



(By MONDAY, if possible)  
State of Wisconsin  
2001 - 2002 LEGISLATURE  
Friday

+ GMM  
LRB 4806/E P1  
DAK, RPN, MJL:.....  
hnd

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 *Generate*  
AN ACT ...; relating to: authorizing a declaration of and actions under a state of  
2 emergency related to public health, requiring <sup>the</sup> exercise of rule-making  
3 authority, and making ~~an~~ appropriation.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided on a subsequent version.

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

JWS  
1-4 (4)

SECTION 1. 20.435 (1) (e) of the statutes is created to read:  
5 20.435 (1) (e) *Public health emergency*. A sum sufficient to respond to a state  
6 of emergency related to public health only if the governor declares such an  
7 emergency and designates the department of health and family services as the lead  
8 public health authority to respond to the emergency under s. 166.03 (1) (b) 1.

\*\*\*\*NOTE: Perhaps this language is too limiting. Should this appropriation account be available to the department of health and family services whenever the governor declares a state of emergency related to public health? Will that department need extra

SECTION 1

INS  
27

funds when such an emergency is declared, regardless of who is designated as the lead agency. As drafted, this appropriation account is available only when that state of emergency is declared and the governor designates the department of health and family services as the lead public health authority to respond to the emergency.

1

SECTION 2. 95.22 of the statutes is renumbered 95.22 (1).

2

SECTION 3. 95.22 (2) of the statutes is created to read:

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95.22 (2) The department shall provide the reports of any communicable

4

diseases under sub. (1) to the department of health and family services, as requested

5

by that department.

\*\*\*\*NOTE: I drafted this as an ongoing requirement; you may, however, want it to apply only during the period of a state of emergency relating to public health. In addition, I required that DATCP share with DHFS only the information that DHFS asks for, to avoid flooding DHFS with information in which DHFS may have little interest.

6

SECTION 4. 166.02 (1p) of the statutes is created to read:

7

166.02 (1p) "Biological agent" means any of the following:

8

(a) A select agent that is a virus, bacterium, rickettsia, fungus, or toxin that is specified under 42 CFR 72, Appendix A.

9

10

(b) A genetically modified microorganism or genetic element from an organism under sub. (a) that is shown to produce or encode for a factor associated with a disease.

11

12

13

(c) A genetically modified microorganism or genetic element that contains nucleic acid sequences coding for a toxin under sub. (a) for its toxic subunit.

14

\*\*\*\*NOTE: The Model Act refers to "infectious agent" and "biological toxin" and defines neither of those terms. In contrast, this draft uses a definition of "biological agent" that is taken from the definition of "select agent" under 42 CFR 72.6 (j) (the federal rules that govern interstate shipment of etiologic agents). The select agents listed in 42 CFR 72, Appendix A, include both infectious agents and biological toxins. In addition, the select agents include bacteria, rickettsiae, and fungi, and appear to be far more comprehensive. Does this drafting decision comport with your intent?

15

SECTION 5. 166.02 (1r) of the statutes is created to read:

16

166.02 (1r) "Bioterrorism" means the intentional use of any biological agent

17

to cause death, disease or biological malfunction in a human, animal, plant, or other

1 living organism in order to influence the policy of a governmental unit or to  
2 intimidate or coerce the civilian population.

\*\*\*NOTE: This language is based in part of s. 939.648, which provides for a criminal penalty enhancer for terrorism, and in part on the model act.

3 SECTION 6. 166.02 (7) of the statutes is created to read:

4 166.02 (7) "Public health emergency" means the occurrence or imminent threat  
5 of an illness or health condition that meets all of the following criteria:

6 (a) Is believed to be caused by bioterrorism or a novel or previously controlled  
7 or eradicated biological agent.

8 (b) Poses a high probability of any of the following:

9 1. A large number of deaths or serious or long-term disabilities among humans.

10 2. A high probability of widespread exposure to a biological agent that creates  
11 a significant risk of substantial future harm to a large number of people.

12 SECTION 7. 166.03 (1) (b) 1. of the statutes is amended to read:

13 166.03 (1) (b) 1. Proclaim a state of emergency for the state or any portion  
14 thereof if he or she determines that an emergency resulting from enemy action or  
15 natural or man-made disaster exists. If the governor determines that a public

16 health emergency exists, he or she may declare a state of emergency related to public  
17 health and may ~~designate~~ <sup>request that</sup> the department of health and family services <sup>cooperate with the department of</sup> as the lead <sup>military</sup>  
public health authority to respond to that emergency. <sup>and</sup> <sup>function</sup> The duration of such state of

18 emergency shall not exceed 60 days as to emergencies resulting from enemy action  
19 or 30 days as to emergencies resulting from natural or man-made disaster, unless  
20 either is extended by joint resolution of the legislature. A copy of the proclamation  
21 shall be filed with the secretary of state. The proclamation may be revoked at the  
22

1 discretion of either the governor by written order or the legislature by joint  
2 resolution.

History: 1971 c. 211 s. 126; 1975 c. 147 s. 54; 1975 c. 199; 1977 c. 1; 1977 c. 397; 1979 c. 361 ss. 51, 55, 112, 113; 1981 c. 20, 211; 1983 a. 27; 1985 a. 29, 31; 1987 a. 27; 1989 a. 31; 1991 a. 39; 1993 a. 213, 251; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 247, 467; 1997 a. 27, 35, 237; 1999 a. 150 s. 672.

3 ~~SECTION 8. 166.03 (1) (b) 8. of the statutes is created to read:~~

4 ~~166.03 (1) (b) 8. During a state of emergency related to public health, suspend~~  
5 ~~the provisions of any administrative rule if the strict compliance with that rule would~~  
6 ~~prevent, hinder, or delay necessary actions to respond to the emergency and increase~~  
7 ~~the health threat to the population.~~

8 SECTION 9. 250.01 (6g) of the statutes is created to read:

9 250.01 (6g) "Public health authority" means the department, if the governor  
10 declares under s. 166.03 (1) (b) 1. a state of emergency related to public health and  
11 *requests that* ~~designates~~ the department *to cooperate with the department of military* as the lead public health authority to respond to that *and*  
12 emergency. *function*

13 SECTION 10. 250.01 (6r) of the statutes is created to read:

14 250.01 (6r) "Public health emergency" has the meaning given in s. 166.02 (7).

15 SECTION 11. 250.03 (3) of the statutes is created to read:

16 250.03 (3) No later than 90 days after a state of emergency relating to public  
17 health is declared *and the department is requested to function as the* under s. 166.03 (1) (b) 1. and no later than 90 days after the *lead*  
18 termination of *this* state of emergency relating to public health, the department shall *public*  
19 submit to the legislature under s. 13.172 (2) and to the governor a report on all of the *health*  
20 following: *authority*

- 21 (a) The emergency powers used by the public health authority or its agents.
- 22 (b) The expenses incurred by the public health authority and its agents in
- 23 acting under the state of emergency related to public health.

\*\*\*\*NOTE: Draft #2 of the Model Act omits any requirement that a report be made that describes detection and tracking efforts, emergency powers used, moneys

*cooperate with the department of military affairs and function*

transferred, and liabilities and expenses incurred under the Act. I have changed the provision so that DHFS is required to describe preparedness (see Nonstatutory provisions, and I have deleted detection and tracking efforts. Do these decisions comport with your intent?

1 SECTION 12. 250.042 of the statutes is created to read:

2 250.042 Powers and duties of the department as public health

3 authority. (1) If the governor declares a state of emergency related to public health

4 (4) under s. 166.03 (1) (b) 1. and ~~designates~~ <sup>requests that</sup> the department as the lead public health

5 authority, the department shall act as the public health authority during the period

6 of the state of emergency. During the period of the state of emergency, the secretary

7 may designate a local health department as an agent of the department and confer

8 upon the local health department, acting under that agency, the powers and duties

9 of the public health authority.

10 (2) As the public health authority, the department may do any of the following:

11 (a) From the appropriation under s. 20.435 (1) (e), purchase, store, or distribute  
12 antitoxins, serums, vaccines, immunizing agents, antibiotics, and other  
13 pharmaceutical agents or medical supplies that the department determines are  
14 advisable to control a public health emergency.

\*\*\*\*NOTE: In this draft, I did not include language from the Model Act that permits the public health authority to purchase and distribute these materials in order to prepare for a public health emergency, because I wasn't sure that you wanted DHFS to have access to a sum sufficient appropriation of gpr to purchase drugs on an ongoing basis, before a state of emergency related to public health occurs. I also did not include language from the Model Act that allows the public health authority to take and distribute antitoxins, serums, etc., during a state of emergency relating to public health, because it raises certain takings issues; do these drafting decisions comport with your intent?

15 (b) Act as specified in s. 252.041.

16 SECTION 13. 251.05 (3) (e) of the statutes is created to read:

17 251.05 (3) (e) Act as agent of the department, if designated by the secretary  
18 under s. 250.042 (1).

19 SECTION 14. 252.02 (6) of the statutes is amended to read:

1           252.02 (6) ~~The~~ In addition to the powers specified under s. 250.04<sup>2</sup>, the  
2 department may authorize and implement all emergency measures necessary to  
3 control communicable diseases.

History: 1981 c. 291; 1993 a. 27 s. 284; Stats. 1993 s. 252.02; 1999 a. 150 s. 672.

4           **SECTION 15.** 252.041 of the statutes is created to read:

5           **252.041 Compulsory vaccination during a state of emergency. (1)**

6 Except as provided in sub. (2), during the period under which the department is  
7 authorized to act as the public health authority, as specified in s. 250.042 (2), the  
8 department, as the public health authority, may do all of the following as necessary  
9 to address a public health emergency:

10           (a) Authorize and order any qualified person to perform a vaccination on any  
11 individual unless the vaccination is reasonably likely to lead to serious harm to the  
12 individual.

13           (b) Isolate or quarantine, under s. 252.06, any individual who is unable or  
14 unwilling for reasons of health, religion, or conscience to receive vaccination under  
15 par. (a).

16           (2) The department shall promulgate rules that specify circumstances, if any,  
17 under which vaccination may not be performed on an individual and under which  
18 individuals may not be isolated or quarantined.

19           **SECTION 16.** 252.05 (1) of the statutes is amended to read:

20           252.05 (1) Any person licensed, permitted, registered or certified under ch. 441  
21 or 448 ~~knowing or having~~ and any pharmacist, as defined in s. 450.01 (15), who  
22 knows or has reason to know that a person treated ~~or~~ <sup>or</sup> visited, or otherwise provided  
23 service by him or her has a communicable disease, or having a communicable  
24 disease, has died, shall report the appearance of the communicable disease or the

1 death to the local health officer. The local health officer shall report this information  
2 to the department or shall direct the person reporting to report to the department.  
3 Any person directed to report shall submit this information to the department.

4 History: 1971 c. 164 s. 91; 1981 c. 291; 1993 a. 16; 1993 a. 27 ss. 286 to 291, 293, 294, 471; Stats. 1993 s. 252.05; 1993 a. 183.

5 **SECTION 17. 252.06 (1) of the statutes is amended to read:**

6 252.06 (1) The department or the local health officer acting on behalf of the  
7 department may require isolation of ~~the patient~~ a patient or of an individual under  
8 s. 252.041 <sup>✓</sup>(2), quarantine of contacts, concurrent and terminal disinfection, or  
9 modified forms of these procedures as may be necessary and which are determined  
10 by the department by rule.

11 **SECTION 18. 252.06 (4) of the statutes is amended to read:**

12 252.06 (4) If deemed necessary by the department or a local health officer for  
13 a particular communicable disease, all persons except the local health officer, or his  
14 or her representative, attending physicians and nurses, members of the clergy, the  
15 members of the immediate family <sup>LD</sup> and any other person having a special written  
16 permit from the local health officer, and, during a state of emergency related to public  
17 health, the public health authority and agents of the public health authority, are  
18 forbidden to be in direct contact with the patient.

19 History: 1981 c. 291; 1983 a. 189 s. 329 (19); 1993 a. 27 s. 295; Stats. 1993 s. 252.06. ✓

20 **SECTION 19. 440.142 of the statutes is created to read:**

21 **440.142 Reporting potential causes of public health emergency. (1) A**  
22 pharmacist or pharmacy shall report to the department of health and family services  
23 all of the following:

24 (a) An unusual increase in the number of prescriptions dispensed or  
nonprescription drug products sold for the treatment of medical conditions specified  
by the department of health and family services by rule under s. 252.02 (7).

1 (b) An unusual increase in the number of prescriptions dispensed that are  
2 antibiotic drugs.

3 (c) The dispensing of a prescription for treatment of a disease that is relatively  
4 uncommon or may be associated with bioterrorism, as defined in s. 166.02 (1r).

5 (2) A pharmacist or pharmacy may not report personally identifying  
6 information concerning an individual who is dispensed a prescription or who  
7 purchases a nonprescription drug product as specified in sub. (1).

8 **SECTION 20. Nonstatutory provisions.**

9 (1) PREPAREDNESS OF PUBLIC HEALTH SYSTEM; REPORT. No later than 90 days after  
10 the effective date of this subsection .... [revisor inserts date], the department of  
11 health and family services shall submit to the legislature in the manner provided  
12 under section 13.172 (2) of the statutes and to the governor a report on the  
13 preparedness of the public health system to address public health emergencies, as  
14 defined in section 250.01 (6r) of the statutes, as created by this act.

15 (2) EXCEPTIONS TO COMPULSORY VACCINATION; RULES. (a) The department of  
16 health and family services shall submit in proposed form the rules required under  
17 section 252.041 (2) of the statutes, as created by this act, to the legislative council  
18 staff under section 227.15 (1) of the statutes no later than the first day of the 6th  
19 month beginning after the effective date of this subsection.

20 (b) Using the procedure under section 227.24 of the statutes, the department  
21 of health and family services may promulgate rules required under section 252.041  
22 (2) of the statutes, as created by this act, for the period before the effective date of the  
23 rules submitted under paragraph (a), but not to exceed the period authorized under  
24 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),  
25 (2) (b), and (3) of the statutes, the department of health and family services is not



1 required to provide evidence that promulgating a rule under this paragraph as an  
2 emergency rule is necessary for the preservation of the public peace, health, safety,  
3 or welfare and is not required to provide a finding of emergency for a rule  
4 promulgated under this paragraph.

5 **SECTION 21. Effective dates.** This act takes effect on the day after publication,  
6 except as follows:

7 (1) EXCEPTIONS TO COMPULSORY VACCINATION; RULES. The treatment of section  
8 252.041 (1) of the statutes takes effect on the first day of the fifth month beginning  
9 after publication.

10 (END)

166.02(7) public health emergency  
20.285 (1) (fg)

Sec # CR; 20.285 (1) (fg) State laboratory  
of hygiene; & limited-term employees.

A sum sufficient to pay the salaries

and benefits of limited-term employees

under s. 36.25 (11) (em).

ANS 1 - 4

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4806/P1ins  
GMM.....

(INSERT 2-1)

SECTION 1. 21.80 (title) of the statutes, as created by 2001 Wisconsin Act 26,  
is amended to read:

**21.80 (title) Reemployment rights after national guard or state defense  
force, or public health emergency service.**

History: 2001 a. 26.

SECTION 2. 21.80 (1) (a) of the statutes, as created by 2001 Wisconsin Act 26,  
is renumbered 21.80 (1) (a) (intro.) and amended to read:

21.80 (1) (a) (intro.) "Active service" means active any of the following:

1. Active service in the national guard or the state defense force under an order  
of the governor issued under this chapter or active service in the national guard  
under 32 USC 502 (f) that is not considered to be service in the uniformed services.

History: 2001 a. 26.

SECTION 3. 21.80 (1) (a) 2. of the statutes is created to read:

21.80 (1) (a) 2. Active service with the state laboratory of hygiene under s. 36.25  
(11) (em) for the purpose of assisting the department of health and family services  
under s. 250.042 during a state of emergency relating to public health declared by  
the governor under s. 166.03 (1) (b) 1.

~~SECTION 4. 21.80 (1) (a) of the statutes, as created by 2001 Wisconsin Act 26,  
is renumbered and amended to read:~~

SECTION 5. 21.80 (3) (a) 4. of the statutes, as created by 2001 Wisconsin Act 26,  
is amended to read:

21.80 (3) (a) 4. ~~The person's~~ In the case of active service in the national guard  
or the state defense force, the active service has not been terminated under other  
than honorable conditions.

History: 2001 a. 26.

X

**SECTION 6.** 21.80 (3) (c) 1. of the statutes, as created by 2001 Wisconsin Act 26, is amended to read:

21.80 (3) (c) 1. Any period of active service, as defined in sub. (1) (a) 1., beyond that 5-year period that is required to complete an initial period of obligated active service.

✓

History: 2001 a. 26.

**SECTION 7.** 21.80 (3) (c) 2. of the statutes, as created by 2001 Wisconsin Act 26, is amended to read:

21.80 (3) (c) 2. Any period of active service, as defined in sub. (1) (a) 1., for which the person, through no fault of the person's own, was unable to obtain orders releasing the person from a period of active service before the expiration of the 5-year period.

X

History: 2001 a. 26.

**SECTION 8.** 21.80 (3) (c) 3. of the statutes, as created by 2001 Wisconsin Act 26, is amended to read:

21.80 (3) (c) 3. Any period of active service, as defined in sub. (1) (a) 1., that was performed to fulfill any additional training requirements determined and certified in writing by the federal secretary of the army, the federal secretary of the air force, or the adjutant general to be necessary for professional development or for completion of skill training or retraining.

X

History: 2001 a. 26.

**SECTION 9.** 21.80 (3) (f) 1. of the statutes, as created by 2001 Wisconsin Act 26, is amended to read:

21.80 (3) (f) 1. A person who submits an application for reemployment under par. (e) 2. or 3. must, on the request of the person's employer, provide to the employer documentation to establish that the application was submitted within the time limits specified in par. (e) 2. or 3., that the person's cumulative length of all absences

✓

from employment with the employer because of active service or service in the uniformed services does not, except as permitted under par. (c), exceed 5 years, and, in the case of active service in the national guard or the state defense force, that the person's service was not terminated under other than honorable conditions.

History: 2001 a. 26.

(INSERT CONTINUED ON NEXT PAGE)

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2-1

✓  
SEC #. CR; 36.25(11)(em)

②

#

36.25(11)(em)  
#

The laboratory of hygiene board shall create and maintain a roster of scientists and other persons with technical expertise who are willing to work at the laboratory of hygiene if the governor declares <sup>that</sup> an emergency related to public health exists. If the governor declares such an emergency, the laboratory of hygiene board shall hire ~~from~~ <sup>as limited-</sup> <sup>requisite</sup> term employees the requisite number of persons from the roster to assist the department of health and family services under S. 250.042. Salaries and benefits for <sup>these</sup> ~~these~~ employees shall be paid from the appropriations under S. 20.285(1)(fg).

## Kennedy, Debora

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**From:** Buschman, Sara  
**Sent:** Friday, February 08, 2002 9:58 AM  
**To:** Kennedy, Debora  
**Subject:** LRB 4806 changes

Debora,

Here are my comments/changes etc for LRB 4806. Sorry to not get it to you earlier this morning, it took me a little longer than I anticipated.

If you have any technical questions you can direct them to Dick Sweet. If I missed anything that needs addressing you can either ask Dick or e-mail me.

Thanks again

Sara

- ✓  
RPN -I noticed on Underheim's draft that they changed the verbage in 20.435 (1) to read "defray all expenditures necessary to respond to a state of emergency". You can change our draft to that as well.
- DAK ✓ -drafter's note on page 5 line 1, fine as drafted
- DAK ✓ -drafter's note page 5 line 9; I think both we and Underheim are awaiting a reply from DHFS so you can just leave this section as drafted for now
- RPN ✓ -drafter's note on page 5 line 14; if I read this right, you are indicating to us that we probably should have included a penalty enhancer? I noticed that Underheim left the section alone so for now we will do so as well.
- RPN ✓ -on page 6 line 9, minor change. In LRB 4715 you drafted it slightly differently to read "of the state" I am assuming that change should be made in ours as well.
- RPN ✓ page 6 lines 12-13, 23 you can remove the "cooperate with the department of military affairs" language and change it to "may designate the department of health and family services as the lead state agency to respond to that emergency"
- DAK ✓ page 7 lines 15-16, change it to "under s. 166.03 (1) (b) 1. And designates the department as the lead state agency"
- DAK ✓ page 8 drafters note; fine as drafted
- DAK ✓ page 9 line 5; after the word individual, strike out the rest of the sentence
- DAK ✓ page 9 line 9; change that to read "health care provider, as defined in s. 146.81 (1), who knows or has" I am assuming by making this change we no longer need to have the "or otherwise provided service" wording so you can remove that No
- DAK ✓ page 9 line 20; in Underheim's draft they changed it from "which are" to "as" I am not sure of the ramification of this change but if it makes sense to change it in ours as well, please go ahead and do so. If you are unsure, you can ask Dick. Even if this means adding another section later in the bill dealing with administrative rules that is fine since there was nothing on rules in Underheim's draft that we found objectionable.
- DAK ✓ Page 10 line 20; our draft differs from Underheim's draft. My question is, is our draft a one time report or is it an ongoing requirement? I think it should be an ongoing biennial requirement. It is possible we were confusing the other reporting requirement that pertained directly to a public health emergency which we wanted to happen within a 90 day timeframe. So, my suggestion is to scrap this paragraph and instead draft it as you did on page 7 lines 1-6 of LRB 4715. Since that appears to move it from a nonstatutory provision to a statutory one there may be further implications that I am not aware of. I don't think we would have a problem with it being a statutory provision, and it may just be that when you make something an ongoing requirement verses a one time report that the result is you put it in statutes. (that is my guess, if I am wrong you can discuss with Dick)



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-4806/P.1

DAK/RPN/MJL/GMM:hmh:lf

Stays

TODAY !!!  
Mar. 2/11

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

REGENERATE

1 AN ACT to renumber 95.22; to renumber and amend 21.80 (1) (a); to amend  
2 21.80 (title), 21.80 (3) (a) 4., 21.80 (3) (c) 1., 21.80 (3) (c) 2., 21.80 (3) (c) 3., 21.80  
3 (3) (f) 1., 166.03 (1) (b) 1., 252.02 (6), 252.05 (1), 252.06 (1) and 252.06 (4); and  
4 to create 20.285 (1) (fg), 20.435 (1) (e), 21.80 (1) (a) 2., 36.25 (11) (em), 95.22 (2),  
5 166.02 (1p), 166.02 (1r), 166.02 (7), 250.01 (6g), 250.01 (6r), 250.03 (3), 250.042,  
6 251.05 (3) (e), 252.041 and 440.142 of the statutes; relating to: authorizing a  
7 declaration of and actions under a state of emergency related to public health,  
8 requiring the exercise of rule-making authority, and making appropriations.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided on a subsequent version.

INSERT  
A

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

9 SECTION 1. 20.285 (1) (fg) of the statutes is created to read:



1           20.285 (1) (fg) *State laboratory of hygiene; limited-term employees.* A sum  
2 sufficient to pay the salaries and benefits of limited-term employees under s. 36.25  
3 (11) (em).

4           **SECTION 2.** 20.435 (1) (e) of the statutes is created to read:

5           20.435 (1) (e) *defray all expenses necessary to* **Public health emergency.** A sum sufficient to respond to a state  
6 of emergency related to public health only if the governor declares such an  
7 emergency and designates the department of health and family services as the lead  
8 public health authority to respond to the emergency under s. 166.03 (1) (b) 1.

\*\*\*NOTE: Perhaps this language is too limiting. Should this appropriation account be available to the department of health and family services whenever the governor declares a state of emergency related to public health? Will that department need extra funds when such an emergency is declared, regardless of who is designated as the lead agency. As drafted, this appropriation account is available only when that state of emergency is declared and the governor designates the department of health and family services as the lead public health authority to respond to the emergency.

9           **SECTION 3.** 21.80 (title) of the statutes, as created by 2001 Wisconsin Act 26,  
10 is amended to read:

11           **21.80 (title) Reemployment rights after national guard or state**  
12 **defense force, or public health emergency service.**

13           **SECTION 4.** 21.80 (1) (a) of the statutes, as created by 2001 Wisconsin Act 26,  
14 is renumbered 21.80 (1) (a) (intro.) and amended to read:

15           21.80 (1) (a) (intro.) "Active service" means active any of the following:

16           1. Active service in the national guard or the state defense force under an order  
17 of the governor issued under this chapter or active service in the national guard  
18 under 32 USC 502 (f) that is not considered to be service in the uniformed services.

19           **SECTION 5.** 21.80 (1) (a) 2. of the statutes is created to read:

20           21.80 (1) (a) 2. Active service with the state laboratory of hygiene under s. 36.25  
21 (11) (em) for the purpose of assisting the department of health and family services

1 under s. 250.042 during a state of emergency relating to public health declared by  
2 the governor under s. 166.03 (1) (b) 1.

3 SECTION 6. 21.80 (3) (a) 4. of the statutes, as created by 2001 Wisconsin Act 26,  
4 is amended to read:

5 21.80 (3) (a) 4. ~~The person's~~ In the case of active service in the national guard  
6 or the state defense force, the active service has not been terminated under other  
7 than honorable conditions.

8 SECTION 7. 21.80 (3) (c) 1. of the statutes, as created by 2001 Wisconsin Act 26,  
9 is amended to read:

10 21.80 (3) (c) 1. Any period of active service, as defined in sub. (1) (a) 1., beyond  
11 that 5-year period that is required to complete an initial period of obligated active  
12 service.

13 SECTION 8. 21.80 (3) (c) 2. of the statutes, as created by 2001 Wisconsin Act 26,  
14 is amended to read:

15 21.80 (3) (c) 2. Any period of active service, as defined in sub. (1) (a) 1., for which  
16 the person, through no fault of the person's own, was unable to obtain orders  
17 releasing the person from a period of active service before the expiration of the 5-year  
18 period.

19 SECTION 9. 21.80 (3) (c) 3. of the statutes, as created by 2001 Wisconsin Act 26,  
20 is amended to read:

21 21.80 (3) (c) 3. Any period of active service, as defined in sub. (1) (a) 1., that was  
22 performed to fulfill any additional training requirements determined and certified  
23 in writing by the federal secretary of the army, the federal secretary of the air force,  
24 or the adjutant general to be necessary for professional development or for  
25 completion of skill training or retraining.

1           **SECTION 10.** 21.80 (3) (f) 1. of the statutes, as created by 2001 Wisconsin Act  
2 26, is amended to read:

3           21.80 (3) (f) 1. A person who submits an application for reemployment under  
4 par. (e) 2. or 3. must, on the request of the person's employer, provide to the employer  
5 documentation to establish that the application was submitted within the time  
6 limits specified in par. (e) 2. or 3., that the person's cumulative length of all absences  
7 from employment with the employer because of active service or service in the  
8 uniformed services does not, except as permitted under par. (c), exceed 5 years, and,  
9 in the case of active service in the national guard or the state defense force, that the  
10 person's service was not terminated under other than honorable conditions.

11           **SECTION 11.** 36.25 (11) (em) of the statutes is created to read:

12           36.25 (11) (em) The laboratory of hygiene board shall create and maintain a  
13 roster of scientists and other persons with technical expertise who are willing to work  
14 at the laboratory of hygiene if the governor declares that an emergency related to  
15 public health exists. If the governor declares such an emergency, the laboratory of  
16 hygiene board shall hire as limited-term employees the requisite number of persons  
17 from the roster to assist the department of health and family services under s.  
18 250.042. Salaries and benefits for these employees shall be paid from the  
19 appropriation under s. 20.285 (1) (fg).

20           **SECTION 12.** 95.22 of the statutes is renumbered 95.22 (1).

21           **SECTION 13.** 95.22 (2) of the statutes is created to read:

22           95.22 (2) The department shall provide the reports of any communicable  
23 diseases under sub. (1) to the department of health and family services, as requested  
24 by that department.

\*\*\*\*NOTE: I drafted this as an ongoing requirement; you may, however, want it to apply only during the period of a state of emergency relating to public health. In addition, I required that DATCP share with DHFS only the information that DHFS asks for, to avoid flooding DHFS with information in which DHFS may have little interest.

1           **SECTION 14.** 166.02 (1p) of the statutes is created to read:

2           166.02 (1p) "Biological agent" means any of the following:

3           (a) A select agent that is a virus, bacterium, rickettsia, fungus, or toxin that is  
4 specified under 42 CFR 72, Appendix A.

5           (b) A genetically modified microorganism or genetic element from an organism  
6 under par. (a) that is shown to produce or encode for a factor associated with a  
7 disease.

8           (c) A genetically modified microorganism or genetic element that contains  
9 nucleic acid sequences coding for a toxin under par. (a) or its toxic subunit.

\*\*\*\*NOTE: The Model Act refers to "infectious agent" and "biological toxin" and defines neither of those terms. In contrast, this draft uses a definition of "biological agent" that is taken from the definition of "select agent" under 42 CFR 72.6 (j) (the federal rules that govern interstate shipment of etiologic agents). The select agents listed in 42 CFR 72, Appendix A, include both infectious agents and biological toxins. In addition, the select agents include bacteria, rickettsiae, and fungi, and appear to be far more comprehensive. Does this drafting decision comport with your intent?

10           **SECTION 15.** 166.02 (1r) of the statutes is created to read:

11           166.02 (1r) "Bioterrorism" means the intentional use of any biological agent  
12 to cause death, disease or biological malfunction in a human, animal, plant, or other  
13 living organism in order to influence the policy of a governmental unit or to  
14 intimidate or coerce the civilian population.

\*\*\*\*NOTE: This language is based in part on s. 939.648, which provides for a criminal penalty enhancer for terrorism, and in part on the model act.

15           **SECTION 16.** 166.02 (7) of the statutes is created to read:

16           166.02 (7) "Public health emergency" means the occurrence or imminent threat  
17 of an illness or health condition that meets all of the following criteria:

1 (a) Is believed to be caused by bioterrorism or a novel or previously controlled  
2 or eradicated biological agent.

3 (b) Poses a high probability of any of the following:

- 4 1. A large number of deaths or serious or long-term disabilities among humans.  
5 2. A high probability of widespread exposure to a biological agent that creates  
6 a significant risk of substantial future harm to a large number of people.

7 **SECTION 17.** 166.03 (1) (b) 1. of the statutes is amended to read:

8 166.03 (1) (b) 1. Proclaim a state of emergency for the state or any portion  
9 ~~thereof~~ <sup>of the state</sup> if he or she determines that an emergency resulting from enemy action or  
10 natural or man-made disaster exists. If the governor determines that a public  
11 health emergency exists, he or she may declare a state of emergency related to public  
12 health and may ~~request that~~ <sup>designate</sup> the department of health and family services ~~cooperate~~  
13 ~~with the department of military affairs and function~~ as the lead public health  
14 ~~authority~~ <sup>state agency</sup> to respond to that emergency. The duration of such state of emergency  
15 shall not exceed 60 days as to emergencies resulting from enemy action or 30 days  
16 as to emergencies resulting from natural or man-made disaster, unless either is  
17 extended by joint resolution of the legislature. A copy of the proclamation shall be  
18 filed with the secretary of state. The proclamation may be revoked at the discretion  
19 of either the governor by written order or the legislature by joint resolution.

20 **SECTION 18.** 250.01 (6g) of the statutes is created to read:

21 250.01 (6g) "Public health authority" means the department, if the governor  
22 declares under s. 166.03 (1) (b) 1. a state of emergency related to public health and  
23 ~~requests that~~ <sup>designates</sup> the department ~~cooperate with the department of military affairs and~~  
24 ~~function~~ as the lead ~~public health authority~~ <sup>state agency</sup> to respond to that emergency.

25 **SECTION 19.** 250.01 (6r) of the statutes is created to read:

as the lead state agency to respond to that emergency

1 250.01 (6r) "Public health emergency" has the meaning given in s. 166.02 (7).

2 SECTION 20. 250.03 (3) of the statutes is created to read:

3 250.03 (3) <sup>(a)</sup> No later than 90 days after a state of emergency relating to public  
4 health is declared and the department is requested to function as the lead public  
5 health authority under s. 166.03 (1) (b) 1. and no later than 90 days after the  
6 termination of this state of emergency relating to public health, the department shall  
7 submit to the legislature under s. 13.172 (2) and to the governor a report on all of the  
8 following:

- 9 1. The emergency powers used by the public health authority or its agents.
- 10 2. The expenses incurred by the public health authority and its agents in  
11 acting under the state of emergency related to public health.

INSERT  
7-11

\*\*\*\*NOTE: Draft #2 of the Model Act omits any requirement that a report be made that describes detection and tracking efforts, emergency powers used, moneys transferred, and liabilities and expenses incurred under the Act. I have changed the provision so that DHFS is required to describe preparedness (see Nonstatutory provisions, and I have deleted detection and tracking efforts. Do these decisions comport with your intent?

12 SECTION 21. 250.042 of the statutes is created to read:

13 250.042 Powers and duties of the department as public health

14 authority. (1) If the governor declares a state of emergency related to public health  
15 under s. 166.03 (1) (b) 1. and ~~requests that~~ <sup>designates</sup> the department ~~cooperate with the~~  
16 ~~department of military affairs and function~~ as the lead public health authority, the  
17 department shall act as the public health authority during the period of the state of  
18 emergency. During the period of the state of emergency, the secretary may designate  
19 a local health department as an agent of the department and confer upon the local  
20 health department, acting under that agency, the powers and duties of the public  
21 health authority.

22 (2) As the public health authority, the department may do any of the following:

state agency to respond to that emergency

1 (a) From the appropriation under s. 20.435 (1) (e), purchase, store, or distribute  
2 antitoxins, serums, vaccines, immunizing agents, antibiotics, and other  
3 pharmaceutical agents or medical supplies that the department determines are  
4 advisable to control a public health emergency.

\*\*\*\*NOTE: In this draft, I did not include language from the Model Act that permits the public health authority to purchase and distribute these materials in order to prepare for a public health emergency, because I wasn't sure that you wanted DHS to have access to a sum sufficient appropriation of gpr to purchase drugs on an ongoing basis, before a state of emergency related to public health occurs. I also did not include language from the Model Act that allows the public health authority to take and distribute antitoxins, serums, etc., during a state of emergency relating to public health, because it raises certain takings issues; do these drafting decisions comport with your intent?

5 (b) Act as specified in s. 252.041.

6 SECTION 22. 251.05 (3) (e) of the statutes is created to read:

7 251.05 (3) (e) Act as agent of the department, if designated by the secretary  
8 under s. 250.042 (1).

INSERT 8-8

9 SECTION 23. 252.02 (6) of the statutes is amended to read:

10 252.02 (6) The In addition to the powers specified under s. 250.042, the  
11 department may authorize and implement all emergency measures necessary to  
12 control communicable diseases.

designated

lead state agency

INSERT 8-12

13 SECTION 24. 252.041 of the statutes is created to read:

14 252.041 **Compulsory vaccination during a state of emergency. (1)**

15 Except as provided in sub. (2), during the period under which the department is  
16 ~~authorized to act~~ as the ~~public health authority~~, as specified in s. 250.042 (2), the  
17 department, as the public health authority, may do all of the following as necessary  
18 to address a public health emergency:

19 (a) Authorize and order any qualified person to perform a vaccination on any  
20 individual unless the vaccination is reasonably likely to lead to serious harm to the  
21 individual.

1 (b) Isolate or quarantine, under s. 252.06, any individual who is unable or  
2 unwilling for reasons of health, religion, or conscience to receive vaccination under  
3 par. (a).

4 (2) The department shall promulgate rules that specify circumstances, if any,  
5 under which vaccination may not be performed on an individual ~~and under which~~  
6 ~~individuals may not be isolated or quarantined.~~

7 SECTION 25. 252.05 (1) of the statutes is amended to read:

8 252.05 (1) Any person licensed, permitted, registered or certified under ch. 441  
9 or 448 ~~knowing or having and any pharmacist, as defined in s. 430.01(13), who~~  
10 knows or has reason to know that a person treated or, visited, or otherwise provided  
11 service by him or her has a communicable disease, or having a communicable  
12 disease, has died, shall report the appearance of the communicable disease or the  
13 death to the local health officer. The local health officer shall report this information  
14 to the department or shall direct the person reporting to report to the department.  
15 Any person directed to report shall submit this information to the department.

16 SECTION 26. 252.06 (1) of the statutes is amended to read:

17 252.06 (1) The department or the local health officer acting on behalf of the  
18 department may require isolation of ~~the patient~~ a patient or of an individual under  
19 s. 252.041 (2), quarantine of contacts, concurrent and terminal disinfection, or  
20 modified forms of these procedures as may be necessary and which are as are  
21 determined by the department by rule.

22 SECTION 27. 252.06 (4) of the statutes is amended to read:

23 252.06 (4) If deemed necessary by the department or a local health officer for  
24 a particular communicable disease, all persons except the local health officer, or his  
25 or her representative, attending physicians and nurses, members of the clergy, the

health care provider, as defined in s. 146.81(1)



1 members of the immediate family and, any other person having a special written  
2 permit from the local health officer, and, during a state of emergency related to public  
3 health, the public health authority and agents of the public health authority, are  
4 forbidden to be in direct contact with the patient.

5 SECTION 28. 440.142 of the statutes is created to read:

6 440.142 Reporting potential causes of public health emergency. (1) A  
7 pharmacist or pharmacy shall report to the department of health and family services  
8 all of the following:

9 (a) An unusual increase in the number of prescriptions dispensed or  
10 nonprescription drug products sold for the treatment of medical conditions specified  
11 by the department of health and family services by rule under s. 252.02 (7).

12 (b) An unusual increase in the number of prescriptions dispensed that are  
13 antibiotic drugs.

14 (c) The dispensing of a prescription for treatment of a disease that is relatively  
15 uncommon or may be associated with bioterrorism, as defined in s. 166.02 (1r).

16 (2) A pharmacist or pharmacy may not report personally identifying  
17 information concerning an individual who is dispensed a prescription or who  
18 purchases a nonprescription drug product as specified in sub. (1).

19 SECTION 29. Nonstatutory provisions.

20 (1) ~~PREPAREDNESS OF PUBLIC HEALTH SYSTEM; REPORT. No later than 90 days after~~  
21 ~~the effective date of this subsection .... [revisor inserts date], the department of~~  
22 ~~health and family services shall submit to the legislature in the manner provided~~  
23 ~~under section 13.172 (2) of the statutes and to the governor a report on the~~  
24 ~~preparedness of the public health system to address public health emergencies, as~~  
25 ~~defined in section 250.01 (6r) of the statutes, as created by this act.~~

1

①  
②

EXCEPTIONS TO COMPULSORY VACCINATION; RULES. (a) The department of health and family services shall submit in proposed form the rules required under section 252.041 (2) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this subsection.

(b) Using the procedure under section 227.24 of the statutes, the department of health and family services may promulgate rules required under section 252.041 (2) of the statutes, as created by this act, for the period before the effective date of the rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health and family services is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

INSERT 11-15

SECTION 30. **Effective dates.** This act takes effect on the day after publication, except as follows:

(1) EXCEPTIONS TO COMPULSORY VACCINATION; RULES. The treatment of section 252.041 (1) of the statutes takes effect on the first day of the fifth month beginning after publication.

INSERT 11-20

21

(END)



## 2001 BILL

Insert Anc  
by RPN

~~AN ACT to renumber 95.22; to amend 166.03 (1) (b) 1., 252.02 (title), 252.02 (6), 252.05 (1), 252.06 (1) and 252.06 (10) (a); to repeal and recreate 252.06 (4); and to create 20.435 (1) (e), 95.22 (2), 157.055, 166.02 (1p), 166.02 (1r), 166.02 (7), 166.03 (1) (b) 8., 250.01 (6g), 250.01 (6r), 250.03 (3), 250.042, 251.05 (3) (c), 252.02 (7), 252.041, 252.06 (10) (b) 5., 252.06 (10) (b) 6., 440.142, 895.46 (5) (c) and 979.012 of the statutes; relating to: authorizing a declaration of and actions under a state of emergency related to public health, requiring the exercise of rule-making authority, making an appropriation, and providing a penalty.~~

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### Analysis by the Legislative Reference Bureau

Under current law, the governor may proclaim a state of emergency for any portion of the state or the whole state if the governor determines that an emergency resulting from enemy action or a natural or man-made disaster exists. The state of emergency may not exceed 60 days for an emergency resulting from enemy action or 30 days from disasters, unless extended by a joint resolution of the legislature. The department of military affairs, through the division of emergency government, is the lead state agency to respond to the emergency. This bill allows the governor to

**BILL**

proclaim a state of emergency related to public health and designate the department of health and family services (DHFS) as the lead state agency if the governor determines that a public health emergency exists. The bill defines a public health emergency as the occurrence or threat of a health condition that is caused by bioterrorism or a novel or previously controlled biological agent and that poses a high probability of a large number of deaths or serious injury and a high probability of widespread exposure to a biological agent that creates a significant risk of harm to a large number of people. Under the bill, during a state of emergency related to public health, the governor may suspend any administrative rule that would hinder necessary actions to respond to the emergency and increase the health threat to the population.

Current law relating to the duties of funeral directors prohibits a public officer, an employee or officer of a public institution, or a physician from sending the corpse of a person to a funeral director without having first made inquiry as to the desires of the next of kin or others who may be chargeable with the funeral expenses. No person who is not licensed as a funeral director by the funeral directors examining board may engage in the business of a funeral director. Further, no person may cremate a corpse without first obtaining a cremation permit from the appropriate county coroner or medical examiner. If a corpse is the subject of a coroner's or medical examiner's investigation concerning cause of death, no person may embalm or conduct an autopsy on the corpse without authorization from the appropriate coroner or medical examiner.

Under current law, DHFS must carry out a statewide immunization program to eliminate mumps, measles, German measles, diphtheria, whooping cough, poliomyelitis and other diseases that DHFS specifies by rule and to protect against tetanus. Any registered nurse, licensed practical nurse, nurse midwife, physician, physician assistant, respirator care practitioner, physician therapist, podiatrist, dietitian, athletic trainer, or occupational therapist who knows or has reason to know that a person treated or visited by him or her has a communicable disease or, having a communicable disease, has died, must report the appearance of the disease or the death to the local health officer; the local health officer must report, or require the person reporting, to report to DHFS. DHFS has broad authority to implement emergency measures necessary to control communicable diseases, that are diseases specified by DHFS by rule. DHFS or local health officers of local health departments may require isolation of a patient, quarantine of contacts, disinfection, or modified forms of these procedures. If a local health officer has a reasonable belief in the existence of a communicable disease or receives a diagnostic report of a physician or notification or a confirming report from a parent or caretaker, the local health officer must immediately quarantine, isolate, and impose restrictions on persons or take other communicable disease control measures. If DHFS or a local health officer determines it necessary for a particular communicable disease, no persons except the local health officer, his or her representative, the attending physicians and nurses, members of the clergy, members of a patient's immediate family, and other persons with a special permit from the local health officer may be in direct contact with the patient. Expenses for necessary medical care, food, and other articles necessary for

end of  
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RPN

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4806/linsdak  
DAK/RPN/MJL/GMM:hmh:kjf

*Insert Anal by RPN*



**INSERT ANAL**

Under current law, DHFS must carry out a statewide immunization program to eliminate mumps, measles, German measles, diphtheria, whooping cough, poliomyelitis, and other diseases that DHFS specifies by rule and to protect against tetanus. Any registered nurse, licensed practical nurse, nurse midwife, physician, physician assistant, respirator care practitioner, physician therapist, podiatrist, dietitian, athletic trainer, or occupational therapist who knows or has reason to know that a person treated or visited by him or her has a communicable disease or, having a communicable disease, has died, must report the appearance of the disease or the death to the local health officer; the local health officer must report, or require the person reporting, to report to DHFS. DHFS has broad authority to implement emergency measures necessary to control communicable diseases, that are diseases specified by DHFS by rule. DHFS or local health officers of local health departments may require isolation of a patient, quarantine of contacts, disinfection, or modified forms of these procedures. If a local health officer has a reasonable belief in the existence of a communicable disease or receives a diagnostic report of a physician or notification or a confirming report from a parent or caretaker, the local health officer must immediately quarantine, isolate, and impose restrictions on persons or take other communicable disease control measures. If DHFS or a local health officer determines it necessary for a particular communicable disease, no persons except the local health officer, his or her representative, the attending physicians and nurses, members of the clergy, members of a patient's immediate family, and other persons with a special permit from the local health officer may be in direct contact with the patient.

This bill requires DHFS to act as the public health authority during the period of a state of emergency related to public health, if the governor declares the state of emergency and designates the department as the lead state agency. During the state of emergency, the secretary of health and family services may designate a local health department as an agent of DHFS and confer upon the local health department, acting under that agency, the powers and duties of the public health authority.

The bill creates a sum sufficient appropriation of general purpose revenues from which DHFS may purchase, store, or distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that DHFS determines are advisable to control a public health emergency. DHFS also may authorize and order any qualified person to perform vaccinations on any individuals unless a vaccination is reasonably likely to lead to serious harm to the individual, and may isolate or quarantine any individual who is unable or unwilling for reasons of health, religion, or conscience to receive the vaccination. Further, the bill changes provisions relating to visitation during isolation or quarantine to authorize entrance, during a state of emergency related to public health, of persons authorized by the public health authority or agent of the public health authority. All health care providers who know or have reason to know that

INSERT X

§ This bill directs the laboratory of hygiene board to maintain a roster of scientists and others with technical expertise who are willing to work at the laboratory of the governor declares the existence of ~~that~~ an emergency related to public health.

The bill provides that if the governor declares such an emergency, the laboratory board must <sup>hire</sup> as limited term employees the requisite number of persons from the <sup>roster</sup> roster to assist DHS to perform the duties described above. The bill ~~also~~ requires the employer of a person who is hired by the laboratory board to assist DHS during an

Insert XI

emergency related to public health, subject to certain exceptions and conditions, to reemploy the person on completion of that service in the position in which the person ~~is~~ would have been employed or in a position of like seniority, status, and pay, and with the seniority that the person would have had, if the person's employment had not been interrupted by that service.

In addition, the bill prohibits the employer of such a person from discharging the person, except for cause, for 180 days after reemployment, if the person's service with the laboratory <sup>was</sup> was for more than 30 days, but less than 181 days, or for one year after reemployment, if that service was for more than 180 days, and

~~permits the person to continue his or her health coverage~~

(A-B)

~~while The bill also provides that ~~is~~ while absent from employment the person is ~~not~~ considered to be on a leave~~

Insert XI

such

The bill also permits a person, while absent from employment, to continue his or her coverage.

The bill also permits such a person, if covered under an employer-provided health benefit plan, to continue his or her ~~health~~ coverage under the plan while absent from employment.

End of insert



a person treated, visited, or otherwise provided service by them has a communicable disease, or, having a communicable disease, has died, must report the communicable disease or death to the local health officer.

The bill requires a pharmacist or pharmacy to report to DHFS all of the following:

1. An unusual increase in the number of prescriptions dispensed or nonprescription drug products sold for the treatment of medical conditions, as specified by DHFS by rule.

2. An unusual increase in the number of antibiotic drug prescriptions dispensed.

3. Prescriptions dispensed for treatment of a disease that is relatively uncommon or may be associated with bioterrorism.

INSERT X

Lastly, beginning on July 1, 2002, after first consulting with the adjutant general, local health departments, health care providers, and law enforcement agencies, the bill requires DHFS to report biennially to the governor and to the legislature on the preparedness of the public health system to address public health emergencies. In addition, no later than 90 days after a state of emergency relating to public health is declared and DHFS is designated as the lead state agency to respond to that emergency and no later than 90 days after the termination of this state of emergency, DHFS must submit to the legislature and to the governor a report on the emergency powers used and the expenses incurred by the public health authority and its agents.

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

INSERT 7-11 X

1 SECTION 1. 250.03 (3) (b) of the statutes is created to read:

2 250.03 (3) (b) Biennially, beginning on July 1, 2002, after first consulting with  
3 the adjutant general, local health departments, health care providers, as defined in  
4 s. 146.81 (1), and law enforcement agencies, as defined in s. 165.77 (1) (b), the  
5 department shall submit to the legislature under s. 13.172 (2) and to the governor  
6 a report on the preparedness of the public health system to address public health  
7 emergencies.

INSERT 8-8 X

8 SECTION 2. 252.02 (title) of the statutes is amended to read:

9 252.02 (title) **Powers and duties of department.**

**INSERT 8-12** X

1           **SECTION 3.** 252.02 (7) of the statutes is created to read:

2           252.02 (7) The department shall promulgate rules that specify medical  
3 conditions treatable by prescriptions or nonprescription drug products for which  
4 pharmacists and pharmacies must report under s. 440.142 (1). ✓

**INSERT 11-15**

5           (2) **MEDICAL CONDITIONS FOR WHICH PHARMACEUTICAL DRUGS ARE DISPENSED OR**  
6 **SOLD; RULES.** (a) The department of health and family services shall submit in  
7 proposed form the rules required under section 252.02 (7) of the statutes, as created  
8 by this act, to the legislative council staff under section 227.15 (1) of the statutes no  
9 later than the first day of the 6th month beginning after the effective date of this  
10 subsection.

11           (b) Using the procedure under section 227.24 of the statutes, the department  
12 of health and family services may promulgate rules required under section 252.02  
13 (7) of the statutes, as created by this act, for the period before the effective date of the  
14 rules submitted under paragraph (a), but not to exceed the period authorized under  
15 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),  
16 (2) (b) and (3) of the statutes, the department of health and family services is not  
17 required to provide evidence that promulgating a rule under this paragraph as an  
18 emergency rule is necessary for the preservation of the public peace, health, safety,  
19 or welfare and is not required to provide a finding of emergency for a rule  
20 promulgated under this paragraph.

Nonstat File Sequence: **FFF**

LRB \_\_\_\_\_ / \_\_\_\_\_

**EFFECTIVE DATE**

1. In the component bar: For the action phrase, execute: ... create → action: → \*NS: → effdate  
For the text, execute: ..... create → text: → \*NS: → effdateA
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . Effective date.

( #1 ) ( ) ..... This act takes effect on .....

1. In the component bar: For the action phrase, execute: .. create → action: → \*NS: → effdateE  
For the text, execute: ..... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . Effective dates; .....

..... This act takes effect on the day after publication, except as follows:

( #<sup>2</sup> ) ~~#2~~ 470.11.2 MEDICAL CONDITIONS FOR WHICH PHARMACEUTICAL DRUGS ARE DISPENSED OR SOLD; RULES, of the statutes takes effect on the first day of the fifth month beginning after publication.

1. In the component bar: For the budget action phrase, execute:..create → action: → \*NS: → 94XX  
For the text, execute: ..... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

**SECTION 94** \_\_\_\_\_ . Effective dates; .....

( #1 ) ( ) ..... The treatment of sections ..... of the statutes takes effect on .....

**Emery, Lynn**

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**From:** Buschman, Sara  
**Sent:** Thursday, February 14, 2002 11:40 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB-4806/1 Topic: Bioterrorism; emergency health powers

It has been requested by <Buschman, Sara> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-4806/1 Topic: Bioterrorism; emergency health powers

**Kennedy, Debora**

**From:** Buschman, Sara  
**Sent:** Friday, February 15, 2002 3:18 PM  
**To:** Kennedy, Debora  
**Subject:** FW: Public health preparedness

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

**From:** Sweet, Richard  
**Sent:** Friday, February 15, 2002 2:05 PM  
**To:** Buschman, Sara; Lonergan, Sandra; Grapentine, Mark  
**Subject:** Public health preparedness

I'm writing this as a follow-up to our meeting this morning and a subsequent conversation I had with Dan Stier of DHFS. The 2 drafts would be changed as follows:

- DAK ✓ 1. LRB4715--page 5, lines 6 and 7, delete ", as requested by that department". Same change in LRB4806, page 7, lines 1 and 2.
- RPN ✓ 2. The definition of "bioterrorism" in both drafts would be expanded to include chemical agents and radiological agents. "Chemical agent" would be defined as "a solid, liquid, or gas that has chemical properties that produce lethal or serious effects in plants and animals" "Radiological agent" would be defined as "radiation or radioactive material at a level that is dangerous to human health".
- DAK ✓ 3. LRB4715--page 11, lines 6 to 8 should read: "(1) Order any individual to receive a vaccination unless the vaccination is reasonably likely to lead to serious harm to the individual or the individual, for reasons of religion or conscience, refuses to obtain the vaccination." On line 10, "specified under sub. (1)" could be substituted for "of health, religion or conscience". LRB4806, page 10, line 23 to page 11, line 11, delete that material and substitute the same language as in LRB4715.
- DAK ✓ 4. LRB4715, page 12, line 3--keep current law on who may enter a quarantine/isolation area, but make it a par. (a) and add "Except as provided in par. (b).". Par. (b) would then be the language from lines 4 to 13, minus the sentence beginning on line 6. Thus, par. (b) would apply in public health emergencies and par. (a) would apply the rest of the time. Same language in LRB4806, page 11, line 22 to page 12, line 4 (and you need to add "and providing a penalty" in the relating clause).
- RPN ✓ DAK ✓ 5. LRB4806, SECTION 20--add this provision to LRB4715. In both drafts, specify that if the Governor declares a public health emergency, but doesn't designate DHFS as the lead state agency, the Division of Emergency Management would have to submit the required report.
- DAK ✓ 6. LRB4715, page 10, lines 16 to 19--delete the change to 252.02(6). Same change in LRB4806, page 10, lines 9 to 12.

Dick Sweet  
Senior Staff Attorney  
Wisconsin Legislative Council  
(608)266-2982  
richard.sweet@legis.state.wi.us

From Sara: Add to draft from

→ 01-4715:

157.055  
and  
979.012