

2001 DRAFTING REQUEST

Bill

Received: **07/05/2001**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Glenn Grothman (608) 264-8486**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure
Courts - costs and fees**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Limits on the state's authority to bring lawsuits involving contingency fees

Instructions:

See Attached 99-2564

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1 09/19/2001	rschluet 10/05/2001		_____			S&L
/1			jfrantze 10/09/2001	_____	lrb_docadmin 10/09/2001		S&L
/2	nelsorp1 10/10/2001	rschluet 10/16/2001	kfollet 10/16/2001	_____	lrb_docadmin 10/16/2001		S&L
/3	nelsorp1 02/19/2002	rschluet 02/19/2002	pgreensl 02/19/2002	_____	lrb_docadmin 02/19/2002	lrb_docadmin 02/20/2002	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

EE Sent For: *At intro.*

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/1			jfrantze 10/09/2001	<u>2/19</u>	lrb_docadmin 10/09/2001		S&L
/2	nelsorp1 10/10/2001	rschluet 10/16/2001	kfollet 10/16/2001	<u>pg/kgr</u>	lrb_docadmin 10/16/2001		

FE Sent For:

Handwritten signatures and dates:

 2/19
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Courts - costs and fees

Extra Copies:

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Pre Topic:

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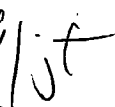
Topic:

Limits on the state's authority to bring lawsuits involving contingency fees

Instructions:

See Attached 99-2564

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/1		 10-14	jfrantze 10/09/2001		lrb_docadmin 10/09/2001		
FE Sent For:			 10/16	 10/16	 jt		<END>

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By/Representing:

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May Contact:

Addl. Drafters:

Subject: Courts - civil procedure
Courts - costs and fees

Extra Copies: JTK

Submit via email: NO

Requester's email:

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1?	nelsorp1	RS 9-21-1	J 10/9	J 10/9			

FE Sent For:

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2001-03

3493/1

1999-2000 LEGISLATURE

LRB-2461

RPN(cmh:hmh)

D-N

RS
EK

1999 BILL

2001

PLW

regen

1 AN ACT to amend 14.11 (1), 14.11 (2) (a) (intro.), 165.25 (1), 165.25 (4) (a) and
 2 165.25 (4) (ar); and to create 14.11 (3) and 165.24 of the statutes; relating to:
 3 restricting the states authority to bring lawsuits involving contingency fee
 4 arrangements.

Analysis by the Legislative Reference Bureau

Under current law, if the governor determines that the rights, interests, or * property of the state have been or will be injured, the governor may require the attorney general to prosecute any action or proceeding to redress or prevent such an injury. In addition, under current law, the governor may appoint a special counsel to assist the attorney general in prosecuting an action or proceeding, to defend any action or proceeding instituted by the attorney general against an officer of the state, to prosecute any action or proceeding in which the attorney general's interests are contrary to those of the state, or to prosecute any action or proceeding that the attorney general believes it is his or her duty to defend rather than prosecute. *

This bill requires that before the governor may require the attorney general to prosecute an action on behalf of the state, or before the governor may employ a special counsel to prosecute an action on behalf of the state, the governor must receive approval from the appropriate standing committees of each house of the legislature if the action or proceeding involves the determination and payment of attorney compensation under a contingency fee arrangement. This bill requires also that before the state or any department, division, board, or agency of the state may * prosecute any action or proceeding that involves the determination and payment of

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attorney compensation under a contingency fee arrangement, the attorney representing the state or agency must receive approval from the appropriate standing committees of each house of the legislature.

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

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

1 **SECTION 1.** 14.11 (1) of the statutes is amended to read:

2 14.11 (1) STATE PROPERTY; LEGAL PROTECTION OF. ~~The~~ Except as provided in sub.

3 ⁵ (3), the governor, whenever in the governor's opinion the rights, interests, or property

4 of the state have been or are liable to be injuriously affected, may require the attorney

5 general to institute and prosecute any proper action or proceeding for the redress or

6 prevention thereof; and whenever the governor receives notice of any action or

7 proceeding between other parties by which the rights, interests, or property of the

8 state are liable to be injuriously affected, the governor shall inform the attorney

9 general thereof and require the attorney general to take such steps as may be

10 necessary to protect such rights, interests, or property.

11 **SECTION 2.** 14.11 (2) (a) (intro.) of the statutes is amended to read:

12 14.11 (2) (a) (intro.) The Except as provided in sub. (3), the governor, if in the

13 governor's opinion the public interest requires such action, may employ special

14 counsel in the following cases:

15 **SECTION 3.** 14.11 (3) of the statutes is created to read:

16 14.11 (3) APPROVAL OF LEGISLATURE. Before the governor may employ special

17 counsel in any action or proceeding under sub. (2) or require the attorney general to

18 institute and prosecute any action or proceeding under sub. (1), that involves the

19 determination and payment attorney compensation under a contingency fee

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1 arrangement, the governor shall obtain approval of the appropriate standing
2 committees of each house of the legislature, as determined by the presiding officer
3 of each house.

4 **SECTION 4.** 165.24 of the statutes is created to read:

5 **165.24 Approval of state actions for certain claims.** Before the state or
6 any department, division, board, or agency of the state may institute and prosecute
7 any action or proceeding that involves the determination and payment of attorney
8 compensation under a contingency fee arrangement, the attorney representing the
9 state or department, division, board, or agency of the state shall obtain approval of
10 the appropriate standing committees of each house of the legislature, as determined
11 by the presiding officer of each house.

12 **SECTION 5.** 165.25 (1) of the statutes is amended to read:

13 **165.25 (1) REPRESENT STATE.** Except as provided in s. 165.24 or 978.05 (5),
14 appear for the state and prosecute or defend all actions and proceedings, civil or
15 criminal, in the court of appeals and the supreme court, in which the state is
16 interested or a party, and attend to and prosecute or defend all civil cases sent or
17 remanded to any circuit court in which the state is a party; and, if requested by the
18 governor or either house of the legislature, appear for and represent the state, any
19 state department, agency, official, employee or agent, whether required to appear as
20 a party or witness in any civil or criminal matter, and prosecute or defend in any court
21 or before any officer, any cause or matter, civil or criminal, in which the state or the
22 people of this state may be interested. The public service commission may request
23 under s. 196.497 (7) that the attorney general intervene in federal proceedings. All
24 expenses of the proceedings shall be paid from the appropriation under s. 20.455 (1)
25 (d).

BILL

1 SECTION 6. 165.25 (4) (a) of the statutes is amended to read:

2 165.25 (4) (a) The Except as provided in s. 165.24, the department of justice
3 shall furnish all legal services required by the investment board, the lottery division
4 in the department of revenue, the public service commission, the department of
5 transportation, the department of natural resources, the department of tourism, and
6 the department of employ^e trust funds, together with any other services, including
7 stenographic and investigational, as are necessarily connected with the legal work.

8 SECTION 7. 165.25 (4) (ar) of the statutes is amended to read:

9 165.25 (4) (ar) The Except as provided in s. 165.24, the department of justice
10 shall furnish all legal services required by the department of agriculture, trade and
11 consumer protection relating to the enforcement of ss. 100.171, 100.173, 100.174,
12 100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21,
13 100.28, 100.50 and 100.51 and chs. 136, 344, 704, 707 and 779, together with any
14 other services as are necessarily connected to the legal services.

15 (END)

insert 4-14

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3493/?ins
RPN:.....

1 insert 4-14:

2 SECTION 1. 165.25 (4) (ar) of the statutes, as affected by 2001 Wisconsin Act 16,

3 Section 2856b, is amended to read:

4 165.25 (4) (ar) ~~The~~ Except as provided in s. 165.24, the department of justice
5 shall furnish all legal services required by the department of agriculture, trade and
6 consumer protection relating to the enforcement of ss. 100.171, 100.173, 100.174,
7 100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21,
8 100.28, 100.37, 100.42, 100.50 and 100.51 and chs. 126, 136, 344, 704, 707, and 779,
9 together with any other services as are necessarily connected to the legal services.

10 ~~Wisconsin 2001 a-16~~ SECTION 2. Effective date.

11 (1) This act takes effect on January 1, 2002, ^{or} the day after publication,
12 whichever is later.

(end of insert)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3493/2/01 10/20

RPN:.....

15

Date

I added an effective date of January 1, 2002, or the day after publication, whichever is ~~greater~~ because Act 16, the budget bill, amends s. 165.25 (4) (ar) effective January 1, 2002.

later

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3493/1dn
RPN:rs&cm:jf

October 9, 2001

I added an effective date of January 1, 2002, or the day after publication, whichever is later, because Act 16, the budget bill, amends s. 165.25 (4) (ar) effective January 1, 2002.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3493/1

RPN:rs&cm:jf

T
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2001 BILL

LRS:
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AN ACT to amend 14.11 (1), 14.11 (2) (a) (intro.), 165.25 (1), 165.25 (4) (a) and 165.25 (4) (ar); and to create 14.11 (3) and 165.24 of the statutes; relating to: restricting the states' authority to bring lawsuits involving contingency fee arrangements.

Analysis by the Legislative Reference Bureau

Under current law, if the governor determines that the rights, interests, or property of the state have been or will be injured, the governor may require the attorney general to prosecute any action or proceeding to redress or prevent such an injury. In addition, under current law, the governor may appoint a special counsel to assist the attorney general in prosecuting an action or proceeding, to defend any action or proceeding instituted by the attorney general against an officer of the state, to prosecute any action or proceeding in which the attorney general's interests are contrary to those of the state, or to prosecute any action or proceeding that the attorney general believes it is his or her duty to defend rather than prosecute.

This bill requires that before the governor may require the attorney general to prosecute an action on behalf of the state, or before the governor may employ a special counsel to prosecute an action on behalf of the state, the governor must receive approval from the appropriate standing committees of each house of the legislature if the action or proceeding involves the determination and payment of attorney compensation under a contingency fee arrangement. This bill requires also that before the state or any department, division, board, or agency of the state may prosecute any action or proceeding that involves the determination and payment of

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attorney compensation under a contingency fee arrangement, the attorney representing the state or agency must receive approval from the appropriate standing committees of each house of the legislature.

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

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

SECTION 1. 14.11 (1) of the statutes is amended to read:

14.11 (1) STATE PROPERTY; LEGAL PROTECTION OF. The Except as provided in sub. (3), the governor, whenever in the governor's opinion the rights, interests, or property of the state have been or are liable to be injuriously affected, may require the attorney general to institute and prosecute any proper action or proceeding for the redress or prevention thereof; and whenever the governor receives notice of any action or proceeding between other parties by which the rights, interests, or property of the state are liable to be injuriously affected, the governor shall inform the attorney general thereof and require the attorney general to take such steps as may be necessary to protect such rights, interests, or property.

SECTION 2. 14.11 (2) (a) (intro.) of the statutes is amended to read:

14.11 (2) (a) (intro.) The Except as provided in sub. (3), the governor, if in the governor's opinion the public interest requires such action, may employ special counsel in the following cases:

SECTION 3. 14.11 (3) of the statutes is created to read:

14.11 (3) APPROVAL OF LEGISLATURE. Before the governor may employ special counsel in any action or proceeding under sub. (2) or require the attorney general to institute and prosecute any action or proceeding under sub. (1), that involves the determination and payment ^{of} ~~attorney~~ compensation under a contingency fee for the attorney representing the state

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arrangement, the governor shall obtain approval of the appropriate standing committees of each house of the legislature, as determined by the presiding officer of each house.

SECTION 4. 165.24 of the statutes is created to read:

165.24 Approval of ^{(B) certain} state actions ~~for certain claims~~ ^{(B) and proceedings}. Before the state or any department, division, board, or agency of the state may institute and prosecute any action or proceeding that involves the ^(state or) determination and payment of attorney compensation ^{for} under a contingency fee arrangement, the attorney representing the state or department, division, board, or agency of the state ^{that attorney} shall obtain approval of the appropriate standing committees of each house of the legislature, as determined by the presiding officer of each house.

SECTION 5. 165.25 (1) of the statutes is amended to read:

165.25 (1) REPRESENT STATE. Except as provided in s. 165.24 or 978.05 (5), appear for the state and prosecute or defend all actions and proceedings, civil or criminal, in the court of appeals and the supreme court, in which the state is interested or a party, and attend to and prosecute or defend all civil cases sent or remanded to any circuit court in which the state is a party; and, if requested by the governor or either house of the legislature, appear for and represent the state, any state department, agency, official, employee, or agent, whether required to appear as a party or witness in any civil or criminal matter, and prosecute or defend in any court or before any officer, any cause or matter, civil, or criminal, in which the state or the people of this state may be interested. The public service commission may request under s. 196.497 (7) that the attorney general intervene in federal proceedings. All expenses of the proceedings shall be paid from the appropriation under s. 20.455 (1) (d).

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SECTION 6. 165.25 (4) (a) of the statutes is amended to read:

165.25 (4) (a) ~~The~~ Except as provided in s. 165.24, the department of justice shall furnish all legal services required by the investment board, the lottery division in the department of revenue, the public service commission, the department of transportation, the department of natural resources, the department of tourism, and the department of employee trust funds, together with any other services, including stenographic and investigational, as are necessarily connected with the legal work.

SECTION 7. 165.25 (4) (ar) of the statutes, as affected by 2001 Wisconsin Act 16, section 2856b, is amended to read:

165.25 (4) (ar) ~~The~~ Except as provided in s. 165.24, the department of justice shall furnish all legal services required by the department of agriculture, trade and consumer protection relating to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42, 100.50, and 100.51 and chs. 126, 136, 344, 704, 707, and 779, together with any other services as are necessarily connected to the legal services.

SECTION 8. Effective date.

(1) This act takes effect on January 1, 2002, or on the day after publication, whichever is later.

(END)

Nelson, Robert P.

From: Delaporte, Maggie
Sent: Monday, February 18, 2002 3:03 PM
To: Nelson, Robert P.
Subject: FW: LRB 3493/2

Importance: High

2/19 no-make as 1/3

Representative Grothman would like this amendment to be drafted. Thanks much. If you have any questions or comments, please do not hesitate to contact me.

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

From: Ken.Johnson [mailto:ken.johnson@swib.state.wi.us]
Sent: Monday, February 18, 2002 02:07 PM
To: 'maggie.delaporte@legis.state.wi.us'
Cc: Keith.Johnson; Sandy.Drew
Subject: LRB 3493/2
Importance: High

As I mentioned on the phone, the Investment Board received a copy of this draft from Representative Gundrum's office last Friday afternoon. We understand that there will be a hearing on the 21st at 9:00.

Our Chief Legal Counsel has reviewed the draft and has concluded that it could be a problem for SWIB, depending on how rigidly the Legislature/Courts interpret it. The effect could be to require legislative committee approval for counsel and the contingency fee arrangement in SWIB securities litigation. That would raise several issues that are probably beyond the intent of the bill:

* The Legislative committees would probably become fiduciaries for the WRS trust funds under the common law of trusts by virtue of the discretion they would have over approval of contingency fees for trust fund lawsuits.

* The Legislative committees would probably take on some level of legal responsibility to the other members of the plaintiff class in securities/shareholder class actions where SWIB is lead plaintiff. In a dispute over appointment of lead plaintiff or lead counsel or approval of the fee award, this could even result in members of the committees being subjected to depositions on the basis for their fee approval.

* It would effectively preclude SWIB from taking the lead in securities/shareholder class actions because we could not be assured of

getting legislative committee approval of our fee agreement within the 60 day time frame for filing to become lead plaintiff.

* Since it appears the fee agreement would become public information during the legislative approval process, many Federal judges would find that SWIB could not adequately represent the plaintiff class and preclude us from managing the litigation (no matter what the size of our claim) because they treat the plaintiffs' fee arrangements as confidential until after settlement or trial. (They believe allowing the defendants to know what fee arrangements are in place will potentially work to the disadvantage of the plaintiffs.)

* So far, SWIB has been able to increase our class action recoveries by two to three times the amount achieved when we do not play an active role and cut contingency fees in half when we become lead plaintiff. If applied to SWIB cases, the bill would eliminate millions of dollars in trust fund claims recoveries by precluding SWIB from playing this active role.

* There is an issue as to whether application of the bill to SWIB would violate constitutional rights of the trust fund participants under language in recent State Supreme Court decisions.

These issues could be easily addressed by inserting the following language at the end of line 12 on page 3 of the bill:

Contingency fees in actions or proceedings undertaken by a department, ~~division~~ board, or agency when acting in the capacity of a trust fund fiduciary under Chapter 25 shall instead be approved by the fiduciary in accordance with its legal standard of responsibility.]

*Keith -
OK to
say does not
apply to:*

Thank you for your consideration of these comments. If you have questions, please contact Keith Johnson, Chief Legal Counsel, at 6-8824, or me at 7-0221.

Ken Johnson
Chief Operating Officer
Investment Board



980 (2/19)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3493/2 3

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2001 BILL

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1 AN ACT *to amend* 14.11 (1), 14.11 (2) (a) (intro.), 165.25 (1), 165.25 (4) (a) and
2 165.25 (4) (ar); and *to create* 14.11 (3) and 165.24 of the statutes; **relating to:**
3 restricting the states' authority to bring lawsuits involving contingency fee
4 arrangements.

Analysis by the Legislative Reference Bureau

Under current law, if the governor determines that the rights, interests, or property of the state have been or will be injured, the governor may require the attorney general to prosecute any action or proceeding to redress or prevent such an injury. In addition, under current law, the governor may appoint a special counsel to assist the attorney general in prosecuting an action or proceeding, to defend any action or proceeding instituted by the attorney general against an officer of the state, to prosecute any action or proceeding in which the attorney general's interests are contrary to those of the state, or to prosecute any action or proceeding that the attorney general believes it is his or her duty to defend rather than prosecute.

This bill requires that before the governor may require the attorney general to prosecute an action on behalf of the state, or before the governor may employ a special counsel to prosecute an action on behalf of the state, the governor must receive approval from the appropriate standing committees of each house of the legislature if the action or proceeding involves the determination and payment of attorney compensation under a contingency fee arrangement. This bill requires also that before the state or any department, ~~division~~, board, or agency of the state may prosecute any action or proceeding that involves the determination and payment of

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The bill does not apply to cases where the state or agency is a party in the capacity of a trustee or fiduciary for state trust funds.
LRB-3493/2
RPN:rs&cmh:kjf

attorney compensation under a contingency fee arrangement, the attorney representing the state or agency must receive approval from the appropriate standing committees of each house of the legislature.

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

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

1 **SECTION 1.** 14.11 (1) of the statutes is amended to read:

2 14.11 (1) STATE PROPERTY; LEGAL PROTECTION OF. The Except as provided in sub.
3 (3), the governor, whenever in the governor's opinion the rights, interests, or
4 property of the state have been or are liable to be injuriously affected, may require
5 the attorney general to institute and prosecute any proper action or proceeding for
6 the redress or prevention thereof; and whenever the governor receives notice of any
7 action or proceeding between other parties by which the rights, interests, or property
8 of the state are liable to be injuriously affected, the governor shall inform the
9 attorney general thereof and require the attorney general to take such steps as may
10 be necessary to protect such rights, interests, or property.

11 **SECTION 2.** 14.11 (2) (a) (intro.) of the statutes is amended to read:

12 14.11 (2) (a) (intro.) The Except as provided in sub. (3), the governor, if in the
13 governor's opinion the public interest requires such action, may employ special
14 counsel in the following cases:

15 **SECTION 3.** 14.11 (3) of the statutes is created to read:

16 14.11 (3) APPROVAL OF LEGISLATURE. Before the governor may employ special
17 counsel in any action or proceeding under sub. (2) or require the attorney general to
18 institute and prosecute any action or proceeding under sub. (1), that involves the
19 determination and payment of compensation for the attorney representing the state

BILL

1 under a contingency fee arrangement, the governor shall obtain approval of the
2 appropriate standing committees of each house of the legislature, as determined by
3 the presiding officer of each house.

4 **SECTION 4.** 165.24 of the statutes is created to read:

5 **165.24 Approval of certain state actions and proceedings.** Before the

6 state or any department, ~~division~~ board, or agency of the state may institute and
7 prosecute any action or proceeding that involves the state or determination and
8 payment of attorney compensation for the attorney representing the state or
9 department, ~~division~~ board, or agency of the state under a contingency fee
10 arrangement, that attorney shall obtain approval of the appropriate standing

11 committees of each house of the legislature, as determined by the presiding officer
12 of each house.

This section does not apply to contingency fees in actions or proceedings undertaken by a department, board, or agency when acting in the capacities of a trust fund fiduciary under ch. 25.

13 **SECTION 5.** 165.25 (1) of the statutes is amended to read:

14 **165.25 (1) REPRESENT STATE.** Except as provided in s. 165.24 or 978.05 (5),

15 appear for the state and prosecute or defend all actions and proceedings, civil or
16 criminal, in the court of appeals and the supreme court, in which the state is
17 interested or a party, and attend to and prosecute or defend all civil cases sent or
18 remanded to any circuit court in which the state is a party; and, if requested by the
19 governor or either house of the legislature, appear for and represent the state, any
20 state department, agency, official, employee, or agent, whether required to appear
21 as a party or witness in any civil or criminal matter, and prosecute or defend in any
22 court or before any officer, any cause or matter, civil, or criminal, in which the state
23 or the people of this state may be interested. The public service commission may
24 request under s. 196.497 (7) that the attorney general intervene in federal

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1 proceedings. All expenses of the proceedings shall be paid from the appropriation
2 under s. 20.455 (1) (d).

3 **SECTION 6.** 165.25 (4) (a) of the statutes is amended to read:

4 165.25 (4) (a) The Except as provided in s. 165.24, the department of justice
5 shall furnish all legal services required by the investment board, the lottery division
6 in the department of revenue, the public service commission, the department of
7 transportation, the department of natural resources, the department of tourism, and
8 the department of employee trust funds, together with any other services, including
9 stenographic and investigational, as are necessarily connected with the legal work.

10 **SECTION 7.** 165.25 (4) (ar) of the statutes, as affected by 2001 Wisconsin Act 16,
11 section 2856b, is amended to read:

12 165.25 (4) (ar) The Except as provided in s. 165.24, the department of justice
13 shall furnish all legal services required by the department of agriculture, trade and
14 consumer protection relating to the enforcement of ss. 100.171, 100.173, 100.174,
15 100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21,
16 100.28, 100.37, 100.42, 100.50, and 100.51 and chs. 126, 136, 344, 704, 707, and 779,
17 together with any other services as are necessarily connected to the legal services.

18 **SECTION 8. Effective date.**

19 (1) This act takes effect on January 1, 2002, or on the day after publication,
20 whichever is later.

21 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

February 19, 2002

MEMORANDUM

To: Representative Grothman

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-3493/3 Limits on the state's authority to bring lawsuits involving contingency fees

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

LRB-3493/3

HMH:

CC

Corrections in ²⁰⁰¹ Assembly Bill 844

1. Page 3, line 7: delete "state or".

Heather - here is
that CCC needed.
Thanks

1 under a contingency fee arrangement, the governor shall obtain approval of the
2 appropriate standing committees of each house of the legislature, as determined by
3 the presiding officer of each house.

4 SECTION 4. 165.24 of the statutes is created to read:

5 165.24 Approval of certain state actions and proceedings. Before the
6 state or any department, board, or agency of the state may institute and prosecute
7 any action or proceeding that involves the ^{remove} state or determination and payment of
8 attorney compensation for the attorney representing the state or department, board,
9 or agency of the state under a contingency fee arrangement, that attorney shall
10 obtain approval of the appropriate standing committees of each house of the
11 legislature, as determined by the presiding officer of each house. This section does
12 not apply to contingency fees in actions or proceedings undertaken by a department,
13 board, or agency when acting in the capacity of a trust fund fiduciary under ch. 25.

14 SECTION 5. 165.25 (1) of the statutes is amended to read:

15 165.25 (1) REPRESENT STATE. Except as provided in s. 165.24 or 978.05 (5),
16 appear for the state and prosecute or defend all actions and proceedings, civil or
17 criminal, in the court of appeals and the supreme court, in which the state is
18 interested or a party, and attend to and prosecute or defend all civil cases sent or
19 remanded to any circuit court in which the state is a party; and, if requested by the
20 governor or either house of the legislature, appear for and represent the state, any
21 state department, agency, official, employee, or agent, whether required to appear
22 as a party or witness in any civil or criminal matter, and prosecute or defend in any
23 court or before any officer, any cause or matter, civil, or criminal, in which the state
24 or the people of this state may be interested. The public service commission may
25 request under s. 196.497 (7) that the attorney general intervene in federal



State of Wisconsin
2001-2002 LEGISLATURE

CORRECTIONS IN:

2001 ASSEMBLY BILL 844

Prepared by the Legislative Reference Bureau
(February 25, 2002)

1. Page 3, line 7: delete "state or".

LRB-3493/3ccc-1

HMH:ch

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.