



## 2007 SENATE BILL 520

February 20, 2008 – Introduced by Senator COWLES. Referred to Committee on Campaign Finance Reform, Rural Issues and Information Technology.

1     **AN ACT** *to amend* 13.53 (2) (intro.) and 16.71 (1m); and *to create* 13.58 (5) (b)  
2             5., 16.971 (2) (Lg), 16.973 (10) to (14), 16.973 (15) and 227.01 (13) (km) of the  
3             statutes; **relating to:** requirements for executive branch information  
4             technology development projects, including reporting to and oversight by the  
5             Joint Committee on Information Policy and Technology, and requiring the  
6             exercise of rule-making authority.

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

In April 2007, the Legislative Audit Bureau (LAB) completed *A Review of Information Technology Projects*, Report 07-5 (report). The report provides a detailed review of selected, high-risk information technology (IT) projects conducted by executive branch agencies, other than the Board of Regents of the University of Wisconsin System (agency or agencies). The report identifies the difficulties agencies have encountered completing complex and costly IT projects within budget and according to schedule. The report made a number of recommendations related to planning for and monitoring IT projects pursued by agencies. The report recommended that the Joint Committee on Information Policy and Technology (JCIPT) be reactivated to exercise the oversight responsibilities recommended in the report.

This bill adopts, with modifications, many of the recommendations of the report. Specifically, the bill does all of the following:

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1. *Planning for IT projects in strategic plans.* Under current law, each agency must submit a strategic plan outlining the agency's use of IT to the Department of Administration (DOA). The bill requires DOA to work with agencies to adopt written policies. The written policies must establish a standardized reporting format for IT projects that are included in the agencies' strategic plans and that either exceed \$1,000,000 or are otherwise vital to the functions of the agency. DOA must forward a copy of the proposed policies for review by the Joint Legislative Audit Committee (JLAC) and for approval by JCIPT.

2. *High-risk projects and cost projections.* The bill requires DOA, in consultation with LAB and JLAC, to promulgate administrative rules applicable to each agency that establish all of the following: (a) a definition of and methodology for identifying large, high-risk IT projects; (b) standardized, quantifiable project performance measures for monitoring large, high-risk IT projects; (c) policies and procedures for routine monitoring of large, high-risk IT projects; (d) a formal process for modifying project specifications when doing so is necessary because of changes in program requirements; (e) requirements for reporting cost or time-line changes to large, high-risk IT projects; (f) methods for discontinuing projects that are failing to meet performance measures or modifying projects that are failing to meet performance measures in such a way as to correct the performance problems; (g) policies and procedures for the use of master leases to finance new IT system costs and to maintain current IT systems; and (h) a consistent reference point in the development of all large, high-risk IT projects at which an accurate estimate of the costs and time line of the projects can be presented to DOA and JCIPT.

3. *Use of commercially available IT products.* The bill requires DOA to promulgate administrative rules governing agency use of commercially available IT products. The rules must include a requirement that, before an agency may initiate work on a customized IT product, the agency must demonstrate to the satisfaction of DOA why a commercially available IT product does not meet the needs of the agency.

4. *Use of master leases.* Current law defines a master lease as an agreement entered into by DOA on behalf of one or more agencies to obtain property or services under which DOA makes or agrees to make periodic payments. The bill requires DOA to, no later than October 1, annually provide to the governor and JCIPT a report on IT projects funded in the previous fiscal year by master leases. The report must include (a) the total amount paid towards IT projects under master leases in the previous year; (b) the amounts approved to be paid towards IT projects under master leases in future years; (c) the total amount paid by each agency on each IT project for which debt is outstanding, together with a comparison of the total amount originally approved for that IT project; and (d) a summary of repayments made towards any master lease in the previous fiscal year.

5. *Vendor contracts.* The bill requires DOA and any agency that has been given procurement authority by DOA to include a stipulation clause in any contract for a high-risk IT project or an IT project with a projected cost of greater than \$1,000,000. The clause would require vendors to submit to DOA for approval by DOA any order or amendment that would change the scope of the contract and have the effect of

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increasing the contract price. The stipulation clause must also authorize DOA to review the original contract and the order or amendment to determine whether the work proposed within the order or amendment is within the scope of the original contract or is necessary. The bill authorizes DOA to negotiate with the vendor regarding any change to the original contract.

The bill also authorizes DOA or any agency that has been given procurement authority to exclude the stipulation if all of the following conditions are satisfied: (a) including the stipulation would negatively impact contract negotiations or significantly reduce the number of bidders on the contract; (b) if the exclusion is sought by an agency with procurement authority, the agency seeking the exclusion submits to DOA a plain-language explanation of the reasons the stipulation is excluded and the alternative provisions the agency will include to ensure that the contract will be completed on time and within the contract budget; (c) if the exclusion is sought by DOA, DOA prepares a plain-language explanation of the reasons for excluding the stipulation and the alternative provisions DOA will include to ensure that the contract will be completed on time and within the contract budget; and (d) DOA or the agency seeking the exclusion obtains approval for the alternate provisions from JCIPT.

6. *Open-ended contracts.* The bill requires each agency that has entered into an open-ended contract for the development of IT to submit quarterly reports documenting the amount expended on the IT project to DOA. The bill defines "open-ended contract" as a contract for IT that includes one or both of the following: (a) stipulations that provide that the contract vendor will deliver IT products or services but that do not specify a maximum payment amount; and (b) stipulations that provide that the contract vendor shall be paid an hourly wage but that do not set a maximum limit on the number of hours required to complete the IT project. DOA must compile and annually submit to JCIPT all reports it receives from agencies.

7. *JCIPT review.* The bill requires JCIPT to review all executive branch IT projects identified by DOA as high risk or with an annual or projected cost of at least \$1,000,000 to determine whether the project should be continued or implemented. DOA must submit semiannual reports to JCIPT. The reports must contain the following information: (a) original and updated cost projections; (b) original and updated completion dates for the project and any stage of the project; (c) an explanation for any variation between the original and updated costs and completion dates; (d) a copy of any contract entered into by DOA or the agency that has not already been provided to JCIPT; (e) all sources of funding for the project; (f) the amount of any funding provided for the project through a master lease; (g) information about the status of the project, including any portion of the project that has been completed; and (h) any other information requested by JCIPT about the project or any related IT project.

In the event JCIPT is not organized, the Joint Legislative Audit Committee is required under the bill to assume all of the responsibilities established for JCIPT under the bill.

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

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

1           **SECTION 1.** 13.53 (2) (intro.) of the statutes is amended to read:

2           13.53 (2) RESPONSIBILITIES. (intro.) The joint legislative audit committee shall  
3 have advisory responsibilities for the legislative audit bureau. The committee's  
4 responsibility is subject to general supervision of the joint committee on legislative  
5 organization. If the joint committee on information policy and technology is not  
6 organized, the joint legislative audit committee shall assume the responsibilities  
7 assigned to the joint committee on information policy and technology under ss.  
8 16.971 (2) (Lg) and 16.973 (10) to (15). The joint legislative audit committee may:

9           **SECTION 2.** 13.58 (5) (b) 5. of the statutes is created to read:

10           13.58 (5) (b) 5. Review any executive branch information technology project  
11 identified in a report submitted to the committee by the department of  
12 administration under s. 16.973 (15) to determine whether the project should be  
13 continued or implemented. The committee may forward any recommendations  
14 regarding the project to the governor and to the legislature under s. 13.172 (2).

15           **SECTION 3.** 16.71 (1m) of the statutes is amended to read:

16           16.71 (1m) The department shall not delegate to any executive branch agency,  
17 other than the board of regents of the University of Wisconsin System, the authority  
18 to enter into any contract for materials, supplies, equipment, or contractual services  
19 relating to information technology or telecommunications prior to review and  
20 approval of the contract by the department. No executive branch agency, other than  
21 the board of regents of the University of Wisconsin System, may enter into any such

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1 contract without review and approval of the contract by the department. Any  
2 executive branch agency that enters into a contract relating to information  
3 technology under this section shall comply with the requirements of s. 16.973 (13).

4 Any delegation to the board of regents of the University of Wisconsin System is  
5 subject to the limitations prescribed in s. 36.11 (49).

6 **SECTION 4.** 16.971 (2) (Lg) of the statutes is created to read:

7 16.971 (2) (Lg) 1. Develop, in consultation with each executive branch agency,  
8 other than the Board of Regents of the University of Wisconsin System, and adopt  
9 written policies establishing a standardized reporting format for proposed and  
10 ongoing information technology development projects included in the strategic plan  
11 required of each executive branch agency under par. (L) and that either exceed  
12 \$1,000,000 or that are vital to the functions of the executive branch agency.

13 2. The department shall submit for review by the joint legislative audit  
14 committee and for approval by the joint committee on information policy and  
15 technology any proposed policies required under subd. 1. and any proposed revisions  
16 to the policies.

17 **SECTION 5.** 16.973 (10) to (14) of the statutes are created to read:

18 16.973 (10) In consultation with the legislative audit bureau and the joint  
19 legislative audit committee, promulgate administrative rules applicable to each  
20 executive branch agency, other than the Board of Regents of the University of  
21 Wisconsin System, pertaining to large, high-risk information technology projects  
22 that shall include:

23 (a) A definition of and methodology for identifying large, high-risk information  
24 technology projects.

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1 (b) Standardized, quantifiable project performance measures for evaluating  
2 large, high-risk information technology projects.

3 (c) Policies and procedures for routine monitoring of large, high-risk  
4 information technology projects.

5 (d) A formal process for modifying information technology project specifications  
6 when necessary to address changes in program requirements.

7 (e) Requirements for reporting changes in estimates of cost or completion date  
8 to the department and the joint committee on information policy and technology.

9 (f) Methods for discontinuing projects or modifying projects that are failing to  
10 meet performance measures in such a way to correct the performance problems.

11 (g) Policies and procedures for the use of master leases under s. 16.76 (4) to  
12 finance new large, high-risk information technology system costs and maintain  
13 current large, high-risk information technology systems.

14 (h) A standardized progress point in the execution of large, high-risk  
15 information technology projects at which time the estimated costs and date of  
16 completion of the project is reported to the department and the joint committee on  
17 information policy and technology.

18 **(11)** Promulgate administrative rules applicable to each executive branch  
19 agency, other than the Board of Regents of the University of Wisconsin System,  
20 pertaining to the use of commercially available information technology products,  
21 which shall include all of the following:

22 (a) A requirement that each executive branch agency review commercially  
23 available information technology products prior to initiating work on a customized  
24 information technology development project to determine whether any commercially  
25 available product could meet the information technology needs of the agency.

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1 (b) Procedures and criteria to determine when a commercially available  
2 information technology product must be used and when an executive branch agency  
3 may consider the modification of a commercially available information technology  
4 product or the creation of a customized information technology product.

5 (c) Prior to initiating the creation or modification of a customized information  
6 technology product, a requirement that the executive branch agency initiating work  
7 on the product submit to the department a justification for the creation or  
8 modification of the product, together with a request for approval of the work by the  
9 department.

10 **(12)** (a) In this subsection, “master lease” has the meaning given under s. 16.76  
11 (4).

12 (b) Annually, no later than October 1, submit to the governor and the members  
13 of the joint committee on information policy and technology a report documenting the  
14 use by each executive branch agency, other than the Board of Regents of the  
15 University of Wisconsin System, of master leases to fund information technology  
16 projects in the previous fiscal year. The report shall contain all of the following  
17 information:

18 1. The total amount paid under master leases towards information technology  
19 projects in the previous fiscal year.

20 2. The master lease payment amounts approved to be applied to information  
21 technology projects in future fiscal years.

22 3. The total amount paid by each executive branch agency on each information  
23 technology project for which debt is outstanding, as compared to the total financing  
24 amount originally approved for that information technology project.

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1           4. A summary of repayments made towards any master lease in the previous  
2 fiscal year.

3           **(13)** (a) Except as provided in par. (b), include in each contract with a vendor  
4 of information technology that involves a large, high-risk information technology  
5 project under sub. (10) or that has a projected cost greater than \$1,000,000, and  
6 require each executive branch agency authorized under s. 16.71 (1m) to enter into  
7 a contract for materials, supplies, equipment, or contractual services relating to  
8 information technology to include in each contract with a vendor of information  
9 technology that involves a large, high-risk information technology project under  
10 sub. (10) or that has a projected cost greater than \$1,000,000 a stipulation requiring  
11 the vendor to submit to the department for approval any order or amendment that  
12 would change the scope of the contract and have the effect of increasing the contract  
13 price. The stipulation shall authorize the department to review the original contract  
14 and the order or amendment to determine all of the following and, if necessary, to  
15 negotiate with the vendor regarding any change to the original contract price:

16           1. Whether the work proposed in the order or amendment is within the scope  
17 of the original contract.

18           2. Whether the work proposed in the order or amendment is necessary.

19           (b) The department or an executive branch agency may exclude from a contract  
20 described in par. (a) the stipulation required under par. (a) if all of the following  
21 conditions are satisfied:

22           1. Including such a stipulation would negatively impact contract negotiations  
23 or significantly reduce the number of bidders on the contract.

24           2. If the exclusion is sought by an executive branch agency, that agency submits  
25 to the department a plain-language explanation of the reasons for excluding the



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1 stipulation and the alternative provisions the executive branch agency will include  
2 in the contract to ensure that the contract will be completed on time and within the  
3 contract budget.

4 3. If the exclusion is sought by the department, the department prepares a  
5 plain-language explanation of the reasons the stipulation was excluded and the  
6 alternative provisions the department will include in the contract to ensure that the  
7 contract will be completed on time and within the contract budget.

8 4. The department submits for approval by the joint committee on information  
9 policy and technology any explanation and alternative contract provisions required  
10 under subd. 2. or 3. If, within 14 working days after the date that the department  
11 submits any explanation and alternative contract provisions required under this  
12 subdivision, the cochairpersons of the joint committee on information policy and  
13 technology do not notify the department that the committee has scheduled a meeting  
14 for the purpose of reviewing the contract provisions, the explanation and alternative  
15 contract provisions shall be deemed approved.

16 **(14)** (a) Require each executive branch agency, other than the Board of Regents  
17 of the University of Wisconsin system, that has entered into an open-ended contract  
18 for the development of information technology to submit to the department quarterly  
19 reports documenting the amount expended on the information technology  
20 development project. In this subsection, "open-ended contract" means a contract for  
21 information technology that includes one or both of the following:

22 1. Stipulations that provide that the contract vendor will deliver information  
23 technology products or services but that do not specify a maximum payment amount.

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1           2. Stipulations that provide that the contract vendor shall be paid an hourly  
2 wage but that do not set a maximum limit on the number of hours required to  
3 complete the information technology project.

4           (b) Compile and annually submit to the joint committee on information policy  
5 and technology the reports required under par. (a).

6           **SECTION 6.** 16.973 (15) of the statutes is created to read:

7           16.973 (15) No later than March 1 and September 1 of each year, submit to the  
8 joint committee on information policy and technology a report that documents for  
9 each executive branch agency information technology project with an actual or  
10 projected cost greater than \$1,000,000 or that the department of administration has  
11 identified as a large, high-risk information technology project under sub. (10) (a) all  
12 of the following:

13           (a) Original and updated project cost projections.

14           (b) Original and updated completion dates for the project and any stage of the  
15 project.

16           (c) An explanation for any variation between the original and updated costs and  
17 completion dates under pars. (a) and (b).

18           (d) A copy of any contract entered into by the department or by an executive  
19 branch agency authorized under s. 16.71 (1m) to enter into a contract for the project  
20 and not provided in a previous report.

21           (e) All sources of funding for the project.

22           (f) The amount of any funding provided for the project through a master lease  
23 under s. 16.76 (4).

24           (g) Information about the status of the project, including any portion of the  
25 project that has been completed.

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1 (h) Any other information about the project, or related information technology  
2 projects, requested by the joint committee on information policy and technology.

3 **SECTION 7.** 227.01 (13) (km) of the statutes is created to read:

4 227.01 (13) (km) Establishes policies for information technology development  
5 projects as required under s. 16.971 (2) (Lg).

6 **SECTION 8. Nonstatutory provisions.**

7 (1) WRITTEN POLICIES FOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS. No  
8 later than the first day of the 6th month beginning after the effective date of this  
9 subsection, the department of administration shall submit for review by the joint  
10 legislative audit committee and for approval by the joint committee on information  
11 policy and technology a preliminary draft of the policies required under section  
12 16.971 (2) (Lg) 1. of the statutes, as created by this act. If the joint committee on  
13 information policy and technology is not organized, the joint legislative audit  
14 committee shall approve the preliminary draft of the policies required under section  
15 16.971 (2) (Lg) 1. of the statutes, as created by this act.

16 (2) RULES PERTAINING TO LARGE, HIGH-RISK INFORMATION TECHNOLOGY PROJECTS.  
17 The department of administration shall submit in proper form the rules required  
18 under section 16.973 (10) of the statutes, as created by this act, to the legislative  
19 council staff under section 227.15 (1) of the statutes no later than the first day of the  
20 12th month beginning after the effective date of this subsection.

21 (END)