

## 2005 DRAFTING REQUEST

### Bill

Received: 12/13/2004

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-1039**

By/Representing: **Percy**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters: **mshovers**

Subject: **State Govt - procurement  
Transportation - miscellaneous  
Local Gov't - misc**

Extra Copies: **ARG - 1  
PGH - 1  
PJH**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

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### Pre Topic:

DOA:.....Percy, BB0286 -

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### Topic:

Penalty for state contractors who submit false claims or rig bids

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### Instructions:

Per LRB-0177/1, with permission of Paul Hammer, DOT, per e mail, 11/30/04.

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### Drafting History:

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|------------------------|-----------------|-----------------|
| /?           | jkuesel<br>12/13/2004 | wjackson<br>12/21/2004 |                        | _____          |                        |                 | S&L             |
| /1           |                       |                        | pgreensl<br>12/22/2004 | _____          | sbasford<br>12/22/2004 |                 | S&L             |
| /2           | jkuesel<br>01/04/2005 | wjackson<br>01/04/2005 | chaugen<br>01/04/2005  | _____          | lemery<br>01/04/2005   |                 |                 |

FE Sent For:

<END>

DRAFT on 2

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| /1           | 12 jkuesel<br>1/4     | 12 wj 1/4              | pgreensl<br>12/22/2004 | _____          | sbasford<br>12/22/2004 |                 |                 |

FE Sent For:

Handwritten notes: ch 1-1, ch 1/25, 1-1

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /?           | jkuesel        | 1 Wlj 12/21     | WJ<br>P8     | WJ<br>P8       |                  |                 |                 |

FE Sent For:

<END>

Jeff &  
Marc

**Department of Transportation  
2005-2007 Biennial Budget Request  
STATUTORY MODIFICATIONS**

**DIN NUMBER:** 5310

**TOPIC:** Penalty for False or Fraudulent Claims

**DESCRIPTION OF CHANGE:**

The Department requests that statutory language be developed in Chapter 16 Wis. Stats., that would assess significant civil payment penalties to contractors who submit fraudulent bids, false claims for payment, and/or false certifications of quality or compliance for state funded projects. The civil penalties should be identical to what is described in 31 United States Code 3729 to 3732.

**JUSTIFICATION:**

In general, the Federal False Claims Act (FCA) covers fraud involving any federally funded contract or program, with the exception of tax fraud. Known as the Lincoln Law, this legislation dates back to the Civil War. In 1986, the legislation was amended to strengthen the law and provide incentives for citizens to uncover and assist the federal government in identifying fraud.

Contractors who submit fraudulent bids or submit false claims for payment or false certifications of quality or compliance are subject to significant civil payment penalties if the project is federally funded. These violations are considered "false claims" under federal law, 31 United States Code 3729 to 3732. The first section of the FCA makes it unlawful for "any person" to submit a false claim that will eventually be paid in whole or in part with federal funds. The civil penalty is up to \$10,000 plus three times the amount of the damages that the government sustains because of the act of that person. The exceptions are if the court finds the following:

- a. The person committing the violation furnished officials of the United States (US) responsible for investigating the false claim all information known to such person about the violation within 30 days after the date on which the defendant first received the information.
- b. The person committing the violation fully cooperated with any government investigation.
- c. At the time the person committing the violation furnished the government with the information about the violation, that no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

These exceptions for federal violations will need to be considered in drafting a similar law in Wisconsin. Presently, 14 other states have adopted their own version of FCA, with Illinois being the only state in the Midwest to have this legislation.

## 2005-07 Budget Bill Statutory Language Drafting Request

- Topic: Penalty for False or Fraudulent Claims
- Tracking Code: *BB0286*
- SBO team: Environmental and Commercial Resources
- SBO analyst: Doug Percy
  - Phone: 266-1039
  - Email: [doug.percy@doa.state.wi.us](mailto:doug.percy@doa.state.wi.us)
- Agency acronym: DOT
- Agency number: 395

## Gary, Aaron

---

**From:** Buckmaster, Carol  
**Sent:** Tuesday, November 30, 2004 11:44 AM  
**To:** Gary, Aaron  
**Subject:** FW: LRB-0177

**Importance:** High

Aaron - Paul Hammer approved you sharing this draft with DOA.

Thank you.

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

**From:** Hammer, Paul  
**Sent:** Tuesday, November 30, 2004 11:40 AM  
**To:** Buckmaster, Carol  
**Subject:** RE: LRB-0177

Yes

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

**From:** Buckmaster, Carol  
**Sent:** Tuesday, November 30, 2004 10:38 AM  
**To:** Hammer, Paul  
**Subject:** FW: LRB-0177  
**Importance:** High

Paul - going to let you make the call ont his one. I have not shared any drafts with anyone - does Aaron have permission to share the false or fraudulent claims draft with DOA?

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

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Tuesday, November 30, 2004 10:32 AM  
**To:** Buckmaster, Carol  
**Subject:** LRB-0177

Hi Carol,

Do we have authorization to share LRB-0177 (false or fraudulent claims) with Doug Percy in DOA's Budget Office? I think he has been previously advised of it, but I want to make sure. Also, do you know if a copy has been previously provided to him? Thanks. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

## Gary, Aaron

---

**From:** Percy, Doug  
**Sent:** Tuesday, November 30, 2004 12:22 PM  
**To:** Gary, Aaron  
**Subject:** RE: Budget draft BB0286 - Penalty for False or Fraudulent Claims

I would just make it a DOA draft and we can go from there.

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

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]  
**Sent:** Tuesday, November 30, 2004 11:49 AM  
**To:** Percy, Doug  
**Subject:** Budget draft BB0286 - Penalty for False or Fraudulent Claims

Doug,

Based upon our meeting in September and subsequent communications, I assume this budget request is derived from DOT's proposal previously drafted as LRB-0177 (which we have been specifically authorized to discuss with you). Is this correct? Have you been provided a copy of LRB-0177? If so, are there any changes you want made as it is redrafted for DOA? Thanks. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

2005

Date (time) needed

SON

LRB-12/9/11

**DOA BUDGET DRAFT**

12/23

JTR:WLj

Use the appropriate components and routines developed for bills.

>>FOR 2005-07 BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT . . . [DO NOT generate catalog]; relating to: ~~the budget~~ . . . . .

.....  
.....

*Analysis by the Legislative Reference Bureau*

If titles are needed in the analysis, in the component bar:

For the main heading, execute: . . . . . create → anal: → title: → head

For the subheading, execute: . . . . . create → anal: → title: → sub

For the sub-subheading, execute: . . . . . create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: . . . . . create → anal: → text

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

SECTION #.

# 2005 BILL

1 AN ACT *to amend* 23.41 (5), 25.18 (1) (a), 25.18 (1) (f), 25.18 (1) (m), 84.01 (13),  
 2 84.06 (2) (a), 84.06 (3), 84.06 (4), 102.81 (2), 221.0903 (4) (b) and 655.27 (2); and  
 3 *to create* 16.771, 16.871 and 66.0902 of the statutes, **relating to** false claims  
 4 submitted to the state and local governments and providing a penalty.

heading  
 ↳ STATE GOVERNMENT  
 OTHER STATE  
 ↳ GOVERNMENT  
 Subheading

## *Analysis by the Legislative Reference Bureau*

Currently, if a contractor or vendor does business with this state or a local government in this state, the terms of the contract or order govern the performance of, and the price to be paid to, the contractor or vendor. If the contractor or vendor claims payment for materials, supplies, equipment, or contractual services that are not provided in accordance with the contract or order, or at a price that is different from the price specified in the contract or order, the state or a local government has a remedy against the contractor or vendor for breach of contract. If the contractor or vendor is asked to swear to the truth of a claim for payment and the claim is false, the contractor or vendor may also be prosecuted for false swearing, which is a criminal offense.

This bill provides that whoever knowingly presents or causes to be presented a false claim under any contract or order for materials, supplies, equipment, or contractual services to be provided to a state agency is subject to a forfeiture (civil penalty) of not less than \$5,000 nor more than \$10,000, plus three times the amount of the damages that were sustained by the state or would have been sustained by the state, whichever is greater, as a result of the false claim. The bill permits the attorney general to bring an action on behalf of the state to recover any forfeiture for

**BILL**

which a contractor or vendor is liable as a result of a false claim submitted to a state agency. This bill also contains similar provisions that apply to local governmental units.

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

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

1           **SECTION 1.** 16.771 of the statutes is created to read:

2           **16.771 False claims.** Whoever knowingly presents or causes to be presented  
3 a false claim for payment under any contract or order for materials, supplies,  
4 equipment, or contractual services to be provided to an agency shall forfeit not less  
5 than \$5,000 nor more than \$10,000, plus 3 times the amount of the damages that  
6 were sustained by the state or would have been sustained by the state, whichever is  
7 greater, as a result of the false claim. The attorney general may bring an action on  
8 behalf of the state to recover any forfeiture incurred under this section.

9           **SECTION 2.** 16.871 of the statutes is created to read:

10          **16.871 False claims. (1)** In this section:

11          (a) “Agency” has the meaning given in s. 16.70 (1e).

12          (b) “Construction work” has the meaning given in s. 16.87 (1) (a).

13          (c) “Limited trades work” has the meaning given in s. 16.70 (7).

14          **(2)** Whoever knowingly presents or causes to be presented a false claim under  
15 any contract for construction work or limited trades work, or for engineering or  
16 architectural services, to be provided to any agency shall forfeit not less than \$5,000  
17 nor more than \$10,000, plus 3 times the amount of the damages that were sustained  
18 by the state or would have been sustained by the state, whichever is greater, as a

**BILL**

1 result of the false claim. The attorney general may bring an action on behalf of the  
2 state to recover any forfeiture incurred under this subsection.

3 **SECTION 3.** 23.41 (5) of the statutes is amended to read:

4 23.41 (5) Each contract for construction work entered into by the department  
5 under this section shall be awarded on the basis of bids or competitive sealed  
6 proposals in accordance with procedures established by the department. Each  
7 contract for construction work shall be awarded to the lowest responsible bidder or  
8 the person submitting the most advantageous competitive sealed proposal as  
9 determined by the department. If the bid of the lowest responsible bidder or the  
10 proposal of the person submitting the most advantageous competitive sealed  
11 proposal is determined by the department to be in excess of the estimated reasonable  
12 value of the work or not in the public interest, the department may reject all bids or  
13 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to  
14 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss.  
15 16.528, 16.754 and, 16.765, 16.771, and 16.871 apply to the contract. Every such  
16 contract involving an expenditure of more than \$60,000 is not valid until the contract  
17 is approved by the governor.

18 **SECTION 4.** 25.18 (1) (a) of the statutes is amended to read:

19 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.  
20 16 and s. 20.930, except s. 16.771, employ special legal or investment counsel in any  
21 matters arising out of the scope of its investment authority. The employment of  
22 special legal counsel shall be with the advice and consent of the attorney general  
23 whenever such special counsel is to be compensated by the board. Any expense of  
24 counsel so employed shall be borne by the fund for which the services shall be  
25 furnished.

**BILL**

1           **SECTION 5.** 25.18 (1) (f) of the statutes is amended to read:

2           25.18 **(1)** (f) Maintain and repair any building or other structure or premises  
3 which it owns in fee or in which it owns the beneficial interest and, notwithstanding  
4 all provisions of subch. IV or V of ch. 16, except ss. 16.771 and 16.871, it shall have  
5 exclusive authority to make such agreements and enter into such contracts as it  
6 deems necessary for such purpose. All noncapital costs under this paragraph shall  
7 be charged to the current income accounts of the funds having an interest in the  
8 building, structure or premises.

9           **SECTION 6.** 25.18 (1) (m) of the statutes is amended to read:

10           25.18 **(1)** (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,  
11 except ss. 16.771 and 16.871, employ professionals, contractors or other agents  
12 necessary to evaluate or operate any property if a fund managed by the board has  
13 an interest in, or is considering purchasing or lending money based upon the value  
14 of, that property. Costs under this paragraph shall be paid by the fund and charged  
15 to the appropriate account under s. 40.04 (3).

16           **SECTION 7.** 66.0902 of the statutes is created to read:

17           **66.0902 False claims. (1) DEFINITIONS.** In this section:

18           (a) “Local governmental unit” has the meaning given in s. 66.0131 (1) (a).

19           (b) “Public contract” means a contract for the construction, execution, repair,  
20 remodeling, or improvement of a public work or building or for the furnishing of  
21 supplies, equipment, material, or professional or contractual services of any kind.

22           **(2) PRESENTATION OF FALSE CLAIMS.** Whoever knowingly presents or causes to  
23 be presented a false claim for payment under any public contract with a local  
24 governmental unit shall forfeit not less than \$5,000 nor more than \$10,000, plus 3  
25 times the amount of the damages that were sustained by the local governmental unit

**BILL**

1 or would have been sustained by the local governmental unit, whichever is greater,  
2 as a result of the false claim.

3 **SECTION 8.** 84.01 (13) of the statutes is amended to read:

4 84.01 (13) ENGINEERING SERVICES. The department may engage such  
5 engineering, consulting, surveying, or other specialized services as it deems  
6 advisable. Any engagement of services under this subsection is exempt from ss.  
7 16.70 to 16.75, 16.755 to 16.77, 16.78 to 16.82 and, 16.85 to 16.87, and 16.875 to 16.89,  
8 but ss. 16.528, 16.752 and, 16.771, 16.871, and 16.754 apply to such engagement.  
9 Any engagement involving an expenditure of \$3,000 or more shall be by formal  
10 contract approved by the governor.

11 **SECTION 9.** 84.06 (2) (a) of the statutes is amended to read:

12 84.06 (2) (a) All such highway improvements shall be executed by contract  
13 based on bids unless the department finds that another method as provided in sub.  
14 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in  
15 the manner determined by the department. Except as provided in s. 84.075, the  
16 contract shall be awarded to the lowest competent and responsible bidder as  
17 determined by the department. If the bid of the lowest competent bidder is  
18 determined by the department to be in excess of the estimated reasonable value of  
19 the work or not in the public interest, all bids may be rejected. The department shall,  
20 so far as reasonable, follow uniform methods of advertising for bids and may  
21 prescribe and require uniform forms of bids and contracts. Except as provided in par.  
22 (b), the secretary shall enter into the contract on behalf of the state. Every such  
23 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.77, 16.78 to 16.82, 16.87  
24 and 16.89, but ss. 16.528, 16.752 and, 16.771, 16.871, and 16.754 apply to the  
25 contract. Any such contract involving an expenditure of \$1,000 or more shall not be

**BILL**

1 valid until approved by the governor. The secretary may require the attorney general  
2 to examine any contract and any bond submitted in connection with the contract and  
3 report on its sufficiency of form and execution. The bond required by s. 779.14 (1m)  
4 is exempt from approval by the governor and shall be subject to approval by the  
5 secretary. This subsection also applies to contracts with private contractors based  
6 on bids for maintenance under s. 84.07.

7 **SECTION 10.** 84.06 (3) of the statutes is amended to read:

8 **84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS.** If  
9 the department finds that it would be more feasible and advantageous to have the  
10 improvement performed by the county in which the proposed improvement is located  
11 and without bids, the department may, by arrangement with the county highway  
12 committee of the county, enter into a contract satisfactory to the department to have  
13 the work done by the county forces and equipment. In such contract the department  
14 may authorize the county to purchase, deliver, and store materials and may fix the  
15 rental rates of small tools and equipment. The contract shall be between the county  
16 and the state and shall not be based on bids, and may be entered into on behalf of the  
17 county by the county highway committee and on behalf of the state by the secretary.  
18 Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230,  
19 except ~~s.~~ ss. 16.754, 16.771, and 16.871. If the total estimated indebtedness to be  
20 incurred exceeds \$5,000 the contract shall not be valid until approved by the  
21 governor. The provisions of this subsection relating to agreements between a county  
22 and the state shall also authorize and apply to such arrangements between a city,  
23 town, or a village and the state. In such cases, the governing body of the city, town,  
24 or village shall enter into the agreement on behalf of the municipality.

25 **SECTION 11.** 84.06 (4) of the statutes is amended to read:

**BILL**

1           84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement  
2 undertaken by the department will cross or affect the property or facilities of a  
3 railroad or public utility company, the department may, upon finding that it is  
4 feasible and advantageous to the state, arrange to perform portions of the  
5 improvement work affecting such facilities or property or perform work of altering,  
6 rearranging, or relocating such facilities by contract with the railroad or public  
7 utility. Such contract shall be between the railroad company or public utility and the  
8 state and need not be based on bids. The contract may be entered into on behalf of  
9 the state by the secretary. Every such contract is exempted from s. 779.14 and from  
10 all provisions of chs. 16 and 230, except ss. 16.528, 16.752 ~~and~~ 16.754, 16.771, and  
11 16.871. No such contract in which the total estimated debt to be incurred exceeds  
12 \$5,000 shall be valid until approved by the governor. As used in this subsection,  
13 “public utility” means the same as in s. 196.01 (5), and includes a  
14 telecommunications carrier as defined in s. 196.01 (8m), and “railroad” means the  
15 same as in s. 195.02. “Property” as used in this subsection includes but is not limited  
16 to tracks, trestles, signals, grade crossings, rights-of-way, stations, pole lines,  
17 plants, substations, and other facilities. Nothing in this subsection shall be  
18 construed to relieve any railroad or public utility from any financial obligation,  
19 expense, duty, or responsibility otherwise provided by law relative to such property.

20           **SECTION 12.** 102.81 (2) of the statutes is amended to read:

21           102.81 (2) The department may retain an insurance carrier or insurance  
22 service organization to process, investigate and pay claims under this section and  
23 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to  
24 do business in this state in an amount that the secretary determines is necessary for  
25 the sound operation of the uninsured employers fund. In cases involving disputed

**BILL**

1 claims, the department may retain an attorney to represent the interests of the  
2 uninsured employers fund and to make appearances on behalf of the uninsured  
3 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.918 and all  
4 provisions of subch. IV of ch. 16, except s. 16.771, do not apply to an attorney hired  
5 under this subsection. The charges for the services retained under this subsection  
6 shall be paid from the appropriation under s. 20.445 (1) (hp). The cost of any  
7 reinsurance obtained under this subsection shall be paid from the appropriation  
8 under s. 20.445 (1) (sm).

9 **SECTION 13.** 221.0903 (4) (b) of the statutes is amended to read:

10 221.0903 **(4)** (b) *Contracts for examination services.* The division may enter  
11 into contracts with any bank supervisory agency with concurrent jurisdiction over  
12 a state bank or an in-state branch of an out-of-state state bank to engage the  
13 services of the agency's examiners at a reasonable rate of compensation, or to provide  
14 the services of the division's examiners to the agency at a reasonable rate of  
15 compensation. Contracts entered into under this paragraph are exempt from ss.  
16 16.70 to 16.76 ~~and~~, 16.767 to 16.77, and 16.78 to 16.82.

17 **SECTION 14.** 655.27 (2) of the statutes is amended to read:

18 655.27 **(2)** FUND ADMINISTRATION AND OPERATION. Management of the fund shall  
19 be vested with the board of governors. The commissioner shall either provide staff  
20 services necessary for the operation of the fund or, with the approval of the board of  
21 governors, contract for all or part of these services. Such a contract is subject to s.  
22 ss. 16.765 and 16.771, but is otherwise exempt from subch. IV of ch. 16. The  
23 commissioner shall adopt rules governing the procedures for creating and  
24 implementing these contracts before entering into the contracts. At least annually,  
25 the contractor shall report to the commissioner and to the board of governors

**BILL**

1 regarding all expenses incurred and subcontracting arrangements. If the board of  
2 governors approves, the contractor may hire legal counsel as needed to provide staff  
3 services. The cost of contracting for staff services shall be funded from the  
4 appropriation under s. 20.145 (2) (u).

5 <sup>9355 ✓</sup> SECTION 15. Initial applicability, | other  
6 <sup>9</sup> (CS) FALSE CLAIMS <sup>9</sup>

7 (1) ~~This section~~ first applies to false claims that are presented or caused to be  
8 presented on the effective date of this subsection.

(END)

The treatment of sections 16.771, 16.871, 23.41(5), 25.18(1),  
(a), (f) and (m), 66.0902, 84.01(13), 84.06(2)(a), (3) and  
(4), 102.81(2), 221.0903(4)(b) and 55.027(2)  
of the statutes



DOA:.....Percy, BB0286 - Penalty for state contractors who submit false claims or rig bids

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

TODAY  
please

DO NOT GEN

- 1 AN ACT ...; relating to: false claims submitted to the state and local governments  
2 and providing a penalty.

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**OTHER STATE GOVERNMENT**

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This bill provides that whoever knowingly presents or causes to be presented a false claim under any contract or order for materials, supplies, equipment, or contractual services to be provided to a state agency is subject to a forfeiture (civil penalty) of not less than \$5,000 nor more than \$10,000, plus three times the amount of the damages that were sustained by the state or would have been sustained by the

state, whichever is greater, as a result of the false claim. The bill permits the attorney general to bring an action on behalf of the state to recover any forfeiture for which a contractor or vendor is liable as a result of a false claim submitted to a state agency. This bill also contains similar provisions that apply to local governmental units.

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.** 16.771 of the statutes is created to read:

2           **16.771 False claims.** Whoever knowingly presents or causes to be presented  
3 a false claim for payment under any contract or order for materials, supplies,  
4 equipment, or contractual services to be provided to an agency shall forfeit not less  
5 than \$5,000 nor more than \$10,000, plus 3 times the amount of the damages that  
6 were sustained by the state or would have been sustained by the state, whichever is  
7 greater, as a result of the false claim. The attorney general may bring an action on  
8 behalf of the state to recover any forfeiture incurred under this section.

9           **SECTION 2.** 16.871 of the statutes is created to read:

10          **16.871 False claims. (1)** In this section:

11          (a) "Agency" has the meaning given in s. 16.70 (1e).

12          (b) "Construction work" has the meaning given in s. 16.87 (1) (a).

13          (c) "Limited trades work" has the meaning given in s. 16.70 (7).

14          **(2)** Whoever knowingly presents or causes to be presented a false claim under  
15 any contract for construction work or limited trades work, or for engineering or  
16 architectural services, to be provided to any agency shall forfeit not less than \$5,000  
17 nor more than \$10,000, plus 3 times the amount of the damages that were sustained  
18 by the state or would have been sustained by the state, whichever is greater, as a

1 result of the false claim. The attorney general may bring an action on behalf of the  
2 state to recover any forfeiture incurred under this subsection.

3 **SECTION 3.** 23.41 (5) of the statutes is amended to read:

4 23.41 (5) Each contract for construction work entered into by the department  
5 under this section shall be awarded on the basis of bids or competitive sealed  
6 proposals in accordance with procedures established by the department. Each  
7 contract for construction work shall be awarded to the lowest responsible bidder or  
8 the person submitting the most advantageous competitive sealed proposal as  
9 determined by the department. If the bid of the lowest responsible bidder or the  
10 proposal of the person submitting the most advantageous competitive sealed  
11 proposal is determined by the department to be in excess of the estimated reasonable  
12 value of the work or not in the public interest, the department may reject all bids or  
13 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to  
14 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss.  
15 16.528, 16.754 and, 16.765, 16.771, and 16.871 apply to the contract. Every such  
16 contract involving an expenditure of more than \$60,000 is not valid until the contract  
17 is approved by the governor.

18 **SECTION 4.** 25.18 (1) (a) of the statutes is amended to read:

19 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.  
20 16 and s. 20.930, except s. 16.771, employ special legal or investment counsel in any  
21 matters arising out of the scope of its investment authority. The employment of  
22 special legal counsel shall be with the advice and consent of the attorney general  
23 whenever such special counsel is to be compensated by the board. Any expense of  
24 counsel so employed shall be borne by the fund for which the services shall be  
25 furnished.

1           **SECTION 5.** 25.18 (1) (f) of the statutes is amended to read:

2           25.18 (1) (f) Maintain and repair any building or other structure or premises  
3 which it owns in fee or in which it owns the beneficial interest and, notwithstanding  
4 all provisions of subch. IV or V of ch. 16, except ss. 16.771 and 16.871, it shall have  
5 exclusive authority to make such agreements and enter into such contracts as it  
6 deems necessary for such purpose. All noncapital costs under this paragraph shall  
7 be charged to the current income accounts of the funds having an interest in the  
8 building, structure or premises.

9           **SECTION 6.** 25.18 (1) (m) of the statutes is amended to read:

10          25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,  
11 except ss. 16.771 and 16.871, employ professionals, contractors or other agents  
12 necessary to evaluate or operate any property if a fund managed by the board has  
13 an interest in, or is considering purchasing or lending money based upon the value  
14 of, that property. Costs under this paragraph shall be paid by the fund and charged  
15 to the appropriate account under s. 40.04 (3).

16          **SECTION 7.** 66.0902 of the statutes is created to read:

17          **66.0902 False claims. (1) DEFINITIONS.** In this section:

18          (a) "Local governmental unit" has the meaning given in s. 66.0131 (1) (a).

19          (b) "Public contract" means a contract for the construction, execution, repair,  
20 remodeling, or improvement of a public work or building or for the furnishing of  
21 supplies, equipment, material, or professional or contractual services of any kind.

22          **(2) PRESENTATION OF FALSE CLAIMS.** Whoever knowingly presents or causes to  
23 be presented a false claim for payment under any public contract with a local  
24 governmental unit shall forfeit not less than \$5,000 nor more than \$10,000, plus 3  
25 times the amount of the damages that were sustained by the local governmental unit

1 or would have been sustained by the local governmental unit, whichever is greater,  
2 as a result of the false claim.

3 SECTION 8. 84.01 (13) of the statutes is amended to read:

4 84.01 (13) ENGINEERING SERVICES. The department may engage such  
5 engineering, consulting, surveying, or other specialized services as it deems  
6 advisable. Any engagement of services under this subsection is exempt from ss.  
7 16.70 to 16.75, 16.755 to 16.77, 16.78 to 16.82 and, 16.85 to 16.87, and 16.875 to 16.89,  
8 but ss. 16.528, 16.752 and, 16.771, 16.871, and 16.754 apply to such engagement.  
9 Any engagement involving an expenditure of \$3,000 or more shall be by formal  
10 contract approved by the governor.

11 SECTION 9. 84.06 (2) (a) of the statutes is amended to read:

12 84.06 (2) (a) All such highway improvements shall be executed by contract  
13 based on bids unless the department finds that another method as provided in sub.  
14 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in  
15 the manner determined by the department. Except as provided in s. 84.075, the  
16 contract shall be awarded to the lowest competent and responsible bidder as  
17 determined by the department. If the bid of the lowest competent bidder is  
18 determined by the department to be in excess of the estimated reasonable value of  
19 the work or not in the public interest, all bids may be rejected. The department shall,  
20 so far as reasonable, follow uniform methods of advertising for bids and may  
21 prescribe and require uniform forms of bids and contracts. Except as provided in par.  
22 (b), the secretary shall enter into the contract on behalf of the state. Every such  
23 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.77, 16.78 to 16.82, 16.87  
24 and 16.89, but ss. 16.528, 16.752 and, 16.771, 16.871, and 16.754 apply to the  
25 contract. Any such contract involving an expenditure of \$1,000 or more shall not be

1 valid until approved by the governor. The secretary may require the attorney general  
2 to examine any contract and any bond submitted in connection with the contract and  
3 report on its sufficiency of form and execution. The bond required by s. 779.14 (1m)  
4 is exempt from approval by the governor and shall be subject to approval by the  
5 secretary. This subsection also applies to contracts with private contractors based  
6 on bids for maintenance under s. 84.07.

7 SECTION 10. 84.06 (3) of the statutes is amended to read:

8 84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If  
9 the department finds that it would be more feasible and advantageous to have the  
10 improvement performed by the county in which the proposed improvement is located  
11 and without bids, the department may, by arrangement with the county highway  
12 committee of the county, enter into a contract satisfactory to the department to have  
13 the work done by the county forces and equipment. In such contract the department  
14 may authorize the county to purchase, deliver, and store materials and may fix the  
15 rental rates of small tools and equipment. The contract shall be between the county  
16 and the state and shall not be based on bids, and may be entered into on behalf of the  
17 county by the county highway committee and on behalf of the state by the secretary.  
18 Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230,  
19 except s. ss. 16.754, 16.771, and 16.871. If the total estimated indebtedness to be  
20 incurred exceeds \$5,000 the contract shall not be valid until approved by the  
21 governor. The provisions of this subsection relating to agreements between a county  
22 and the state shall also authorize and apply to such arrangements between a city,  
23 town, or a village and the state. In such cases, the governing body of the city, town,  
24 or village shall enter into the agreement on behalf of the municipality.

25 SECTION 11. 84.06 (4) of the statutes is amended to read:

1           84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement  
 2           undertaken by the department will cross or affect the property or facilities of a  
 3           railroad or public utility company, the department may, upon finding that it is  
 4           feasible and advantageous to the state, arrange to perform portions of the  
 5           improvement work affecting such facilities or property or perform work of altering,  
 6           rearranging, or relocating such facilities by contract with the railroad or public  
 7           utility. Such contract shall be between the railroad company or public utility and the  
 8           state and need not be based on bids. The contract may be entered into on behalf of  
 9           the state by the secretary. Every such contract is exempted from s. 779.14 and from  
 10          all provisions of chs. 16 and 230, except ss. 16.528, 16.752 and, 16.754, 16.771, and  
 11          16.871. No such contract in which the total estimated debt to be incurred exceeds  
 12          \$5,000 shall be valid until approved by the governor. As used in this subsection,  
 13          “public utility” means the same as in s. 196.01 (5), and includes a  
 14          telecommunications carrier as defined in s. 196.01 (8m), and “railroad” means the  
 15          same as in s. 195.02. “Property” as used in this subsection includes but is not limited  
 16          to tracks, trestles, signals, grade crossings, rights-of-way, stations, pole lines,  
 17          plants, substations, and other facilities. Nothing in this subsection shall be  
 18          construed to relieve any railroad or public utility from any financial obligation,  
 19          expense, duty, or responsibility otherwise provided by law relative to such property.

↓  
 FILE  
 7-19

20           **SECTION 12.** 102.81 (2) of the statutes is amended to read:

21           102.81 (2) The department may retain an insurance carrier or insurance  
 22           service organization to process, investigate and pay claims under this section and  
 23           may obtain excess or stop-loss reinsurance with an insurance carrier authorized to  
 24           do business in this state in an amount that the secretary determines is necessary for  
 25           the sound operation of the uninsured employers fund. In cases involving disputed

1 claims, the department may retain an attorney to represent the interests of the  
2 uninsured employers fund and to make appearances on behalf of the uninsured  
3 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.918 and all  
4 provisions of subch. IV of ch. 16, except s. 16.771, do not apply to an attorney hired  
5 under this subsection. The charges for the services retained under this subsection  
6 shall be paid from the appropriation under s. 20.445 (1) (hp). The cost of any  
7 reinsurance obtained under this subsection shall be paid from the appropriation  
8 under s. 20.445 (1) (sm).

9 SECTION 13. 221.0903 (4) (b) of the statutes is amended to read:

10 221.0903 (4) (b) *Contracts for examination services.* The division may enter  
11 into contracts with any bank supervisory agency with concurrent jurisdiction over  
12 a state bank or an in-state branch of an out-of-state state bank to engage the  
13 services of the agency's examiners at a reasonable rate of compensation, or to provide  
14 the services of the division's examiners to the agency at a reasonable rate of  
15 compensation. Contracts entered into under this paragraph are exempt from ss.  
16 16.70 to 16.76 and, 16.767 to 16.77, and 16.78 to 16.82.

17 SECTION 14. 655.27 (2) of the statutes is amended to read:

18 655.27 (2) FUND ADMINISTRATION AND OPERATION. Management of the fund shall  
19 be vested with the board of governors. The commissioner shall either provide staff  
20 services necessary for the operation of the fund or, with the approval of the board of  
21 governors, contract for all or part of these services. Such a contract is subject to s.  
22 ss. 16.765 and 16.771, but is otherwise exempt from subch. IV of ch. 16. The  
23 commissioner shall adopt rules governing the procedures for creating and  
24 implementing these contracts before entering into the contracts. At least annually,  
25 the contractor shall report to the commissioner and to the board of governors

1 regarding all expenses incurred and subcontracting arrangements. If the board of  
2 governors approves, the contractor may hire legal counsel as needed to provide staff  
3 services. The cost of contracting for staff services shall be funded from the  
4 appropriation under s. 20.145 (2) (u).

5 **SECTION 9355. Initial applicability; other.**

6 (1) FALSE CLAIMS. The treatment of sections 16.771, 16.871, 23.41(5), 25.18 (1)  
7 (a), (f), and (m), 66.0902, 84.01 (13), 84.06 (2) (a), (3), and (4), <sup>850015, ✓</sup> 102.81 (2), 221.0903 (4)  
8 (b), and 655.27 (2) of the statutes first applies to false claims that are presented or  
9 caused to be presented on the effective date of this subsection.

10

(END)

FWS 7-19

Section #. 85.015 of the statutes is amended to read:

**85.015 Transportation assistance contracts.** All contracts entered into under this chapter to provide financial assistance in the areas of railroads, urban mass transit, specialized transportation, and harbors are subject to ss. 16.528 and 16.752 but are exempt from ss. 16.70 to 16.75, 16.755 to 16.82 and 16.85 to 16.89.

5 16.771 and 16.871

to 16.775 16.78 to

16.08 75 and 16.08 75 to

~~History: 1981 c. 20; 1985 a. 300; 1989 a. 345.~~

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1219/2dn

JTK...../.....

Wlj

Doug Percy:

This redraft adds a cross<sup>o</sup>reference to ensure that transportation assistance contracts under ch. 85, stats., are covered by the proposal. ↓

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1219/2dn  
JTK:wlj:ch

January 4, 2005

Doug Percy:

This redraft adds a cross-reference to ensure that transportation assistance contracts under ch. 85, stats., are covered by the proposal.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1219/2  
JTK&MES:wlj:ch

DOA:.....Percy, BB0286 - Penalty for state contractors who submit false claims or rig bids

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: false claims submitted to the state and local governments  
2 and providing a penalty.

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*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**OTHER STATE GOVERNMENT**

Currently, if a contractor or vendor does business with this state or a local government in this state, the terms of the contract or order govern the performance of, and the price to be paid to, the contractor or vendor. If the contractor or vendor claims payment for materials, supplies, equipment, or contractual services that are not provided in accordance with the contract or order, or at a price that is different from the price specified in the contract or order, the state or a local government has a remedy against the contractor or vendor for breach of contract. If the contractor or vendor is asked to swear to the truth of a claim for payment and the claim is false, the contractor or vendor may also be prosecuted for false swearing, which is a criminal offense.

This bill provides that whoever knowingly presents or causes to be presented a false claim under any contract or order for materials, supplies, equipment, or contractual services to be provided to a state agency is subject to a forfeiture (civil penalty) of not less than \$5,000 nor more than \$10,000, plus three times the amount of the damages that were sustained by the state or would have been sustained by the

state, whichever is greater, as a result of the false claim. The bill permits the attorney general to bring an action on behalf of the state to recover any forfeiture for which a contractor or vendor is liable as a result of a false claim submitted to a state agency. This bill also contains similar provisions that apply to local governmental units.

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.** 16.771 of the statutes is created to read:

2           **16.771 False claims.** Whoever knowingly presents or causes to be presented  
3 a false claim for payment under any contract or order for materials, supplies,  
4 equipment, or contractual services to be provided to an agency shall forfeit not less  
5 than \$5,000 nor more than \$10,000, plus 3 times the amount of the damages that  
6 were sustained by the state or would have been sustained by the state, whichever is  
7 greater, as a result of the false claim. The attorney general may bring an action on  
8 behalf of the state to recover any forfeiture incurred under this section.

9           **SECTION 2.** 16.871 of the statutes is created to read:

10           **16.871 False claims.** (1) In this section:

11           (a) “Agency” has the meaning given in s. 16.70 (1e).

12           (b) “Construction work” has the meaning given in s. 16.87 (1) (a).

13           (c) “Limited trades work” has the meaning given in s. 16.70 (7).

14           (2) Whoever knowingly presents or causes to be presented a false claim under  
15 any contract for construction work or limited trades work, or for engineering or  
16 architectural services, to be provided to any agency shall forfeit not less than \$5,000  
17 nor more than \$10,000, plus 3 times the amount of the damages that were sustained  
18 by the state or would have been sustained by the state, whichever is greater, as a

1 result of the false claim. The attorney general may bring an action on behalf of the  
2 state to recover any forfeiture incurred under this subsection.

3 **SECTION 3.** 23.41 (5) of the statutes is amended to read:

4 23.41 (5) Each contract for construction work entered into by the department  
5 under this section shall be awarded on the basis of bids or competitive sealed  
6 proposals in accordance with procedures established by the department. Each  
7 contract for construction work shall be awarded to the lowest responsible bidder or  
8 the person submitting the most advantageous competitive sealed proposal as  
9 determined by the department. If the bid of the lowest responsible bidder or the  
10 proposal of the person submitting the most advantageous competitive sealed  
11 proposal is determined by the department to be in excess of the estimated reasonable  
12 value of the work or not in the public interest, the department may reject all bids or  
13 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to  
14 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss.  
15 16.528, 16.754 and, 16.765, 16.771, and 16.871 apply to the contract. Every such  
16 contract involving an expenditure of more than \$60,000 is not valid until the contract  
17 is approved by the governor.

18 **SECTION 4.** 25.18 (1) (a) of the statutes is amended to read:

19 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.  
20 16 and s. 20.930, except s. 16.771, employ special legal or investment counsel in any  
21 matters arising out of the scope of its investment authority. The employment of  
22 special legal counsel shall be with the advice and consent of the attorney general  
23 whenever such special counsel is to be compensated by the board. Any expense of  
24 counsel so employed shall be borne by the fund for which the services shall be  
25 furnished.

1           **SECTION 5.** 25.18 (1) (f) of the statutes is amended to read:

2           25.18 (1) (f) Maintain and repair any building or other structure or premises  
3 which it owns in fee or in which it owns the beneficial interest and, notwithstanding  
4 all provisions of subch. IV or V of ch. 16, except ss. 16.771 and 16.871, it shall have  
5 exclusive authority to make such agreements and enter into such contracts as it  
6 deems necessary for such purpose. All noncapital costs under this paragraph shall  
7 be charged to the current income accounts of the funds having an interest in the  
8 building, structure or premises.

9           **SECTION 6.** 25.18 (1) (m) of the statutes is amended to read:

10           25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,  
11 except ss. 16.771 and 16.871, employ professionals, contractors or other agents  
12 necessary to evaluate or operate any property if a fund managed by the board has  
13 an interest in, or is considering purchasing or lending money based upon the value  
14 of, that property. Costs under this paragraph shall be paid by the fund and charged  
15 to the appropriate account under s. 40.04 (3).

16           **SECTION 7.** 66.0902 of the statutes is created to read:

17           **66.0902 False claims. (1) DEFINITIONS.** In this section:

18           (a) “Local governmental unit” has the meaning given in s. 66.0131 (1) (a).

19           (b) “Public contract” means a contract for the construction, execution, repair,  
20 remodeling, or improvement of a public work or building or for the furnishing of  
21 supplies, equipment, material, or professional or contractual services of any kind.

22           **(2) PRESENTATION OF FALSE CLAIMS.** Whoever knowingly presents or causes to  
23 be presented a false claim for payment under any public contract with a local  
24 governmental unit shall forfeit not less than \$5,000 nor more than \$10,000, plus 3  
25 times the amount of the damages that were sustained by the local governmental unit

1 or would have been sustained by the local governmental unit, whichever is greater,  
2 as a result of the false claim.

3 **SECTION 8.** 84.01 (13) of the statutes is amended to read:

4 84.01 (13) ENGINEERING SERVICES. The department may engage such  
5 engineering, consulting, surveying, or other specialized services as it deems  
6 advisable. Any engagement of services under this subsection is exempt from ss.  
7 16.70 to 16.75, 16.755 to 16.77, 16.78 to 16.82 and, 16.85 to 16.87, and 16.875 to 16.89,  
8 but ss. 16.528, 16.752 and, 16.771, 16.871, and 16.754 apply to such engagement.  
9 Any engagement involving an expenditure of \$3,000 or more shall be by formal  
10 contract approved by the governor.

11 **SECTION 9.** 84.06 (2) (a) of the statutes is amended to read:

12 84.06 (2) (a) All such highway improvements shall be executed by contract  
13 based on bids unless the department finds that another method as provided in sub.  
14 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in  
15 the manner determined by the department. Except as provided in s. 84.075, the  
16 contract shall be awarded to the lowest competent and responsible bidder as  
17 determined by the department. If the bid of the lowest competent bidder is  
18 determined by the department to be in excess of the estimated reasonable value of  
19 the work or not in the public interest, all bids may be rejected. The department shall,  
20 so far as reasonable, follow uniform methods of advertising for bids and may  
21 prescribe and require uniform forms of bids and contracts. Except as provided in par.  
22 (b), the secretary shall enter into the contract on behalf of the state. Every such  
23 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.77, 16.78 to 16.82, 16.87  
24 and 16.89, but ss. 16.528, 16.752 and, 16.771, 16.871, and 16.754 apply to the  
25 contract. Any such contract involving an expenditure of \$1,000 or more shall not be

1 valid until approved by the governor. The secretary may require the attorney general  
2 to examine any contract and any bond submitted in connection with the contract and  
3 report on its sufficiency of form and execution. The bond required by s. 779.14 (1m)  
4 is exempt from approval by the governor and shall be subject to approval by the  
5 secretary. This subsection also applies to contracts with private contractors based  
6 on bids for maintenance under s. 84.07.

7 **SECTION 10.** 84.06 (3) of the statutes is amended to read:

8 84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If  
9 the department finds that it would be more feasible and advantageous to have the  
10 improvement performed by the county in which the proposed improvement is located  
11 and without bids, the department may, by arrangement with the county highway  
12 committee of the county, enter into a contract satisfactory to the department to have  
13 the work done by the county forces and equipment. In such contract the department  
14 may authorize the county to purchase, deliver, and store materials and may fix the  
15 rental rates of small tools and equipment. The contract shall be between the county  
16 and the state and shall not be based on bids, and may be entered into on behalf of the  
17 county by the county highway committee and on behalf of the state by the secretary.  
18 Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230,  
19 except s. ss. 16.754, 16.771, and 16.871. If the total estimated indebtedness to be  
20 incurred exceeds \$5,000 the contract shall not be valid until approved by the  
21 governor. The provisions of this subsection relating to agreements between a county  
22 and the state shall also authorize and apply to such arrangements between a city,  
23 town, or a village and the state. In such cases, the governing body of the city, town,  
24 or village shall enter into the agreement on behalf of the municipality.

25 **SECTION 11.** 84.06 (4) of the statutes is amended to read:

1           84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement  
2           undertaken by the department will cross or affect the property or facilities of a  
3           railroad or public utility company, the department may, upon finding that it is  
4           feasible and advantageous to the state, arrange to perform portions of the  
5           improvement work affecting such facilities or property or perform work of altering,  
6           rearranging, or relocating such facilities by contract with the railroad or public  
7           utility. Such contract shall be between the railroad company or public utility and the  
8           state and need not be based on bids. The contract may be entered into on behalf of  
9           the state by the secretary. Every such contract is exempted from s. 779.14 and from  
10          all provisions of chs. 16 and 230, except ss. 16.528, 16.752 and, 16.754, 16.771, and  
11          16.871. No such contract in which the total estimated debt to be incurred exceeds  
12          \$5,000 shall be valid until approved by the governor. As used in this subsection,  
13          “public utility” means the same as in s. 196.01 (5), and includes a  
14          telecommunications carrier as defined in s. 196.01 (8m), and “railroad” means the  
15          same as in s. 195.02. “Property” as used in this subsection includes but is not limited  
16          to tracks, trestles, signals, grade crossings, rights-of-way, stations, pole lines,  
17          plants, substations, and other facilities. Nothing in this subsection shall be  
18          construed to relieve any railroad or public utility from any financial obligation,  
19          expense, duty, or responsibility otherwise provided by law relative to such property.

20           **SECTION 12.** 85.015 of the statutes is amended to read:

21           **85.015 Transportation assistance contracts.** All contracts entered into  
22          under this chapter to provide financial assistance in the areas of railroads, urban  
23          mass transit, specialized transportation, and harbors are subject to ss. 16.528 and,  
24          16.752, 16.771, and 16.871 but are exempt from ss. 16.70 to 16.75, 16.755 to 6.77,  
25          16.78 to 16.82 and, 16.85 to 16.87, and 16.875 to 16.89.

**SECTION 13**

1           **SECTION 13.** 102.81 (2) of the statutes is amended to read:

2           102.81 (2) The department may retain an insurance carrier or insurance  
3 service organization to process, investigate and pay claims under this section and  
4 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to  
5 do business in this state in an amount that the secretary determines is necessary for  
6 the sound operation of the uninsured employers fund. In cases involving disputed  
7 claims, the department may retain an attorney to represent the interests of the  
8 uninsured employers fund and to make appearances on behalf of the uninsured  
9 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.918 and all  
10 provisions of subch. IV of ch. 16, except s. 16.771, do not apply to an attorney hired  
11 under this subsection. The charges for the services retained under this subsection  
12 shall be paid from the appropriation under s. 20.445 (1) (hp). The cost of any  
13 reinsurance obtained under this subsection shall be paid from the appropriation  
14 under s. 20.445 (1) (sm).

15           **SECTION 14.** 221.0903 (4) (b) of the statutes is amended to read:

16           221.0903 (4) (b) *Contracts for examination services.* The division may enter  
17 into contracts with any bank supervisory agency with concurrent jurisdiction over  
18 a state bank or an in-state branch of an out-of-state state bank to engage the  
19 services of the agency's examiners at a reasonable rate of compensation, or to provide  
20 the services of the division's examiners to the agency at a reasonable rate of  
21 compensation. Contracts entered into under this paragraph are exempt from ss.  
22 16.70 to 16.76 and, 16.767 to 16.77, and 16.78 to 16.82.

23           **SECTION 15.** 655.27 (2) of the statutes is amended to read:

24           655.27 (2) **FUND ADMINISTRATION AND OPERATION.** Management of the fund shall  
25 be vested with the board of governors. The commissioner shall either provide staff

1 services necessary for the operation of the fund or, with the approval of the board of  
2 governors, contract for all or part of these services. Such a contract is subject to s.  
3 ss. 16.765 and 16.771, but is otherwise exempt from subch. IV of ch. 16. The  
4 commissioner shall adopt rules governing the procedures for creating and  
5 implementing these contracts before entering into the contracts. At least annually,  
6 the contractor shall report to the commissioner and to the board of governors  
7 regarding all expenses incurred and subcontracting arrangements. If the board of  
8 governors approves, the contractor may hire legal counsel as needed to provide staff  
9 services. The cost of contracting for staff services shall be funded from the  
10 appropriation under s. 20.145 (2) (u).

11 **SECTION 9355. Initial applicability; other.**

12 (1) FALSE CLAIMS. The treatment of sections 16.771, 16.871, 23.41(5), 25.18 (1)  
13 (a), (f), and (m), 66.0902, 84.01 (13), 84.06 (2) (a), (3), and (4), 85.015, 102.81 (2),  
14 221.0903 (4) (b), and 655.27 (2) of the statutes first applies to false claims that are  
15 presented or caused to be presented on the effective date of this subsection.

16 (END)