



## 2009 SENATE BILL 707

April 22, 2010 – Introduced by Senators VINEHOUT, HOLPERIN and ROBSON. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1       **AN ACT** *to renumber* 635.02 (1); *to amend* 1.12 (1) (b), 13.172 (1), 13.62 (2), 13.95  
2           (intro.), 16.002 (2), 16.004 (4), 16.004 (5), 16.004 (12) (a), 16.045 (1) (a), 16.15  
3           (1) (ab), 16.41 (4), 16.417 (1) (a), 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a)  
4           1., 16.70 (2), 16.72 (2) (e) (intro.), 16.72 (2) (f), 16.75 (1m), 16.75 (8) (a) 1., 16.75  
5           (8) (a) 2., 16.75 (9), 16.765 (1), 16.765 (2), 16.765 (4), 16.765 (5), 16.765 (6),  
6           16.765 (7) (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2), 16.865 (8), 25.50 (1) (d),  
7           71.26 (1) (be), 77.54 (9a) (a), 101.055 (2) (a), 101.177 (1) (d), 230.03 (3), 230.80  
8           (4), 230.90 (1) (c) and 635.18 (1); and *to create* 13.94 (1) (dj), 13.94 (1s) (c) 5.,  
9           40.02 (54) (m), 70.11 (41c), subchapter I (title) of chapter 635 [precedes 635.01],  
10          635.02 (1c), 635.02 (1o), subchapter II of chapter 635 [precedes 635.30] and  
11          subchapter III of chapter 635 [precedes 635.70] of the statutes; **relating to:** the  
12          small business health options program authority, health benefit plan exchange

**SENATE BILL 707**

1           for small employers and certain individuals, and granting rule-making  
2           authority.

---

***Analysis by the Legislative Reference Bureau******Small Business Health Options Program Authority***

This bill creates the Small Business Health Options Program Authority (authority) that is a public body corporate and politic that is created by state law but that is not a state agency. The authority is governed by a board of directors consisting of the commissioner of insurance (commissioner), the secretary of employee trust funds, the director of the state Medical Assistance program, the executive director of the Health Insurance Risk-Sharing Plan Authority, and the following members who are nominated by the governor, and with the advice and consent of the senate appointed, for three-year terms: a member in good-standing of the American Academy of Actuaries, a health economist, an employee benefits specialist, a representative of small employers, a representative of an organization that represents consumer interests, and a representative of organized labor. The chairperson of the board is the commissioner, who must appoint an executive director of the authority. The executive director must, among other duties, supervise the administrative affairs and general management and operation of the authority, employ professional and clerical staff, as necessary, and prepare the authority's annual budget.

The authority is not a state agency, so numerous laws that apply to state agencies do not apply to the authority. However, the authority is treated like a state agency in the following ways, among others: it is subject to auditing by the Legislative Audit Bureau; it is subject to open meeting and open records laws; and it is exempt from property tax, income tax, and sales and uses taxes. The authority has powers, including adopting bylaws and policies and procedures for the regulation of its affairs and conduct of its business; hiring employees; incurring debt; suing and being sued in its own name; and executing contracts. The bill establishes a process that the authority must use when it contracts for professional services. Under the bill, the authority is subject to civil liability for its acts or omissions except that the maximum amount recoverable in a civil action against the authority is \$100,000. However, a member of the authority's board of directors, the authority's executive director, or an authority employee is exempt from civil liability unless the member, director, or employee acted with willful misconduct or in intentional violation of the law.

***Health benefit plan exchange***

Under the bill, the authority must establish and, by January 1, 2011, begin operating a health benefit plan exchange (exchange), except that the authority must seek federal grant moneys for the exchange and the exchange may not begin operating unless federal grant moneys are received for that purpose. The commissioner must determine the initial health benefit plan designs, including the minimum benefit levels, and the authority must approve the plans that may be

**SENATE BILL 707**

offered through the exchange. The authority must rank the plans offered through the exchange and place each one into one of three tiers. Plans that offer full benefits are to be designated as “gold” plans; plans that provide 75 percent of the actuarial value of a “gold” plan are to be designated as “silver” plans; and plans that provide 60 percent of the actuarial value of a “gold” plan are to be designated as “bronze” plans.

Any small employer, defined generally as an employer with at least two but not more than 50 employees, any limited term state employee, and any individual who contracts with the state to perform services for the state are eligible to purchase coverage under a health benefit plan offered through the exchange. Individuals and employees may select coverage under any of the plans offered through the exchange. Although the employees of the same small employer may select coverage under different plans, all employees of the same small employer must select coverage under plans in the same tier.

Any insurer authorized to do business in this state in one or more lines of insurance that includes health insurance may offer coverage through the exchange, and no insurer may offer or issue coverage to a small employer except through the exchange. An insurer that offers coverage through the exchange may offer only the health benefit plans that have been approved for the exchange by the authority and must offer at least one health benefit plan in each tier. An insurer may not impose any annual or lifetime limits on coverage; premiums for coverage through the exchange may be based only on age, sex, geographic location, whether coverage is single or family, and plan design; and all individuals covered under all plans issued by an insurer must be considered one pool. An insurer must pay a commission to an insurance intermediary who enrolls an individual or employees of a small employer in a plan offered by the insurer through the exchange. To pay administrative expenses of the exchange, the authority may impose a surcharge on each insurer offering plans through the exchange.

With regard to administering the exchange, the authority enrolls individuals and employer groups in plans, collects the initial premiums, and remits the premiums and enrollment information to the appropriate insurers. The commissioner must develop a standard application form that all prospective enrollees must use. The authority must establish an independent and binding appeals process for resolving disputes over eligibility and other determinations made by the authority, must establish and operate a service center for providing information about the exchange, may establish risk-adjustment mechanisms, and may audit and require reports from insurers offering coverage through the exchange.

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:***

**SENATE BILL 707**

1           **SECTION 1.** 1.12 (1) (b) of the statutes is amended to read:

2           1.12 (1) (b) “State agency” means an office, department, agency, institution of  
3 higher education, the legislature, a legislative service agency, the courts, a judicial  
4 branch agency, an association, society, or other body in state government that is  
5 created or authorized to be created by the constitution or by law, for which  
6 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan  
7 Authority and the Small Business Health Options Program Authority.

8           **SECTION 2.** 13.172 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is  
9 amended to read:

10           13.172 (1) In this section, “agency” means an office, department, agency,  
11 institution of higher education, association, society, or other body in state  
12 government created or authorized to be created by the constitution or any law, that  
13 is entitled to expend moneys appropriated by law, including the legislature and the  
14 courts, and any authority created in subch. II of ch. 114 or, subch. III of ch. 149, or  
15 subch. III of ch. 635 or in ch. 52, 231, 233, 234, or 279.

16           **SECTION 3.** 13.62 (2) of the statutes, as affected by 2009 Wisconsin Act 28, is  
17 amended to read:

18           13.62 (2) “Agency” means any board, commission, department, office, society,  
19 institution of higher education, council, or committee in the state government, or any  
20 authority created in subch. II of ch. 114 or, subch. III of ch. 149, or subch. III of ch.  
21 635 or in ch. 52, 231, 232, 233, 234, 237, or 279, except that the term does not include  
22 a council or committee of the legislature.

23           **SECTION 4.** 13.94 (1) (dj) of the statutes is created to read:

24           13.94 (1) (dj) At least once every 2 years, perform a financial audit and  
25 performance evaluation audit of the health benefit plan exchange under subch. II of

**SENATE BILL 707**

1 ch. 635 and an audit of the Small Business Health Options Program Authority's  
2 policies and management practices and file copies of each audit report under this  
3 paragraph with the distributees specified in par. (b).

4 **SECTION 5.** 13.94 (1s) (c) 5. of the statutes is created to read:

5 13.94 (1s) (c) 5. The Small Business Health Options Program Authority for the  
6 cost of the audit under sub. (1) (dj).

7 **SECTION 6.** 13.95 (intro.) of the statutes, as affected by 2009 Wisconsin Act 28,  
8 is amended to read:

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

23 **SECTION 7.** 16.002 (2) of the statutes, as affected by 2009 Wisconsin Act 28, is  
24 amended to read:

**SENATE BILL 707**

1           16.002 (2) “Departments” means constitutional offices, departments, and  
2 independent agencies and includes all societies, associations, and other agencies of  
3 state government for which appropriations are made by law, but not including  
4 ~~authorities~~ an authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149 ~~and~~,  
5 or subch. III of ch. 635 or in ~~chs.~~ ch. 52, 231, 232, 233, 234, 235, 237, and or 279.

6           **SECTION 8.** 16.004 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is  
7 amended to read:

8           16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the  
9 department as the secretary designates may enter into the offices of state agencies  
10 and ~~authorities~~ any authority created under subch. II of ch. 114 ~~or~~, subch. III of ch.  
11 149 ~~and~~, or subch. III of ch. 635 or under ~~chs.~~ ch. 52, 231, 233, 234, 237, and or 279,  
12 and may examine their books and accounts and any other matter that in the  
13 secretary’s judgment should be examined and may interrogate the agency’s  
14 employees publicly or privately relative thereto.

15           **SECTION 9.** 16.004 (5) of the statutes, as affected by 2009 Wisconsin Act 28, is  
16 amended to read:

17           16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and  
18 ~~authorities~~ each authority created under subch. II of ch. 114 ~~or~~, subch. III of ch. 149  
19 ~~and~~, or subch. III of ch. 635 or under ~~chs.~~ ch. 52, 231, 233, 234, 237, and or 279, and  
20 their officers and employees, shall cooperate with the secretary and shall comply  
21 with every request of the secretary relating to his or her functions.

22           **SECTION 10.** 16.004 (12) (a) of the statutes, as affected by 2009 Wisconsin Act  
23 28, is amended to read:

24           16.004 (12) (a) In this subsection, “state agency” means an association,  
25 authority, board, department, commission, independent agency, institution, office,

**SENATE BILL 707**

1 society, or other body in state government created or authorized to be created by the  
2 constitution or any law, including the legislature, the office of the governor, and the  
3 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,  
4 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan  
5 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home  
6 Care Authority, the Small Business Health Options Program Authority, and the Fox  
7 River Navigational System Authority.

8 **SECTION 11.** 16.045 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
9 is amended to read:

10 16.045 (1) (a) "Agency" means an office, department, independent agency,  
11 institution of higher education, association, society, or other body in state  
12 government created or authorized to be created by the constitution or any law, that  
13 is entitled to expend moneys appropriated by law, including the legislature and the  
14 courts, but not including an authority created in subch. II of ch. 114 ~~or~~, subch. III of  
15 ch. 149, or subch. III of ch. 635 or in ch. 52, 231, 232, 233, 234, 235, 237, or 279.

16 **SECTION 12.** 16.15 (1) (ab) of the statutes, as affected by 2009 Wisconsin Act 28,  
17 is amended to read:

18 16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but  
19 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox  
20 River Remediation Authority, the Wisconsin Quality Home Care Authority, the  
21 Small Business Health Options Program Authority, and the Health Insurance  
22 Risk-Sharing Plan Authority.

23 **SECTION 13.** 16.41 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is  
24 amended to read:

**SENATE BILL 707**

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 subch. III of ch. 635 or under ch. 52, 231, 233, 234,  
3 237, or 279.

4           **SECTION 14.** 16.417 (1) (a) of the statutes is amended to read:

5           16.417 (1) (a) “Agency” means an office, department, independent agency,  
6 institution of higher education, association, society, or other body in state  
7 government created or authorized to be created by the constitution or any law, that  
8 is entitled to expend moneys appropriated by law, including the legislature and the  
9 courts, but not including an authority or the body created under subch. III of ch. 149  
10 or subch. III of ch. 635.

11           **SECTION 15.** 16.52 (7) of the statutes, as affected by 2009 Wisconsin Act 28, is  
12 amended to read:

13           16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency  
14 that is authorized to maintain a contingent fund under s. 20.920 may establish a  
15 petty cash account from its contingent fund. The procedure for operation and  
16 maintenance of petty cash accounts and the character of expenditures therefrom  
17 shall be prescribed by the secretary. In this subsection, “agency” means an office,  
18 department, independent agency, institution of higher education, association,  
19 society, or other body in state government created or authorized to be created by the  
20 constitution or any law, that is entitled to expend moneys appropriated by law,  
21 including the legislature and the courts, but not including an authority created in  
22 subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch. 635 or in ch. 52, 231,  
23 233, 234, 237, or 279.

24           **SECTION 16.** 16.528 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
25 is amended to read:



**SENATE BILL 707**

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 subch. III of ch. 635 or in ch. 52, 231, 233, 234, 237, or 279.

7           **SECTION 17.** 16.53 (2) of the statutes, as affected by 2009 Wisconsin Act 28, 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 subch.  
17 III of ch. 635 or in ch. 52, 231, 233, 234, 237, or 279.

18           **SECTION 18.** 16.54 (9) (a) 1. of the statutes, as affected by 2009 Wisconsin Act  
19 28, 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 subch. III of ch. 635 or in ch. 52, 231, 233, 234, 237, or 279.

**SENATE BILL 707****SECTION 19**

1           **SECTION 19.** 16.70 (2) of the statutes, as affected by 2009 Wisconsin Act 28, 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 subch. III of ch. 635 or under ch. 52, 231, 232, 233, 234, 235, 237, or  
5 279.

6           **SECTION 20.** 16.72 (2) (e) (intro.) of the statutes is amended to read:

7           16.72 (2) (e) (intro.) In writing the specifications under this subsection, the  
8 department and any other designated purchasing agent under s. 16.71 (1) shall  
9 incorporate requirements for the purchase of products made from recycled materials  
10 and recovered materials if their use is technically and economically feasible. Each  
11 authority other than the University of Wisconsin Hospitals and Clinics Authority,  
12 the Lower Fox River Remediation Authority, the Small Business Health Options  
13 Program Authority, and the Health Insurance Risk-Sharing Plan Authority, in  
14 writing specifications for purchasing by the authority, shall incorporate  
15 requirements for the purchase of products made from recycled materials and  
16 recovered materials if their use is technically and economically feasible. The  
17 specifications shall include requirements for the purchase of the following materials:

18           **SECTION 21.** 16.72 (2) (f) of the statutes is amended to read:

19           16.72 (2) (f) In writing specifications under this subsection, the department,  
20 any other designated purchasing agent under s. 16.71 (1), and each authority other  
21 than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox  
22 River Remediation Authority, the Small Business Health Options Program  
23 Authority, and the Health Insurance Risk-Sharing Plan Authority shall incorporate  
24 requirements relating to the recyclability and ultimate disposition of products and,  
25 wherever possible, shall write the specifications so as to minimize the amount of solid

**SENATE BILL 707**

1 waste generated by the state, consistent with the priorities established under s.  
2 287.05 (12). All specifications under this subsection shall discourage the purchase  
3 of single-use, disposable products and require, whenever practical, the purchase of  
4 multiple-use, durable products.

5 **SECTION 22.** 16.75 (1m) of the statutes is amended to read:

6 16.75 (1m) The department shall award each order or contract for materials,  
7 supplies or equipment on the basis of life cycle cost estimates, whenever such action  
8 is appropriate. Each authority other than the University of Wisconsin Hospitals and  
9 Clinics Authority, the Lower Fox River Remediation Authority, the Wisconsin  
10 Aerospace Authority, the Small Business Health Options Program Authority, and  
11 the Health Insurance Risk-Sharing Plan Authority shall award each order or  
12 contract for materials, supplies or equipment on the basis of life cycle cost estimates,  
13 whenever such action is appropriate. The terms, conditions and evaluation criteria  
14 to be applied shall be incorporated in the solicitation of bids or proposals. The life  
15 cycle cost formula may include, but is not limited to, the applicable costs of energy  
16 efficiency, acquisition and conversion, money, transportation, warehousing and  
17 distribution, training, operation and maintenance and disposition or resale. The  
18 department shall prepare documents containing technical guidance for the  
19 development and use of life cycle cost estimates, and shall make the documents  
20 available to local governmental units.

21 **SECTION 23.** 16.75 (8) (a) 1. of the statutes is amended to read:

22 16.75 (8) (a) 1. The department, any other designated purchasing agent under  
23 s. 16.71 (1), any agency making purchases under s. 16.74, and each authority other  
24 than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox  
25 River Remediation Authority, the Small Business Health Options Program

**SENATE BILL 707**

1 Authority, and the Health Insurance Risk-Sharing Plan Authority shall, to the  
2 extent practicable, make purchasing selections using specifications developed under  
3 s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and  
4 recovered materials.

5 **SECTION 24.** 16.75 (8) (a) 2. of the statutes is amended to read:

6 16.75 (8) (a) 2. Each agency and authority other than the University of  
7 Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation  
8 Authority, the Small Business Health Options Program Authority, and the Health  
9 Insurance Risk-Sharing Plan Authority shall ensure that the average recycled or  
10 recovered content of all paper purchased by the agency or authority measured as a  
11 proportion, by weight, of the fiber content of paper products purchased in a fiscal  
12 year, is not less than 40% of all purchased paper.

13 **SECTION 25.** 16.75 (9) of the statutes is amended to read:

14 16.75 (9) The department, any other designated purchasing agent under s.  
15 16.71 (1), any agency making purchases under s. 16.74, and any authority other than  
16 the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River  
17 Remediation Authority, the Small Business Health Options Program Authority, and  
18 the Health Insurance Risk-Sharing Plan Authority shall, to the extent practicable,  
19 make purchasing selections using specifications prepared under s. 16.72 (2) (f).

20 **SECTION 26.** 16.765 (1) of the statutes, as affected by 2009 Wisconsin Act 28,  
21 is amended to read:

22 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and  
23 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin  
24 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Small  
25 Business Health Options Program Authority, the Lower Fox River Remediation

**SENATE BILL 707**

1 Authority, the Wisconsin Quality Home Care Authority, and the Bradley Center  
2 Sports and Entertainment Corporation shall include in all contracts executed by  
3 them a provision obligating the contractor not to discriminate against any employee  
4 or applicant for employment because of age, race, religion, color, handicap, sex,  
5 physical condition, developmental disability as defined in s. 51.01 (5), sexual  
6 orientation as defined in s. 111.32 (13m), or national origin and, except with respect  
7 to sexual orientation, obligating the contractor to take affirmative action to ensure  
8 equal employment opportunities.

9 **SECTION 27.** 16.765 (2) of the statutes, as affected by 2009 Wisconsin Act 28,  
10 is amended to read:

11 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and  
12 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin  
13 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Small  
14 Business Health Options Program Authority, the Lower Fox River Remediation  
15 Authority, the Wisconsin Quality Home Care Authority, and the Bradley Center  
16 Sports and Entertainment Corporation shall include the following provision in every  
17 contract executed by them: "In connection with the performance of work under this  
18 contract, the contractor agrees not to discriminate against any employee or applicant  
19 for employment because of age, race, religion, color, handicap, sex, physical  
20 condition, developmental disability as defined in s. 51.01 (5), sexual orientation or  
21 national origin. This provision shall include, but not be limited to, the following:  
22 employment, upgrading, demotion or transfer; recruitment or recruitment  
23 advertising; layoff or termination; rates of pay or other forms of compensation; and  
24 selection for training, including apprenticeship. Except with respect to sexual  
25 orientation, the contractor further agrees to take affirmative action to ensure equal

**SENATE BILL 707**

1 employment opportunities. The contractor agrees to post in conspicuous places,  
2 available for employees and applicants for employment, notices to be provided by the  
3 contracting officer setting forth the provisions of the nondiscrimination clause”.

4 **SECTION 28.** 16.765 (4) of the statutes, as affected by 2009 Wisconsin Act 28,  
5 is amended to read:

6 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and  
7 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin  
8 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Small  
9 Business Health Options Program Authority, the Lower Fox River Remediation  
10 Authority, the Wisconsin Quality Home Care Authority, and the Bradley Center  
11 Sports and Entertainment Corporation shall take appropriate action to revise the  
12 standard government contract forms under this section.

13 **SECTION 29.** 16.765 (5) of the statutes, as affected by 2009 Wisconsin Act 28,  
14 is amended to read:

15 16.765 (5) The head of each contracting agency and the boards of directors of  
16 the University of Wisconsin Hospitals and Clinics Authority, the Fox River  
17 Navigational System Authority, the Wisconsin Aerospace Authority, the Health  
18 Insurance Risk-Sharing Plan Authority, the Small Business Health Options  
19 Program Authority, the Lower Fox River Remediation Authority, the Wisconsin  
20 Quality Home Care Authority, and the Bradley Center Sports and Entertainment  
21 Corporation shall be primarily responsible for obtaining compliance by any  
22 contractor with the nondiscrimination and affirmative action provisions prescribed  
23 by this section, according to procedures recommended by the department. The  
24 department shall make recommendations to the contracting agencies and the boards  
25 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox

**SENATE BILL 707**

1 River Navigational System Authority, the Wisconsin Aerospace Authority, the  
2 Health Insurance Risk-Sharing Plan Authority, the Small Business Health Options  
3 Program Authority, the Lower Fox River Remediation Authority, the Wisconsin  
4 Quality Home Care Authority, and the Bradley Center Sports and Entertainment  
5 Corporation for improving and making more effective the nondiscrimination and  
6 affirmative action provisions of contracts. The department shall promulgate such  
7 rules as may be necessary for the performance of its functions under this section.

8 **SECTION 30.** 16.765 (6) of the statutes, as affected by 2009 Wisconsin Act 28,  
9 is amended to read:

10 16.765 (6) The department may receive complaints of alleged violations of the  
11 nondiscrimination provisions of such contracts. The department shall investigate  
12 and determine whether a violation of this section has occurred. The department may  
13 delegate this authority to the contracting agency, the University of Wisconsin  
14 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the  
15 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,  
16 the Small Business Health Options Program Authority, the Lower Fox River  
17 Remediation Authority, the Wisconsin Quality Home Care Authority, or the Bradley  
18 Center Sports and Entertainment Corporation for processing in accordance with the  
19 department's procedures.

20 **SECTION 31.** 16.765 (7) (intro.) of the statutes, as affected by 2009 Wisconsin  
21 Act 28, is amended to read:

22 16.765 (7) (intro.) When a violation of this section has been determined by the  
23 department, the contracting agency, the University of Wisconsin Hospitals and  
24 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin  
25 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Small

**SENATE BILL 707****SECTION 31**

1 Business Health Options Program Authority, the Lower Fox River Remediation  
2 Authority, the Wisconsin Quality Home Care Authority, or the Bradley Center Sports  
3 and Entertainment Corporation, the contracting agency, the University of Wisconsin  
4 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the  
5 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,  
6 the Small Business Health Options Program Authority, the Lower Fox River  
7 Remediation Authority, the Wisconsin Quality Home Care Authority, or the Bradley  
8 Center Sports and Entertainment Corporation shall:

9 **SECTION 32.** 16.765 (7) (d) of the statutes, as affected by 2009 Wisconsin Act 28,  
10 is amended to read:

11 16.765 (7) (d) Direct the violating party to take immediate steps to prevent  
12 further violations of this section and to report its corrective action to the contracting  
13 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River  
14 Navigational System Authority, the Wisconsin Aerospace Authority, the Health  
15 Insurance Risk-Sharing Plan Authority, the Small Business Health Options  
16 Program Authority, the Lower Fox River Remediation Authority, the Wisconsin  
17 Quality Home Care Authority, or the Bradley Center Sports and Entertainment  
18 Corporation.

19 **SECTION 33.** 16.765 (8) of the statutes, as affected by 2009 Wisconsin Act 28,  
20 is amended to read:

21 16.765 (8) If further violations of this section are committed during the term  
22 of the contract, the contracting agency, the Fox River Navigational System Authority,  
23 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan  
24 Authority, the Small Business Health Options Program Authority, the Lower Fox  
25 River Remediation Authority, the Wisconsin Quality Home Care Authority, or the



**SENATE BILL 707**

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

16 **SECTION 34.** 16.85 (2) of the statutes, as affected by 2009 Wisconsin Act 28, is  
17 amended to read:

18 16.85 (2) To furnish engineering, architectural, project management, and other  
19 building construction services whenever requisitions therefor are presented to the  
20 department by any agency. The department may deposit moneys received from the  
21 provision of these services in the account under s. 20.505 (1) (kc) or in the general  
22 fund as general purpose revenue — earned. In this subsection, “agency” means an  
23 office, department, independent agency, institution of higher education, association,  
24 society, or other body in state government created or authorized to be created by the  
25 constitution or any law, which is entitled to expend moneys appropriated by law,

**SENATE BILL 707****SECTION 34**

1 including the legislature and the courts, but not including an authority created in  
2 subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch. 635 or in ch. 52, 231,  
3 233, 234, 237, or 279.

4 **SECTION 35.** 16.865 (8) of the statutes, as affected by 2009 Wisconsin Act 28,  
5 is amended to read:

6 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a  
7 proportionate share of the estimated costs attributable to programs administered by  
8 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department  
9 may charge premiums to agencies to finance costs under this subsection and pay the  
10 costs from the appropriation on an actual basis. The department shall deposit all  
11 collections under this subsection in the appropriation account under s. 20.505 (2) (k).  
12 Costs assessed under this subsection may include judgments, investigative and  
13 adjustment fees, data processing and staff support costs, program administration  
14 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this  
15 subsection, “agency” means an office, department, independent agency, institution  
16 of higher education, association, society, or other body in state government created  
17 or authorized to be created by the constitution or any law, that is entitled to expend  
18 moneys appropriated by law, including the legislature and the courts, but not  
19 including an authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch.  
20 III of ch. 635 or in ch. 52, 231, 232, 233, 234, 235, 237, or 279.

21 **SECTION 36.** 25.50 (1) (d) of the statutes is amended to read:

22 25.50 (1) (d) “Local government” means any county, town, village, city, power  
23 district, sewerage district, drainage district, town sanitary district, public inland  
24 lake protection and rehabilitation district, local professional baseball park district  
25 created under subch. III of ch. 229, long-term care district under s. 46.2895, local

**SENATE BILL 707**

1 professional football stadium district created under subch. IV of ch. 229, local  
2 cultural arts district created under subch. V of ch. 229, public library system, school  
3 district or technical college district in this state, any commission, committee, board  
4 or officer of any governmental subdivision of this state, any court of this state, other  
5 than the court of appeals or the supreme court, or any authority created under s.  
6 114.61, 149.41, 231.02, 233.02 ~~or~~, 234.02, or 635.70.

7 **SECTION 37.** 40.02 (54) (m) of the statutes is created to read:

8 40.02 (54) (m) The Small Business Health Options Program Authority.

9 **SECTION 38.** 70.11 (41c) of the statutes is created to read:

10 70.11 (41c) SMALL BUSINESS HEALTH OPTIONS PROGRAM AUTHORITY. All property  
11 owned by the Small Business Health Options Program Authority, provided that the  
12 use of the property is primarily related to the purposes of the authority.

13 **SECTION 39.** 71.26 (1) (be) of the statutes, as affected by 2009 Wisconsin Act 28,  
14 is amended to read:

15 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin  
16 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan  
17 Authority, of the Small Business Health Options Program Authority, of the  
18 Wisconsin Quality Home Care Authority, of the Fox River Navigational System  
19 Authority, and of the Wisconsin Aerospace Authority.

20 **SECTION 40.** 77.54 (9a) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
21 is amended to read:

22 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin  
23 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health  
24 Insurance Risk-Sharing Plan Authority, the Small Business Health Options

**SENATE BILL 707**

1 Program Authority, the Wisconsin Quality Home Care Authority, and the Fox River  
2 Navigational System Authority.

3 **SECTION 41.** 101.055 (2) (a) of the statutes is amended to read:

4 101.055 (2) (a) “Agency” means an office, department, independent agency,  
5 authority, institution, association, society, or other body in state government created  
6 or authorized to be created by the constitution or any law, and includes the  
7 legislature and the courts, but excludes the Health Insurance Risk-Sharing Plan  
8 Authority and the Small Business Health Options Program Authority.

9 **SECTION 42.** 101.177 (1) (d) of the statutes, as affected by 2009 Wisconsin Act  
10 28, is amended to read:

11 101.177 (1) (d) “State agency” means any office, department, agency,  
12 institution of higher education, association, society, or other body in state  
13 government created or authorized to be created by the constitution or any law, that  
14 is entitled to expend moneys appropriated by law, including the legislature and the  
15 courts, the Wisconsin Housing and Economic Development Authority, the Bradley  
16 Center Sports and Entertainment Corporation, the University of Wisconsin  
17 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin  
18 Quality Home Care Authority, and the Wisconsin Health and Educational Facilities  
19 Authority, but excluding the Health Insurance Risk-Sharing Plan Authority, the  
20 Small Business Health Options Program Authority, and the Lower Fox River  
21 Remediation Authority.

22 **SECTION 43.** 230.03 (3) of the statutes, as affected by 2009 Wisconsin Act 28,  
23 is amended to read:

24 230.03 (3) “Agency” means any board, commission, committee, council, or  
25 department in state government or a unit thereof created by the constitution or

**SENATE BILL 707**

1 statutes if such board, commission, committee, council, department, unit, or the  
2 head thereof, is authorized to appoint subordinate staff by the constitution or  
3 statute, except a legislative or judicial board, commission, committee, council,  
4 department, or unit thereof or an authority created under subch. II of ch. 114 or,  
5 subch. III of ch. 149, or subch. III of ch. 635 or under ch. 52, 231, 232, 233, 234, 235,  
6 237, or 279. "Agency" does not mean any local unit of government or body within one  
7 or more local units of government that is created by law or by action of one or more  
8 local units of government.

9 **SECTION 44.** 230.80 (4) of the statutes is amended to read:

10 230.80 (4) "Governmental unit" means any association, authority, board,  
11 commission, department, independent agency, institution, office, society, or other  
12 body in state government created or authorized to be created by the constitution or  
13 any law, including the legislature, the office of the governor, and the courts, but  
14 excluding the Health Insurance Risk-Sharing Plan Authority and the Small  
15 Business Health Options Program Authority. "Governmental unit" does not mean  
16 any political subdivision of the state or body within one or more political subdivisions  
17 that is created by law or by action of one or more political subdivisions.

18 **SECTION 45.** 230.90 (1) (c) of the statutes is amended to read:

19 230.90 (1) (c) "Governmental unit" means any association, authority, board,  
20 commission, department, independent agency, institution, office, society or other  
21 body in state government created or authorized to be created by the constitution or  
22 any law, including the legislature, the office of the governor and the courts.  
23 "Governmental unit" does not mean the University of Wisconsin Hospitals and  
24 Clinics Authority, the Health Insurance Risk-Sharing Plan Authority, the Small  
25 Business Health Options Program Authority, or any political subdivision of the state

**SENATE BILL 707**

1 or body within one or more political subdivisions which is created by law or by action  
2 of one or more political subdivisions.

3 **SECTION 46.** Subchapter I (title) of chapter 635 [precedes 635.01] of the statutes  
4 is created to read:

**CHAPTER 635****SUBCHAPTER I****GENERAL PROVISIONS**

8 **SECTION 47.** 635.02 (1) of the statutes is renumbered 635.02 (1g).

9 **SECTION 48.** 635.02 (1c) of the statutes is created to read:

10 635.02 (1c) “Authority” means the Small Business Health Options Program  
11 Authority.

12 **SECTION 49.** 635.02 (1o) of the statutes is created to read:

13 635.02 (1o) “Board” means the board of directors of the authority.

14 **SECTION 50.** 635.18 (1) of the statutes is amended to read:

15 635.18 (1) ~~Every~~ Any small employer insurer shall may actively market health  
16 benefit plan coverage to small employers in the state.

17 **SECTION 51.** Subchapter II of chapter 635 [precedes 635.30] of the statutes is  
18 created to read:

**CHAPTER 635****SUBCHAPTER II****HEALTH BENEFIT PLAN EXCHANGE**

22 **635.30 Establishment of exchange; plans.** (1) Subject to s. 635.45 (4), the  
23 authority shall establish and, by January 1, 2011, begin operating a health benefit  
24 plan exchange under which the authority shall enroll eligible groups and individuals  
25 in health benefit plans offered through the exchange.

**SENATE BILL 707**

1           **(2)** (a) The commissioner shall determine the initial plan designs, including  
2           minimum benefit levels, for the health benefit plans that may be offered through the  
3           exchange. Thereafter, the authority may modify the plan designs as it determines  
4           necessary or appropriate. Both the commissioner and the authority, in specifying  
5           plan designs under this subsection, shall attempt to limit the degree of variation  
6           among plans and the number of different plan choices for exchange participants.

7           (b) Only health benefit plans that satisfy the requirements under par. (a) and  
8           that are approved by the authority may be offered by insurers through the exchange.  
9           Each plan offered through the exchange shall contain a detailed description of the  
10          benefits provided, including any maximum or minimum amounts, limitations, or  
11          exclusions.

12          **(3)** The authority shall rank the health benefit plans that are offered through  
13          the exchange according to the benefits provided and place each one into one of the  
14          following 3 tiers:

15               (a) A plan with full benefits shall be designated as a “gold” plan.

16               (b) A plan providing 75 percent of the actuarial value of a “gold” plan shall be  
17          designated as a “silver” plan.

18               (c) A plan providing 60 percent of the actuarial value of a “gold” plan shall be  
19          designated as a “bronze” plan.

20          **(4)** The authority may eliminate a plan from the exchange only after notice to  
21          the insurer offering the plan.

22          **635.35 Participation in exchange.** **(1)** All of the following shall be eligible  
23          to purchase coverage under a health benefit plan offered through the exchange:

24               (a) A small employer.

**SENATE BILL 707****SECTION 51**

1 (b) A state employee who is a limited term employee and who is not eligible for  
2 coverage under a health care coverage plan under subch. IV of ch. 40.

3 (c) An individual who contracts with this state for the performance of services  
4 for the state and who is not eligible for coverage under a health care coverage plan  
5 under subch. IV of ch. 40.

6 (2) The authority shall accept for enrollment through the exchange any small  
7 employer under sub. (1) (a) and any individual under sub. (1) (b) or (c) who applies  
8 for enrollment. An individual under sub. (1) (b) or (c) and an employee of a small  
9 employer under sub. (1) (a) may select coverage under any health benefit plan offered  
10 through the exchange, except that all employees of a single small employer must  
11 select coverage under health benefit plans that have been placed in the same tier  
12 under s. 635.30 (3) (a), (b), or (c).

13 (3) The authority shall collect initial premiums for coverage under each health  
14 benefit plan from enrollees in the plan and disburse the initial premium collected to  
15 the insurer offering the plan, along with enrollment information about each  
16 individual or employee enrolled in the plan.

17 **635.37 Insurer requirements.** (1) (a) Any insurer that is authorized to do  
18 business in this state, in one or more lines of insurance that includes health  
19 insurance, may offer coverage through the exchange. No insurer may offer or issue  
20 a health benefit plan to a small employer except through the exchange. An insurer  
21 that offers coverage through the exchange may offer only health benefit plans that  
22 satisfy the requirements under s. 635.30 (2) (a) and that are approved for the  
23 exchange by the authority. An insurer that offers coverage through the exchange  
24 must offer at least one health benefit plan in each tier under s. 635.30 (3) (a), (b), and  
25 (c).



**SENATE BILL 707**

1 (b) Notwithstanding ss. 631.36 (4) and 632.749 (1) and (2), a health benefit plan  
2 issued to a small employer that is in effect on the day that the exchange begins  
3 operating may remain in effect until the end of its term but may not be renewed.

4 (2) Premiums for coverage through the exchange may be based only on age, sex,  
5 geographic location, whether coverage is single or family, and plan design. For the  
6 purpose of determining premiums, an insurer shall pool together all individuals and  
7 employees who have coverage under all of the plans issued by the insurer through  
8 the exchange.

9 (3) An insurer may not impose any annual or lifetime limits or any preexisting  
10 condition exclusions under any plan offered through the exchange. An insurer  
11 offering coverage through the exchange shall accept for enrollment any individual  
12 under s. 635.35 (1) (b) or (c) and any employee of a small employer under s. 635.35  
13 (1) (a) who applies for enrollment in a health benefit plan offered by the insurer  
14 through the exchange. Section 632.7495 applies to the renewability of an  
15 individual's or employee's coverage under a health benefit plan offered through the  
16 exchange.

17 (4) An insurer that offers health benefit plans through the exchange shall  
18 establish a toll-free hotline for providing information to enrollees and other  
19 individuals and shall furnish such reasonable reports as the authority determines  
20 necessary for the administration of the exchange.

21 (5) The authority may audit any insurer that provides coverage under a health  
22 benefit plan through the exchange for the purpose of ensuring that the insurer is  
23 providing covered individuals with the benefits provided for under this subchapter  
24 in a manner that does all of the following:

25 (a) Complies with the provisions of this chapter.

**SENATE BILL 707****SECTION 51**

1 (b) Promotes positive health outcomes.

2 (c) Advances value-based and evidence-based medical practices.

3 (d) Avoids unnecessary operating and capital costs arising from inappropriate  
4 utilization or inefficient delivery of health care services, unwarranted duplication of  
5 services and infrastructure, or creation of excess care delivery capacity.

6 (e) Holds down the growth of health care costs.

7 **635.40 Intermediaries.** An insurance intermediary that enrolls an  
8 individual under s. 635.35 (1) (b) or (c) in a health benefit plan through the exchange  
9 shall be paid a commission by the insurer offering the health benefit plan. An  
10 insurance intermediary that enrolls the employees of a small employer under s.  
11 635.35 (1) (a) in one or more health benefit plans through the exchange shall be paid  
12 a commission by each insurer offering a health benefit plan selected by an employee  
13 of the small employer. The authority shall determine the commission amounts that  
14 must be paid to intermediaries under this section after considering information  
15 provided to the commissioner under s. 628.81 with respect to health insurance.

16 **635.45 Administration; rules. (1)** For payment of administrative expenses,  
17 the authority may impose a surcharge on each insurer offering health benefit plans  
18 through the exchange. The surcharge shall be based on an insurer's total premium  
19 collected through the exchange.

20 **(2)** For administering the exchange the authority shall do all of the following:

21 (a) In consultation with the commissioner, establish procedures for approving  
22 plans that may be offered through the exchange, for ranking plans into the tiers  
23 under s. 635.30 (3), and for determining whether a plan should continue to be offered  
24 or should be eliminated from the exchange.

**SENATE BILL 707**

1 (b) Establish quality improvement standards for plans offered through the  
2 exchange.

3 (c) Establish a system for enrolling eligible groups and individuals, using a  
4 standard application form developed by the commissioner under sub. (5) (a).

5 (d) Establish procedures for collecting premiums and remitting premium  
6 payments and providing enrollment information to insurers.

7 (e) Establish, in consultation with the commissioner, the method for  
8 determining the amount of the surcharge under sub. (1) and establish the procedure  
9 for imposing and collecting the surcharge.

10 (f) Establish a plan for publicizing the exchange and the eligibility  
11 requirements and enrollment procedures.

12 (g) Establish and operate a service center to provide information to small  
13 employers, individuals, enrollees, and insurance intermediaries about the exchange.

14 (h) Establish a mechanism for regular communication and cooperation with  
15 insurance intermediaries.

16 (i) Establish an independent and binding appeals process for resolving disputes  
17 over eligibility and other determinations made by the authority.

18 **(3)** The authority may do all of the following:

19 (a) Contract with a 3rd-party administrator for the provision of services on  
20 behalf of the exchange.

21 (b) Establish risk adjustment mechanisms for the exchange.

22 (c) Enter into agreements with or establish sub-exchanges.

23 **(4)** The authority shall seek grants or other funding from the federal or state  
24 government for which it may be eligible and from private foundations. The authority

**SENATE BILL 707****SECTION 51**

1 may begin operating the exchange only if it receives federal grant moneys or other  
2 funds for that purpose.

3 (5) (a) The commissioner shall develop a standard application form for use in  
4 the exchange.

5 (b) The commissioner may promulgate rules, with the approval of the authority,  
6 for the administration of this subchapter.

7 **SECTION 52.** Subchapter III of chapter 635 [precedes 635.70] of the statutes is  
8 created to read:

9 **CHAPTER 635**

10 **SUBCHAPTER III**

11 **SMALL BUSINESS HEALTH**

12 **OPTIONS PROGRAM AUTHORITY**

13 **635.70 Creation and organization of authority.** (1) There is created a  
14 public body corporate and politic to be known as the “Small Business Health Options  
15 Program Authority.” The board of directors of the authority shall consist of the  
16 commissioner, or his or her designee; the secretary of employee trust funds, or his or  
17 her designee; the person who is appointed by the secretary of health services to be  
18 the director of the Medical Assistance program, or his or her designee; the executive  
19 director of the Health Insurance Risk-Sharing Plan Authority, or his or her designee;  
20 and all of the following members, who shall be nominated by the governor, and with  
21 the advice and consent of the senate appointed for 3-year terms, and none of whom  
22 shall be an employee of an insurer that is authorized to do business in the state:

23 (a) A member in good standing of the American Academy of Actuaries.

24 (b) A health economist.

25 (c) An employee benefits specialist.

**SENATE BILL 707**

1 (d) A representative of small employers.

2 (e) A representative of an organization that represents consumer interests.

3 (f) A representative of organized labor.

4 **(2)** A vacancy on the board shall be filled in the same manner as the original  
5 appointment to the board for the remainder of the unexpired term, if any.

6 **(3)** A member of the board shall receive no compensation for services under this  
7 chapter but shall be reimbursed for actual and necessary expenses, including travel  
8 expenses, incurred in the discharge of the member's duties under this chapter.

9 **(4)** The commissioner or the commissioner's designee shall be the chairperson  
10 of the board. Five members of the board constitute a quorum for the purpose of  
11 conducting the business and exercising the powers of the authority, notwithstanding  
12 the existence of any vacancy. The board may take action upon a vote of a majority  
13 of the members present, unless the bylaws of the authority require a larger number.

14 **(5)** The chairperson shall appoint an executive director who shall not be a  
15 member of the board and who shall serve at the pleasure of the board. The executive  
16 director shall receive compensation commensurate with the duties of the office, as  
17 determined by the board. The executive director shall serve as secretary of the  
18 authority and shall keep a record of the proceedings of the authority and shall be  
19 custodian of all books, documents, and papers filed with the authority, the minute  
20 book or journal of the authority, and its official seal. The executive director or other  
21 person may cause copies to be made of all minutes and other records and documents  
22 of the authority and may give certificates under the official seal of the authority to  
23 the effect that such copies are true copies, and all persons dealing with the authority  
24 may rely upon such certificates. The executive director shall have all of the following  
25 duties:

**SENATE BILL 707**

1 (a) Supervising the administrative affairs and the general management and  
2 operation of the authority.

3 (b) Planning, directing, coordinating, and executing administrative functions  
4 in conformity with the policies and directives of the board.

5 (c) Employing professional and clerical staff, as necessary.

6 (d) Reporting to the board on all operations under his or her control and  
7 supervision.

8 (e) Preparing an annual budget and managing the administrative expenses of  
9 the authority.

10 (f) Undertaking any activities necessary to implement the powers and duties  
11 set forth in this chapter.

12 **635.72 Duties.** In addition to all other duties imposed under this chapter, the  
13 authority shall do all of the following:

14 (1) Establish its annual budget and monitor its fiscal management.

15 (2) No later than two years after the exchange under subch. II begins operation,  
16 and annually thereafter, submit a report to the legislature under s. 13.172 (2) and  
17 to the governor on the operation of the exchange under subch. II, including a review  
18 of all of the following:

19 (a) Progress toward the goals of the exchange.

20 (b) The operations and administration of the exchange.

21 (c) The types of health insurance plans available to eligible individuals and  
22 groups and the percentage of the total exchange enrollees served by each plan.

23 (d) Surveys and reports on the insurers' experiences with different plans,  
24 including aggregated data on enrollees, claims, statistics, complaint data, and  
25 enrollee satisfaction data.

**SENATE BILL 707**

1 (e) Significant observations regarding utilization and adoption of the  
2 exchange.

3 (3) Annually submit to the governor and the legislative audit bureau a  
4 statement of its activities and financial condition.

5 (4) Approve the use of any trademarks, seals, or logos by participating insurers  
6 and small employers.

7 **635.74 Powers.** The authority has all of the powers necessary or convenient  
8 to carry out its duties under this chapter, except that it may not acquire or hold title  
9 to real estate or issue bonds. In addition, the authority may do any of the following:

10 (1) Adopt bylaws and policies and procedures for the regulation of its affairs  
11 and the conduct of its business.

12 (2) Have a seal and alter the seal at pleasure; have perpetual existence; and  
13 maintain an office.

14 (3) Hire employees, define their duties, and fix their rate of compensation.

15 (4) Delegate by resolution to one or more of its members any powers and duties  
16 that it considers proper.

17 (5) Incur debt.

18 (6) Appoint any technical or professional advisory committee that the  
19 authority finds necessary to assist the authority in exercising its duties and powers.  
20 If the authority appoints a committee, the authority shall define the duties of the  
21 committee and provide reimbursement for the expenses of the committee.

22 (7) Accept gifts, grants, loans, or other contributions from private or public  
23 sources.

24 (8) Procure liability insurance.

25 (9) Sue and be sued in its own name and plead and be impleaded.

**SENATE BILL 707**

1           **(10)** Execute contracts and other instruments, including contracts for  
2 professional or technical services required for the authority or the operation of the  
3 exchange under subch. II.

4           **635.76 Contracting for professional services.** **(1)** Whenever contracting  
5 for professional services, the authority shall solicit competitive sealed bids or  
6 competitive sealed proposals, whichever is appropriate. Each request for  
7 competitive sealed proposals shall state the relative importance of price and other  
8 evaluation factors.

9           **(2)** (a) When the estimated cost exceeds \$25,000, the authority may invite  
10 competitive sealed bids or proposals by publishing a class 2 notice under ch. 985 or  
11 by posting notice on the Internet at a site determined or approved by the authority.  
12 The notice shall describe the contractual services to be purchased, the intent to make  
13 the procurement by solicitation of bids or proposals, any requirement for surety, and  
14 the date the bids or proposals will be opened, which shall be at least 7 days after the  
15 date of the last insertion of the notice or at least 7 days after the date of posting on  
16 the Internet.

17           (b) When the estimated cost is \$25,000 or less, the authority may award the  
18 contract in accordance with simplified procedures established by the authority for  
19 such transactions.

20           (c) For purposes of clarification, the authority may discuss the requirements  
21 of the proposed contract with any person who submits a bid or proposal and shall  
22 permit any offerer to revise his or her bid or proposal to ensure its responsiveness to  
23 those requirements.

24           **(3)** (a) The authority shall determine which bids or proposals are reasonably  
25 likely to be awarded the contract and shall provide each offerer of such a bid or



**SENATE BILL 707**

1 proposal a fair and equal opportunity to discuss the bid or proposal. The authority  
2 may negotiate with each offerer in order to obtain terms that are advantageous to  
3 the authority. Prior to the award of the contract, any offerer may revise his or her  
4 bid or proposal. The authority shall keep a written record of all meetings,  
5 conferences, oral presentations, discussions, negotiations, and evaluations of bids or  
6 proposals under this section.

7 (b) In opening, discussing, and negotiating bids or proposals, the authority may  
8 not disclose any information that would reveal the terms of a competing bid or  
9 proposal.

10 (4) (a) After receiving each offerer's best and final offer, the authority shall  
11 determine which proposal is most advantageous and shall award the contract to the  
12 person who offered it. The authority's determination shall be based only on price and  
13 the other evaluation factors specified in the request for bids or proposals. The  
14 authority shall state in writing the reason for the award and shall place the  
15 statement in the contract file.

16 (b) Following the award of the contract, the authority shall prepare a register  
17 of all bids or proposals.

18 **635.78 Political activities.** (1) No employee of the authority may directly  
19 or indirectly solicit or receive subscriptions or contributions for any partisan political  
20 party or any political purpose while engaged in his or her official duties as an  
21 employee. No employee of the authority may engage in any form of political activity  
22 calculated to favor or improve the chances of any political party or any person seeking  
23 or attempting to hold partisan political office while engaged in his or her official  
24 duties as an employee or engage in any political activity while not engaged in his or  
25 her official duties as an employee to such an extent that the person's efficiency during

**SENATE BILL 707**

1 working hours will be impaired or that he or she will be tardy or absent from work.

2 Any violation of this section is adequate grounds for dismissal.

3 (2) If an employee of the authority declares an intention to run for partisan  
4 political office, the employee shall be placed on a leave of absence for the duration  
5 of the election campaign and if elected shall no longer be employed by the authority  
6 on assuming the duties and responsibilities of such office.

7 (3) An employee of the authority may be granted, by the executive director, a  
8 leave of absence to participate in partisan political campaigning.

9 (4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the  
10 restrictions of sub. (1), except as they apply to the solicitation of assistance,  
11 subscription, or support from any other employee in the authority.

12 **635.80 Liability; expenses; limitations.** (1) Neither the state, nor any  
13 political subdivision of the state, nor any officer, employee, or agent of the state or  
14 a political subdivision who is acting within the scope of employment or agency is  
15 liable for any debt, obligation, act, or omission of the authority.

16 (2) All of the expenses incurred by the authority in exercising its duties and  
17 powers under this chapter shall be payable only from funds of the authority.

18 (3) A cause of action may arise against and civil liability may be imposed on  
19 the authority for its acts or omissions or for any act or omission of a member of the  
20 board, the executive director, or an employee of the authority in the performance of  
21 his or her powers and duties under this chapter.

22 (4) A cause of action may not arise against and civil liability may not be imposed  
23 on a member of the board, the executive director, or an employee of the authority for  
24 any act or omission in the performance of his or her powers and duties under this  
25 chapter, unless the person asserting liability proves that the act or omission

**SENATE BILL 707**

1 constitutes willful misconduct or intentional violation of the law. The member of the  
2 board, executive director, or employee who performed the act or omission that formed  
3 the basis of liability shall be jointly liable with the authority if that board member,  
4 executive director, or employee fails to cooperate with the authority in defense of the  
5 claim and if the failure to cooperate affects the defense of the action.

6 (5) The amount recoverable by any person for any damages, injuries, or death  
7 in any civil action or civil proceeding against the authority, including any such action  
8 or proceeding based on contribution or indemnification, shall not exceed \$100,000.

9 (END)