



State of Wisconsin  
1997 - 1998 LEGISLATURE

LRBs0174/2  
RPN:kmg:hmh

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1997 SENATE BILL 57**

May 20, 1997 - Offered by COMMITTEE ON HIGHWAYS AND TRANSPORTATION.

1 **AN ACT to repeal** 85.50 (title), 166.20 (7g) and 166.21 (2) (bm); **to renumber and**  
2 **amend** 20.395 (4) (bh) and 85.50; **to amend** 20.465 (3) (jm), 20.465 (3) (rp),  
3 166.20 (2) (bg), 166.21 (2) (br) and 166.21 (2m) (intro.); and **to create** 341.406  
4 of the statutes; **relating to:** hazardous materials transportation fees, auditing  
5 emergency response teams, emergency planning grants, granting rule-making  
6 authority, making an appropriation and providing a penalty.

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

7 **SECTION 1.** 20.395 (4) (bh) of the statutes is renumbered 20.395 (4) (bq) and  
8 amended to read:

9 20.395 (4) (bq) (title) *Hazardous materials transportation fees, state funds.*  
10 Biennially, from the general fund, from the moneys received from the hazardous  
11 ~~materials transportation registration fees established under s. 166.20 (7g) and~~

1 collected under s. 85.50, the amounts in the schedule for the purpose of collecting and  
2 administering these the hazardous materials transportation fees under s. 341.406.

3 **SECTION 2.** 20.465 (3) (jm) of the statutes is amended to read:

4 20.465 (3) (jm) *State emergency response board; emergency planning grants.*

5 All moneys received by the state emergency response board from fees assessed under  
6 s. 166.20 (7), except moneys appropriated under par. (i) for the payment of grants  
7 under s. 166.21, except grants under s. 166.21 (2) (~~bm~~) (br). The secretary of  
8 administration shall lapse from this appropriation amounts totaling the amount  
9 expended under par. (d) at the times and in the instalments determined by the  
10 secretary of administration.

11 **SECTION 3.** 20.465 (3) (rp) of the statutes is amended to read:

12 20.465 (3) (rp) *Emergency response equipment.* From the transportation fund,  
13 the amounts in the schedule for grants for the costs of computers and emergency  
14 response equipment under s. 166.21 (2) (~~bm~~) (br). Notwithstanding s. 20.001 (3) (a),  
15 the unencumbered balance of this appropriation on June 30 of each year shall be  
16 transferred to the appropriation account under par. (rt), except that transfers to the  
17 appropriation account under par. (rt) shall cease whenever the balance in the  
18 appropriation account under par. (rt) exceeds \$500,000 and shall not recommence  
19 until the balance in the appropriation account under par. (rt) is less than \$400,000.  
20 No moneys may be transferred from this appropriation account to the appropriation  
21 account under par. (rt) after June 30, 1998.

22 **SECTION 4.** 85.50 (title) of the statutes is repealed.

23 **SECTION 5.** 85.50 of the statutes is renumbered 341.406 (4) and amended to  
24 read:

1           341.406 (4) The department shall collect the fees established under s. ~~166.20~~  
2           ~~(7g) to be paid by sub. (2) from the persons required to file hazardous materials~~  
3           ~~transportation registration statements with the federal department of~~  
4           ~~transportation under 49 USC Appendix 1805 (e) pay the fees under sub. (2).~~

5           **SECTION 6.** 166.20 (2) (bg) of the statutes is amended to read:

6           166.20 (2) (bg) Promulgate rules establishing an amount not to exceed \$6,000  
7           that may be an eligible cost for computers in an emergency planning grant under s.  
8           166.21 (2) ~~(bm)~~ (br).

9           **SECTION 7.** 166.20 (7g) of the statutes is repealed.

10          **SECTION 8.** 166.21 (2) (bm) of the statutes is repealed.

11          **SECTION 9.** 166.21 (2) (br) of the statutes is amended to read:

12          166.21 (2) (br) Subject to sub. (2m), ~~for grant applications submitted during the~~  
13          ~~period after May 31, 1995, and before September 1, 1997,~~ 80% of the costs of  
14          computers and emergency response equipment, but not to exceed \$10,000. In-kind  
15          contributions may be used to meet the committee's contribution under this  
16          paragraph.

17          **SECTION 10.** 166.21 (2m) (intro.) of the statutes is amended to read:

18          166.21 (2m) STRATEGIC PLAN. (intro.) A committee is eligible for grant funds  
19          under sub. (2) ~~(bm)~~ (br) for emergency response equipment only if it submits to the  
20          board a strategic plan for emergency response to hazardous substance releases that  
21          includes all of the following:

22          **SECTION 11.** 341.406 of the statutes is created to read:

23          **341.406 Uniform hazardous materials transportation fees.** (1) In this  
24          section, "hazardous material" has the meaning given in 49 USC 5102 (2).

1           **(2)** The department shall promulgate rules establishing criteria for the  
2 payment of fees by persons who transport hazardous materials of a type or quantity  
3 that requires placarding in accordance with 49 CFR part 172, subpart F and who:

4           (a) Are required to file a hazardous materials transportation registration  
5 statement with the federal department of transportation under 49 USC 5108; or

6           (b) May be required to register with the state under 49 USC 5119 and 5125 (g).

7           **(3)** The rules under sub. (2) shall be promulgated so as to generate \$1,100,000  
8 annually in fees collected.

9           **(5)** The rules promulgated under sub. (2) shall apportion the fees among air,  
10 highway, rail and other modes of transportation based on the percentage of damages  
11 in incidents involving hazardous material attributed nationally to each mode of  
12 transportation, using the most recent data reported by the federal department of  
13 transportation, averaged over a 10-year period. The rules under sub. (2) shall also  
14 provide that the apportionment between modes of transportation be adjusted  
15 periodically to reflect changes in the data reported by the federal department of  
16 transportation.

17           **(6)** The department may not use any of the fees collected under the rules  
18 promulgated under sub. (2) for the department's costs of collecting and  
19 administering those fees.

20           **(7)** No person may transport hazardous material in this state unless the person  
21 has complied with, and paid the fees required by, the rules promulgated under sub.  
22 (2).

23           **(8)** Any person who violates this section or the rules promulgated under sub.  
24 (2) may be required to forfeit not more than \$500. In addition to imposing this

1 penalty, the court shall order the offender to pay all of the required hazardous  
2 materials transportation fees.

3 **SECTION 12. Nonstatutory provisions.**

4 (1) The authorized FTE positions for the department of transportation are  
5 decreased by 2.0 PR positions, to reflect the transfer of the appropriation account  
6 under section 20.395 (4) (bh) of the statutes to the appropriation account under  
7 section 20.395 (4) (bq) of the statutes.

8 (2) The authorized FTE positions for the department of transportation are  
9 increased by 2.0 SEG positions, to reflect the transfer of the appropriation account  
10 under section 20.395 (4) (bh) of the statutes to the appropriation account under  
11 section 20.395 (4) (bq) of the statutes.

12 (3) The joint legislative audit committee shall direct the legislative audit  
13 bureau to perform a financial and performance evaluation audit of the  
14 administration of the hazardous substances emergency response program by the  
15 department of military affairs and of the emergency response teams that respond to  
16 Level A or Level B releases of hazardous substances, as defined in section 166.20 (1)  
17 (g), (ge) and (gi) of the statutes. The audit shall be completed by December 31, 1998,  
18 and shall be used by the legislature to examine the appropriate amount and source  
19 of state funding for hazardous substance emergency response teams.

20 (4) (a) The department of transportation shall submit in proposed form the  
21 rules required under section 341.406 of the statutes, as created by this act, to the  
22 legislative council staff under section 227.15 (1) of the statutes no later than October  
23 1, 1997.

24 (b) Using the procedure under section 227.24 of the statutes, the department  
25 of transportation shall promulgate the rules required under section 341.406 of the

1 statutes, as created by this act, for the period before the effective date of the rules  
2 submitted under paragraph (a), but not to exceed the period authorized under section  
3 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (2)  
4 (b) of the statutes, the department need not provide evidence of the necessity of  
5 preservation of the public peace, health, safety or welfare in promulgating rules  
6 under this paragraph.

7 **SECTION 13. Appropriation changes.**

8 (1) The unencumbered balance of the appropriation to the department of  
9 transportation under section 20.395 (4) (bh) of the statutes, immediately before the  
10 effective date of this subsection, is transferred to the appropriation account under  
11 section 20.395 (4) (bq) of the statutes, as affected by this act.

12 (END)