LRBs0362

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB403)

Received: **02/18/2004**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Darin Renner**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **darin.renner@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Regulation of athlete agents

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mkunkel 02/18/2004	wjackson 02/19/2004		_____ _____			
/1			pgreensl 02/19/2004	_____ _____	lemery 02/19/2004	lemery 02/19/2004	
			pgreensl 02/19/2004	_____ _____	lemery 02/19/2004	lemery 02/19/2004	

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required

FE Sent For:

<END>

LRBs0362

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB403)

Received: **02/18/2004**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Darin Renner**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **darin.renner@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Regulation of athlete agents

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mkunkel	/1 WLj 2/19	2/19 PS	2/19 PS			

FE Sent For:

<END>

Kunkel, Mark

From: Swain, Sandy
Sent: Tuesday, February 17, 2004 3:48 PM
To: Kunkel, Mark
Subject: Darin's Motion

6.doc

Senator Lazich

ASSEMBLY AMENDMENT ___ TO

ASSEMBLY AMENDMENT 1 TO

2003 ASSEMBLY BILL 403

Biennial Budget Request to Establish Athlete Agent Fees in Statute

Motion:

Move to amend AA 1 to AB 403 to include a nonstatutory provision directing the Department of Regulation and Licensing to include in its 2005-07 biennial budget request that it makes under s. 16.42 of the statutes, a recommendation and all necessary statutory language changes to establish by statute initial and renewal credential fees for athlete agents.

Note:

Under s. 440.01(9) of the statutes, the Department of Regulation and Licensing is required to include with each biennial budget request a recalculation of the administrative and enforcement costs of the agency that are attributable to the regulation of each occupation and to recommend changes to the initial credential fee under s. 440.05(1) of the statutes and to the schedule of renewal fees under s. 440.08(2) of the statutes. This motion would require that the Department include fees for athlete agents in these proposed statutory changes.

Motion #6

ASSEMBLY AMENDMENT ,

TO 2003 ASSEMBLY BILL 403

At the locations indicated, amend the bill as follows:

1. Page 7, line 13: delete "Notwithstanding ss. 111.321, 111.322, and 111.335, whether" and substitute "Whether".

2. Page 9, line 3: delete "Notwithstanding" and substitute "Subject to".

(END)

ASSEMBLY AMENDMENT ,

TO 2003 ASSEMBLY BILL 403

At the locations indicated, amend the bill as follows:

1. Page 3, line 1: delete lines 1 and 2.

(END)

D-NOTE

2003 – 2004 LEGISLATURE

LRB-~~4010/1~~
MDK:~~cmh:jf~~
cmh & WLJ
S0362/1

ASA to

2003 ASSEMBLY BILL 403

Thurs 2/19 pm

LPS: There is one insert behind the D-Note.

RM NOT RUN

June 12, 2003 – Introduced by Representatives WIECKERT, VUKMIR, GRONEMUS, COLON, MILLER, M. LEHMAN, CULLEN, J. LEHMAN, TAYLOR, OLSEN, HINES, KREIBICH, MUSSER, PETTIS, OTT, OWENS, TOWNSEND, JESKEWITZ, ALBERS, HAHN, POCAN, VRAKAS, SHILLING, VAN ROY and GIELOW, cosponsored by Senators KANAVAS, PLALE, ERPENBACH, RISSER and ROESSLER. Referred to Committee on Colleges and Universities.

Regen

providing an exemption from emergency rule procedures;

AN ACT *to create* 93.135 (1) (t), 440.08 (2) (a) 14d. and subchapter XII of chapter 440 [precedes 440.99] of the statutes; **relating to:** regulating athlete agents, granting rule–making authority, making an appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

Substitute amendment

Substitute amendment

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

The ~~bill~~ prohibits an individual from acting as an athlete agent unless he or she is registered with the Department of Regulation and Licensing (DRL). The following are excluded from the definition of "athlete agent" and do not have to register: 1) a

spouse, parent, sibling, grandparent, or guardian of a student athlete; 2) an individual acting solely on behalf of a professional sports team or professional sports organization; or 3) an individual who provides information to a student athlete, but who does not recruit or solicit the student athlete to enter into an agency contract. Also, except for signing an agency contract, an individual may act as an athlete agent before being registered if a student athlete, or someone acting on behalf of the student athlete, initiates communication with the individual and he or she applies for registration within seven days after an initial act as an athlete agent. The ~~bill~~ Substitute amendment provides that, if an unregistered athlete agent who is required to be registered enters into an agency contract with a student athlete, the contract is void and the athlete agent must return any consideration received under the contract.

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

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

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

The ~~bill~~ Substitute amendment imposes certain requirements on agency contracts between athlete agents and student athletes. An agency contract must contain specified provisions, including a notice to the student athlete that, by signing the contract, he or she may lose his or her eligibility to compete as a student athlete. The ~~bill~~ Substitute amendment gives a student

substitute amendment's

athlete the nonwaivable right to cancel an agency contract within 14 days after the contract is signed. In addition, a student athlete may void an agency contract that does not comply with the ~~bill's~~ requirements. Also, both the athlete agent and the student athlete must notify the student athlete's athletic director about an agency contract within 72 hours after execution of the contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first.

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

Substitute amendment

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

Because this ~~bill~~ creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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.** 93.135 (1) (t) of the statutes is created ~~to~~ read:

2 93.135 **(1)** (t) A registration as an athlete agent under subch. XII of ch. 440.

3 **SECTION 2.** 440.08 (2) (a) 14d. of the statutes is created to read:

4 440.08 **(2)** (a) 14d. Athlete agent: July 1 of each even–numbered year; ~~$75.00~~ 10 INSERT 3-4

5 **SECTION 3.** Subchapter XII of chapter 440 [precedes 440.99] of the statutes is

6 created to read:

7 **CHAPTER 440**

INSERT 3-3

1 SUBCHAPTER XII

2 UNIFORM ATHLETE AGENTS ACT

3 **440.99 Definitions.** In this subchapter:

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

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

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

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

24 (5) "Endorsement contract" means an agreement under which a student
25 athlete is employed or receives consideration to use on behalf of the other party any

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

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

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

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

11 (9) "Registration" means registration as an athlete agent under this
12 subchapter.

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

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

20 **440.9905 Service of process.** By acting as an athlete agent in this state, a
21 nonresident individual appoints the secretary of state as the individual's agent for
22 service of process in any civil action in this state related to the individual's acting as
23 an athlete agent in this state.

24 **440.991 Athlete agents: registration required; void contracts. (1)**
25 Except as otherwise provided in sub. (2), an individual may not act as an athlete

1 agent in this state without holding a certificate of registration under s. 440.992 or
2 440.993.

3 **(2)** Before being issued a certificate of registration, an individual may act as
4 an athlete agent in this state for all purposes except signing an agency contract, if
5 all of the following are satisfied:

6 (a) A student athlete or another person acting on behalf of the student athlete
7 initiates communication with the individual.

8 (b) Within 7 days after an initial act as an athlete agent, such as an effort to
9 recruit or solicit a student athlete to enter into an agency contract, the individual
10 submits an application for registration as an athlete agent in this state.

11 **(3)** An agency contract resulting from conduct in violation of this section is void
12 and the athlete agent shall return any consideration received under the contract.

13 **440.9915 Registration as athlete agent; form; requirements. (1)** An
14 applicant for registration as an athlete agent shall submit an application for
15 registration to the department in a form prescribed by the department. The
16 application must be in the name of an individual and, except as otherwise provided
17 in sub. (2), signed or otherwise authenticated by the applicant under penalty of
18 perjury and state or contain all of the following:

19 (a) The name of the applicant and the address of the applicant's principal place
20 of business.

21 (b) The name of the applicant's business or employer, if applicable.

22 (c) Any business or occupation engaged in by the applicant for the 5 years next
23 preceding the date of submission of the application.

24 (d) A description of all of the following:

25 1. The applicant's formal training as an athlete agent.

2. The applicant's practical experience as an athlete agent.

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

(e) The name, sport, and last–known team for each individual for whom the applicant acted as an athlete agent during the 5 years next preceding the date of submission of the application.

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

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

(h) Notwithstanding ss. 111.321, 111.322 and 111.337, whether the applicant or any person named pursuant to par. (f) or (g) has been convicted of a crime that, if committed in this state, would be a felony, and a description of the crime.

(i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to par. (f) or (g) has made a false, misleading, deceptive, or fraudulent representation.

(j) Any instance in which the conduct of the applicant or any person named pursuant to par. (f) or (g) resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution.

(k) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to par. (f) or (g) arising out of occupational or professional conduct.

1 (L) Whether there has been any denial of an application for, suspension or
2 revocation of, or refusal to renew, the registration or licensure of the applicant or any
3 person named pursuant to par. (f) or (g) as an athlete agent in any state.

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

10 (a) The application to the other state was submitted in the other state within
11 the 6 months next preceding the submission of the application in this state and the
12 applicant certifies that the information contained in the application to the other
13 state is current.

14 (b) The application to the other state contains information substantially
15 similar to or more comprehensive than that required in an application submitted in
16 this state.

17 (c) The application to the other state was signed by the applicant under penalty
18 of perjury.

19 **440.992 Certificate of registration; issuance or denial; renewal. (1)**
20 Except as otherwise provided in sub. (2), the department shall issue a certificate of
21 registration to an individual who complies with s. 440.9915 (1) or whose application
22 has been accepted under s. 440.9915 (2). INSERT 8-22

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

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

(a) ~~Notwithstanding~~ Subject to ss. 111.321, 111.322, and 111.335, been convicted of a crime that, if committed in this state, would be a felony.

(b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent.

(c) Engaged in unprofessional conduct or conduct that would disqualify the applicant from serving in a fiduciary capacity.

(d) Engaged in conduct prohibited by s. 440.996.

(e) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state.

(f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution.

(g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(3) In making a determination under sub. (2), the department shall consider each of the following:

(a) How recently the conduct occurred.

(b) The nature of the conduct and the context in which it occurred.

(c) Any other relevant conduct of the applicant.

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

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

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

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

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

17 (c) The application was signed by the applicant under penalty of perjury.

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

19 **440.9925 Suspension, revocation, or refusal to renew registration. (1)**
20 The department may suspend, revoke, or refuse to renew a registration for conduct
21 that would have justified denial of registration under s. 440.992 (2).

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

24 **440.993 Temporary registration.** The department may issue a temporary
25 certificate of registration while an application for registration or renewal of

registration is pending. The department shall promulgate rules establishing requirements and procedures for applying for and issuing temporary certificates of registration.

INSERT 11-4 ✓

440.9935 Registration and renewal fees. ~~An application for registration must be accompanied by the fee specified in s. 440.05 (1).~~ The renewal dates for certificates of registration issued under this subchapter are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include ~~the fee specified in s. 440.08 (2) (a).~~

INSERT 11-8 ✓

440.994 Required form of contract. (1) An agency contract must be in a record, signed or otherwise authenticated by the parties.

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

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

(b) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student athlete signed the agency contract.

(c) A description of any expenses that the student athlete agrees to reimburse.

(d) A description of the services to be provided to the student athlete.

(e) The duration of the contract.

(f) The date of execution.

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

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

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

INSERT 12-6

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

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

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

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

440.9945 Notice to educational institution. (1) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(2) Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first,

1 the student athlete shall inform the athletic director of the educational institution
2 at which the student athlete is enrolled that he or she has entered into an agency
3 contract.

4 **440.995 Student athlete's right to cancel. (1)** A student athlete may cancel
5 an agency contract by giving notice of the cancellation to the athlete agent in a record
6 within 14 days after the contract is signed.

7 **(2)** A student athlete may not waive the right to cancel an agency contract.

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

12 **440.9955 Required records. (1)** An athlete agent shall retain all of the
13 following records for a period of 5 years:

14 (a) The name and address of each individual represented by the athlete agent.

15 (b) Any agency contract entered into by the athlete agent.

16 (c) Any direct costs incurred by the athlete agent in the recruitment or
17 solicitation of a student athlete to enter into an agency contract.

18 **(2)** Records required by sub. (1) to be retained are open to inspection by the
19 department during normal business hours. Upon demand, an athlete agent shall
20 provide a copy of such a record to the department.

21 **440.996 Prohibited conduct. (1)** An athlete agent, with the intent to induce
22 a student athlete to enter into an agency contract, may not do any of the following:

23 (a) Give any materially false or misleading information or make a materially
24 false promise or representation.

(b) Furnish anything of value to a student athlete before the student athlete enters into the agency contract.

(c) Furnish anything of value to any individual other than the student athlete or another registered athlete agent.

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

(a) Initiate contact with a student athlete unless registered under this subchapter.

(b) Refuse or fail to retain or permit inspection of the records required to be retained by s. 440.9955.

(c) Fail to register when required by s. 440.991.

(d) Provide materially false or misleading information in an application for registration or renewal of registration.

(f) Predate or postdate an agency contract.

(g) Fail to notify a student athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport.

440.9965 Criminal penalties. An athlete agent who violates s. 440.996 may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

440.997 Civil remedies. (1) An educational institution may bring an action against an athlete agent ~~or a former student athlete~~ for damages caused by a violation of this subchapter. In an action under this subsection, the court may award to the prevailing party costs and, notwithstanding s. 814.04, reasonable attorney fees.

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

(3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent ~~or former student athlete~~.

~~**(4)** Any liability of the athlete agent or the former student athlete under this subchapter is several and not joint.~~

(5) This subchapter does not restrict rights, remedies, or defenses of any person under law or equity.

440.9975 Administrative forfeiture. The department may directly assess a forfeiture against an athlete agent of not more than $25,000 for a violation of this subchapter.

440.998 Uniformity of application and construction. In applying and construing this subchapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact the Uniform Athlete Agents Act.

440.9985 Electronic Signatures in Global and National Commerce Act. The provisions of this subchapter governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements

of section 102 of the federal Electronic Signatures in Global and National Commerce Act, 15 USC 7002, and supersede, modify, and limit the federal Electronic Signatures in Global and National Commerce Act, 15 USC 7001 to 7031.

440.999 Rules. The department shall promulgate rules that define unprofessional conduct for purposes of s. 440.992 (2) (c).

SECTION 4. Nonstatutory provisions.

(1) If an athlete agent, as defined in section 440.99 (2) of the statutes, as created by this act, or student athlete, as defined in section 440.99 (11) of the statutes, as created by this act, is subject to a contract that is in effect on the effective date of this subsection and that contains provisions that are inconsistent with subchapter XII of chapter 440 of the statutes, as created by this act, then, notwithstanding subchapter XII of chapter 440 of the statutes, as created by this act, the athlete agent or student athlete may perform his or her obligations, and exercise his or her rights, under that contract until the contract expires, is extended, is modified, or is renewed, whichever occurs first.

INSERT 16-15b

SECTION 5. Appropriation changes.

(1) POSITION AUTHORIZATION. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of regulation and licensing under section 20.165 (1) (g) of the statutes, as affected by the acts of 2003, the dollar amount is increased by $31,900 for fiscal year 2003–04 and the dollar amount is increased by $31,900 for fiscal year 2004–05 to increase the authorized FTE positions for the department by 0.5 PR position to perform services related to the regulation of athlete agents.

SECTION 6. Initial applicability.

INSERT 16-15a

1 (1) The treatment of section 440.9945 of the statutes first applies to contracts
2 entered into on the effective date of this subsection.
3 (2) The treatment of section 440.997 (2) of the statutes first applies to losses
4 or expenses incurred on the effective date of this subsection.
5 **SECTION 7. Effective date.**
6 (1) This act takes effect on the first day of the 7th month beginning after
7 publication.
8 **(END)**

ASSEMBLY AMENDMENT 1,

TO 2003 ASSEMBLY BILL 403

November 25, 2003 – Offered by Representative WIECKERT.

At the locations indicated, amend the bill as follows:

1. Page 1, line 3: before "granting" insert "providing an exemption from emergency rule procedures,".

~~**2.** Page 3, line 2: after that line insert:~~

INSERT 3-3:

SECTION 1m. 440.05 (intro.) of the statutes is amended to read:

440.05 Standard fees. (intro.) The following standard fees apply to all initial credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 440.9935, 444.03, 444.05, 444.11, 447.04 (2) (c) 2., 449.17, 449.18 and 459.46:

END of INSERT 3-3

INSERT 3-4:

~~**3.** Page 3, line 4: delete "$53" and substitute~~ the amount specified in rules promulgated under s. 440.9935

END of INSERT 3-4

INSERT 8-22:

~~**4.** Page 8, line 22: after "440.0915 (2)" insert~~ if the individual has paid the fees specified in s. 440.9935

END of INSERT 8-22

INSERT 11-4:

5. Page 11, line 4: delete the material beginning with "An application" and ending with "440.05 (1)." on line 5 and substitute "An application for registration must be accompanied by a processing fee in an amount established in rules promulgated by the department. If the department determines to issue a certificate of registration to an applicant, the department shall require the applicant to pay a fee for issuing the certificate in an amount established in rules promulgated by the department." NOTE END of INSERT 11-4

INSERT 11-8:

6. Page 11, line 8: delete "the fee specified in s. 440.08 (2) (a)." and substitute "a fee in an amount established in rules promulgated by the department, except that for the first renewal after a certificate of registration is issued, the department shall prorate the fee based on the length of time between between issuance and renewal. The amounts established in the rules promulgated under this section shall be based on the department's administrative and enforcement costs attributable to processing applications and regulating athlete agents." NOTE END of INSERT 11-8

INSERT 12-6:

7. Page 12, line 6: before the comma insert "OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU MAY PARTICIPATE, WHICHEVER OCCURS FIRST". NOTE END OF INSERT 12-6

8. Page 14, line 21: delete "or a former student athlete".

9. Page 15, line 2: delete "or former".

10. Page 15, line 3: delete "student athlete".

11. Page 15, line 10: delete "or former student athlete".

12. Page 15, line 11: delete lines 11 and 12.

13. Page 16, line 15: after that line insert:

INSERT 16-15a

1 (2m) The department of regulation and licensing may, using the procedure
2 under section 227.24 of the statutes, promulgate the rules under section 440.9935 of
3 the statutes, as created by this act, for the period before permanent rules become
4 effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2)
5 of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes,
6 the department is not required to provide evidence that promulgating rules under
7 this subsection as emergency rules is necessary for the preservation of the public
8 peace, health, safety, or welfare and is not required to provide findings of emergency
9 for rules promulgated under this subsection. END OF INSERT 16-15a

10 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0362/1dn
MDK:.../:...
WLJ

Darin Renner:

This substitute amendment incorporates AB 403 as amended by AA1, LRBa2182/1, LRBa2228/1, and Senator Lazich's motion before Joint Finance.

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

INSERT 16–15b:

(3) The department of regulation and licensing shall include, as part of its 2005–07 biennial budget request that it submits to the department of administration under section 16.42 of the statutes, any recommended changes to the initial and renewal fees for registration as an athlete agent that are necessary to reflect the approximate administrative and enforcement costs of the department that are attributable to the regulation of athlete agents and any proposed statutory changes that are required to establish such changes to the fees by statute rather than by rule.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0362/1dn
MDK:wlj:pg

February 19, 2004

Darin Renner:

This substitute amendment incorporates AB–403 as amended by AA1, LRBa2182/1, LRBa2228/1, and Senator Lazich's motion before Joint Finance.

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