

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 105**

1 **AN ACT** *to renumber and amend* 16.705 (8); *to amend* 13.093 (2) (a), 16.705
2 (1), 16.705 (2) and 84.01 (13); and *to create* 16.70 (3g) and 16.705 (8) (a) and
3 (b) of the statutes; **relating to:** state contractual service contracting
4 procedures and information and fiscal estimate cost mitigation analyses,
5 granting rule-making authority, and providing an exemption from and
6 extending the time limit for emergency rule procedures.

Analysis by the Legislative Reference Bureau

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

7 **SECTION 1.** 13.093 (2) (a) of the statutes is amended to read:
8 13.093 (2) (a) Any bill making an appropriation, any bill increasing or
9 decreasing existing appropriations or state or general local government fiscal

1 liability or revenues, and any bill that modifies an existing surcharge or creates a
2 new surcharge that is imposed under ch. 814, shall, before any vote is taken thereon
3 by either house of the legislature if the bill is not referred to a standing committee,
4 or before any public hearing is held before any standing committee or, if no public
5 hearing is held, before any vote is taken by the committee, incorporate a reliable
6 estimate of the anticipated change in appropriation authority or state or general
7 local government fiscal liability or revenues under the bill, including to the extent
8 possible a projection of such changes in future biennia. The estimate shall also
9 indicate whether any increased costs incurred by the state under the bill can be
10 mitigated through the use of contractual service contracts let in accordance with
11 competitive procedures. For purposes of this paragraph, a bill increasing or
12 decreasing the liability or revenues of the unemployment reserve fund is considered
13 to increase or decrease state fiscal liability or revenues. Except as otherwise
14 provided by joint rules of the legislature or this paragraph, such estimates shall be
15 made by the department or agency administering the appropriation or fund or
16 collecting the revenue. The joint survey committee on retirement systems shall
17 prepare the fiscal estimate with respect to the provisions of any bill referred to it
18 which create or modify any system for, or make any provision for, the retirement of
19 or payment of pensions to public officers or employees. The director of state courts
20 shall prepare the fiscal estimate with respect to the provisions of any bill that
21 modifies an existing surcharge or creates a new surcharge that is imposed under ch.
22 814. When a fiscal estimate is prepared after the bill has been introduced, it shall
23 be printed and distributed as are amendments.

24 **SECTION 2.** 16.70 (3g) of the statutes is created to read:

1 16.70 (3g) “Cost–benefit analysis” means a comprehensive study to identify
2 and compare the total cost, quality, technical expertise, and timeliness of a service
3 performed by state employees and resources with the total cost, quality, technical
4 expertise, and timeliness of the same service obtained by means of a contract for
5 contractual services.

6 **SECTION 3.** 16.705 (1) of the statutes is amended to read:

7 16.705 (1) The department or its agents may contract for services which can
8 be performed more economically or efficiently by such contract. The department
9 shall, by rule, prescribe uniform procedures for determining whether services are
10 appropriate for contracting under this subsection.

11 **SECTION 4.** 16.705 (2) of the statutes is amended to read:

12 16.705 (2) The department shall promulgate rules for the procurement of
13 contractual services by the department and its designated agents, including but not
14 limited to the rules prescribing approval and monitoring processes for contractual
15 service contracts, a requirement for agencies to conduct a uniform cost–benefit
16 analysis of each proposed contractual service procurement involving an estimated
17 expenditure of more than \$25,000 in accordance with standards prescribed in the
18 rules, and a requirement for agencies to review periodically, and before any renewal,
19 the continued appropriateness of contracting under each contractual services
20 agreement involving an estimated expenditure of more than \$25,000. Each officer
21 requesting approval to engage any person to perform contractual services shall
22 submit to the department written justification for such contracting which shall
23 include a description of the contractual services to be procured, justification of need,
24 justification for not contracting with other agencies, a specific description of the
25 scope of contractual services to be performed, and justification for the procurement

1 process if a process other than competitive bidding is to be used. The department
2 may not approve any contract for contractual services unless it is satisfied that the
3 justification for contracting conforms to the requirements of this section and ss. 16.71
4 to 16.77.

5 **SECTION 5.** 16.705 (8) of the statutes is renumbered 16.705 (8) (intro.) and
6 amended to read:

7 16.705 **(8)** (intro.) The department shall, annually on or before October 15,
8 submit to the governor, the joint committee on finance, the joint legislative audit
9 committee and the chief clerk of each house of the legislature for distribution to the
10 appropriate standing committees under s. 13.172 (3), a report concerning the
11 number, value and nature of contractual service procurements authorized for each
12 agency during the preceding fiscal year. The report shall also include, with respect
13 to contractual service procurements by agencies for the preceding fiscal year:

14 **SECTION 6.** 16.705 (8) (a) and (b) of the statutes are created to read:

15 16.705 **(8)** (a) A summary of the cost–benefit analyses completed by agencies
16 in compliance with rules promulgated by the department under sub. (2).

17 (b) Recommendations for elimination of unneeded contractual service
18 procurements and for consolidation or resolicitation of existing contractual service
19 procurements.

20 **SECTION 7.** 84.01 (13) of the statutes is amended to read:

21 84.01 **(13)** ENGINEERING SERVICES. The department may engage such
22 engineering, consulting, surveying or other specialized services as it deems
23 advisable. Any engagement of services under this subsection is exempt from ss.
24 16.70 to 16.75, 16.755 to 16.82 and 16.85 to 16.89, but ss. 16.528, 16.752 and 16.754
25 apply to such engagement. Any engagement involving an expenditure of \$3,000 or

1 more shall be by formal contract approved by the governor. The department shall
2 conduct a uniform cost–benefit analysis, as defined in s. 16.70 (3g), of each proposed
3 engagement under this subsection that involves an estimated expenditure of more
4 than \$25,000 in accordance with standards prescribed by rule of the department. The
5 department shall review periodically, and before any renewal, the continued
6 appropriateness of contracting pursuant to each engagement under this subsection
7 that involves an estimated expenditure of more than \$25,000.

8 **SECTION 8. Nonstatutory provisions.**

9 (1) REPORTS ON INITIAL TRAINING. In each of the first 3 annual reports submitted
10 by the department of administration under section 16.705 (8) of the statutes
11 following the effective date of this subsection, the department shall include a list of
12 the agencies that have completed training required for preparation of cost–benefit
13 analyses for contractual service procurements by the agencies in accordance with
14 rules promulgated by the department.

15 (2) EMERGENCY RULES ON CONTRACTUAL SERVICE PROCUREMENT. Using the
16 procedure under section 227.24 of the statutes, the departments of administration
17 and transportation, respectively, shall, no later than the first day of the 6th month
18 beginning after the effective date of this subsection, promulgate the rules required
19 under sections 16.705 and 84.01 (13) of the statutes, as affected by this act, as
20 emergency rules, which shall be in effect for the period before the effective date of the
21 permanent rules promulgated under sections 16.705 and 84.01 (13) of the statutes,
22 as affected by this act. Notwithstanding section 227.24 (1) (a) and (3) of the statutes,
23 the departments of administration and transportation are not required to provide
24 evidence that promulgating a rule under this subsection as an emergency rule is
25 necessary for the preservation of the public peace, health, safety, or welfare and are

1 not required to provide a finding of emergency for a rule promulgated under this
2 subsection.

3 **SECTION 9. Initial applicability.**

4 (1) The treatment of section 13.093 (2) (a) of the statutes first applies with
5 respect to fiscal estimates ordered on the first day of the 6th month beginning after
6 publication.

7 (2) The treatment of sections 16.705 (2) and 84.01 (13) of the statutes first
8 applies with respect to solicitations for contractual services issued on the effective
9 date of emergency rules promulgated under SECTION 8 (2).

10 (3) The renumbering and amendment of section 16.705 (8) of the statutes and
11 the creation of section 16.705 (8) (a) and (b) of the statutes first apply with respect
12 to the report that is due for submittal on October 15, 2006.

13 (END)