

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 17**

April 30, 2003 – Offered by COMMITTEE ON HOMELAND SECURITY, VETERANS AND
MILITARY AFFAIRS AND GOVERNMENT REFORM.

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

Analysis by the Legislative Reference Bureau

This substitute amendment establishes a seven-member Joint Committee on Court Judgments and Settlements, composed of one individual nominated by the attorney general, one by the governor, and one by the Supreme Court and confirmed by the Senate; and one legislator each appointed by the majority and the minority leaders of each house of the Legislature. Under the substitute amendment, the attorney general is required to notify the public when the Department of Justice (DOJ) wins a money judgment or settlement of \$100,000 or more in a court action, brought on behalf of the citizens of the state, that does not specify that the money go to particular persons but does specify that money be used for a particular purpose. The notice shall include the specific purpose for which the money must be used and ask persons to apply to the newly created committee for a grant from the awarded

money. If the court did not specify particular persons or a particular purpose for the use of the awarded money, the substitute amendment requires the money to be deposited in the budget stabilization fund.

Under the substitute amendment, a person who wishes to receive a grant from the Joint Committee on Court Judgments and Settlements must apply to DOJ for a grant within 60 days after the attorney general issues the notice of an award. The substitute amendment requires DOJ staff to process the applications for a grant and to provide the committee with the staff necessary to review and make a determination as to the merits of a request for a grant. The committee is required by the substitute amendment to meet within 30 days after the application deadline to determine the amounts and recipients of grants. Under the substitute amendment, the committee's meeting time and place must be publicized, and the meeting is open to the public, but no public testimony is permitted.

The committee's determinations are subject to passive 14-day review by the Joint Committee on Finance under the substitute amendment. However, the substitute amendment limits the Joint Committee on Finance review to approving or disapproving a specific grant, based on the purpose established by the court for the use of the money. If the Joint Committee on Finance disapproves a grant, the substitute amendment requires that committee to notify the Joint Committee on Court Judgments and Settlements of that decision within 30 days after making the decision. The substitute amendment allows the Joint Committee on Court Judgments and Settlements to revise the disapproved grant and resubmit it to the Joint Committee on Finance within 30 days after receiving notice of the Joint Committee on Finance disapproval.

Before 2001 Wisconsin Act 109, when a court awarded DOJ expenses related to the investigation and prosecution of violators of state laws, ten percent of the money awarded was credited to an appropriation account for the use of DOJ in investigating and prosecuting additional violators. These provisions were removed by 2001 Wisconsin Act 109. This bill reinstates those provisions, allowing ten percent of the money awarded for the investigation and prosecution of violators to be credited to a continuing appropriation for DOJ to use for investigating and prosecuting violators.

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

1 **SECTION 1.** 13.59 of the statutes is created to read:

2 **13.59 Joint committee on court judgments and settlements. (1)**

3 **CREATION.** There is created a joint committee on court judgments and settlements,
4 to review court cases in which the attorney general has obtained a financial
5 settlement or judgment on behalf of the citizens of this state and to determine how

1 the funds received from those cases will be used. The committee shall consist of the
2 following members:

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

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

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

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

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

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

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

19 (b) Each individual appointed under sub. (1) (c) to (e) may not serve more than
20 2 full terms.

21 (c) If an individual who is appointed under sub. (1) (c) to (e) fails to complete
22 his or her term, the attorney general, governor, or supreme court, as appropriate,
23 may nominate another individual for the remainder of the term. Those individuals
24 shall be appointed with the advice and consent of the senate. If an individual

1 appointed under this paragraph serves more than 50% of a 4–year term, that
2 individual may only serve one additional 4–year term.

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

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

7 20.455 (1) (gh) *Investigation and prosecution.* Ten percent of all moneys
8 received under ss. 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b),
9 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., and 299.97 (2), for the expenses of
10 investigation and prosecution of violations, including attorney fees.

11 SECTION 3. 25.60 of the statutes is amended to read:

12 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
13 trust fund designated as the budget stabilization fund, consisting of moneys
14 transferred to the fund from the general fund under s. 16.518 (3) and any other
15 moneys that are required by law to be deposited in the fund.

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

17 49.49 (6) RECOVERY. In addition to other remedies available under this section,
18 the court may award the department of justice the reasonable and necessary costs
19 of investigation, an amount reasonably necessary to remedy the harmful effects of
20 the violation and the reasonable and necessary expenses of prosecution, including
21 attorney fees, from any person who violates this section. The department of justice
22 shall deposit in the state treasury for deposit in the general fund all moneys that the
23 court awards to the department or the state under this subsection. Ten percent of
24 the money deposited in the general fund that was awarded under this subsection for

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

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

4 **133.16 Injunction; pleading; practice.** Any circuit court may prevent or
5 restrain, by injunction or otherwise, any violation of this chapter. The department
6 of justice, any district attorney or any person by complaint may institute actions or
7 proceedings to prevent or restrain a violation of this chapter, setting forth the cause
8 and grounds for the intervention of the court and praying that such violation,
9 whether intended or continuing be enjoined or prohibited. When the parties
10 informed against or complained of have been served with a copy of the information
11 or complaint and cited to answer it, the court shall proceed, as soon as may be in
12 accordance with its rules, to the hearing and determination of the case; and pending
13 the filing of the answer to such information or complaint may, at any time, upon
14 proper notice, make such temporary restraining order or prohibition as is just.
15 Whenever it appears to the court that the ends of justice require that other persons
16 be made parties to the action or proceeding the court may cause them to be made
17 parties in such manner as it directs. The party commencing or maintaining the
18 action or proceeding may demand and recover the cost of suit including reasonable
19 attorney fees. In an action commenced by the department of justice, the court may
20 award the department of justice the reasonable and necessary costs of investigation
21 and an amount reasonably necessary to remedy the harmful effects of the violation.
22 The department of justice shall deposit in the state treasury for deposit in the general
23 fund all moneys that the court awards to the department or the state under this
24 section. Ten percent of the money deposited in the general fund that was awarded
25 under this section for the costs of investigation and the expenses of suit, including

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

2 Copies of all pleadings filed under this section shall be served on the department of
3 justice.

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

5 **165.28 Allocation of court judgments and settlements. (1)** When the
6 department of justice brings an action on behalf of the citizens of this state and wins
7 a money judgment or settlement in that action of \$100,000 or more and the court
8 judgment or the settlement does not specify that payments be made from the award
9 to particular persons, but does specify that payments be used for a particular purpose
10 the attorney general shall issue a public statement requesting persons to apply to the
11 joint committee on court judgments and settlements for a grant from the money
12 judgment or settlement. The attorney general shall include in that statement the
13 purpose specified by the court judgment or settlement for the use of the money. The
14 statement shall include an application form that must be used to apply for a grant.
15 The attorney general shall include that statement on the department of justice Web
16 site and shall publish the statement as a class 1 notice, under ch. 985, in the official
17 state newspaper designated under s. 985.04

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

22 **(3)** A person shall apply to the department of justice for a grant from the joint
23 committee on court judgments and settlements within 60 days after the notice under
24 sub. (1) is published. The department of justice shall process any applications and

1 provide the joint committee on court judgments and settlements with the staff
2 necessary to review and make a determination as to the merits of an application.

3 **(4)** Within 30 days after the deadline for submitting an application, the joint
4 committee on court judgments and settlements shall meet in open session to consider
5 the applications. The department of justice shall post the time and place of the joint
6 committee on court judgments and settlements meeting on the department's Web
7 site as soon as the meeting is scheduled. The legislature shall post the time and place
8 of the joint committee on court judgments and settlements meeting on the
9 legislature's Web site no less than 24 hours before the starting time of the meeting.
10 Failure to post the notices as required under this subsection invalidates any action
11 taken at that meeting.

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

16 **(6)** The attorney general shall submit the joint committee on court judgments
17 and settlements' determination of award winners under sub. (5) to the joint
18 committee on finance for review. If the cochairpersons of the joint committee on
19 finance do not notify the joint committee on court judgments and settlements that
20 the joint committee on finance has scheduled a meeting for the purpose of reviewing
21 the recommended awards within 14 working days after the date of the submittal by
22 the joint committee on court judgments and settlements, the department of justice
23 shall make the awards as determined by the joint committee on court judgments and
24 settlements. If, within 14 working days after the date of the submittal by the joint
25 committee on court judgments and settlements, the cochairpersons of the joint

1 committee on finance notify the joint committee on court judgments and settlements
2 that the joint committee on finance has scheduled a meeting for the purpose of
3 reviewing the recommended awards, the department of justice may make the awards
4 only with the approval of the joint committee on finance.

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

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

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

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

22 281.98 (2) In addition to the penalties provided under sub. (1) or s. 281.99 (2),
23 the court may award the department of justice the reasonable and necessary
24 expenses of the investigation and prosecution of a violation of this chapter, including
25 attorney fees. The department of justice shall deposit in the state treasury for

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

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

7 283.91 (5) In addition to all other civil and criminal penalties prescribed under
8 this chapter, the court may assess as an additional penalty a portion or all of the costs
9 of the investigation, including monitoring, which led to the establishment of the
10 violation. The court may award the department of justice the reasonable and
11 necessary expenses of the prosecution, including attorney fees. The department of
12 justice shall deposit in the state treasury for deposit into the general fund all moneys
13 that the court awards to the department or the state under this subsection. Ten
14 percent of the money deposited in the general fund that was awarded under this
15 subsection for the costs of investigation and the expenses of prosecution, including
16 attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

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

18 289.96 (3) (b) In addition to the penalties provided under par. (a), the court may
19 award the department of justice the reasonable and necessary expenses of the
20 investigation and prosecution of the violation, including attorney fees. The
21 department of justice shall deposit in the state treasury for deposit into the general
22 fund all moneys that the court awards to the department or the state under this
23 paragraph. Ten percent of the money deposited in the general fund that was awarded
24 under this paragraph for the costs of investigation and the expenses of prosecution.

1 including attorney fees, shall be credited to the appropriation account under s.
2 20.455 (1) (gh).

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

4 292.99 (2) In addition to the penalties provided under subs. (1) and (1m), the
5 court may award the department of justice the reasonable and necessary expenses
6 of the investigation and prosecution of the violation, including attorney fees. The
7 department of justice shall deposit in the state treasury for deposit into the general
8 fund all moneys that the court awards to the department or the state under this
9 subsection. Ten percent of the money deposited in the general fund that was awarded
10 under this subsection for the costs of investigation and the expenses of prosecution,
11 including attorney fees, shall be credited to the appropriation account under s.
12 20.455 (1) (gh).

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

14 293.87 (4) (b) In addition to the penalties provided under par. (a), the court may
15 award the department of justice the reasonable and necessary expenses of the
16 investigation and prosecution of the violation, including attorney fees. The
17 department of justice shall deposit in the state treasury for deposit into the general
18 fund all moneys that the court awards to the department or the state under this
19 paragraph. Ten percent of the money deposited in the general fund that was awarded
20 under this paragraph for the costs of investigation and the expenses of prosecution,
21 including attorney fees, shall be credited to the appropriation account under s.
22 20.455 (1) (gh).

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

24 295.19 (3) (b) 2. In addition to the penalties provided under subd. 1., the court
25 may award the department of justice the reasonable and necessary expenses of the

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

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

9 299.97 (2) In addition to the penalties provided under sub. (1), the court may
10 award the department of justice the reasonable and necessary expenses of the
11 investigation and prosecution of the violation, including attorney fees. The
12 department of justice shall deposit in the state treasury for deposit into the general
13 fund all moneys that the court awards to the department or the state under this
14 subsection. Ten percent of the money deposited in the general fund that was awarded
15 under this subsection for the costs of investigation and the expenses of prosecution,
16 including attorney fees, shall be credited to the appropriation account under s.
17 20.455 (1) (gh).

18 (END)