



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4058/1
CMH&ARG:med:rs

2011 SENATE BILL 572

March 15, 2012 - Introduced by Senators LASSA and VINEHOUT, cosponsored by Representatives JORGENSEN, ROYS, TURNER and RINGHAND. Referred to Committee on Senate Organization.

1 **AN ACT to amend** 25.18 (1) (a), 25.18 (1) (f), 25.18 (1) (m), 84.01 (13), 84.01 (31),
2 84.06 (2) (a), 84.06 (3), 84.06 (4), 85.015, 102.81 (2), 165.08, 165.25 (11),
3 221.0903 (4) (b), 801.02 (1), 803.09 (1) and (2), 804.01 (2) (intro.), 805.04 (2m)
4 and 893.981; and **to create** 16.771, 16.871, 20.932 and 66.0902 of the statutes;
5 **relating to:** false claims against the state or a local government and providing
6 a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a contractor or vendor does business with this state or a local government, the terms of the contract or order govern the performance of, and the price to be paid to, the contractor or vendor. If the contractor or vendor claims payment for materials, supplies, equipment, or services that are not provided in accordance with the contract or order, or at a price that is different from the price specified in the contract or order, the state or a local government has a remedy against the contractor or vendor for breach of contract. If the contractor or vendor is asked to swear to the truth of a claim for payment and the claim is false, the contractor or vendor may be prosecuted for false swearing. Currently, except with regard to medical assistance, a private person has no means to recover, on behalf of the state, damages sustained by the state as a result of a fraud committed against the state.

This bill provides that whoever knowingly presents a false claim under any contract or order for materials, supplies, equipment, or services to be provided to a

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state agency is subject to a forfeiture (civil penalty) of not less than \$5,000 nor more than \$10,000, plus three times the amount of the damages that were sustained by the state or would have been sustained by the state, whichever is greater, as a result of the false claim. The bill permits the attorney general to bring an action to recover any forfeiture for which a contractor or vendor is liable as a result of a false claim submitted to a state agency. The bill contains similar provisions that apply to local governmental units. The bill creates separate prohibitions against state contractors, grantees, vendors, and other recipients of state resources who knowingly commit certain fraudulent acts against the state. The bill makes these persons liable for three times the amount of damages sustained by the state resulting from such acts and imposes additional forfeitures of not less than \$5,000 nor more than \$10,000 for each violation. The bill permits the attorney general to pursue an alternate remedy, such as an administrative remedy, against an alleged offender in lieu of an action in court. With certain exceptions, the bill provides that a person who brings an action on behalf of the state is entitled to receive his or her reasonable expenses of bringing the action, including his or her costs and reasonable, actual attorney fees, which are assessed against the defendant. The bill entitles an employee to all relief to make the employee whole if the employee is discriminated against by an employer as a result of lawful actions the employee took to further the investigation of any act of fraud, as defined in the bill, the employer committed against the state. Under the bill, the relief may include reinstatement and double back pay with interest from the time of any discharge to the time of reinstatement. The bill also permits the employee to recover any costs, including reasonable, actual attorney fees, from his or her employer.

The provisions of the bill do not apply to certain contracts of the Department of Transportation, including engineering and highway construction contracts, or to certain contracts of the Investment Board, including investment-related contracts.

For further information see the *state and local* 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:

1 **SECTION 1.** 16.771 of the statutes is created to read:

2 **16.771 False claims. (1)** In this section, “contract” means any of the
3 following:

4 (a) Contracts or orders that are subject to s. 16.705.

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1 (b) Contracts or orders entered into for projects that are subject to s. 103.49 or
2 103.50 if the party presenting the false claim is alleged to have failed to comply with
3 s. 103.49 or 103.50.

4 (2) Whoever knowingly presents or causes to be presented a false claim for
5 payment under a contract for materials, supplies, equipment, or services to be
6 provided to an agency shall forfeit not less than \$5,000 nor more than \$10,000, plus
7 3 times the amount of the damages that were sustained by the state or would have
8 been sustained by the state, whichever is greater, as a result of the false claim. The
9 attorney general may bring an action on behalf of the state to recover any forfeiture
10 incurred under this section.

11 **SECTION 2.** 16.871 of the statutes is created to read:

12 **16.871 False claims. (1)** In this section:

13 (a) "Agency" has the meaning given in s. 16.70 (1e).

14 (b) "Construction work" has the meaning given in s. 16.87 (1) (a).

15 (bm) "Contract" has the meaning given in s. 16.771 (1).

16 (c) "Limited trades work" has the meaning given in s. 16.70 (7).

17 (2) Whoever knowingly presents or causes to be presented a false claim under
18 any contract for construction work or limited trades work, or for engineering or
19 architectural services, to be provided to any agency shall forfeit not less than \$5,000
20 nor more than \$10,000, plus 3 times the amount of the damages that were sustained
21 by the state or would have been sustained by the state, whichever is greater, as a
22 result of the false claim. The attorney general may bring an action on behalf of the
23 state to recover any forfeiture incurred under this subsection.

24 **SECTION 3.** 20.932 of the statutes is created to read:

25 **20.932 False claims; actions by or on behalf of state. (1)** In this section:

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1 (a) "Authority" has the meaning given in s. 16.70 (2).

2 (b) "Claim" includes any request or demand for money, property, or services
3 made to any officer, employee, or agent of this state, or to any contractor, grantee, or
4 other recipient, whether or not under contract, if any portion of the money, property,
5 or services that are requested or demanded is derived from state resources, or if the
6 state is obligated to reimburse the contractor, grantee, or other recipient for any
7 portion of the money, property, or services that are requested or demanded. "Claim"
8 does not include any request or demand for medical assistance described under s.
9 20.931 (1) (b).

10 (c) "Employer" includes all agencies and authorities.

11 (d) "Knowingly" has the meaning given in s. 20.931 (1) (d).

12 (e) "Proceeds" has the meaning given in s. 20.931 (1) (e).

13 (f) "State public official" has the meaning given in s. 19.42 (14).

14 **(2)** Except as provided in subs. (3m) and (4), any person who does any of the
15 following is liable to this state as provided under sub. (3) and shall forfeit not less
16 than \$5,000 nor more than \$10,000 for each violation:

17 (a) Knowingly presents or causes to be presented to any officer, employee, or
18 agent of this state, or to any contractor, grantee, or other recipient of state resources,
19 a false claim for payment or approval.

20 (b) Knowingly makes, uses, or causes to be made or used a false record or
21 statement to obtain approval or payment of a false claim.

22 (c) Conspires to defraud this state by obtaining allowance or payment of a false
23 claim, or by knowingly making or using, or causing to be made or used, a false record
24 or statement to conceal, avoid, or decrease an obligation to pay or transmit money
25 or property to this state.

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1 (d) Has possession, custody, or control of property used or to be used by this
2 state and knowingly delivers or causes to be delivered less property than the amount
3 for which the person receives a certificate or receipt.

4 (e) Being authorized to make or deliver a document certifying receipt of
5 property that is used or to be used by this state, knowingly makes or delivers a receipt
6 that falsely represents the property that is used or to be used.

7 (f) Knowingly buys or receives as a pledge for payment of an obligation or debt
8 for this state property from any person who lawfully may not sell or pledge the
9 property.

10 (g) Knowingly makes, uses, or causes to be made or used a false record or
11 statement to conceal, avoid, or decrease any obligation to pay or transmit money or
12 property to this state.

13 (h) Is a beneficiary of the submission of a false claim to any officer, employee,
14 or agent of this state, or to any contractor, grantee, or other recipient of state
15 resources, knows that the claim is false, and fails to disclose the false claim to this
16 state within a reasonable time after the person becomes aware that the claim is false.

17 **(3)** Except as provided in subs. (3m) and (4), the court may assess against a
18 person who violates sub. (2) not less than 2 nor more than 3 times the amount of the
19 damages sustained by the state because of the acts of the person.

20 **(3m)** The court may not assess any forfeiture under sub. (2) if the court finds
21 all of the following:

22 (a) The person who commits the acts furnished the attorney general with all
23 information known to the person about the acts within 30 days after the date on
24 which the person obtained the information.

25 (b) The person fully cooperated with any investigation of the acts by this state.

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1 (c) At the time that the person furnished the attorney general with information
2 concerning the acts, no criminal prosecution or civil or administrative enforcement
3 action had been commenced with respect to the act, and the person did not have
4 actual knowledge of the existence of any investigation into the act.

5 (4) Subsections (2) and (3) do not apply to any claim, record, statement, or
6 return made under chs. 70 to 79.

7 (5) (a) Except as provided in subs. (10) and (12), any person may bring a civil
8 action as a qui tam plaintiff against a person who commits an act in violation of sub.
9 (2) for the person and the state in the name of the state.

10 (b) The plaintiff shall serve upon the attorney general a copy of the complaint
11 and documents disclosing substantially all material evidence and information that
12 the person possesses. The plaintiff shall file a copy of the complaint with the court
13 for inspection in camera. Except as provided in par. (c), the complaint shall remain
14 under seal for a period of 60 days from the date of filing, and shall not be served upon
15 the defendant until the court so orders. Within 60 days from the date of service upon
16 the attorney general of the complaint, evidence, and information under this
17 paragraph, the attorney general may intervene in the action.

18 (c) The attorney general may, for good cause shown, move the court for one or
19 more extensions of the period during which a complaint in an action under this
20 subsection remains under seal.

21 (d) Before the expiration of the period during which the complaint remains
22 under seal, the attorney general shall do one of the following:

23 1. Proceed with the action or an alternate remedy under sub. (10), in which case
24 the state shall prosecute the action or proceeding under sub. (10).

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1 2. Notify the court that he or she declines to proceed with the action, in which
2 case the action may not proceed.

3 (e) If a person brings a valid action under this subsection, no person other than
4 the state may intervene or bring a related action while the original action is pending
5 based upon the same facts underlying the pending action.

6 (f) In any action or other proceeding under sub. (10) brought under this
7 subsection, all essential elements of the cause of action or complaint, including
8 damages, must be proven by a preponderance of the evidence.

9 **(6)** If the state proceeds with an action under sub. (5) or an alternate remedy
10 under sub. (10), the state has primary responsibility for prosecuting the action or
11 proceeding under sub. (10). The state is not bound by any act of the person bringing
12 the action, but that person has the right to continue as a party to the action, subject
13 to the limitations under sub. (7).

14 **(7)** (a) The state may move to dismiss an action under sub. (5) or an
15 administrative proceeding under sub. (10) to which the state is a party for good cause
16 shown, notwithstanding objection of the person bringing the action, if that person is
17 served with a copy of the state's motion and is provided with an opportunity to oppose
18 the motion before the court or the administrative agency before which the proceeding
19 is conducted.

20 (b) With the approval of the governor, the attorney general may compromise
21 and settle an action under sub. (5) or an administrative proceeding under sub. (10)
22 to which the state is a party, notwithstanding objection of the person bringing the
23 action, if the court determines, after affording to the person bringing the action the
24 right to a hearing at which the person has the opportunity to present evidence in

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1 opposition to the proposed settlement, that the proposed settlement is fair, adequate,
2 and reasonable considering the relevant circumstances pertaining to the violation.

3 (c) Upon a showing by the state that unrestricted participation in the
4 prosecution of an action under sub. (5) or an alternate proceeding to which the state
5 is a party by the person bringing the action would interfere with or unduly delay the
6 prosecution of the action or proceeding, or would result in consideration of
7 repetitious or irrelevant evidence or evidence presented for purposes of harassment,
8 the court may limit the person's participation in the prosecution in any of the
9 following ways:

10 1. Limiting the number of witnesses that the person may call.

11 2. Limiting the length of the testimony of the witnesses.

12 3. Limiting the cross-examination of witnesses by the person.

13 4. Otherwise limiting the participation by the person in the prosecution of the
14 action or proceeding.

15 (d) Upon showing by a defendant that unrestricted participation in the
16 prosecution of an action under sub. (5) or alternate proceeding under sub. (10) to
17 which the state is a party by the person bringing the action would result in
18 harassment or would cause the defendant undue burden or unnecessary expense, the
19 court may limit the person's participation in the prosecution.

20 (9) Upon showing in camera by the attorney general that discovery by the
21 person bringing the action would interfere with the state's ongoing investigation or
22 prosecution of a criminal or civil matter arising out of the same facts as the facts upon
23 which the action is based, the court may stay the discovery in whole or in part for not
24 more than 60 days. The court may extend the stay upon further showing in camera
25 by the attorney general that the state has pursued the criminal or civil investigation

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1 of the matter with reasonable diligence and the proposed discovery in the action
2 brought under sub. (5) will interfere with the ongoing criminal or civil investigation
3 or prosecution.

4 **(10)** The attorney general may pursue a claim relating to an alleged violation
5 of sub. (2) through an alternate remedy available to the state or any state agency,
6 including an administrative proceeding to assess a civil forfeiture. If the attorney
7 general elects an alternate remedy, the attorney general shall serve timely notice of
8 his or her election upon the person bringing the action under sub. (5), and that person
9 has the same rights in the alternate venue as the person would have had if the action
10 had continued under sub. (5). Any finding of fact or conclusion of law made by a court
11 or by a state agency in the alternate venue that has become final is conclusive upon
12 all parties named in an action under sub. (5). For purposes of this subsection, a
13 finding or conclusion is final if it has been finally determined on appeal, if all time
14 for filing an appeal or petition for review with respect to the finding or conclusion has
15 expired, or if the finding or conclusion is not subject to judicial review.

16 **(11)** (a) Except as provided in pars. (b) and (d), if the state proceeds with an
17 action brought by a person under sub. (5) or the state pursues an alternate remedy
18 relating to the same acts under sub. (10), the person who brings the action shall
19 receive at least 15 percent but not more than 25 percent of the proceeds of the action
20 or settlement of the claim, depending upon the extent to which the person
21 contributed to the prosecution of the action or claim.

22 (b) Except as provided in par. (d), if an action or claim is one in which the court
23 or other adjudicator finds to be based primarily upon disclosures of specific
24 information not provided by the person who brings an action under sub. (5) relating
25 to allegations or transactions specifically in a criminal, civil, or administrative

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1 hearing; in a legislative or administrative report, hearing, audit, or investigation; or
2 in a report made by the news media, the court or other adjudicator may award an
3 amount that it considers appropriate but that is not more than 10 percent of the
4 proceeds of the action or settlement of the claim, depending upon the significance of
5 the information and the role of the person bringing the action in advancing the
6 prosecution of the action or claim.

7 (c) Except as provided in par. (d), in addition to any amount received under par.
8 (a) or (b), a person bringing an action under sub. (5) shall be awarded his or her
9 reasonable expenses necessarily incurred in bringing the action together with the
10 person's costs and reasonable actual attorney fees. The court or other adjudicator
11 shall assess any award under this paragraph against the defendant.

12 (d) Whether the state proceeds with the action or an alternate proceeding under
13 sub. (10), if the court or other adjudicator finds that the person who brought an action
14 under sub. (5) also planned or initiated the violation upon which the action or
15 proceeding is based, then the court may, to the extent that the court considers
16 appropriate, reduce the share of the proceeds of the action that the person would
17 otherwise receive under par. (a) or (b), taking into account the role of that person in
18 advancing the prosecution of the action or claim and any other relevant circumstance
19 pertaining to the violation, except that if the person bringing the action is convicted
20 of criminal conduct arising from his or her role in a violation of sub. (2), the court or
21 other adjudicator shall dismiss the person as a party and the person shall not receive
22 any share of the proceeds of the action or claim or any expenses, costs, or fees under
23 par. (c).

24 **(12)** (a) No court has jurisdiction over an action brought by a private person
25 under sub. (5) if any of the following applies:

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1 1. The action is against a state public official and is based upon information
2 known to the attorney general at the time that the action is brought.

3 2. The action is based on public disclosure of allegations or transactions in a
4 criminal action; in a legislative, administrative, or other governmental report,
5 hearing, audit, or investigation; or from news media, unless the private person has
6 direct and independent knowledge of the information on which the allegations or
7 transactions are based and has voluntarily provided the knowledge to the attorney
8 general under sub. (5) (b).

9 (b) No person may bring an action under sub. (5) that is based upon allegations
10 or transactions that are the subject of a civil action or an administrative proceeding
11 to assess a civil forfeiture in which the state is a party if that action or proceeding
12 was commenced prior to the date that the action is filed.

13 **(13)** The state is not liable for any expenses incurred by a private person in
14 bringing an action under sub. (5).

15 **(14)** Any employee who is discharged, demoted, suspended, threatened,
16 harassed, or in any other manner discriminated against by his or her employer
17 because of lawful actions taken by the employee, on behalf of the employee, or by
18 others in furtherance of an action or claim filed under this section, including
19 investigation for, initiation of, testimony for, or assistance in an action or claim filed
20 or to be filed under sub. (5) is entitled to all necessary relief to make the employee
21 whole. The relief shall in each case include reinstatement with the same seniority
22 status that the employee would have had but for the discrimination, 2 times the
23 amount of back pay, interest on the back pay at the legal rate, and compensation for
24 any special damages sustained as a result of the discrimination, including costs and

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1 reasonable actual attorney fees. An employee may bring an action to obtain the relief
2 to which the employee is entitled under this subsection.

3 (15) A civil action may be brought based upon acts occurring prior to the
4 effective date of this subsection ... [LRB inserts date], if the action is brought within
5 the period specified in s. 893.981.

6 (16) A judgment of guilty entered against a defendant in a criminal action in
7 which the defendant is charged with fraud or making false statements estops the
8 defendant from denying the essential elements of the offense in any action under sub.
9 (5) that involves the same elements as in the criminal action.

10 (17) The remedies provided for under this section are in addition to any other
11 remedies provided for under any other law or available under the common law.

12 (18) This section shall be liberally construed and applied to promote the public
13 interest and to effect the congressional intent in enacting 31 USC 3729 to 3733, as
14 reflected in the act and the legislative history of the act.

15 **SECTION 4.** 25.18 (1) (a) of the statutes is amended to read:

16 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.
17 16, except s. 16.753, employ special legal or investment counsel in any matters
18 arising out of the scope of its investment authority. ~~Section~~ Sections 16.753 ~~does,~~
19 16.771, 16.871, and 20.932 do not apply to the employment of legal or investment
20 counsel for the purpose of assisting the board with investments or arising out of the
21 scope of the board's investment authority. The employment of special legal counsel
22 shall be with the advice and consent of the attorney general whenever such special
23 counsel is to be compensated by the board. Any expense of counsel so employed shall
24 be borne by the fund for which the services shall be furnished.

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

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1 25.18 (1) (f) Maintain and repair any building or other structure or premises
2 which it owns in fee or in which it owns the beneficial interest and, notwithstanding
3 all provisions of subch. IV or V of ch. 16, except s. 16.753, it shall have exclusive
4 authority to make such agreements and enter into such contracts as it deems
5 necessary for such purpose. ~~Section~~ Sections 16.753 does, 16.771, 16.871, and 20.932
6 do not apply to agreements and contracts entered into by the board for the purpose
7 of assisting the board with investments or arising out of the scope of the board's
8 investment authority. All noncapital costs under this paragraph shall be charged to
9 the current income accounts of the funds having an interest in the building, structure
10 or premises.

11 **SECTION 6.** 25.18 (1) (m) of the statutes is amended to read:

12 25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,
13 except s. 16.753, employ professionals, contractors or other agents necessary to
14 evaluate or operate any property if a fund managed by the board has an interest in,
15 or is considering purchasing or lending money based upon the value of, that property.
16 ~~Section~~ Sections 16.753 does, 16.771, 16.871, and 20.932 do not apply to the
17 employment of any person for the purpose of assisting the board with investments
18 or arising out of the scope of the board's investment authority. Costs under this
19 paragraph shall be paid by the fund and charged to the appropriate account under
20 s. 40.04 (3).

21 **SECTION 7.** 66.0902 of the statutes is created to read:

22 **66.0902 False claims. (1) DEFINITIONS.** In this section:

23 (a) "Local governmental unit" has the meaning given in s. 66.0131 (1) (a).

24 (b) "Public contract" means a contract that is subject to s. 66.0903 and that is
25 for the construction, execution, repair, remodeling, or improvement of a public work

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1 or building or for the furnishing of supplies, equipment, material, or professional or
2 contractual services of any kind.

3 (2) PRESENTATION OF FALSE CLAIMS. Whoever knowingly presents or causes to
4 be presented a false claim for payment under any public contract with a local
5 governmental unit shall forfeit not less than \$5,000 nor more than \$10,000, plus 3
6 times the amount of the damages that were sustained by the local governmental unit
7 or would have been sustained by the local governmental unit, whichever is greater,
8 as a result of the false claim.

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

10 84.01 (13) ENGINEERING SERVICES. The department may engage such
11 engineering, consulting, surveying, or other specialized services as it deems
12 advisable. Any engagement of services under this subsection is exempt from ss.
13 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
14 16.754 apply to such engagement. Section 20.932 does not apply to any engagement
15 of services under this subsection. Any engagement involving an expenditure of
16 \$3,000 or more shall be by formal contract approved by the governor. The department
17 shall conduct a uniform cost-benefit analysis, as defined in s. 16.70 (3g), of each
18 proposed engagement under this subsection that involves an estimated expenditure
19 of more than \$25,000 in accordance with standards prescribed by rule of the
20 department. The department shall review periodically, and before any renewal, the
21 continued appropriateness of contracting pursuant to each engagement under this
22 subsection that involves an estimated expenditure of more than \$25,000.

23 SECTION 9. 84.01 (31) of the statutes is amended to read:

24 84.01 (31) ACCOMMODATION OF UTILITY FACILITIES WITHIN HIGHWAY RIGHTS-OF-WAY.
25 Notwithstanding ss. 84.06 (4), 84.063, 84.065, and 84.093, the department may, upon

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1 finding that it is feasible and advantageous to the state, negotiate and enter into an
2 agreement to accept any plant or equipment used for the conveyance, by wire, optics,
3 radio signal, or other means, of voice, data, or other information at any frequency
4 over any part of the electromagnetic spectrum, or to accept any services associated
5 with the collection, storage, forwarding, switching, and delivery incidental to such
6 communication, as payment for the accommodation of a utility facility, as defined in
7 s. 84.063 (1) (b), within a highway right-of-way. Any agreement under this
8 subsection is exempt from ss. 16.70 to 16.75, 16.755 to 16.82, and 16.85 to 16.89, but
9 ss. 16.528, 16.752, and 16.754 apply to such agreement. Section 20.932 does not
10 apply to any agreement under this subsection.

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

12 84.06 (2) (a) All such highway improvements shall be executed by contract
13 based on bids unless the department finds that another method as provided in sub.
14 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
15 the manner determined by the department. Except as provided in s. 84.075, the
16 contract shall be awarded to the lowest competent and responsible bidder as
17 determined by the department. If the bid of the lowest competent bidder is
18 determined by the department to be in excess of the estimated reasonable value of
19 the work or not in the public interest, all bids may be rejected. The department shall,
20 so far as reasonable, follow uniform methods of advertising for bids and may
21 prescribe and require uniform forms of bids and contracts. Except as provided in par.
22 (b), the secretary shall enter into the contract on behalf of the state. Every such
23 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
24 ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract. Section 20.932 does not
25 apply to the contract. Any such contract involving an expenditure of \$1,000 or more

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1 shall not be valid until approved by the governor. The secretary may require the
2 attorney general to examine any contract and any bond submitted in connection with
3 the contract and report on its sufficiency of form and execution. The bond required
4 by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to
5 approval by the secretary. This subsection also applies to contracts with private
6 contractors based on bids for maintenance under s. 84.07.

7 **SECTION 11.** 84.06 (3) of the statutes is amended to read:

8 84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If
9 the department finds that it would be more feasible and advantageous to have the
10 improvement performed by the county in which the proposed improvement is located
11 and without bids, the department may, by arrangement with the county highway
12 committee of the county, enter into a contract satisfactory to the department to have
13 the work done by the county forces and equipment. In such contract the department
14 may authorize the county to purchase, deliver, and store materials and may fix the
15 rental rates of small tools and equipment. The contract shall be between the county
16 and the state and shall not be based on bids, and may be entered into on behalf of the
17 county by the county highway committee and on behalf of the state by the secretary.
18 Section 20.932 does not apply to the contract. Such contract is exempted from s.
19 779.14 and from all provisions of chs. 16 and 230, except ss. 16.753 and 16.754. If
20 the total estimated indebtedness to be incurred exceeds \$5,000 the contract shall not
21 be valid until approved by the governor. The provisions of this subsection relating
22 to agreements between a county and the state shall also authorize and apply to such
23 arrangements between a city, town, or a village and the state. In such cases, the
24 governing body of the city, town, or village shall enter into the agreement on behalf
25 of the municipality.

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1 **SECTION 12.** 84.06 (4) of the statutes is amended to read:

2 **84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES.** If an improvement
3 undertaken by the department will cross or affect the property or facilities of a
4 railroad or public utility company, the department may, upon finding that it is
5 feasible and advantageous to the state, arrange to perform portions of the
6 improvement work affecting such facilities or property or perform work of altering,
7 rearranging, or relocating such facilities by contract with the railroad or public
8 utility. Such contract shall be between the railroad company or public utility and the
9 state and need not be based on bids. The contract may be entered into on behalf of
10 the state by the secretary. Section 20.932 does not apply to the contract. Every such
11 contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230, except
12 ss. 16.528, 16.752, 16.753, and 16.754. No such contract in which the total estimated
13 debt to be incurred exceeds \$5,000 shall be valid until approved by the governor. As
14 used in this subsection, “public utility” means the same as in s. 196.01 (5), and
15 includes a telecommunications carrier as defined in s. 196.01 (8m), and “railroad”
16 means the same as in s. 195.02. “Property” as used in this subsection includes but
17 is not limited to tracks, trestles, signals, grade crossings, rights-of-way, stations,
18 pole lines, plants, substations, and other facilities. Nothing in this subsection shall
19 be construed to relieve any railroad or public utility from any financial obligation,
20 expense, duty, or responsibility otherwise provided by law relative to such property.

21 **SECTION 13.** 85.015 of the statutes is amended to read:

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

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1 16.87, and 16.875 to 16.89. Section 20.932 does not apply to contracts specified in
2 this section.

3 **SECTION 14.** 102.81 (2) of the statutes is amended to read:

4 102.81 (2) The department may retain an insurance carrier or insurance
5 service organization to process, investigate and pay claims under this section and
6 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to
7 do business in this state in an amount that the secretary determines is necessary for
8 the sound operation of the uninsured employers fund. In cases involving disputed
9 claims, the department may retain an attorney to represent the interests of the
10 uninsured employers fund and to make appearances on behalf of the uninsured
11 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.930 and all
12 provisions of subch. IV of ch. 16, except ~~s. ss. 16.753~~ and 16.771, do not apply to an
13 attorney hired under this subsection. The charges for the services retained under
14 this subsection shall be paid from the appropriation under s. 20.445 (1) (rp). The cost
15 of any reinsurance obtained under this subsection shall be paid from the
16 appropriation under s. 20.445 (1) (sm).

17 **SECTION 15.** 165.08 of the statutes is amended to read:

18 **165.08 Power to compromise.** Any civil action prosecuted by the
19 department by direction of any officer, department, board or commission, shall be
20 compromised or discontinued when so directed by such officer, department, board or
21 commission. Except as provided in ~~s. ss. 20.931 (7) (b)~~ and 20.932 (7) (b), any civil
22 action prosecuted by the department on the initiative of the attorney general, or at
23 the request of any individual may be compromised or discontinued with the approval
24 of the governor. In any criminal action prosecuted by the attorney general, the

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1 department shall have the same powers with reference to such action as are vested
2 in district attorneys.

3 **SECTION 16.** 165.25 (11) of the statutes is amended to read:

4 165.25 (11) FALSE CLAIMS. Diligently investigate possible violations of s. 20.931
5 or 20.932, and, if the department determines that a person has committed an act that
6 is punishable under s. 20.931 or 20.932, whichever is being investigated, may bring
7 a civil action against that person.

8 **SECTION 17.** 221.0903 (4) (b) of the statutes is amended to read:

9 221.0903 (4) (b) *Contracts for examination services.* The division may enter
10 into contracts with any bank supervisory agency with concurrent jurisdiction over
11 a state bank or an in-state branch of an out-of-state state bank to engage the
12 services of the agency's examiners at a reasonable rate of compensation, or to provide
13 the services of the division's examiners to the agency at a reasonable rate of
14 compensation. Contracts entered into under this paragraph are exempt from ss.
15 16.70 to 16.752, 16.754 to 16.76, and 16.767 to 16.77, and 16.78 to 16.82.

16 **SECTION 18.** 801.02 (1) of the statutes is amended to read:

17 801.02 (1) Except as provided in s. ss. 20.931 (5) (b) and 20.932 (5) (b), a civil
18 action in which a personal judgment is sought is commenced as to any defendant
19 when a summons and a complaint naming the person as defendant are filed with the
20 court, provided service of an authenticated copy of the summons and of the complaint
21 is made upon the defendant under this chapter within 90 days after filing.

22 **SECTION 19.** 803.09 (1) and (2) of the statutes are amended to read:

23 803.09 (1) Except as provided in s. ss. 20.931 and 20.932, upon timely motion
24 anyone shall be permitted to intervene in an action when the movant claims an
25 interest relating to the property or transaction which is the subject of the action and

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1 the movant is so situated that the disposition of the action may as a practical matter
2 impair or impede the movant's ability to protect that interest, unless the movant's
3 interest is adequately represented by existing parties.

4 (2) Except as provided in ~~s.~~ ss. 20.931 and 20.932, upon timely motion anyone
5 may be permitted to intervene in an action when a movant's claim or defense and the
6 main action have a question of law or fact in common. When a party to an action
7 relies for ground of claim or defense upon any statute or executive order or rule
8 administered by a federal or state governmental officer or agency or upon any
9 regulation, order, rule, requirement or agreement issued or made pursuant to the
10 statute or executive order, the officer or agency upon timely motion may be permitted
11 to intervene in the action. In exercising its discretion the court shall consider
12 whether the intervention will unduly delay or prejudice the adjudication of the rights
13 of the original parties.

14 **SECTION 20.** 804.01 (2) (intro.) of the statutes is amended to read:

15 804.01 (2) SCOPE OF DISCOVERY. (intro.) Except as provided in s. ss. 20.931 (9)
16 and 20.932 (9), and unless otherwise limited by order of the court in accordance with
17 the provisions of this chapter, the scope of discovery is as follows:

18 **SECTION 21.** 805.04 (2m) of the statutes is amended to read:

19 805.04 (2m) FALSE CLAIMS. An action filed under s. 20.931 or 20.932 may be
20 dismissed only by order of the court. In determining whether to dismiss the action
21 filed under s. 20.931 or 20.932, the court shall take into account the best interests
22 of the parties and the purposes of s. 20.931 or 20.932, whichever is appropriate.

23 **SECTION 22.** 893.981 of the statutes is amended to read:

24 **893.981 False claims.** An action or claim under s. 20.931 shall be commenced
25 within 10 years after the cause of the action or claim accrues or be barred. An action

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1 or claim under s. 20.932 shall be commenced within 3 years after the cause of the
2 action or claim accrues or be barred.

3 **SECTION 23. Initial applicability.**

4 (1) This act first applies with respect to false claims that are presented or
5 caused to be presented on the effective date of this subsection.

6 (END)