

2003 Senate Bill 17

Date of enactment: April 22, 2004

Date of publication*: May 6, 2004

2003 WISCONSIN ACT 309

(Vetoed in Part)

AN ACT to amend 25.60, 49.49 (6), 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2. and 299.97 (2); and to create 13.59, 20.455 (1) (gh) and 165.28 of the statutes; relating to: creating a Joint Committee on Court Judgments and Settlements made on behalf of the state, providing grants to persons from court judgments and settlements, and making an appropriation.

Vetoed
In Part

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

Vetoed
In Part

SECTION 1. 13.59 of the statutes is created to read:
13.59 Joint committee on court judgments and settlements. (1) CREATION. There is created a joint committee on court judgments and settlements, to review court cases in which the attorney general has obtained a financial settlement or judgment on behalf of the citizens of this state and to determine how the funds received from those cases will be used. The committee shall consist of the following members:

(a) One majority party senator and one minority party senator, neither of whom is a member of the joint committee on finance, selected as are the members of standing committees of the senate.

(b) One majority party member of the assembly and one minority party member of the assembly, neither of whom is a member of the joint committee on finance, selected as are the members of standing committees of the assembly.

(c) Subject to sub. (2), one individual who is not a member of the legislature, nominated by the attorney general.

(d) Subject to sub. (2), one individual who is not a member of the legislature, nominated by the governor.

(e) Subject to sub. (2), one individual who is not a member of the legislature, nominated by the supreme court.

Vetoed
In Part

(2) SENATE CONFIRMATION. The individuals nominated under sub. (1) (c) to (e) shall be appointed with the advice and consent of the senate.

(3) TERM OF OFFICE. (a) Each appointment under sub. (1) (c) to (e) shall be for a 4-year term and until a successor is appointed and qualified.

(b) Each individual appointed under sub. (1) (c) to (e) may not serve more than 2 full terms.

(c) If an individual who is appointed under sub. (1) (c) to (e) fails to complete his or her term, the attorney general, governor, or supreme court, as appropriate, may nominate another individual for the remainder of the term. Those individuals shall be appointed with the advice and consent of the senate. If an individual appointed under this paragraph serves more than 50% of a 4-year term, that individual may only serve one additional 4-year term.

(4) OFFICERS. The appointed majority party member of the senate and the appointed majority party member of the assembly shall serve as cochair of the committee.

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 2. 20.455 (1) (gh) of the statutes is created to read:

Vetoed In Part 20.455 (1) (gh) *Investigation and prosecution.* **Ten percent of all** moneys received under ss. 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., and 299.97 (2), for the expenses of investigation and prosecution of violations, including attorney fees.

Vetoed In Part SECTION 3. 25.60 of the statutes is amended to read: **25.60 Budget stabilization fund.** There is created a separate nonlapsible trust fund designated as the budget stabilization fund, consisting of moneys transferred to the fund from the general fund under s. 16.518 (3) and any other moneys that are required by law to be deposited in the fund.

SECTION 4. 49.49 (6) of the statutes is amended to read:

Vetoed In Part 49.49 (6) RECOVERY. In addition to other remedies available under this section, the court may award the department of justice the reasonable and necessary costs of investigation, an amount reasonably necessary to remedy the harmful effects of the violation and the reasonable and necessary expenses of prosecution, including attorney fees, from any person who violates this section. The department of justice shall deposit in the state treasury for deposit in the general fund all moneys that the court awards to the department or the state under this subsection. Ten percent of the money deposited in the general fund that was awarded under this subsection for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

SECTION 5. 133.16 of the statutes is amended to read:

133.16 Injunction; pleading; practice. Any circuit court may prevent or restrain, by injunction or otherwise, any violation of this chapter. The department of justice, any district attorney or any person by complaint may institute actions or proceedings to prevent or restrain a violation of this chapter, setting forth the cause and grounds for the intervention of the court and praying that such violation, whether intended or continuing be enjoined or prohibited. When the parties informed against or complained of have been served with a copy of the information or complaint and cited to answer it, the court shall proceed, as soon as may be in accordance with its rules, to the hearing and determination of the case; and pending the filing of the answer to such information or complaint may, at any time, upon proper notice, make such temporary restraining order or prohibition as is just. Whenever it appears to the court that the ends of justice require that other persons be made parties to the action or proceeding the court may cause them to be made parties in such manner as it directs. The party commencing or maintaining the action or proceeding may demand and recover the cost of suit including reasonable attorney fees. In an action commenced by the department of

justice, the court may award the department of justice the reasonable and necessary costs of investigation and an amount reasonably necessary to remedy the harmful effects of the violation. The department of justice shall deposit in the state treasury for deposit in the general fund all moneys that the court awards to the department or the state under this section. Ten percent of the money deposited in the general fund that was awarded under this section for the costs of investigation and the expenses of suit, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh). Copies of all pleadings filed under this section shall be served on the department of justice.

Vetoed In Part

SECTION 6. 165.28 of the statutes is created to read:

165.28 Allocation of court judgments and settlements. (1) When the department of justice brings an action on behalf of the citizens of this state and wins a money judgment or settlement in that action of \$100,000 or more and the court judgment or the settlement does not specify that payments be made from the award to particular persons, but does specify that payments be used for a particular purpose the attorney general shall issue a public statement requesting persons to apply to the joint committee on court judgments and settlements for a grant from the money judgment or settlement. The attorney general shall include in that statement the purpose specified by the court judgment or settlement for the use of the money. The statement shall include an application form that must be used to apply for a grant. The attorney general shall include that statement on the department of justice Web site and shall publish the statement as a class 1 notice, under ch. 985, in the official state newspaper designated under s. 985.04

Vetoed In Part

(2) If the court judgement or settlement has not specified that payments be made from the money judgment or settlement under sub. (1) to particular persons or for a particular purpose, the money that the state receives shall be deposited in the budget stabilization fund.

(3) A person shall apply to the department of justice for a grant from the joint committee on court judgments and settlements within 60 days after the notice under sub. (1) is published. The department of justice shall process any applications and provide the joint committee on court judgments and settlements with the staff necessary to review and make a determination as to the merits of an application.

(4) Within 30 days after the deadline for submitting an application, the joint committee on court judgments and settlements shall meet in open session to consider the applications. The department of justice shall post the time and place of the joint committee on court judgments and settlements meeting on the department's Web site as soon as the meeting is scheduled. The legislature shall post the time and place of the joint committee on court judgments and settlements meeting on the legislature's

Vetoed
In Part

Web site no less than 24 hours before the starting time of the meeting. Failure to post the notices as required under this subsection invalidates any action taken at that meeting.

(5) No public testimony may be presented at the joint committee on court judgments and settlements meeting. The joint committee on court judgments and settlements shall review the applications during the meeting and determine who is to receive an award and how much to award.

(6) The attorney general shall submit the joint committee on court judgments and settlements' determination of award winners under sub. (5) to the joint committee on finance for review. If the cochairpersons of the joint committee on finance do not notify the joint committee on court judgments and settlements that the joint committee on finance has scheduled a meeting for the purpose of reviewing the recommended awards within 14 working days after the date of the submittal by the joint committee on court judgments and settlements, the department of justice shall make the awards as determined by the joint committee on court judgments and settlements. If, within 14 working days after the date of the submittal by the joint committee on court judgments and settlements, the cochairpersons of the joint committee on finance notify the joint committee on court judgments and settlements that the joint committee on finance has scheduled a meeting for the purpose of reviewing the recommended awards, the department of justice may make the awards only with the approval of the joint committee on finance.

(7) If the joint committee on finance schedules a meeting to review an award, that committee may only vote for or against an award. The joint committee on finance may not amend the amount of an award. If the joint committee on finance disapproves an award, that committee shall return the proposal to the joint committee on court judgments and settlements within 30 days after disapproving the award, with an explanation of why the award was disapproved. The joint committee on court judgments and settlements may revise the award and submit the revised award to the joint committee on finance for its approval within 30 days after receipt of the disapproval.

(8) When making a decision regarding an award, the joint committee on finance may look only at whether the purpose for which the award is made is in accordance with the purpose established by the court judgment or settlement. The joint committee on finance may not look at the process by which the court reached its determination as to the judgment or settlement.

(9) If the joint committee on finance has a tie vote regarding an award, that award is approved and the department of justice shall make the award.

SECTION 7. 281.98 (2) of the statutes is amended to read:

281.98 (2) In addition to the penalties provided under sub. (1) or s. 281.99 (2), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of a violation of this chapter, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subsection. Ten percent of the money deposited in the general fund that was awarded under this subsection for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

Vetoed
In Part

SECTION 8. 283.91 (5) of the statutes is amended to read:

283.91 (5) In addition to all other civil and criminal penalties prescribed under this chapter, the court may assess as an additional penalty a portion or all of the costs of the investigation, including monitoring, which led to the establishment of the violation. The court may award the department of justice the reasonable and necessary expenses of the prosecution, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subsection. Ten percent of the money deposited in the general fund that was awarded under this subsection for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

Vetoed
In Part

SECTION 9. 289.96 (3) (b) of the statutes is amended to read:

289.96 (3) (b) In addition to the penalties provided under par. (a), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this paragraph. Ten percent of the money deposited in the general fund that was awarded under this paragraph for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

Vetoed
In Part

SECTION 10. 292.99 (2) of the statutes is amended to read:

292.99 (2) In addition to the penalties provided under subs. (1) and (1m), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subsection. Ten percent of the money deposited in the general fund that was awarded under this subsection for the costs of investigation and the expenses

Vetoed
In Part

2003 Wisconsin Act 309

2003 Senate Bill 17

of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

SECTION 11. 293.87 (4) (b) of the statutes is amended to read:

293.87 (4) (b) In addition to the penalties provided under par. (a), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this paragraph. Ten percent of the money deposited in the general fund that was awarded under this paragraph for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

SECTION 12. 295.19 (3) (b) 2. of the statutes is amended to read:

295.19 (3) (b) 2. In addition to the penalties provided under subd. 1., the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, including attorney fees. The department of justice shall deposit in

the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subdivision. Ten percent of the money deposited in the general fund that was awarded under this subdivision for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

SECTION 13. 299.97 (2) of the statutes is amended to read:

299.97 (2) In addition to the penalties provided under sub. (1), the court may award the department of justice the reasonable and necessary expenses of the investigation and prosecution of the violation, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subsection. Ten percent of the money deposited in the general fund that was awarded under this subsection for the costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

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In Part**

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