
4 Authority, the Lower Fox River Remediation Authority, the Catastrophic Care
5 Authority, or the Bradley Center Sports and Entertainment Corporation may permit
6 the violating party to complete the contract, after complying with this section, but
7 thereafter the contracting agency, the Fox River Navigational System Authority, the
8 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
9 the Lower Fox River Remediation Authority, the Catastrophic Care Authority, or the
10 Bradley Center Sports and Entertainment Corporation shall request the
11 department to place the name of the party on the ineligible list for state contracts,
12 or the contracting agency, the Fox River Navigational System Authority, the
13 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
14 the Lower Fox River Remediation Authority, the Catastrophic Care Authority, or the
15 Bradley Center Sports and Entertainment Corporation may terminate the contract
16 without liability for the uncompleted portion or any materials or services purchased
17 or paid for by the contracting party for use in completing the contract.

18 **SECTION 24.** 16.85 (2) of the statutes, as affected by 2007 Wisconsin Act 20, is
19 amended to read:

20 16.85 (2) To furnish engineering, architectural, project management, and other
21 building construction services whenever requisitions therefor are presented to the
22 department by any agency. The department may deposit moneys received from the
23 provision of these services in the account under s. 20.505 (1) (kc) or in the general
24 fund as general purpose revenue — earned. In this subsection, “agency” means an
25 office, department, independent agency, institution of higher education, association,

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1 society, or other body in state government created or authorized to be created by the
2 constitution or any law, which is entitled to expend moneys appropriated by law,
3 including the legislature and the courts, but not including an authority created in
4 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, or 279.

5 **SECTION 25.** 16.865 (8) of the statutes, as affected by 2007 Wisconsin Act 20,
6 is amended to read:

7 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
8 proportionate share of the estimated costs attributable to programs administered by
9 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
10 may charge premiums to agencies to finance costs under this subsection and pay the
11 costs from the appropriation on an actual basis. The department shall deposit all
12 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
13 Costs assessed under this subsection may include judgments, investigative and
14 adjustment fees, data processing and staff support costs, program administration
15 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
16 subsection, “agency” means an office, department, independent agency, institution
17 of higher education, association, society, or other body in state government created
18 or authorized to be created by the constitution or any law, that is entitled to expend
19 moneys appropriated by law, including the legislature and the courts, but not
20 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
21 231, 232, 233, 234, 235, 237, 238, or 279.

22 **SECTION 26.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
23 insert the following amounts for the purposes indicated:

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20.147 Catastrophic Care Authority

(1) INITIAL AND OPERATING COSTS

(a) Establishment and operation GPR C 500,000 500,000

SECTION 27. 20.147 of the statutes is created to read:

20.147 Catastrophic Care Authority. There is appropriated to the Catastrophic Care Authority for the following program:

(1) INITIAL AND OPERATING COSTS. (a) *Establishment and operation.* As a continuing appropriation, the amounts in the schedule for the establishment of the Catastrophic Care Authority and for its operating costs.

SECTION 28. 40.02 (54) (k) of the statutes is created to read:

40.02 (54) (k) The Catastrophic Care Authority.

SECTION 29. 70.11 (41p) of the statutes is created to read:

70.11 (41p) CATASTROPHIC CARE AUTHORITY. All property owned by the Catastrophic Care Authority, provided that use of the property is primarily related to the purposes of the authority.

SECTION 30. 71.26 (1) (be) of the statutes is amended to read:

71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan Authority, of the Catastrophic Care Authority, and of the Fox River Navigational System Authority, and of the Wisconsin Aerospace Authority.

SECTION 31. 77.54 (9a) (a) of the statutes is amended to read:

77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health

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1 Insurance Risk-Sharing Plan Authority, the Catastrophic Care Authority, and the
2 Fox River Navigational System Authority.

3 **SECTION 32.** 100.45 (1) (dm) of the statutes is amended to read:

4 100.45 (1) (dm) "State agency" means any office, department, agency,
5 institution of higher education, association, society or other body in state
6 government created or authorized to be created by the constitution or any law which
7 is entitled to expend moneys appropriated by law, including the legislature and the
8 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
9 Center Sports and Entertainment Corporation, the University of Wisconsin
10 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
11 Authority, the Wisconsin Aerospace Authority, ~~and~~ the Fox River Navigational
12 System Authority, and the Catastrophic Care Authority.

13 **SECTION 33.** 101.177 (1) (d) of the statutes, as affected by 2007 Wisconsin Act
14 20, is amended to read:

15 101.177 (1) (d) "State agency" means any office, department, agency,
16 institution of higher education, association, society, or other body in state
17 government created or authorized to be created by the constitution or any law, that
18 is entitled to expend moneys appropriated by law, including the legislature and the
19 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
20 Center Sports and Entertainment Corporation, the University of Wisconsin
21 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, ~~and~~ the
22 Wisconsin Health and Educational Facilities Authority, and the Catastrophic Care
23 Authority, but excluding the Health Insurance Risk-Sharing Plan Authority and the
24 Lower Fox River Remediation Authority.

ASSEMBLY BILL 738**SECTION 34**

1 **SECTION 34.** 230.03 (3) of the statutes, as affected by 2007 Wisconsin Act 20,
2 is amended to read:

3 230.03 (3) “Agency” means any board, commission, committee, council, or
4 department in state government or a unit thereof created by the constitution or
5 statutes if such board, commission, committee, council, department, unit, or the
6 head thereof, is authorized to appoint subordinate staff by the constitution or
7 statute, except a legislative or judicial board, commission, committee, council,
8 department, or unit thereof or an authority created under subch. II of ch. 114 or
9 subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, 237, 238, or 279. “Agency”
10 does not mean any local unit of government or body within one or more local units
11 of government that is created by law or by action of one or more local units of
12 government.

13 **SECTION 35.** Chapter 238 of the statutes is created to read:

CHAPTER 238**CATASTROPHIC CARE AUTHORITY**

16 **238.01 Definitions.** In this chapter:

17 (1) “Authority” means the Catastrophic Care Authority.

18 (2) “Board” means the board of directors of the authority.

19 (3) “Health benefit purchasing cooperative” means a cooperative under s.
20 185.99.

21 (4) “Small group market” has the meaning given in s. 632.745 (26).

22 **238.05 Creation and organization of authority.** (1) There is created a
23 public body corporate and politic to be known as the “Catastrophic Care Authority.”
24 The board of directors of the authority shall consist of the commissioner of insurance,

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1 or his or her designee, as a nonvoting member, and the following 13 members, who
2 shall serve 4-year terms:

3 (a) One majority party senator appointed by the senate majority leader.

4 (b) One minority party senator appointed by the senate minority leader.

5 (c) One majority party representative to the assembly appointed by the speaker
6 of the assembly.

7 (d) One minority party representative to the assembly appointed by the
8 assembly minority leader.

9 (e) Nine nominees of the governor, appointed with the advice and consent of the
10 senate, consisting of all of the following:

11 1. One health care provider.

12 2. One representative of a Wisconsin health insurance company that offers
13 coverage in the small group market.

14 3. One representative of a Wisconsin small employer.

15 4. One representative of Wisconsin labor unions.

16 5. One representative of health benefit purchasing cooperatives.

17 6. Four other members who represent the public interest.

18 **(2)** Each member of the board shall hold office until a successor is appointed
19 and qualified unless the member vacates or is removed from his or her office. A
20 member who serves as a result of holding another office or position vacates his or her
21 office as a member when he or she vacates the other office or position. A member who
22 ceases to qualify for office vacates his or her office. A vacancy on the board shall be
23 filled in the same manner as the original appointment to the board for the remainder
24 of the unexpired term, if any.

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1 **(3)** Annually, the governor shall appoint one member as chairperson, and the
2 members of the board may elect other officers as they consider appropriate.

3 **(4)** The board shall appoint an executive director. The executive director shall
4 not be a member of the board and shall serve at the pleasure of the board. The
5 authority may delegate by resolution to one or more of its members or its executive
6 director any powers and duties that it considers proper. The executive director shall
7 receive such compensation as may be determined by the board. The executive
8 director or other person designated by resolution of the board shall keep a record of
9 the proceedings of the authority and shall be custodian of all books, documents, and
10 papers filed with the authority, the minute book or journal of the authority, and its
11 official seal. The executive director or other person may cause copies to be made of
12 all minutes and other records and documents of the authority and may give
13 certificates under the official seal of the authority to the effect that such copies are
14 true copies, and all persons dealing with the authority may rely upon such
15 certificates.

16 **(5)** A majority of the members of the board constitutes a quorum for the purpose
17 of conducting its business and exercising its powers and for all other purposes,
18 notwithstanding the existence of any vacancies. Action may be taken by the board
19 upon a vote of a majority of the members present. Meetings of the members of the
20 board may be held anywhere within or without the state.

21 **(6)** A member of the board may not be compensated for his or her services but
22 shall be reimbursed for actual and necessary expenses incurred in the performance
23 of his or her duties, including travel expenses, subject to uniform travel schedule
24 amounts approved under s. 20.916 (8).

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1 **(7)** No cause of action may arise against and no civil liability may be imposed
2 upon a member or executive director of the authority for any act or omission in the
3 performance of his or her powers and duties under this chapter, unless the person
4 asserting liability proves that the act or omission constitutes willful misconduct.

5 **238.10 Powers of authority. (1)** Except as restricted under sub. (2), the
6 authority shall have all the powers necessary or convenient to carry out the purposes
7 and provisions of this chapter. In addition to all other powers granted by this chapter,
8 the authority may:

9 (a) Adopt, amend, and repeal bylaws and policies and procedures for the
10 regulation of its affairs and the conduct of its business.

11 (b) Have a seal and alter the seal at pleasure.

12 (c) Maintain an office.

13 (d) Sue and be sued.

14 (e) Accept gifts, grants, loans, or other contributions from private or public
15 sources.

16 (f) Establish the authority's annual budget and monitor the fiscal management
17 of the authority.

18 (g) Execute contracts and other instruments, including contracts for any
19 professional services required for the authority.

20 (h) Employ any officers, agents, and employees that it may require and
21 determine their qualifications and compensation.

22 (i) Procure liability insurance.

23 **(2)** The authority may not issue bonds.

24 **238.15 Catastrophic health care reinsurance program. (1)** In addition
25 to all other duties under this chapter, the authority shall do all of the following:

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1 (a) Study options and develop recommendations for implementing a
2 reinsurance program to provide reinsurance to groups or individuals, or both, in this
3 state for catastrophic claims under group or individual, or both, health insurance
4 policies.

5 (b) No later than September 15, 2009, submit to the secretary of administration
6 a report with its recommendations for implementing a reinsurance program
7 described in par. (a).

8 (c) Develop and administer a reinsurance program in accordance with any
9 legislation enacted that requires or authorizes the authority to do so.

10 **(2)** (a) In developing its recommendations for a reinsurance program under
11 sub. (1), the authority shall do all of the following:

12 1. Develop guidelines for defining high-cost claims and attachment points.

13 2. Set premiums to be paid for the reinsurance coverage, based on the number
14 of covered lives included in the reinsurance pool.

15 3. Set coinsurance rates for claims paid.

16 4. Design all other program features.

17 (b) The authority may do all of the following:

18 1. Consider the impact of, and make recommendations to the governor on,
19 allowing health benefit purchasing cooperatives to participate in a reinsurance
20 program implemental under this section.

21 2. Evaluate the challenges faced by American Indian tribes and bands in this
22 state and other sectors of the group health insurance market and make
23 recommendations to the governor on proposals to reduce health insurance premiums
24 for the tribes and bands and other sectors.

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1 3. Explore other ways to lower health care costs and to increase access to and
2 improve the quality of health care, including considering options for comprehensive
3 health care reform.

4 **(3)** The authority may contract with a vendor to administer any reinsurance
5 program implemented under this section, including the performance of such
6 responsibilities as estimating reinsurance premiums, paying claims, customer
7 service, and day-to-day administration.

8 **238.20 Annual evaluations.** Annually, after implementation of any
9 reinsurance program under this section, the authority shall contract with an
10 independent entity to conduct an evaluation of the program and a financial audit of
11 the most recent fiscal year ending before the audit. The program evaluation shall
12 include a review of best practices that may impact appropriate use of health care and
13 disease management. The authority shall make any necessary adjustments or
14 improvements if, as a result of the evaluation or audit, problems or deficiencies are
15 determined to exist. After each evaluation and audit, the authority shall explore the
16 feasibility of expanding the program to cover more state residents. The authority
17 shall submit to the governor a report of the results of each evaluation and audit no
18 later than January 1 of the year beginning after the year in which the evaluation and
19 audit are conducted.

20 **SECTION 36.** 285.59 (1) (b) of the statutes is amended to read:

21 285.59 **(1)** (b) "State agency" means any office, department, agency, institution
22 of higher education, association, society, or other body in state government created
23 or authorized to be created by the constitution or any law ~~which~~ that is entitled to
24 expend moneys appropriated by law, including the legislature and the courts, the
25 Wisconsin Housing and Economic Development Authority, the Bradley Center

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1 Sports and Entertainment Corporation, the University of Wisconsin Hospitals and
2 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
3 Aerospace Authority, ~~and~~ the Wisconsin Health and Educational Facilities
4 Authority, and the Catastrophic Care Authority.

SECTION 37. Nonstatutory provisions.

6 (1) INITIAL TERMS OF BOARD MEMBERS. Notwithstanding the lengths of terms of
7 the members of the board of directors of the Catastrophic Care Authority specified
8 in section 238.05 (1) (intro.) of the statutes, as created by this act, the initial members
9 shall be appointed for the following terms:

10 (a) The 4 members specified under section 238.05 (1) (a) to (d) of the statutes,
11 as created by this act, for terms that expire on July 1, 2010.

12 (b) Four members specified under section 238.05 (1) (e) of the statutes, as
13 created by this act, for terms that expire on July 1, 2011.

14 (c) Five members specified under section 238.05 (1) (e) of the statutes, as
15 created by this act, for terms that expire on July 1, 2012.

16 (2) PROVISIONAL APPOINTMENTS OF BOARD MEMBERS. Notwithstanding the
17 requirement for senate confirmation of the appointment of the members of the board
18 of directors of the Catastrophic Care Authority under section 238.05 (1) (e) of the
19 statutes, as created by this act, the initial members may be provisionally appointed
20 by the governor, subject to confirmation by the senate. Any such appointment shall
21 be in full force until acted upon by the senate, and when confirmed by the senate shall
22 continue for the remainder of the term, or until a successor is chosen and qualifies.
23 A provisional appointee may exercise all of the powers and duties of the office to
24 which such person is appointed during the time in which the appointee qualifies.
25 Any appointment made under this subsection that is withdrawn or rejected by the

