



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0187/1  
JK:ahe

## 2021 SENATE BILL 720

November 19, 2021 - Introduced by Senator BERNIER, cosponsored by Representatives WICHGERS, CABRAL-GUEVARA, MURPHY and SPIROS. Referred to Committee on Elections, Election Process Reform and Ethics.

1     **AN ACT** *to repeal* 13.685 (7), 16.753, 19.45 (12), 19.48 (11) and 20.9305 (2) (e); *to*  
2     *renumber and amend* 19.42 (12); *to amend* 16.298 (5), 19.43 (1), 23.41 (5),  
3     25.18 (1) (a), 25.18 (1) (f), 25.18 (1) (m), 84.01 (13), 84.01 (36) (e), 84.06 (2) (a),  
4     84.06 (3), 84.06 (4), 85.015, 102.81 (2) and 655.27 (2); and *to create* 19.42 (12)  
5     (b), 19.42 (12) (c), 19.42 (12) (d), 19.42 (12) (e), 19.42 (12) (f), 19.43 (2m), 19.45  
6     (14) and 19.59 (1b) of the statutes; **relating to:** changes to the administration  
7     of the code of ethics, as recommended by the Ethics Commission.

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### ***Analysis by the Legislative Reference Bureau***

This bill makes various changes to the administration of the code of ethics, as recommended by the Ethics Commission.

The bill eliminates a requirement that the Ethics Commission compile and post on its Internet site for access by the public information received by the commission from state agencies and related to certain pending contracts and orders with the agencies. The bill also eliminates a requirement that the commission regularly, during the course of a legislative session, give reports to the legislature that provide information about licensed lobbyists, principals, and their lobbying activities.

The bill changes the definition of "security" as that term is used in connection with the types of financial information an individual required to file with the Ethics Commission must disclose on his or her statement of economic interests. Current law

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requires state public office holders and certain state employees to annually file a statement of economic interests and to identify the employers, investments, real estate, commercial clients, and creditors of the individual and his or her family members.

Current law requires a state public official to file a statement of economic interests with the commission no later than April 30 of any year in which the individual held office on January 1 of that year. The bill modifies current law so that an official must file the statement only if he or she held office on January 1 and for at least 14 days. The bill also requires an official to file a statement no later than 21 days following the date on which the official leaves office. The individual is then not required to file another statement of economic interests until such time as the individual again becomes a state public official.

Under the bill, if a state or local public official receives an item that the code of ethics does not permit the official to accept or retain, the official must do one of the following:

1. Give the item to the official's agency to use or sell, except that the agency may not sell the item to any government employee or official.
2. Give the item to another state or local agency or to a public institution, such as a local school, library, or museum, that can use the item.
3. Give the item to a charitable organization, not including a charitable organization to which the official or his or her immediate family is associated.
4. Return the item to the donor.
5. If the donor is neither a lobbyist nor a principal (a person who employs a lobbyist), purchase the item at its full retail value and keep the item.

This provision codifies the guideline issued by the Ethics Commission for the disposition of gifts received by state and local public officials.

Finally, the bill repeals a provision that prohibits an officer or employee of a state agency from requesting appropriations for that agency in excess of the appropriations already requested. The U.S. District Court in the Eastern District of Wisconsin, in *Barnett v. State Ethics Board*, 817 F. Supp. 67 (1993), found this to be an unconstitutional infringement on free speech.

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

1           **SECTION 1.** 13.685 (7) of the statutes is repealed.

2           **SECTION 2.** 16.298 (5) of the statutes is amended to read:

3           16.298 (5) PURCHASING EXEMPTION. A contract is subject to ~~ss. 16.753 and s.~~  
4 16.765, but is otherwise exempt from subch. IV.

5           **SECTION 3.** 16.753 of the statutes is repealed.

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1           **SECTION 4.** 19.42 (12) of the statutes is renumbered 19.42 (12) (intro.) and  
2 amended to read:

3           19.42 **(12)** (intro.) “Security” has the meaning given under s. 551.102 (28),  
4 except that the term does not include ~~a~~ any of the following:

5           (a) A certificate of deposit or a deposit in a savings and loan association, savings  
6 bank, credit union or similar association organized under the laws of any state.

7           **SECTION 5.** 19.42 (12) (b) of the statutes is created to read:

8           19.42 **(12)** (b) A defined benefit retirement plan.

9           **SECTION 6.** 19.42 (12) (c) of the statutes is created to read:

10          19.42 **(12)** (c) An annuity.

11          **SECTION 7.** 19.42 (12) (d) of the statutes is created to read:

12          19.42 **(12)** (d) A money market fund.

13          **SECTION 8.** 19.42 (12) (e) of the statutes is created to read:

14          19.42 **(12)** (e) A mutual fund.

15          **SECTION 9.** 19.42 (12) (f) of the statutes is created to read:

16          19.42 **(12)** (f) An exchange-traded fund.

17          **SECTION 10.** 19.43 (1) of the statutes is amended to read:

18          19.43 **(1)** Each individual who in January of any year is an official required to  
19 file, and who is an official required to file for at least 14 days in that year, shall file  
20 with the commission no later than April 30 of that year a statement of economic  
21 interests meeting each of the requirements of s. 19.44 (1). The information contained  
22 on the statement shall be current as of December 31 of the preceding year.

23          **SECTION 11.** 19.43 (2m) of the statutes is created to read:

24          19.43 **(2m)** Each individual who is an official required to file shall file with the  
25 commission a statement of economic interests meeting each of the requirements of

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1 s. 19.44 (1) no later than 21 days following the date on which the individual's term  
2 of office ends or the individual leaves the office. The information contained on the  
3 statement shall be current as of the date on which the individual's term of office ends  
4 or the individual leaves the office. An individual who files a statement as provided  
5 under this subsection is not required to file another statement of economic interests  
6 until such time as the individual again becomes an official required to file.

7 **SECTION 12.** 19.45 (12) of the statutes is repealed.

8 **SECTION 13.** 19.45 (14) of the statutes is created to read:

9 19.45 (14) If a state public official receives an item that the official is not  
10 permitted to accept or retain under this subchapter or subch. III of ch. 13, the official  
11 shall do one of the following:

12 (a) Give the item to the official's agency to use or sell, except that the agency  
13 may not sell the item to any government employee or official.

14 (b) Give the item to another state agency or to a public institution, such as a  
15 local school, library, or museum, that can use the item.

16 (c) Give the item to a charitable organization, as defined in s. 11.0101 (4), not  
17 including a charitable organization with which the official or his or her immediate  
18 family is associated.

19 (d) Return the item to the donor.

20 (e) If the donor is neither a lobbyist, as defined in s. 13.62 (11), nor a principal,  
21 as defined in s. 13.62 (12), purchase the item at its full retail value and keep the item.

22 **SECTION 14.** 19.48 (11) of the statutes is repealed.

23 **SECTION 15.** 19.59 (1b) of the statutes is created to read:

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1           19.59 **(1b)** If a local public official receives an item that the official is not  
2 permitted to accept or retain under this subchapter or subch. III of ch. 13, the official  
3 shall do one of the following:

4           (a) Give the item to the official's agency to use or sell, except that the agency  
5 may not sell the item to any government employee or official.

6           (b) Give the item to another local agency or to a public institution, such as a  
7 local school, library, or museum, that can use the item.

8           (c) Give the item to a charitable organization, as defined in s. 11.0101 (4), not  
9 including a charitable organization with which the official or his or her immediate  
10 family is associated.

11           (d) Return the item to the donor.

12           (e) If the donor is neither a lobbyist, as defined in s. 13.62 (11), nor a principal,  
13 as defined in s. 13.62 (12), purchase the item at its full retail value and keep the item.

14           **SECTION 16.** 20.9305 (2) (e) of the statutes is repealed.

15           **SECTION 17.** 23.41 (5) of the statutes is amended to read:

16           23.41 **(5)** Each contract for construction work entered into by the department  
17 under this section shall be awarded on the basis of bids or competitive sealed  
18 proposals in accordance with procedures established by the department. Each  
19 contract for construction work shall be awarded to the lowest responsible bidder or  
20 the person submitting the most advantageous competitive sealed proposal as  
21 determined by the department. If the bid of the lowest responsible bidder or the  
22 proposal of the person submitting the most advantageous competitive sealed  
23 proposal is determined by the department to be in excess of the estimated reasonable  
24 value of the work or not in the public interest, the department may reject all bids or  
25 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to

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1 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss.  
2 16.528, ~~16.753~~, 16.754, and 16.765 apply to the contract. Every such contract  
3 involving an expenditure of more than \$60,000 is not valid until the contract is  
4 approved by the governor.

5 **SECTION 18.** 25.18 (1) (a) of the statutes is amended to read:

6 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.  
7 16, ~~except s. 16.753~~, employ special legal or investment counsel in any matters  
8 arising out of the scope of its investment authority. ~~Section 16.753 does not apply to~~  
9 ~~the employment of legal or investment counsel for the purpose of assisting the board~~  
10 ~~with investments.~~ The employment of special legal counsel shall be with the advice  
11 and consent of the attorney general whenever such special counsel is to be  
12 compensated by the board. Any expense of counsel so employed shall be borne by the  
13 fund for which the services shall be furnished.

14 **SECTION 19.** 25.18 (1) (f) of the statutes is amended to read:

15 25.18 (1) (f) Maintain and repair any building or other structure or premises  
16 which it owns in fee or in which it owns the beneficial interest and, notwithstanding  
17 all provisions of subch. IV or V of ch. 16, ~~except s. 16.753~~, it shall have exclusive  
18 authority to make such agreements and enter into such contracts as it deems  
19 necessary for such purpose. ~~Section 16.753 does not apply to agreements and~~  
20 ~~contracts entered into by the board for the purpose of assisting the board with~~  
21 ~~investments.~~ All noncapital costs under this paragraph shall be charged to the  
22 current income accounts of the funds having an interest in the building, structure  
23 or premises.

24 **SECTION 20.** 25.18 (1) (m) of the statutes is amended to read:

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1           25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,  
2           ~~except s. 16.753,~~ employ professionals, contractors or other agents necessary to  
3           evaluate or operate any property if a fund managed by the board has an interest in,  
4           or is considering purchasing or lending money based upon the value of, that property.  
5           ~~Section 16.753 does not apply to the employment of any person for the purpose of~~  
6           ~~assisting the board with investments.~~ Costs under this paragraph shall be paid by  
7           the fund and charged to the appropriate account under s. 40.04 (3).

8           **SECTION 21.** 84.01 (13) of the statutes is amended to read:

9           84.01 (13) ENGINEERING SERVICES. The department may engage such  
10          engineering, consulting, surveying, or other specialized services as it deems  
11          advisable. Any engagement of services under this subsection is exempt from ss.  
12          16.70 to 16.75, 16.755 to 16.82, and 16.85 to 16.89, but ss. 16.528, 16.752, ~~16.753,~~ and  
13          16.754 apply to such engagement. Any engagement involving an expenditure of  
14          \$3,000 or more shall be by formal contract approved by the governor. The  
15          department shall conduct a uniform cost-benefit analysis, as defined in s. 16.70 (3g),  
16          of each proposed engagement under this subsection that involves an estimated  
17          expenditure of more than \$300,000 in accordance with standards prescribed by rule  
18          of the department and consider and document the results of the analysis before the  
19          determination of whether to undertake the proposed engagement. The department  
20          shall review periodically, and before any renewal, the continued appropriateness of  
21          contracting pursuant to each engagement under this subsection that involves an  
22          estimated expenditure of more than \$300,000.

23          **SECTION 22.** 84.01 (36) (e) of the statutes is amended to read:

24          84.01 (36) (e) For each agreement under par. (b), the contract shall be awarded  
25          on the basis of competitive proposals in accordance with procedures established by

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1 the department. Requests for proposals shall be advertised in the manner  
2 determined by the department. Each contract shall be awarded to the person  
3 submitting the most advantageous competitive proposal as determined by the  
4 department. If the proposal of the person submitting the most advantageous  
5 competitive proposal is determined by the department to be less than the estimated  
6 reasonable value to the department or not in the public interest, the department may  
7 reject all proposals. The secretary shall enter into each contract on behalf of the  
8 state. Every such contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87,  
9 and 16.89, but ss. 16.528, 16.752, ~~16.753~~, and 16.754 apply to the contract.

10 **SECTION 23.** 84.06 (2) (a) of the statutes is amended to read:

11 84.06 (2) (a) All such highway improvements shall be executed by contract  
12 based on bids unless the department finds that another method as provided in sub.  
13 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in  
14 the manner determined by the department. Except as provided in s. 84.075, the  
15 contract shall be awarded to the lowest competent and responsible bidder as  
16 determined by the department. If the bid of the lowest competent bidder is  
17 determined by the department to be in excess of the estimated reasonable value of  
18 the work or not in the public interest, all bids may be rejected. The department shall,  
19 so far as reasonable, follow uniform methods of advertising for bids and may  
20 prescribe and require uniform forms of bids and contracts. Except as provided in par.  
21 (b), the secretary shall enter into the contract on behalf of the state. Every such  
22 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but  
23 ss. 16.528, 16.752, ~~16.753~~, and 16.754 apply to the contract. Any such contract  
24 involving an expenditure of \$1,000 or more shall not be valid until approved by the  
25 governor. The secretary may require the attorney general to examine any contract



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1 and any bond submitted in connection with the contract and report on its sufficiency  
2 of form and execution. The bond required by s. 779.14 (1m) is exempt from approval  
3 by the governor and shall be subject to approval by the secretary. This subsection  
4 also applies to contracts with private contractors based on bids for maintenance  
5 under s. 84.07.

6 **SECTION 24.** 84.06 (3) of the statutes is amended to read:

7 84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If  
8 the department finds that it would be more feasible and advantageous to have the  
9 improvement performed by the county in which the proposed improvement is located  
10 and without bids, the department may, by arrangement with the county highway  
11 committee of the county, enter into a contract satisfactory to the department to have  
12 the work done by the county forces and equipment. In such contract the department  
13 may authorize the county to purchase, deliver, and store materials and may fix the  
14 rental rates of small tools and equipment. The contract shall be between the county  
15 and the state and shall not be based on bids, and may be entered into on behalf of the  
16 county by the county highway committee and on behalf of the state by the secretary.  
17 Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230,  
18 except ~~ss. 16.753 and s. 16.754~~. If the total estimated indebtedness to be incurred  
19 exceeds \$5,000 the contract shall not be valid until approved by the governor. The  
20 provisions of this subsection relating to agreements between a county and the state  
21 shall also authorize and apply to such arrangements between a city, town, or a village  
22 and the state. In such cases, the governing body of the city, town, or village shall  
23 enter into the agreement on behalf of the municipality.

24 **SECTION 25.** 84.06 (4) of the statutes is amended to read:

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1           84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement  
2 undertaken by the department will cross or affect the property or facilities of a  
3 railroad or public utility company, the department may, upon finding that it is  
4 feasible and advantageous to the state, arrange to perform portions of the  
5 improvement work affecting such facilities or property or perform work of altering,  
6 rearranging, or relocating such facilities by contract with the railroad or public  
7 utility. Such contract shall be between the railroad company or public utility and the  
8 state and need not be based on bids. The contract may be entered into on behalf of  
9 the state by the secretary. Every such contract is exempted from s. 779.14 and from  
10 all provisions of chs. 16 and 230, except ss. 16.528, 16.752, ~~16.753~~, and 16.754. No  
11 such contract in which the total estimated debt to be incurred exceeds \$5,000 shall  
12 be valid until approved by the governor. As used in this subsection, “public utility”  
13 means the same as in s. 196.01 (5), and includes a telecommunications carrier as  
14 defined in s. 196.01 (8m), and “railroad” means the same as in s. 195.02. “Property”  
15 as used in this subsection includes but is not limited to tracks, trestles, signals, grade  
16 crossings, rights-of-way, stations, pole lines, plants, substations, and other  
17 facilities. Nothing in this subsection shall be construed to relieve any railroad or  
18 public utility from any financial obligation, expense, duty, or responsibility  
19 otherwise provided by law relative to such property.

20           **SECTION 26.** 85.015 of the statutes is amended to read:

21           **85.015 Transportation assistance contracts.** All contracts entered into  
22 under this chapter to provide financial assistance in the areas of railroads, urban  
23 mass transit, specialized transportation, and harbors are subject to ss. 16.528, and  
24 16.752, ~~and 16.753~~ but are exempt from ss. 16.70 to 16.75, 16.755 to 16.82, 16.85 to  
25 16.87, and 16.875 to 16.89.

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1           **SECTION 27.** 102.81 (2) of the statutes is amended to read:

2           102.81 (2) The department may retain an insurance carrier or insurance  
3 service organization to process, investigate and pay claims under this section and  
4 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to  
5 do business in this state in an amount that the secretary determines is necessary for  
6 the sound operation of the uninsured employers fund. In cases involving disputed  
7 claims, the department may retain an attorney to represent the interests of the  
8 uninsured employers fund and to make appearances on behalf of the uninsured  
9 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.930 and all  
10 provisions of subch. IV of ch. 16, ~~except s. 16.753~~, do not apply to an attorney hired  
11 under this subsection. The charges for the services retained under this subsection  
12 shall be paid from the appropriation under s. 20.445 (1) (rp). The cost of any  
13 reinsurance obtained under this subsection shall be paid from the appropriation  
14 under s. 20.445 (1) (sm).

15           **SECTION 28.** 655.27 (2) of the statutes is amended to read:

16           655.27 (2) **FUND ADMINISTRATION AND OPERATION.** Management of the fund shall  
17 be vested with the board of governors. The commissioner shall either provide staff  
18 services necessary for the operation of the fund or, with the approval of the board of  
19 governors, contract for all or part of these services. Such a contract is subject to ~~ss.~~  
20 ~~16.753~~ and s. 16.765, but is otherwise exempt from subch. IV of ch. 16. The  
21 commissioner shall adopt rules governing the procedures for creating and  
22 implementing these contracts before entering into the contracts. At least annually,  
23 the contractor shall report to the commissioner and to the board of governors  
24 regarding all expenses incurred and subcontracting arrangements. If the board of  
25 governors approves, the contractor may hire legal counsel as needed to provide staff

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1 services. The cost of contracting for staff services shall be funded from the  
2 appropriation under s. 20.145 (2) (u). The fund shall pay to the commissioner  
3 amounts charged for organizational support services, which shall be credited to the  
4 appropriation account under s. 20.145 (1) (g) 2.

5

(END)