

Kunkel, Mark

From: Battles, Cale
Sent: Wednesday, May 16, 2001 10:05 AM
To: Kunkel, Mark
Subject: RE: Athlete Agent

Looks good then. Thanks for your help.

-----Original Message-----

From: Kunkel, Mark
Sent: Wednesday, May 16, 2001 10:03 AM
To: Battles, Cale
Subject: RE: Athlete Agent

No problem, except for the purely technical changes on how we draft lists of items. As for the actual substance, I think the language is okay.

Mark Kunkel
Legislative Attorney
Legislative Reference Bureau
(608) 266-0131 mark.kunkel@legis.state.wi.us

-----Original Message-----

From: Battles, Cale
Sent: Wednesday, May 16, 2001 10:02 AM
To: Kunkel, Mark
Subject: RE: Athlete Agent

Mark:

All the changes that they requested occur on page 11 under number (8) REGISTRATION AND RENEWAL FEES. They would like that section to read like this:

(8) REGISTRATION AND RENEWAL FEES. An application for registration or renewal of registration must be accompanied by a reasonable fee in an amount specified in rules promulgated by the department. The department shall establish reasonable fees for:

- 1.) For initial application for registration:
- 2.) For an application for registration based upon a certificate of registration or licensure issued by another state:
- 3.) For an application for renewal of registration: or
- 4.) For an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

Thanks for your help. The NCAA just wants to make sure the department knows that these are the areas that they need to be aware of for registration and renewal. If you see any problems with this language let me know. Thanks again for all your help.

Cale

-----Original Message-----

From: Kunkel, Mark
Sent: Wednesday, May 16, 2001 9:52 AM
To: Battles, Cale
Subject: RE: Athlete Agent

I won't get to the analysis until this afternoon or tomorrow morning, so if you have a change, please forward it and I will incorporate it into the bill.

Mark Kunkel

Legislative Attorney
Legislative Reference Bureau
(608) 266-0131 mark.kunkel@legis.state.wi.us

-----Original Message-----

From: Battles, Cale
Sent: Wednesday, May 16, 2001 9:51 AM
To: Kunkel, Mark
Subject: RE: Athlete Agent

Mark:

Have you started on the analysis yet? Because the NCAA just called and asked for one more very small change in the language. Otherwise they are very happy with the bill.

Cale

-----Original Message-----

From: Kunkel, Mark
Sent: Tuocoday, May 15, 2001 11:11 AM
To: Battles, Cale
Subject: RE: Athlete Agent

Cale:

Sorry about the delay. Drafting an analysis for the bill so that it may be introduced is the next thing to on my to-do list. I will try to get something to you real soon.

Mark Kunkel
Legislative Attorney
Legislative Reference Bureau
(608) 266-0131 mark.kunkel@legis.state.wi.us

-----Original Message-----

From: Battles, Cale
Sent: Tuesday, May 15, 2001 10:58 AM
To: Kunkel, Mark
Subject: Athlete Agent

Mark:

I just want to follow up on the athlete agent bill (LRB 3241/P1dn). The Represenative has looked over the draft and would like that draft to be prepared for introduction. He wants to do this so he can obtain the fiscal note on the draft. Thanks for all your help. I think this one is right on track with what the NCAA wants. They are also looking over the draft and seem very happy with the outcome. If I see any changes made they will probably be very small. Thanks again for all your help.

Sincerely,

Cale Battles
Rep. Wieckert's Office
266-3070

5/18
Today by
4:00
if possible

O-NOTE

1

RM
NOT
RUN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT
IA

Gen. Cert.

1 AN ACT to create 20.115 (1) (jk), 93.135 (1) (rp) and 100.179 of the statutes;
2 relating to: regulating athlete agents, granting rule-making authority,
3 making an appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
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:

4 SECTION 1. 20.115 (1) (jk) of the statutes is created to read:
5 20.115 (1) (jk) *Athlete agent regulation.* All moneys received from athlete agent
6 registration and renewal fees under the rules promulgated under s. 100.179 (8) for
7 the regulation of athlete agents under s. 100.179.

***NOTE: The appropriation paragraph is necessary to allow DATCP to spend the money that it receives in fees.

8 SECTION 2. 93.135 (1) (rp) of the statutes is created to read:

WPS:
Delete all
***NOTES

1 93.135 (1) (rp) A registration as an athlete agent under s. 100.179.

~~****NOTE: The above language includes athlete agent registrations with the other licenses and registrations that may be denied, suspended, or restricted on the basis of the registrant's failure to pay child or family support.~~

2 **SECTION 3.** 100.179 of the statutes is created to read:

3 **100.179 Uniform Athlete Agents Act. (1) DEFINITIONS.** In this section:

4 (a) "Agency contract" means an agreement in which a student athlete
5 authorizes a person to negotiate or solicit on behalf of the student athlete a
6 professional-sports-services contract or an endorsement contract.

7 (b) "Athlete agent" means an individual who enters into an agency contract
8 with a student athlete or, directly or indirectly, recruits or solicits a student athlete
9 to enter into an agency contract. "Athlete agent" includes an individual who
10 represents to the public that the individual is an athlete agent. "Athlete agent" does
11 not include a spouse, parent, sibling, grandparent, or guardian of the student athlete
12 or an individual acting solely on behalf of a professional sports team or professional
13 sports organization.

14 (c) "Athletic director" means an individual responsible for administering the
15 overall athletic program of an educational institution or, if an educational institution
16 has separately administered athletic programs for male students and female
17 students, the athletic program for males or the athletic program for females, as
18 appropriate.

19 (d) "Contact" means a communication, direct or indirect, between an athlete
20 agent and a student athlete, to recruit or solicit the student athlete to enter into an
21 agency contract.

22 (e) "Endorsement contract" means an agreement under which a student athlete
23 is employed or receives consideration to use on behalf of the other party any value

1 that the student athlete may have because of publicity, reputation, following, or fame
2 obtained because of athletic ability or performance.

3 (f) "Intercollegiate sport" means a sport played at the collegiate level for which
4 eligibility requirements for participation by a student athlete are established by a
5 national association for the promotion or regulation of collegiate athletics.

****NOTE: The uniform act includes a definition for "person," which is defined as "an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity." However, under Wisconsin law, "person" is broadly defined to include "all partnerships, associations and bodies politic or corporate." See s. 990.01 (26), state. Therefore, it is not necessary to define "person" for purposes of the act.

6 (g) "Professional-sports-services contract" means an agreement under which
7 an individual is employed, or agrees to render services, as a player on a professional
8 sports team, with a professional sports organization, or as a professional athlete.

9 (h) "Record" means information that is inscribed on a tangible medium or that
10 is stored in an electronic or other medium and is retrievable in perceivable form.

11 (i) "Registration" means registration as an athlete agent under this section.

12 (j) "State" means a state of the United States, the District of Columbia, Puerto
13 Rico, the United States Virgin Islands, or any territory or insular possession subject
14 to the jurisdiction of the United States.

15 (k) "Student athlete" means an individual who engages in, is eligible to engage
16 in, or may be eligible in the future to engage in, any intercollegiate sport. If an
17 individual is permanently ineligible to participate in a particular intercollegiate
18 sport, the individual is not a student athlete for purposes of that sport.

****NOTE: The uniform act uses the hyphenated term "student-athlete". However, under our drafting style, hyphens are only used with compound adjectives that precede a noun. The noun itself is not hyphenated. Therefore, it is inconsistent with our drafting style to use "student-athlete". In contrast, "professional-sports-services contract" is consistent because the three words preceding the noun "contract" are used as adjectives.

1 (2) SERVICE OF PROCESS. By acting as an athlete agent in this state, a
2 nonresident individual appoints the secretary of state as the individual's agent for
3 service of process in any civil action in this state related to the individual's acting as
4 an athlete agent in this state.

****NOTE: Even though DATCP enforces the act's requirements, it is consistent with Wisconsin law to require appointment of the secretary of state as the agent for service of process.

****NOTE: The uniform act includes optional language regarding the issuance of subpoenas. The optional language is not necessary because, under s. 93.14 (1), stats., DATCP "may, in relation to any matter within [DATCP's] power, conduct hearings, administer oaths, issue subpoenas and take testimony."

5 (3) ATHLETE AGENTS: REGISTRATION REQUIRED; VOID CONTRACTS. (a) Except as
6 otherwise provided in par. (b), an individual may not act as an athlete agent in this
7 state without holding a certificate of registration under sub. (5) or (7).

8 (b) Before being issued a certificate of registration, an individual may act as an
9 athlete agent in this state for all purposes except signing an agency contract, if all
10 of the following are satisfied:

****NOTE: Under our drafting style, the introduction to a list specifies whether all or any of the items in the list are applicable. Therefore, the above language uses "if all of the following are satisfied" rather than simply "if". In addition, each item in a list is punctuated with a period, rather than a semicolon. Similar changes to the uniform act are made throughout this bill and, for the most part, are not pointed out in NOTES.

11 1. A student athlete or another person acting on behalf of the student athlete
12 initiates communication with the individual.

13 2. Within 7 days after an initial act as an athlete agent, the individual submits
14 an application for registration as an athlete agent in this state.

15 (c) An agency contract resulting from conduct in violation of this subsection is
16 void and the athlete agent shall return any consideration received under the
17 contract.

1 **(4) REGISTRATION AS ATHLETE AGENT; FORM; REQUIREMENTS.** (a) An applicant for
2 registration as an athlete agent shall submit an application for registration to the
3 department in a form prescribed by the department. The application must be in the
4 name of an individual and, except as otherwise provided in par. (b), signed or
5 otherwise authenticated by the applicant under penalty of perjury and state or
6 contain all of the following:

****NOTE: The uniform act has optional language specifying that an application is a public record. This language is not necessary under Wisconsin law because, unless a statute provides otherwise, a record relating to official functions of a state agency is a public record. However, under Wisconsin law, to guarantee public access to a public record, a statute must also specify that the record is open to inspection. If a statute doesn't specify that a record is open to inspection, the custodian of the record may withhold access to the record if the custodian demonstrates that the strong public interest in providing access is outweighed by the public interest in withholding access. A custodian does not have the opportunity to make such a demonstration if the statute provides that a record is open to inspection. Therefore, par. (c) below includes language specifying that applications are open to inspection.

"As an athlete agent" is added to the first sentence to state what one is registering as; another option is to use "for registration *under this section.*"

- 7 1. The name of the applicant and the address of the applicant's principal place
8 of business.
- 9 2. The name of the applicant's business or employer, if applicable.
- 10 3. Any business or occupation engaged in by the applicant for the 5 years next
11 preceding the date of submission of the application.
- 12 4. A description of all of the following:

****NOTE: The structure of subd. 4. a., b., and c. conforms to our drafting style and differs from the uniform act.

- 13 a. The applicant's formal training as an athlete agent.
- 14 b. The applicant's practical experience as an athlete agent.
- 15 c. The applicant's educational background relating to his or her activities as an
16 athlete agent.

1 5. The names and addresses of 3 individuals not related to the applicant who
2 are willing to serve as references.

3 6. The name, sport, and last-known team for each individual for whom the
4 applicant acted as an athlete agent during the 5 years next preceding the date of
5 submission of the application.

6 7. If the athlete agent's business is not a corporation, the names and addresses
7 of the partners, members, officers, managers, associates, or profit sharers of the
8 business.

~~****NOTE: The structure of subds. 7. and 8. conforms to our drafting style and differs
from the uniform act.~~

9 8. If the athlete agent is employed by a corporation, the names and addresses
10 of the officers and directors of the corporation and any shareholder of the corporation
11 having an interest of 5% or more.

12 9. Whether the applicant or any person named pursuant to subd. 7. or 8. has
13 been convicted of a crime that, if committed in this state, would be a felony, and a
14 description of the crime.

~~****NOTE: The bill requires "a description of the crime," because that phrase is
consistent with the introductory language of proposed s. 100.179 (4) (a) (intro.) The
uniform act's use of "identify the crime" is not consistent with that introductory language.~~

~~****NOTE: The uniform act also refers to a "crime of moral turpitude." This
reference has no relevance under the Wisconsin Statutes, which do not describe crimes
in this manner. Moreover, the Wisconsin Supreme Court has concluded that "in
Wisconsin all crimes involve moral turpitude." *Starobin v. Northridge Lakes
Development Co.*, 94 Wis. 2d 1, 15 (1980). If all crimes involve moral turpitude, then moral
turpitude is not a useful standard. Therefore, I did not include the reference in this bill.
As a result, conviction of a felony is relevant, but conviction of a misdemeanor is not.
Depending on the intent of the uniform act, exclusion of misdemeanors may be
inconsistent with that intent. Because I don't know what is intended by "moral
turpitude," and because that phrase is not a useful standard under Wisconsin law, I don't
know whether the bill is inconsistent with the uniform act.~~

15 9m. Whether there has been any administrative or judicial determination that
16 the applicant or any person named pursuant to subd. 7. or 8. has made a false,
17 misleading, deceptive, or fraudulent representation.

1 10. Any instance in which the conduct of the applicant or any person named
2 pursuant to subd. 7. or 8. resulted in the imposition of a sanction, suspension, or
3 declaration of ineligibility to participate in an interscholastic or intercollegiate
4 athletic event on a student athlete or educational institution.

5 11. Any sanction, suspension, or disciplinary action taken against the
6 applicant or any person named pursuant to subd. 7. or 8. arising out of occupational
7 or professional conduct.

8 12. Whether there has been any denial of an application for, suspension or
9 revocation of, or refusal to renew, the registration or licensure of the applicant or any
10 person named pursuant to subd. 7. or 8. as an athlete agent in any state.

11 (b) An individual who has submitted an application for, and holds a certificate
12 of, registration or licensure as an athlete agent in another state may submit a copy
13 of the application and certificate in lieu of submitting an application in the form
14 prescribed pursuant to par. (a). The department shall accept the application and the
15 certificate from the other state as an application for registration in this state if all
16 of the following are satisfied:

17 1. The application to the other state was submitted in the other state within
18 6 months next preceding the submission of the application in this state and the
19 applicant certifies that the information contained in the application to the other
20 state is current.

~~***NOTE: The language of par. (b) 1. to 3. differs from the uniform act because I had
to make it conform to our drafting style regarding introductions to lists. See the NOTE
following sub. (3) (b) (intro.).~~

21 2. The application to the other state contains information substantially similar
22 to or more comprehensive than that required in an application submitted in this
23 state.

1 3. The application to the other state was signed by the applicant under penalty
2 of perjury.

3 (c) Applications submitted under this subsection shall be open to inspection at
4 all reasonable hours authorized by representatives of the department.

~~****NOTE: See the NOTE following par. (a)(intro.) above~~

5 (5) CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL. (a) Except as
6 otherwise provided in par. (b), the department shall issue a certificate of registration
7 to an individual who complies with sub. (4) (a) or whose application has been
8 accepted under sub. (4) (b).

9 (b) The department may refuse to issue a certificate of registration if the
10 department determines that the applicant has engaged in conduct that has a
11 significant adverse effect on the applicant's fitness to act as an athlete agent. In
12 making the determination, the department may consider whether the applicant has
13 done any of the following:

14 1. Notwithstanding ss. 111.321, 111.322, and 111.335, been convicted of a crime
15 that, if committed in this state, would be a felony.

~~****NOTE: The uniform act also refers to a "crime of moral turpitude." See the
discussion in the NOTE following sub. (4) (a) 9. above.~~

~~****NOTE: The "notwithstanding" phrase is necessary because, under Wisconsin's
employment discrimination law, a state agency may consider conviction of a crime as a
basis for denying a license, etc., only if the circumstances of the conviction are
substantially related to the activity for which the license is issued. See ss. 111.321,
111.322, and 111.335, stats. However, to be consistent with the uniform act, this bill
allows DATCP to deny registration based on a conviction for any felony, even a conviction
that does not have a substantial relationship to the activities of an athlete agent. The
"notwithstanding" phrase overrides the employment discrimination prohibition that
would otherwise apply to DATCP. You should be aware that, by allowing denial of
registration based on a conviction that is not related to acting as an athlete agent, the bill
could be subject to an attack that it violates the due process clause of the state and federal
constitutions. Although I haven't thoroughly researched the issue, I understand that the
court decisions go either way on the issue, and that there is no consensus.~~

16 2. Made a materially false, misleading, deceptive, or fraudulent representation
17 in the application or as an athlete agent.

1 3. Engaged in conduct that would disqualify the applicant from serving in a
2 fiduciary capacity.

3 4. Engaged in conduct prohibited by sub. (13).

4 5. Had a registration or licensure as an athlete agent suspended, revoked, or
5 denied or been refused renewal of registration or licensure as an athlete agent in any
6 state.

7 6. Engaged in conduct the consequence of which was that a sanction,
8 suspension, or declaration of ineligibility to participate in an interscholastic or
9 intercollegiate athletic event was imposed on a student athlete or educational
10 institution.

11 7. Engaged in conduct that significantly adversely reflects on the applicant's
12 credibility, honesty, or integrity.

13 (c) In making a determination under par. (b), the department shall consider
14 each of the following:

15 1. How recently the conduct occurred.

16 2. The nature of the conduct and the context in which it occurred.

17 3. Any other relevant conduct of the applicant.

18 (d) An athlete agent may apply to renew a registration by submitting an
19 application for renewal in a form prescribed by the department. The application for
20 renewal must be signed by the applicant under penalty of perjury and must contain
21 current information on all matters required in an original registration. Applications
22 submitted under this paragraph shall be open to inspection at all reasonable hours
23 authorized by representatives of the department.

~~****NOTE: The last sentence in par. (d) is not included in the uniform act. See the
explanation in the NOTE following sub. (4) (a) (intro.) above.~~

1 (e) An individual who has submitted an application for renewal of registration
2 or licensure in another state, in lieu of submitting an application for renewal in the
3 form prescribed under par. (d), may file a copy of the application for renewal and a
4 valid certificate of registration or licensure from the other state. The department
5 shall accept the application for renewal from the other state as an application for
6 renewal in this state if the application to the other state satisfies all of the following:

7 1. The application was submitted in the other state within 6 months next
8 preceding the filing in this state and the applicant certifies that the information
9 contained in the application for renewal is current.

10 2. The application contains information substantially similar to or more
11 comprehensive than that required in an application for renewal submitted in this
12 state.

13 3. The application was signed by the applicant under penalty of perjury.

14 (f) A certificate of registration or a renewal of a registration is valid for 2 years.

15 (6) SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION. (a) The
16 department may suspend, revoke, or refuse to renew a registration for conduct that
17 would have justified denial of registration under sub. (5) (b).

18 (b) The department may deny, suspend, revoke, or refuse to renew a certificate
19 of registration or licensure only after proper notice and an opportunity for a hearing.

****NOTE: The uniform act also includes a sentence that "~~The [Administrative
Procedures Act] applies to this [Act].~~" This sentence is not necessary because, under s.
227.51 (1), stats., the relevant provisions of this state's Administrative Procedure Act
(i.e., subch. III of ch. 227, stats.) apply whenever the grant, denial, or renewal of a license
(which includes a registration under this bill) is preceded by a notice and an opportunity
for a hearing.

20 (7) TEMPORARY REGISTRATION. The department may issue a temporary
21 certificate of registration while an application for registration or renewal of
22 registration is pending.

reasonable

1 (8) REGISTRATION AND RENEWAL FEES. An application for registration or renewal
2 of registration must be accompanied by a fee in an amount specified in rules
3 promulgated by the department. INSERT 11-3

****NOTE: Unless you know the amount that is appropriate for the fees, I
recommend requiring DATCP to promulgate rules that set the fees. This approach is
consistent with the comment to the uniform act, which provides that "the amount of the
fees is left for each state to determine."

4 (9) REQUIRED FORM OF CONTRACT. (a) An agency contract must be in a record,
5 signed or otherwise authenticated by the parties.

6 (b) An agency contract must state or contain all of the following:

7 1. The amount and method of calculating the consideration to be paid by the
8 student athlete for services to be provided by the athlete agent under the contract
9 and any other consideration that the athlete agent has received or will receive from
10 any other source for entering into the contract or for providing the services.

11 2. The name of any person not listed in the application for registration or
12 renewal of registration who will be compensated because the student athlete signed
13 the agency contract.

14 3. A description of any expenses that the student athlete agrees to reimburse.

15 4. A description of the services to be provided to the student athlete.

16 5. The duration of the contract.

17 6. The date of execution.

18 (c) An agency contract must contain, in close proximity to the signature of the
19 student athlete, a conspicuous notice in boldface type and capital letters stating the
20 following:

1 **WARNING TO STUDENT ATHLETE**

2 **IF YOU SIGN THIS CONTRACT:**

3 1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
4 **ATHLETE IN YOUR SPORT;**

5 2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
6 **ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT**
7 **MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND**

8 3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
9 **SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE**
10 **YOUR ELIGIBILITY.**

~~****NOTE: This form has been slightly reformatted to conform to our drafting style~~

11 (d) An agency contract that does not conform to this subsection is voidable by
12 the student athlete. If a student athlete voids an agency contract, the student athlete
13 is not required to pay any consideration under the contract or to return any
14 consideration received from the athlete agent to induce the student athlete to enter
15 into the contract.

16 (e) The athlete agent shall give a record of the signed or otherwise
17 authenticated agency contract to the student athlete at the time of execution.

18 **(10) NOTICE TO EDUCATIONAL INSTITUTION.** (a) Within 72 hours after entering
19 into an agency contract or before the next scheduled athletic event in which the
20 student athlete may participate, whichever occurs first, the athlete agent shall give
21 notice in a record of the existence of the contract to the athletic director of the
22 educational institution at which the student athlete is enrolled or the athlete agent
23 has reasonable grounds to believe the student athlete intends to enroll.

1 (b) Within 72 hours after entering into an agency contract or before the next
2 athletic event in which the student athlete may participate, whichever occurs first,
3 the student athlete shall inform the athletic director of the educational institution
4 at which the student athlete is enrolled that he or she has entered into an agency
5 contract.

6 **(11) STUDENT ATHLETE'S RIGHT TO CANCEL.** (a) A student athlete may cancel an
7 agency contract by giving notice of the cancellation to the athlete agent in a record
8 within 14 days after the contract is signed.

9 (b) A student athlete may not waive the right to cancel an agency contract.

10 (c) If a student athlete cancels an agency contract, the student athlete is not
11 required to pay any consideration under the contract or to return any consideration
12 received from the athlete agent to induce the student athlete to enter into the
13 contract.

14 **(12) REQUIRED RECORDS.** (a) An athlete agent shall retain all of the following
15 records for a period of 5 years:

- 16 1. The name and address of each individual represented by the athlete agent.
- 17 2. Any agency contract entered into by the athlete agent.
- 18 3. Any direct costs incurred by the athlete agent in the recruitment or
19 solicitation of a student athlete to enter into an agency contract.

20 (b) Records required by par. (a) to be retained are open to inspection by the
21 department during normal business hours.

22 **(13) PROHIBITED CONDUCT.** (a) An athlete agent, with the intent to induce a
23 student athlete to enter into an agency contract, may not do any of the following:

- 24 1. Give any materially false or misleading information or make a materially
25 false promise or representation.

1 2. Furnish anything of value to a student athlete before the student athlete
2 enters into the agency contract.

3 3. Furnish anything of value to any individual other than the student athlete
4 or another registered athlete agent.

5 (b) An athlete agent may not intentionally do any of the following:

6 1. Initiate contact with a student athlete unless registered under this section.

7 2. Refuse or fail to retain or permit inspection of the records required to be
8 retained by sub. (12).

9 3. Fail to register when required by sub. (3).

10 4. Provide materially false or misleading information in an application for
11 registration or renewal of registration.

12 5. Predate or postdate an agency contract.

13 6. Fail to notify a student athlete before the student athlete signs or otherwise
14 authenticates an agency contract for a particular sport that the signing or
15 authentication may make the student athlete ineligible to participate as a student
16 athlete in that sport.

17 (14) CRIMINAL PENALTIES. An athlete agent who violates sub. (13) may be fined
18 not more than \$10,000 or imprisoned for not more than 9 months or both.

****NOTE: This language is different than the uniform act, but is consistent with
the way in which penalties are expressed for violations of Wisconsin law. Also, I wasn't
sure about the amount of the fine or the length of imprisonment. Please let me know
whether you want to revise the penalties. Note that there is no standard penalty for
violation of other professional licensing statutes. Instead, the penalties vary, depending
on the license.

19 (15) CIVIL REMEDIES. (a) An educational institution may bring an action against
20 an athlete agent or a former student athlete for damages caused by a violation of this
21 section. In an action under this paragraph, the court may award to the prevailing
22 party costs and, notwithstanding s. 814.04, reasonable attorney fees.

****NOTE: The above language differs slightly from the uniform act because, under our drafting style, we state that a person may bring an action, rather than a person has a right of action. Also, the “notwithstanding” language is necessary for a court to award attorney fees.

1 (b) Damages of an educational institution under par. (a) include losses and
2 expenses incurred because, as a result of the conduct of an athlete agent or former
3 student athlete, the educational institution was injured by a violation of this section
4 or was penalized, disqualified, or suspended from participation in athletics by a
5 national association for the promotion and regulation of athletics, by an athletic
6 conference, or by reasonable self-imposed disciplinary action taken to mitigate
7 sanctions likely to be imposed by such an organization.

8 (c) A right of action under this subsection does not accrue until the educational
9 institution discovers or by the exercise of reasonable diligence would have discovered
10 the violation by the athlete agent or former student athlete.

11 (d) Any liability of the athlete agent or the former student athlete under this
12 section is several and not joint.

13 (e) This section does not restrict rights, remedies, or defenses of any person
14 under law or equity.

15 (16) ADMINISTRATIVE FORFEITURE. The department may directly assess a
16 forfeiture against an athlete agent of not more than \$25,000 for a violation of this
17 section.

****NOTE: The above language differs slightly from the uniform act but is consistent with our drafting style.

18 (17) UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing
19 this section, consideration must be given to the need to promote uniformity of the law
20 with respect to its subject matter among the states that enact the Uniform Athlete
21 Agents Act.

1 **(18) ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The
2 provisions of this section governing the legal effect, validity, or enforceability of
3 electronic records or signatures, and of contracts formed or performed with the use
4 of such records or signatures conform to the requirements of section 102 of the federal
5 Electronic Signatures in Global and National Commerce Act, 15 USC 7002, and
6 supersede, modify, and limit the federal Electronic Signatures in Global and
7 National Commerce Act, 15 USC 7001 to 7031.

****NOTE: The references to the federal act conform to our drafting style and are different than the references in the uniform act.

****NOTE: I'm not sure what is intended to be accomplished in sub. (18). Under the federal Electronic Signatures in Global and National Commerce Act (federal act), a state may supersede, etc., the federal act only by: 1) actually adopting the federal act, which the uniform act and this bill don't do; or 2) specifying alternative procedures for the use or acceptance of electronic records and signatures, which the uniform act and this bill don't do. The uniform act and the bill require contracts and certain notices to be in a "record," which is defined as "information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form." However, the uniform act and the bill do not include any alternative procedures for using or accepting such a record. Instead, the uniform act and the bill require a contract to be signed "or otherwise authenticated" without specifying the procedures for accomplishing such authentication. Because the uniform act and the bill do not satisfy the conditions under federal law for superseding, etc., the federal act, the uniform act, and the bill cannot supersede, etc., the federal act, even though sub. (18) says that it does. The result is confusing and I recommend deleting sub. (18) from the bill.

8 **SECTION 4. Nonstatutory provisions.**

9 (1) If an athlete agent, as defined in section 100.179 (1) (b) of the statutes, or
10 student athlete, as defined in section 100.179 (1) (k) of the statutes, is subject to a
11 contract that is in effect on the effective date of this subsection and that contains
12 provisions that are inconsistent with section 100.179 of the statutes, as created by
13 this act, then, notwithstanding section 100.179 of the statutes, as created by this act,
14 the athlete agent or student athlete may perform his or her obligations, and exercise
15 his or her rights, under that contract until the contract expires, is extended, is
16 modified, or is renewed, whichever occurs first.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3241/lins
MDK:.....

INSERT IA

Agents

This bill regulates athlete agents who represent student athletes by enacting the Uniform Athlete Agent Act, which was approved by the National Conference of Commissioners on Uniform State Laws in 2000. With certain exceptions, the bill defines an "athlete agent" as someone who does any of the following: (1) enters into an agency contract with a student athlete; (2) recruits or solicits a student athlete to enter into an agency contract; or (3) represents to the public that he or she is an athlete agent. An "agency contract" is defined as any of the following: (1) an agreement under which an athlete agent negotiates on behalf of a student athlete; (2) a professional sports services contract; or (3) an endorsement contract. A "student athlete" is defined as an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. However, if an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not considered to be a student athlete for purposes of that sport. AA

The bill prohibits an individual from acting as an athlete agent unless he or she is registered with the department of agriculture, trade, and consumer protection (DATCP). The following are excluded from the definition of "athlete agent" and do not have to register: (1) a spouse, parent, sibling, grandparent, or guardian of a student athlete; or (2) an individual acting solely on behalf of a professional sports team or professional sports organization. Also, except for signing an agency contract, an individual may act as an athlete agent before being registered if a student athlete, or someone acting on behalf of the student athlete, initiates communication with the individual and he or she applies for registration within 7 days after an initial act as an athlete agent. The bill provides that, if an unregistered athlete agent who is required to be registered enters into an agency contract with a student athlete, the contract is void and the athlete agent must return any consideration received under the contract. AA seven

An applicant for registration must describe the applicant's training, experience, and education and also identify his or her business associates. For a business that is not a corporation, the applicant must identify the partners, members, officers, managers, associates, or profit-sharers of the business. For a corporation, the officers, directors, and shareholders with an interest of 5% or more must be identified. In addition, an applicant must describe all of the following: (1) any felony for which the applicant or a business associate has been convicted; (2) any administrative or judicial determination that the applicant or a business associate has made a false, misleading, deceptive, or fraudulent representation; (3) any instance in which the conduct of the applicant or a business associate has resulted in a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event; and (4) any sanction, suspension, or disciplinary action taken against the applicant or a business associate arising out of occupational or professional misconduct. AA

An applicant must submit an application on a form prescribed by DATCP. However if the applicant is registered or licensed as an athlete agent in another

two

state, the applicant may, under certain circumstances, submit to DATCP a copy of the application to the other state. An application must be accompanied by a fee established in rules promulgated by DATCP.

DATCP must register an applicant as an athlete agent, unless DATCP determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness as an athlete agent. In making this determination, DATCP may consider whether the applicant engaged in certain conduct, including the following: 1) conduct that would disqualify the applicant from serving in a fiduciary capacity; 2) conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity; or 3) conduct that violates prohibitions specified in the bill that are described below. An individual who is registered by DATCP must apply to renew the registration every 2 years and pay a renewal fee established in rules promulgated by DATCP. An applicant for renewal may, under certain circumstances, submit an application for renewal that was submitted to another state. DATCP may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of the initial registration.

The bill imposes certain requirements on agency contracts between athlete agents and student athletes. An agency contract must contain specified provisions, including a notice to the student athlete that, by the signing the contract, he or she may lose his or her eligibility to compete as a student athlete. The bill gives a student athlete the nonwaivable right to cancel an agency contract within 14 days after the contract is signed. In addition, a student athlete may void an agency contract that does not comply with the bill's requirements. Also, both the athlete agent and student athlete must notify the student athlete's athletic director about an agency contract within 72 hours after execution of the contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first. AA

The bill prohibits an athlete agent from engaging in the following conduct with the intent to induce a student athlete to enter into an agency contract: 1) making materially false promises or representations; or 2) furnishing anything of value to the student athlete or any other individual, including another athlete agent. The bill also prohibits an athlete agent from intentionally engaging in certain conduct, including the following: 1) initiating contact with a student athlete unless the athlete agent is registered under the bill; or 2) failing to notify a student athlete that signing an agency contract may make him or her ineligible to participate in a sport as a student athlete. In addition, the bill imposes record-keeping requirements on athlete agents.

An athlete agent who violates the bill's prohibitions may be fined ~~no~~ more than \$10,000, imprisoned for ~~no~~ more than ~~6~~ months, or both. Also, the bill allows DATCP to directly assess a forfeiture of ~~no~~ more than \$25,000 for a violation of the bill. In addition, an educational institution may bring an action against an athlete agent or former student athlete for damages caused by a violation of the bill.

or not nine not

INSERT 11-3: ✓

1

2

The department shall establish reasonable fees for all of the following:

3

(a) An initial application for registration.

- 1 (b) An initial application for registration based upon registration or licensure
- 2 by another state.
- 3 (c) An application for renewal of registration.
- 4 (d) An application for renewal of registration based upon an application for
- 5 renewal of registration or licensure submitted to another state.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3241/1dn

MDK:.....

kmq

Representative Wieckert:

This bill is identical to the previous version, except for the inclusion of an analysis and changes to proposed s. 100.179 (8) (fees).

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3241/1dn
MDK:kmg:pg

May 18, 2001

Representative Wieckert:

This bill is identical to the previous version, except for the inclusion of an analysis and changes to proposed s. 100.179 (8) (fees).

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Need
FE

STATE OF WISCONSIN

To _____

Date _____ Time _____

WHILE YOU WERE OUT

M _____

of _____

Phone _____

324111

Telephoned	<input type="checkbox"/>	Please Call	<input type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message _____



Party Receiving Call

Memo

To: Rep. Wieckert

(The Bill's Requestor)

Attached is a fiscal estimate prepared for your 2001 draft that has not yet been introduced.

LRB Number: LRB - 3241

Version: "11"

note:
Draft is now a
"12"

Entered In Computer And Copy Sent To Requestor Via E-Mail: 06/05/2001

Fiscal Estimate Prepared By: (agency abbr.) DATCP

If you have questions about the attached fiscal estimate, you may contact the agency/individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

* * * * *

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is re-drafted to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
- If this draft gets introduced ... and the version of the attached fiscal estimate is correct ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2001 _____

- If this draft gets introduced ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

Barman, Mike

From: Barman, Mike
Sent: Tuesday, June 05, 2001 1:53 PM
To: Rep. Wieckert
Subject: LRB-3241/1 (old version) (FE by DATCP - attached - for your review)



FE_Wieckert.pdf

FE_Wieckert

Fiscal Estimate - 2001 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-3241/1	Introduction Number	
Subject Uniform athlete agents act		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriations <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.115(1)(jk)		
Agency/Prepared By DATCP/ Jim Rabbitt (608) 224-4965	Authorized Signature Barb Knapp (608) 224-4746	Date 6/5/01

Fiscal Estimate Narratives

DATCP 6/5/01

LRB Number 01-3241/1	Introduction Number	Estimate Type	Original
Subject			
Uniform athlete agents act			

Assumptions Used in Arriving at Fiscal Estimate

This bill regulates and requires registration of persons who act as athletic agents.

This bill requires an athletic agent to register with DATCP. The agent must submit evidence of no criminal convictions. It requires the agent to provide and DATCP to keep on file the names and addresses of professional references, all clients, and any person with financial interest in the agent's operation. It also requires the agent to provide descriptions of training or experience in the field, criminal convictions, judicial proceedings related to the agent's business, and sanctions imposed on the agent's clients due to the agent's activities. It allows registrations in other jurisdictions to be recognized based on the department's examination of the requirements of the other jurisdiction. It also requires DATCP to update the public listing of registered agents on a bimonthly basis.

It is assumed the department will expend one time money to hire a contract computer programmer to develop a database to capture the information required for registration and issue registration certificates. The department will also expend significant time promulgating rules under this section. Certain staff costs for this activity will be absorbed. However, a limited term researcher will be needed to support the rulemaking process and research other jurisdiction's contract requirements in order to establish reciprocal agreements. One time costs of \$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees) will be needed.

It is assumed subsequent activities will be funded through registration fees. This bill directs the Department to promulgate rules setting forth registration requirements and setting fees.

It is assumed that nearly half of the nation's 13,000 agents will register. Registrations requiring this volume of information will require significant staff time to process, file, and update on a bimonthly basis. Investigations into allegations of violations of this section will be lengthy and complicated with the potential for high profile, high cost cases. Based on these assumptions, the Department estimates a 1.0 FTE Regulation Compliance Investigator and a 1.0 FTE Program Assistant will be necessary for enforcement of this law.

Long-Range Fiscal Implications

Ongoing costs could be offset by registration fees. However, initial rulemaking, research, and programming costs will be necessary to begin the process. Additionally, annual costs of \$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees) for the first year will be needed to fund the program until licensing fees are available to fund ongoing costs.

Fiscal Estimate Worksheet - 2001 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-3241/1		Introduction Number	
Subject			
Uniform athlete agents act			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
\$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees)			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$69,000	
(FTE Position Changes)		(2.0 FTE)	
State Operations - Other Costs		14,550	
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$83,550	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS (83550)		83,550	
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS (83,550)		83,550	
SEG/SEG-S			
TOTAL State Revenues		\$83,550	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$83,550	\$
NET CHANGE IN REVENUE		\$83,550	\$
Agency/Prepared By		Authorized Signature	Date
DATCP/ Jim Rabbitt (608) 224-4965		Barb Knapp (608) 224-4746	6/5/01

Memo

To: Rep. Wieckert

(The Bill's Requestor)

Attached is a fiscal estimate prepared for your 2001 draft that has not yet been introduced.

LRB Number: LRB -3241

Version: "1/1"

corrected
FE

Entered In Computer And Copy Sent To Requestor Via E-Mail: 06/07/2001

Fiscal Estimate Prepared By: (agency abbr.) DATCP

If you have questions about the attached fiscal estimate, you may contact the agency/individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

* * * * *

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
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THIS DRAFT WAS INTRODUCED AS: 2001 _____

- If this draft gets **introduced** ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

Barman, Mike

From: Barman, Mike
Sent: Thursday, June 07, 2001 8:31 AM
To: Rep.Wieckert
Subject: LRB-3241/1 (corrected FE by DATCP - attached - for your review)



FE.pdf

Fe

Fiscal Estimate - 2001 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-3241/1	Introduction Number	
Subject Uniform athlete agents act		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
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5.Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.115(1)(jk) ongoing costs, 20.115(1)(a) one time costs		
Agency/Prepared By DATCP/ Don Akamatsu (608) 224-4747	Authorized Signature Barb Knapp (608) 224-4746	Date 6/6/01

Fiscal Estimate Narratives

DATCP 6/7/01

LRB Number 01-3241/1	Introduction Number	Estimate Type Corrected
Subject Uniform athlete agents act		

Assumptions Used in Arriving at Fiscal Estimate

This bill regulates and requires registration of persons who act as athletic agents.

This bill requires an athletic agent to register with DATCP. The agent must submit evidence of no criminal convictions. It requires the agent to provide and DATCP to keep on file the names and addresses of professional references, all clients, and any person with financial interest in the agent's operation. It also requires the agent to provide descriptions of training or experience in the field, criminal convictions, judicial proceedings related to the agent's business, and sanctions imposed on the agent's clients due to the agent's activities. It allows registrations in other jurisdictions to be recognized based on the department's examination of the requirements of the other jurisdiction. It also requires DATCP to update the public listing of registered agents on a bimonthly basis.

It is assumed the department will expend one time money to hire a contract computer programmer to develop a database to capture the information required for registration and issue registration certificates. The department will also expend significant time promulgating rules under this section. Certain staff costs for this activity will be absorbed. However, a limited term researcher will be needed to support the rulemaking process and research other jurisdiction's contract requirements in order to establish reciprocal agreements. One time costs of \$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees) will be needed. These one time costs would be funded by GPR appropriation 20.115(1)(a).

It is assumed subsequent activities will be funded through registration fees. This bill directs the Department to promulgate rules setting forth registration requirements and setting fees. The department's ongoing costs would be funded by the new PR appropriation 20.115(1)(jk).

It is assumed that nearly half of the nation's 13,000 agents will register. Registrations requiring this volume of information will require significant staff time to process, file, and update on a bimonthly basis. Investigations into allegations of violations of this section will be lengthy and complicated with the potential for high profile, high cost cases. Based on these assumptions, the Department estimates a 1.0 FTE Regulation Compliance Investigator and a 1.0 FTE Program Assistant will be necessary for enforcement of this law.

Long-Range Fiscal Implications

Ongoing costs could be offset by registration fees. However, initial rulemaking, research, and programming costs will be necessary to begin the process. Additionally, annual costs of \$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees) for the first year will be needed to fund the program until licensing fees are available to fund ongoing costs.

Fiscal Estimate Worksheet - 2001 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-3241/1		Introduction Number	
Subject			
Uniform athlete agents act			
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\$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees)			
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		Increased Rev	Decreased Rev
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NET ANNUALIZED FISCAL IMPACT			
		State	Local
NET CHANGE IN COSTS		\$83,550	\$
NET CHANGE IN REVENUE		\$83,550	\$
Agency/Prepared By		Authorized Signature	Date
DATCP/ Don Akamatsu (608) 224-4747		Barb Knapp (608) 224-4746	6/6/01

Today
by NOON

D-NOTE

2

2001 BILL

Ed:
only change
(AMP P. 3)

L.P.S.:
cut this from page 3
and paste here;
make sure
ANALYSIS BY THE LEGISLATIVE
REFERENCE
BUREAU

1 AN ACT to create 20.115 (1) (jk), 93.135 (1) (rp) and 100.179 of the statutes;
 2 relating to: regulating athlete agents, granting rule-making authority,
 3 making an appropriation, and providing penalties.

This bill regulates athlete agents who represent student athletes by enacting the Uniform Athlete Agents Act, which was approved by the National Conference of Commissioners on Uniform State Laws in 2000. With certain exceptions, the bill defines an "athlete agent" as someone who does any of the following: 1) enters into an agency contract with a student athlete; 2) recruits or solicits a student athlete to enter into an agency contract; or 3) represents to the public that he or she is an athlete agent. An "agency contract" is defined as any of the following: 1) an agreement under which an athlete agent negotiates on behalf of a student athlete; 2) a professional-sports-services contract; or 3) an endorsement contract. A "student athlete" is defined as an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. However, if an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not considered to be a student athlete for purposes of that sport.

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BILL

an individual may act as an athlete agent before being registered if a student athlete, or someone acting on behalf of the student athlete, initiates communication with the individual and he or she applies for registration within seven days after an initial act as an athlete agent. The bill provides that, if an unregistered athlete agent who is required to be registered enters into an agency contract with a student athlete, the contract is void and the athlete agent must return any consideration received under the contract.

An applicant for registration must describe the applicant's training, experience, and education and also identify his or her business associates. For a business that is not a corporation, the applicant must identify the partners, members, officers, managers, associates, or profit-sharers of the business. For a corporation, the officers, directors, and shareholders with an interest of 5% or more must be identified. In addition, an applicant must describe all of the following: 1) any felony for which the applicant or a business associate has been convicted; 2) any administrative or judicial determination that the applicant or a business associate has made a false, misleading, deceptive, or fraudulent representation; 3) any instance in which the conduct of the applicant or a business associate has resulted in a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event; and 4) any sanction, suspension, or disciplinary action taken against the applicant or a business associate arising out of occupational or professional misconduct.

An applicant must submit an application on a form prescribed by DATCP. However if the applicant is registered or licensed as an athlete agent in another state, the applicant may, under certain circumstances, submit to DATCP a copy of the application to the other state. An application must be accompanied by a fee established in rules promulgated by DATCP.

DATCP must register an applicant as an athlete agent, unless DATCP determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness as an athlete agent. In making this determination, DATCP may consider whether the applicant engaged in certain conduct, including the following: 1) conduct that would disqualify the applicant from serving in a fiduciary capacity; 2) conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity; or 3) conduct that violates prohibitions specified in the bill that are described below. An individual who is registered by DATCP must apply to renew the registration every two years and pay a renewal fee established in rules promulgated by DATCP. An applicant for renewal may, under certain circumstances, submit an application for renewal that was submitted to another state. DATCP may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of the initial registration.

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BILL

does not comply with the bill's requirements. Also, both the athlete agent and student athlete must notify the student athlete's athletic director about an agency contract within 72 hours after execution of the contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first.

The bill prohibits an athlete agent from engaging in the following conduct with the intent to induce a student athlete to enter into an agency contract: 1) making materially false promises or representations; or 2) furnishing anything of value to the student athlete or any other individual, including another athlete agent. The bill also prohibits an athlete agent from intentionally engaging in certain conduct, including the following: 1) initiating contact with a student athlete unless the athlete agent is registered under the bill; or 2) failing to notify a student athlete that signing an agency contract may make him or her ineligible to participate in a sport as a student athlete. In addition, the bill imposes record-keeping requirements on athlete agents.

An athlete agent who violates the bill's prohibitions may be fined not more than \$10,000 or imprisoned for not more than nine months or both. Also, the bill allows DATCP to directly assess a forfeiture of not more than \$25,000 for a violation of the bill. In addition, an educational institution may bring an action against an athlete agent or former student athlete for damages caused by a violation of the bill.

Analysis by the Legislative Reference Bureau

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:

- 1 **SECTION 1.** 20.115 (1) (jk) of the statutes is created to read:
- 2 20.115 (1) (jk) *Athlete agent regulation.* All moneys received from athlete agent
- 3 registration and renewal fees under the rules promulgated under s. 100.179 (8) for
- 4 the regulation of athlete agents under s. 100.179.
- 5 **SECTION 2.** 93.135 (1) (rp) of the statutes is created to read:
- 6 93.135 (1) (rp) A registration as an athlete agent under s. 100.179.
- 7 **SECTION 3.** 100.179 of the statutes is created to read:
- 8 **100.179 Uniform Athlete Agents Act. (1) DEFINITIONS.** In this section:

BILL

1 (a) "Agency contract" means an agreement in which a student athlete
2 authorizes a person to negotiate or solicit on behalf of the student athlete a
3 professional-sports-services contract or an endorsement contract.

4 (b) "Athlete agent" means an individual who enters into an agency contract
5 with a student athlete or, directly or indirectly, recruits or solicits a student athlete
6 to enter into an agency contract. "Athlete agent" includes an individual who
7 represents to the public that the individual is an athlete agent. "Athlete agent" does
8 not include a spouse, parent, sibling, grandparent, or guardian of the student athlete
9 or an individual acting solely on behalf of a professional sports team or professional
10 sports organization.

11 (c) "Athletic director" means an individual responsible for administering the
12 overall athletic program of an educational institution or, if an educational institution
13 has separately administered athletic programs for male students and female
14 students, the athletic program for males or the athletic program for females, as
15 appropriate.

16 (d) "Contact" means a communication, direct or indirect, between an athlete
17 agent and a student athlete, to recruit or solicit the student athlete to enter into an
18 agency contract.

19 (e) "Endorsement contract" means an agreement under which a student athlete
20 is employed or receives consideration to use on behalf of the other party any value
21 that the student athlete may have because of publicity, reputation, following, or fame
22 obtained because of athletic ability or performance.

23 (f) "Intercollegiate sport" means a sport played at the collegiate level for which
24 eligibility requirements for participation by a student athlete are established by a
25 national association for the promotion or regulation of collegiate athletics.

BILL

1 (g) “Professional–sports–services contract” means an agreement under which
2 an individual is employed, or agrees to render services, as a player on a professional
3 sports team, with a professional sports organization, or as a professional athlete.

4 (h) “Record” means information that is inscribed on a tangible medium or that
5 is stored in an electronic or other medium and is retrievable in perceivable form.

6 (i) “Registration” means registration as an athlete agent under this section.

7 (j) “State” means a state of the United States, the District of Columbia, Puerto
8 Rico, the United States Virgin Islands, or any territory or insular possession subject
9 to the jurisdiction of the United States.

10 (k) “Student athlete” means an individual who engages in, is eligible to engage
11 in, or may be eligible in the future to engage in, any intercollegiate sport. If an
12 individual is permanently ineligible to participate in a particular intercollegiate
13 sport, the individual is not a student athlete for purposes of that sport.

14 (2) SERVICE OF PROCESS. By acting as an athlete agent in this state, a
15 nonresident individual appoints the secretary of state as the individual’s agent for
16 service of process in any civil action in this state related to the individual’s acting as
17 an athlete agent in this state.

18 (3) ATHLETE AGENTS: REGISTRATION REQUIRED; VOID CONTRACTS. (a) Except as
19 otherwise provided in par. (b), an individual may not act as an athlete agent in this
20 state without holding a certificate of registration under sub. (5) or (7).

21 (b) Before being issued a certificate of registration, an individual may act as an
22 athlete agent in this state for all purposes except signing an agency contract, if all
23 of the following are satisfied:

24 1. A student athlete or another person acting on behalf of the student athlete
25 initiates communication with the individual.

BILL

1 2. Within 7 days after an initial act as an athlete agent, the individual submits
2 an application for registration as an athlete agent in this state.

3 (c) An agency contract resulting from conduct in violation of this subsection is
4 void and the athlete agent shall return any consideration received under the
5 contract.

6 **(4) REGISTRATION AS ATHLETE AGENT; FORM; REQUIREMENTS.** (a) An applicant for
7 registration as an athlete agent shall submit an application for registration to the
8 department in a form prescribed by the department. The application must be in the
9 name of an individual and, except as otherwise provided in par. (b), signed or
10 otherwise authenticated by the applicant under penalty of perjury and state or
11 contain all of the following:

12 1. The name of the applicant and the address of the applicant's principal place
13 of business.

14 2. The name of the applicant's business or employer, if applicable.

15 3. Any business or occupation engaged in by the applicant for the 5 years next
16 preceding the date of submission of the application.

17 4. A description of all of the following:

18 a. The applicant's formal training as an athlete agent.

19 b. The applicant's practical experience as an athlete agent.

20 c. The applicant's educational background relating to his or her activities as an
21 athlete agent.

22 5. The names and addresses of 3 individuals not related to the applicant who
23 are willing to serve as references.

BILL

1 6. The name, sport, and last-known team for each individual for whom the
2 applicant acted as an athlete agent during the 5 years next preceding the date of
3 submission of the application.

4 7. If the athlete agent's business is not a corporation, the names and addresses
5 of the partners, members, officers, managers, associates, or profit sharers of the
6 business.

7 8. If the athlete agent is employed by a corporation, the names and addresses
8 of the officers and directors of the corporation and any shareholder of the corporation
9 having an interest of 5% or more.

10 9. Whether the applicant or any person named pursuant to subd. 7. or 8. has
11 been convicted of a crime that, if committed in this state, would be a felony, and a
12 description of the crime.

13 9m. Whether there has been any administrative or judicial determination that
14 the applicant or any person named pursuant to subd. 7. or 8. has made a false,
15 misleading, deceptive, or fraudulent representation.

16 10. Any instance in which the conduct of the applicant or any person named
17 pursuant to subd. 7. or 8. resulted in the imposition of a sanction, suspension, or
18 declaration of ineligibility to participate in an interscholastic or intercollegiate
19 athletic event on a student athlete or educational institution.

20 11. Any sanction, suspension, or disciplinary action taken against the
21 applicant or any person named pursuant to subd. 7. or 8. arising out of occupational
22 or professional conduct.

23 12. Whether there has been any denial of an application for, suspension or
24 revocation of, or refusal to renew, the registration or licensure of the applicant or any
25 person named pursuant to subd. 7. or 8. as an athlete agent in any state.

BILL

1 (b) An individual who has submitted an application for, and holds a certificate
2 of, registration or licensure as an athlete agent in another state may submit a copy
3 of the application and certificate in lieu of submitting an application in the form
4 prescribed pursuant to par. (a). The department shall accept the application and the
5 certificate from the other state as an application for registration in this state if all
6 of the following are satisfied:

7 1. The application to the other state was submitted in the other state within
8 6 months next preceding the submission of the application in this state and the
9 applicant certifies that the information contained in the application to the other
10 state is current.

11 2. The application to the other state contains information substantially similar
12 to or more comprehensive than that required in an application submitted in this
13 state.

14 3. The application to the other state was signed by the applicant under penalty
15 of perjury.

16 (c) Applications submitted under this subsection shall be open to inspection at
17 all reasonable hours authorized by representatives of the department.

18 **(5) CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.** (a) Except as
19 otherwise provided in par. (b), the department shall issue a certificate of registration
20 to an individual who complies with sub. (4) (a) or whose application has been
21 accepted under sub. (4) (b).

22 (b) The department may refuse to issue a certificate of registration if the
23 department determines that the applicant has engaged in conduct that has a
24 significant adverse effect on the applicant's fitness to act as an athlete agent. In

BILL

1 making the determination, the department may consider whether the applicant has
2 done any of the following:

3 1. Notwithstanding ss. 111.321, 111.322, and 111.335, been convicted of a crime
4 that, if committed in this state, would be a felony.

5 2. Made a materially false, misleading, deceptive, or fraudulent representation
6 in the application or as an athlete agent.

7 3. Engaged in conduct that would disqualify the applicant from serving in a
8 fiduciary capacity.

9 4. Engaged in conduct prohibited by sub. (13).

10 5. Had a registration or licensure as an athlete agent suspended, revoked, or
11 denied or been refused renewal of registration or licensure as an athlete agent in any
12 state.

13 6. Engaged in conduct the consequence of which was that a sanction,
14 suspension, or declaration of ineligibility to participate in an interscholastic or
15 intercollegiate athletic event was imposed on a student athlete or educational
16 institution.

17 7. Engaged in conduct that significantly adversely reflects on the applicant's
18 credibility, honesty, or integrity.

19 (c) In making a determination under par. (b), the department shall consider
20 each of the following:

21 1. How recently the conduct occurred.

22 2. The nature of the conduct and the context in which it occurred.

23 3. Any other relevant conduct of the applicant.

24 (d) An athlete agent may apply to renew a registration by submitting an
25 application for renewal in a form prescribed by the department. The application for

BILL

1 renewal must be signed by the applicant under penalty of perjury and must contain
2 current information on all matters required in an original registration. Applications
3 submitted under this paragraph shall be open to inspection at all reasonable hours
4 authorized by representatives of the department.

5 (e) An individual who has submitted an application for renewal of registration
6 or licensure in another state, in lieu of submitting an application for renewal in the
7 form prescribed under par. (d), may file a copy of the application for renewal and a
8 valid certificate of registration or licensure from the other state. The department
9 shall accept the application for renewal from the other state as an application for
10 renewal in this state if the application to the other state satisfies all of the following:

11 1. The application was submitted in the other state within 6 months next
12 preceding the filing in this state and the applicant certifies that the information
13 contained in the application for renewal is current.

14 2. The application contains information substantially similar to or more
15 comprehensive than that required in an application for renewal submitted in this
16 state.

17 3. The application was signed by the applicant under penalty of perjury.

18 (f) A certificate of registration or a renewal of a registration is valid for 2 years.

19 **(6) SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.** (a) The
20 department may suspend, revoke, or refuse to renew a registration for conduct that
21 would have justified denial of registration under sub. (5) (b).

22 (b) The department may deny, suspend, revoke, or refuse to renew a certificate
23 of registration or licensure only after proper notice and an opportunity for a hearing.

BILL

1 **(7) TEMPORARY REGISTRATION.** The department may issue a temporary
2 certificate of registration while an application for registration or renewal of
3 registration is pending.

4 **(8) REGISTRATION AND RENEWAL FEES.** An application for registration or renewal
5 of registration must be accompanied by a reasonable fee in an amount specified in
6 rules promulgated by the department. The department shall establish reasonable
7 fees for all of the following:

8 (a) An initial application for registration.

9 (b) An initial application for registration based upon registration or licensure
10 by another state.

11 (c) An application for renewal of registration.

12 (d) An application for renewal of registration based upon an application for
13 renewal of registration or licensure submitted to another state.

14 **(9) REQUIRED FORM OF CONTRACT.** (a) An agency contract must be in a record,
15 signed or otherwise authenticated by the parties.

16 (b) An agency contract must state or contain all of the following:

17 1. The amount and method of calculating the consideration to be paid by the
18 student athlete for services to be provided by the athlete agent under the contract
19 and any other consideration that the athlete agent has received or will receive from
20 any other source for entering into the contract or for providing the services.

21 2. The name of any person not listed in the application for registration or
22 renewal of registration who will be compensated because the student athlete signed
23 the agency contract.

24 3. A description of any expenses that the student athlete agrees to reimburse.

25 4. A description of the services to be provided to the student athlete.

BILL

1 5. The duration of the contract.

2 6. The date of execution.

3 (c) An agency contract must contain, in close proximity to the signature of the
4 student athlete, a conspicuous notice in boldface type and capital letters stating the
5 following:

6 **WARNING TO STUDENT ATHLETE**

7 **IF YOU SIGN THIS CONTRACT:**

8 1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
9 ATHLETE IN YOUR SPORT;

10 2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
11 ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT
12 MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

13 3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
14 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE
15 YOUR ELIGIBILITY.

16 (d) An agency contract that does not conform to this subsection is voidable by
17 the student athlete. If a student athlete voids an agency contract, the student athlete
18 is not required to pay any consideration under the contract or to return any
19 consideration received from the athlete agent to induce the student athlete to enter
20 into the contract.

21 (e) The athlete agent shall give a record of the signed or otherwise
22 authenticated agency contract to the student athlete at the time of execution.

23 **(10) NOTICE TO EDUCATIONAL INSTITUTION.** (a) Within 72 hours after entering
24 into an agency contract or before the next scheduled athletic event in which the
25 student athlete may participate, whichever occurs first, the athlete agent shall give

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1 notice in a record of the existence of the contract to the athletic director of the
2 educational institution at which the student athlete is enrolled or the athlete agent
3 has reasonable grounds to believe the student athlete intends to enroll.

4 (b) Within 72 hours after entering into an agency contract or before the next
5 athletic event in which the student athlete may participate, whichever occurs first,
6 the student athlete shall inform the athletic director of the educational institution
7 at which the student athlete is enrolled that he or she has entered into an agency
8 contract.

9 (11) STUDENT ATHLETE'S RIGHT TO CANCEL. (a) A student athlete may cancel an
10 agency contract by giving notice of the cancellation to the athlete agent in a record
11 within 14 days after the contract is signed.

12 (b) A student athlete may not waive the right to cancel an agency contract.

13 (c) If a student athlete cancels an agency contract, the student athlete is not
14 required to pay any consideration under the contract or to return any consideration
15 received from the athlete agent to induce the student athlete to enter into the
16 contract.

17 (12) REQUIRED RECORDS. (a) An athlete agent shall retain all of the following
18 records for a period of 5 years:

- 19 1. The name and address of each individual represented by the athlete agent.
- 20 2. Any agency contract entered into by the athlete agent.
- 21 3. Any direct costs incurred by the athlete agent in the recruitment or
22 solicitation of a student athlete to enter into an agency contract.

23 (b) Records required by par. (a) to be retained are open to inspection by the
24 department during normal business hours.

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1 **(13) PROHIBITED CONDUCT.** (a) An athlete agent, with the intent to induce a
2 student athlete to enter into an agency contract, may not do any of the following:

3 1. Give any materially false or misleading information or make a materially
4 false promise or representation.

5 2. Furnish anything of value to a student athlete before the student athlete
6 enters into the agency contract.

7 3. Furnish anything of value to any individual other than the student athlete
8 or another registered athlete agent.

9 (b) An athlete agent may not intentionally do any of the following:

10 1. Initiate contact with a student athlete unless registered under this section.

11 2. Refuse or fail to retain or permit inspection of the records required to be
12 retained by sub. (12).

13 3. Fail to register when required by sub. (3).

14 4. Provide materially false or misleading information in an application for
15 registration or renewal of registration.

16 5. Predate or postdate an agency contract.

17 6. Fail to notify a student athlete before the student athlete signs or otherwise
18 authenticates an agency contract for a particular sport that the signing or
19 authentication may make the student athlete ineligible to participate as a student
20 athlete in that sport.

21 **(14) CRIMINAL PENALTIES.** An athlete agent who violates sub. (13) may be fined
22 not more than \$10,000 or imprisoned for not more than 9 months or both.

23 **(15) CIVIL REMEDIES.** (a) An educational institution may bring an action against
24 an athlete agent or a former student athlete for damages caused by a violation of this

BILL

1 section. In an action under this paragraph, the court may award to the prevailing
2 party costs and, notwithstanding s. 814.04, reasonable attorney fees.

3 (b) Damages of an educational institution under par. (a) include losses and
4 expenses incurred because, as a result of the conduct of an athlete agent or former
5 student athlete, the educational institution was injured by a violation of this section
6 or was penalized, disqualified, or suspended from participation in athletics by a
7 national association for the promotion and regulation of athletics, by an athletic
8 conference, or by reasonable self-imposed disciplinary action taken to mitigate
9 sanctions likely to be imposed by such an organization.

10 (c) A right of action under this subsection does not accrue until the educational
11 institution discovers or by the exercise of reasonable diligence would have discovered
12 the violation by the athlete agent or former student athlete.

13 (d) Any liability of the athlete agent or the former student athlete under this
14 section is several and not joint.

15 (e) This section does not restrict rights, remedies, or defenses of any person
16 under law or equity.

17 **(16) ADMINISTRATIVE FORFEITURE.** The department may directly assess a
18 forfeiture against an athlete agent of not more than \$25,000 for a violation of this
19 section.

20 **(17) UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing
21 this section, consideration must be given to the need to promote uniformity of the law
22 with respect to its subject matter among the states that enact the Uniform Athlete
23 Agents Act.

24 **(18) ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The
25 provisions of this section governing the legal effect, validity, or enforceability of

BILL

1 electronic records or signatures, and of contracts formed or performed with the use
2 of such records or signatures conform to the requirements of section 102 of the federal
3 Electronic Signatures in Global and National Commerce Act, 15 USC 7002, and
4 supersede, modify, and limit the federal Electronic Signatures in Global and
5 National Commerce Act, 15 USC 7001 to 7031.

SECTION 4. Nonstatutory provisions.

6
7 (1) If an athlete agent, as defined in section 100.179 (1) (b) of the statutes, or
8 student athlete, as defined in section 100.179 (1) (k) of the statutes, is subject to a
9 contract that is in effect on the effective date of this subsection and that contains
10 provisions that are inconsistent with section 100.179 of the statutes, as created by
11 this act, then, notwithstanding section 100.179 of the statutes, as created by this act,
12 the athlete agent or student athlete may perform his or her obligations, and exercise
13 his or her rights, under that contract until the contract expires, is extended, is
14 modified, or is renewed, whichever occurs first.

SECTION 5. Initial applicability.

15
16 (1) The treatment of section 100.179 (10) of the statutes first applies to
17 contracts entered into on the effective date of this subsection.

18 (2) The treatment of section 100.179 (15) (b) of the statutes first applies to losses
19 or expenses incurred on the effective date of this subsection.

SECTION 6. Effective date.

20
21 (1) This act takes effect on the first day of the 7th month beginning after
22 publication.

23 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3241/2dn

MDK:/:...

kmj

Representative Wieckert:

This version is identical to the previous version, except that it corrects an error with the heading to the analysis. I apologize for the inconvenience.

**Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3241/2dn
MDK:kmg:rs

May 21, 2001

Representative Wieckert:

This version is identical to the previous version, except that it corrects an error with the heading to the analysis. I apologize for the inconvenience.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Barman, Mike

From: Barman, Mike
Sent: Thursday, June 07, 2001 8:22 AM
To: Becher, Scott
Subject: FW: LRB-3241 (Send Out For A FE On "/2")

Scott please see below.

Would you like me to go ahead and send out for a FE on LRB-3241/2?

A "corrected" FE by DATCP on "/1" will be sent to the Rep. Wieckert address shortly for your review.

Mike Barman
Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

-----Original Message-----

From: Uecker, Deborah
Sent: Wednesday, June 06, 2001 5:12 PM
To: LRB.Legal
Cc: Knapp, Barb H DATCP; Rabbitt, Jim L DATCP
Subject: FW: 3241/2

Barb, I see that FES only has the assignment for 3241/1. The author of the draft must ask LRB to send me a request for a fiscal estimate on 3241/2 if the author wants the estimate. Mike, could you check with the author to get the process rolling?

Deborah A. Uecker
Executive Policy and Budget Analyst
State Budget Office
Email: deborah.uecker@doa.state.wi.us
Phone: 608-267-0371
Fax: 608-267-0372

-----Original Message-----

From: Knapp, Barb H DATCP
Sent: Wednesday, June 06, 2001 4:17 PM
To: Uecker, Deborah
Subject: 3241/2

Dob - FYI. Jim Rabbitt got a call from the author of LRB 3241 saying that he has version 2 ready for us to do another F.E. I told Jim to call and explain that the system is web based now and we have to have it sent to us before we can do it. and we'll do whatever we can to expedite the estimate....

Memo

To: Rep. Wieckert

(The Bill's Requestor)

Attached is a fiscal estimate prepared for your 2001 draft that has not yet been introduced.

LRB Number: LRB -3241

Version: "1/2"

Entered In Computer And Copy Sent To Requestor Via E-Mail: 06/12/2001

Fiscal Estimate Prepared By: (agency abbr.) DATCP

If you have questions about the attached fiscal estimate, you may contact the agency/individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

* * * * *

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
- If this draft gets **introduced** ... and the version of the attached fiscal estimate is correct ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2001 _____

- If this draft gets **introduced** ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

Barman, Mike

From: Barman, Mike
Sent: Tuesday, June 12, 2001 3:37 PM
To: Rep.Wieckert
Subject: LRB-3241/2 (FE by DOR - attached - for your review)



FE.pdf

Fe

Fiscal Estimate - 2001 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number **01-3241/2** Introduction Number

Subject
 Uniform athlete agents act

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate
 Increase Existing Appropriations
 Increase Existing Revenues
 Decrease Existing Appropriations
 Decrease Existing Revenues
 Create New Appropriations
 Increase Costs - May be possible to absorb within agency's budget

 Yes No
 Decrease Costs

Local:

No Local Government Costs
 Indeterminate

1. Increase Costs 3. Increase Revenue
 Permissive Mandatory
 Permissive Mandatory
 2. Decrease Costs 4. Decrease Revenue
 Permissive Mandatory
 Permissive Mandatory

5. Types of Local Government Units Affected

Towns Village Cities
 Counties Others 0
 School Districts WTCS Districts

Fund Sources Affected **Affected Ch. 20 Appropriations**

GPR FED PRO PRS SEG SEGS
 20.115(1)(jk) ongoing costs, 20.115(1)(a) one time costs

Agency/Prepared By	Authorized Signature	Date
DATCP/ Jim Rabbitt (608) 224-4965	Barb Knapp (608) 224-4746	6/12/01

Fiscal Estimate Narratives
DATCP 6/12/01

LRB Number 01-3241/2	Introduction Number	Estimate Type Original
Subject Uniform athlete agents act		

Assumptions Used in Arriving at Fiscal Estimate

This bill regulates and requires registration of persons who act as athletic agents.

This bill requires an athletic agent to register with DATCP. The agent must submit evidence of no criminal convictions. It requires the agent to provide and DATCP to keep on file the names and addresses of professional references, all clients, and any person with financial interest in the agent's operation. It also requires the agent to provide descriptions of training or experience in the field, criminal convictions, judicial proceedings related to the agent's business, and sanctions imposed on the agent's clients due to the agent's activities. It allows registrations in other jurisdictions to be recognized based on the department's examination of the requirements of the other jurisdiction. It also requires DATCP to update the public listing of registered agents on a bimonthly basis.

It is assumed the department will expend one time money to hire a contract computer programmer to develop a database to capture the information required for registration and issue registration certificates. The department will also expend significant time promulgating rules under this section. Certain staff costs for this activity will be absorbed. However, a limited term researcher will be needed to support the rulemaking process and research other jurisdiction's contract requirements in order to establish reciprocal agreements. One time costs of \$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees) will be needed. These one time costs would be funded by GPR appropriation 20.115(1)(a).

92,400

It is assumed subsequent activities will be funded through registration fees. This bill directs the Department to promulgate rules setting forth registration requirements and setting fees. The department's ongoing costs would be funded by the new PR appropriation 20.115(1)(jk).

It is assumed that nearly half of the nation's 13,000 agents will register. Registrations requiring this volume of information will require significant staff time to process, file, and update on a bimonthly basis. Investigations into allegations of violations of this section will be lengthy and complicated with the potential for high profile, high cost cases. Based on these assumptions, the Department estimates a 1.0 FTE Regulation Compliance Investigator and a 1.0 FTE Program Assistant will be necessary for enforcement of this law.

Long-Range Fiscal Implications

Ongoing costs could be offset by registration fees. However, initial rulemaking, research, and programming costs will be necessary to begin the process. Additionally, annual costs of \$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees) for the first year will be needed to fund the program until licensing fees are available to fund ongoing costs.

Fiscal Estimate Worksheet - 2001 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-3241/2		Introduction Number	
Subject			
Uniform athlete agents act			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
\$92,350 (Computer, Workstation, Programming License Database, First Year Rule Writing for License Fees)			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$69,000	
(FTE Position Changes)		(2.0 FTE)	
State Operations - Other Costs		14,550	
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$83,550	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS		83,550	
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS		83,550	
SEG/SEG-S			
TOTAL State Revenues		\$83,550	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$83,550	\$
NET CHANGE IN REVENUE		\$83,550	\$
Agency/Prepared By		Authorized Signature	Date
DATCP/ Jim Rabbitt (608) 224-4965		Barb Knapp (608) 224-4746	6/12/01