

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3807/P1dn
MGG:kmg:jf

October 29, 2001

1. I have placed embedded notes in this preliminary draft for your review. The amounts and numbers of positions contained in this draft are based on figures given to me by Joe Polasek of DNR's budget office. I strongly suggest that you have this draft reviewed in its entirety, before introduction, by him or by the Fiscal Bureau, or by both.
2. The Legislative Fiscal Bureau has issued a general fund condition statement which concludes that there are insufficient moneys in the general fund to maintain the required general fund balance at the end of this fiscal biennium. The increase to the appropriation under s. 20.370 (7) (fa) in this draft affects general purpose revenue and could possibly result in a violation of s. 20.003 (4), stats.

You may wish to include a nonstatutory provision in this bill which states that s. 20.003 (4), stats., and the related provision found in 2001 Wisconsin Act 16, section 9101 (25j) do not apply to the action of the legislature in enacting this bill. Please note that s. 20.003 (4), stats., and 2001 Wisconsin Act 16, section 9101 (25j), are not legally enforceable, but rather constitute a rule of procedure under article IV, section 8, of the Wisconsin Constitution. The Wisconsin supreme court has held that the remedy for failing to comply with rules of procedures lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while rules of procedure may govern internal legislative procedure, courts will not enforce procedural rules, and the rules do not affect the validity of any enactment resulting from a procedure that may be viewed as contravening them. Therefore, including a nonstatutory provision in this bill would only be for the purpose of internal legislative operations, not for the purpose of ensuring the legality of the bill.

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