

## 2005 DRAFTING REQUEST

### Bill

Received: 11/08/2004

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **John Gard (608) 266-3387**

By/Representing: **Ellen Nowak**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **State Govt - procurement**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gard@legis.state.wi.us**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Attempts to influence procurement decisions

---

### Instructions:

Any attempt to influence a procurement decision of a state agency is considered to be lobbying subject to regulation under subch. III of ch. 13, stats.

---

### 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 12/01/2004	kfollett 12/02/2004		_____			
/1			rschluet 12/03/2004	_____	lnorthro 12/03/2004		
/2	jkuesel 01/04/2005	kfollett 01/04/2005	rschluet 01/04/2005	_____	lemery 01/04/2005		State

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/3	jkuesel 09/08/2005	kfollett 09/09/2005	pgreensl 09/09/2005	_____	lnorthro 09/09/2005		State
/4	jkuesel 10/13/2005	kfollett 10/13/2005	pgreensl 10/13/2005	_____	lemery 10/13/2005	lemery 10/13/2005	State
/5	jkuesel 10/24/2005	lkunkel 10/24/2005	jfrantze 10/24/2005	_____ _____ _____	mbarman 10/24/2005 mbarman 10/24/2005	mbarman 10/24/2005 mbarman 10/24/2005	State
/6	jkuesel 10/25/2005	wjackson 10/25/2005	rschluet 10/25/2005	_____ _____ _____	mbarman 10/25/2005 mbarman 10/25/2005	mbarman 10/25/2005	

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*Handwritten signature and date:*  
10/25/05 pb

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/4	jkuesel 10/13/2005	kfollett 10/13/2005	pgreensl 10/13/2005	_____	lemery 10/13/2005	lemery 10/13/2005	State
/5	jkuesel 10/24/2005	lkunkel 10/24/2005	jfrantze 10/24/2005	_____	mbarman 10/24/2005	mbarman 10/24/2005	
/6	jkuesel 10/25/05	16 WLJ 10/25		_____	mbarman 10/24/2005		

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*JG/RS*  
*10/24*

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151mk10/24

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12/13/05  
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/?	jkuesel 12/01/2004	kfollett 12/02/2004					
/1	jkuesel: 12/1/04	12/1/04	rschluet 12/03/2004		Inorthro 12/03/2004		

**LRB-0693**

12/03/2004 09:51:28 AM

Page 2

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<END>

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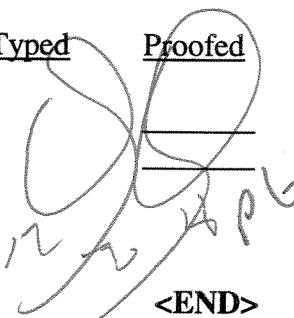
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FE Sent For: <END>

2005

Date (time) needed

DNODES  
Fr: 12/3

LRB - 0693 / 1

JTK : fj :

**BILL**

Use the appropriate components and routines developed for bills.

Gen

AN ACT ... [generate catalog] *to repeal* ... ; *to renumber* ... ; *to consolidate and renumber* ... ; *to renumber and amend* ... ; *to consolidate, renumber and amend* ... ; *to amend* ... ; *to repeal and recreate* ... ; and *to create* ... of the

statutes; relating to: application of the lobbying regulation law to attempts to influence state procurement decisions.

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

*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

insert analysis ↓

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

SECTION #.

↓

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0693/lins2  
JTK.....

analysis

2003 - 2004 Legislature

- 7 - also

percent

LRB-0043/P3  
JTK:kg:pg

Currently, every principal (person who employs a lobbyist) must register with the Ethics Board and file semiannual reports of lobbying expenditures and certain other information concerning any attempts by the principal to influence state legislative action or rule making by state agencies, unless the principal is exempted from registration or reporting under a statutory exemption. Lobbyists must supply to their principals the information required for the principals to prepare their reports. Each principal must report, in addition to other information, the principal's reasonable estimate of the proportion of its lobbying time spent attempting to influence any particular legislative proposal, proposed administrative rule, budget bill subject or other topic that accounts for 10% or more of the principal's time during a reporting period.

X  
X

This bill requires registration and reporting, in addition, by any person who attempts to influence the development by a state agency of specifications for, or the consideration by an agency of the award of, a procurement contract or order, or the development by the Department of Administration (DOA) of specifications for, or the consideration by DOA of the award of, a contract or change order for a state building project. Under the bill, each principal who employs a lobbyist to engage in this activity must report to the Ethics Board any specific procurement proposal, including a proposed state building contract or change order, that it is attempting to influence, and must also report the principal's reasonable estimate of the proportion of its lobbying time spent attempting to influence any particular procurement proposal, including a proposed state building contract or change order, that accounts for more than 10% of the principal's lobbying time during a 6-month reporting period.

construction

X  
X  
X

percent

six

Each principal must report to the Ethics Board each legislative proposal, budget bill subject, proposed administrative rule number, or other topic of lobbying communications made or intended to be made by the principal.

with regard to which it is making or intends to make lobbying communications

LPS:  
Comma,  
not a  
period

SECTION 1. 13.61 of the statutes is amended to read:

**13.61 Lobbying regulated; legislative purpose.** The legislature declares that the operation of an open and responsible government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to any officials of the executive or legislative branch their opinions on legislation, on pending administrative rules, on procurement decisions, and other policy decisions by administrative agencies, and on current issues. Essential to the continued functioning of an open government is the preservation of the integrity of the governmental decision-making process. In order to preserve and maintain the integrity of the process, the legislature determines that it is necessary to regulate and publicly disclose the identity, expenditures and activities of persons who hire others or are hired to engage in efforts to influence actions of the legislative and executive branches.

History: 1977 c. 278; 1989 a. 338.

SECTION 2. 13.62 (1) of the statutes is amended to read:

13.62 (1) "Administrative action" means the proposal, drafting, development, consideration, promulgation, amendment, repeal or rejection by any agency of any rule promulgated under ch. 227, the development by an agency of specifications for, or the consideration by an agency of the award of, a contract or order under subch. IV of ch. 16, or the development by the department of administration of specifications for, or the consideration by the department of the award of, a contract or change order under subch. V of ch. 16.

History: 1977 c. 278; 1979 c. 260 s. 94; 1979 c. 328 s. 146; 1983 a. 27, 36; 1987 a. 399; 1989 a. 338; 1991 a. 32; 1993 a. 112; 1995 a. 27; 1999 a. 9, 185; 2001 a. 16.

SECTION 3. 13.62 (12d) of the statutes is created to read:



13.62 (12d) "Procurement proposal" means a proposal of an agency to award a contract or order <sup>for the purchase of materials, supplies, equipment, or</sup> ~~under subch. IV of ch. 16,~~ or a proposal of the department of <sup>an agency</sup> ~~administration~~ to award a <sup>for construction work, as defined in</sup> ~~contract or change order~~ <sup>s. 16.87(1).</sup> ~~under subch. V of ch. 16.~~ Contractual  
contractual  
services X

SECTION 4. 13.67 of the statutes is amended to read:

**13.67 Identification of legislative and administrative proposals and topics.** (1) Except as authorized under s. 13.621, no person may engage in lobbying as a lobbyist on behalf of a principal and no principal may authorize a lobbyist to engage in lobbying on its behalf unless the principal reports to the board, in such manner as the board may prescribe, each legislative proposal, budget bill subject <sup>SCOT</sup> and, proposed administrative rule number, or procurement proposal in connection with which the principal has made or intends to make a lobbying communication or, if the lobbying does not relate to a legislative proposal or proposed administrative rule that has been numbered, a specific procurement proposal or a budget bill subject, each topic of a lobbying communication made or intended to be made by the principal. A principal shall describe any topic of a lobbying communication with reasonable specificity, sufficient to identify the subject matter of the lobbying communication and whether the communication is an attempt to influence legislative or administrative action, or both. The principal shall file the report no later than the end of the 15th day after the date on which the principal makes a lobbying communication with respect to a legislative proposal, proposed administrative rule, procurement proposal or budget bill subject, or other topic not previously reported by the principal under this section during the biennial period for which the principal is registered. The report shall be made by a person who is identified by the principal under s. 13.64 (1) (e). X

(2) Any person who is not a principal may, upon payment of the fee prescribed under s. 13.75 (5), register with the board an interest in any legislative proposal, proposed administrative rule, budget bill subject, procurement proposal, or other topic.

History: 1997 a. 186; 1999 a. 9.

**SECTION 5.** 13.68 (1) (bn) of the statutes is amended to read:

13.68 (1) (bn) For each legislative proposal, proposed administrative rule, procurement proposal, or budget bill subject or other topic that accounts for 10% or more of the principal's time spent in lobbying during the reporting period, the principal's reasonable estimate of the proportion of its time spent in lobbying associated with that legislative proposal, proposed administrative rule, budget bill subject or other topic.

History: 1977 c. 278; 1989 a. 338 ss. 19, 27 to 32; 1997 a. 186; 1999 a. 9.

**SECTION 6.** 13.75 (5) of the statutes is amended to read:

13.75 (5) Registering an interest in a legislative proposal, proposed administrative rule, procurement proposal, budget bill subject or other topic under s.13.67 (2), \$10.

History: 1985 a. 29; 1989 a. 338, 359; 1991 a. 39; 1995 a. 27; 1997 a. 186; 1999 a. 9.

**SECTION 7. Initial applicability.**

(1) This act first applies with respect to reports filed by principals for the first reporting period under section 13.62 (12r) of the statutes that begins on or after the effective date of this subsection.

**SECTION 8. Effective date.**

(1) This act takes effect on the first day of the first reporting period under section 13.62 (12r) that begins on or after the effective date of this act.

(END)

*D-Note*

*10 percent*

X

X

X

X

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

LRB-0693/1dn

JTK...*[Signature]*

*Date*

Representative Gard:

1. This draft covers both conventional procurement as well as construction work undertaken by any state agency, regardless of whether it is covered by or exempted from general procurement and contracting laws under subchs. IV and V of ch. 16, stats. Please advise if you would like to define the scope of coverage differently.

2. Under this draft, registration and reporting requirements become effective at the beginning of the first 6-month reporting period that begins on or after the day the bill resulting from the draft becomes law. Please advise if you would like to substitute a different initial applicability.

*(SIX)*  
*(STEP)*

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

X  
X  
X

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

LRB-0693/1dn  
JTK:kjf:rs

December 3, 2004

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2. Under this draft, registration and reporting requirements become effective at the beginning of the first six-month reporting period that begins on or after the day the bill resulting from the draft becomes law. Please advise if you would like to substitute a different initial applicability.

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



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0693/2

JTK:kjf:ts

wanted Tue 1/4

2005 BILL

Regen

1 AN ACT to amend 13.61, 13.62 (1), 13.67, 13.68 (1) (bn) and 13.75 (5); and to  
2 create 13.62 (12d) of the statutes; relating to: application of the lobbying  
3 regulation law to attempts to influence state procurement decisions.

**Analysis by the Legislative Reference Bureau**

Currently, every principal (person who employs a lobbyist) must register with the Ethics Board and file semiannual reports of lobbying expenditures and certain other information concerning any attempts by the principal to influence state legislative action or rule making by state agencies, unless the principal is exempted from registration or reporting under a statutory exemption. Lobbyists must supply to their principals the information required for the principals to prepare their reports. Each principal must report to the Ethics Board each legislative proposal, budget bill subject, proposed administrative rule number, or other topic of lobbying communications made or intended to be made by the principal. Each principal must also report, in addition to other information, the principal's reasonable estimate of the proportion of its lobbying time spent attempting to influence any particular legislative proposal, proposed administrative rule, budget bill subject or other topic that accounts for 10 percent or more of the principal's time during a reporting period.

This bill requires registration and reporting, in addition, by any person who attempts to influence the development by a state agency of specifications for, or the consideration by an agency of the award of, a procurement contract or order, or a contract or change order for a state construction project. Under the bill, each principal who employs a lobbyist to engage in this activity must report to the Ethics

\*

work or related work

**BILL**

\* Board any specific procurement proposal, including a proposed state <sup>construction</sup> ~~building~~ contract or change order, with regard to which it is making or intends to make lobbying communications, and must also report the principal's reasonable estimate of the proportion of its lobbying time spent attempting to influence any particular procurement proposal, including a proposed state <sup>building</sup> ~~building~~ contract or change order, that accounts for more than 10 percent of the principal's lobbying time during a six-month reporting period. <sub>construction</sub>

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

1           **SECTION 1.** 13.61 of the statutes is amended to read:

2           **13.61 Lobbying regulated; legislative purpose.** The legislature declares  
3 that the operation of an open and responsible government requires that the fullest  
4 opportunity be afforded to the people to petition their government for the redress of  
5 grievances and to express freely to any officials of the executive or legislative branch  
6 their opinions on legislation, on pending administrative rules, on procurement  
7 decisions, and other policy decisions by administrative agencies, and on current  
8 issues. Essential to the continued functioning of an open government is the  
9 preservation of the integrity of the governmental decision-making process. In order  
10 to preserve and maintain the integrity of the process, the legislature determines that  
11 it is necessary to regulate and publicly disclose the identity, expenditures and  
12 activities of persons who hire others or are hired to engage in efforts to influence  
13 actions of the legislative and executive branches.

14           **SECTION 2.** 13.62 (1) of the statutes is amended to read:

15           **13.62 (1)** "Administrative action" means the proposal, drafting, development,  
16 consideration, promulgation, amendment, repeal or rejection by any agency of any  
17 rule promulgated under ch. 227, the development by an agency of specifications for,  
18 or the consideration by an agency of the award of, a contract or order under subch

**BILL**

*purchase of*  
~~for the purchase of materials, supplies, equipment, or contractual services~~  
 1 ~~of or the development by the department of administration of specifications~~  
 2 ~~for, or the consideration by the department of the award of, a contract or change order~~  
 3 ~~under subch. V of ch. 16~~ *an agency* *stays scored*  
 4 ~~for construction work or related work~~

SECTION 3. 13.62 (12d) of the statutes is created to read:

5 13.62 (12d) "Procurement proposal" means a proposal of an agency to award  
 6 a contract or order for the purchase of materials, supplies, equipment, or contractual  
 7 services, or a proposal of an agency to award a contract or change order for  
 8 construction work *as defined in s. 16.87(1) or related work*

SECTION 4. 13.67 of the statutes is amended to read:

9 **13.67 Identification of legislative and administrative proposals and**  
 10 **topics.** (1) Except as authorized under s. 13.621, no person may engage in lobbying  
 11 as a lobbyist on behalf of a principal and no principal may authorize a lobbyist to  
 12 engage in lobbying on its behalf unless the principal reports to the board, in such  
 13 manner as the board may prescribe, each legislative proposal, budget bill subject  
 14 and, proposed administrative rule number, or procurement proposal in connection  
 15 with which the principal has made or intends to make a lobbying communication or,  
 16 if the lobbying does not relate to a legislative proposal or proposed administrative  
 17 rule that has been numbered, a specific procurement proposal, or a budget bill  
 18 subject, each topic of a lobbying communication made or intended to be made by the  
 19 principal. A principal shall describe any topic of a lobbying communication with  
 20 reasonable specificity, sufficient to identify the subject matter of the lobbying  
 21 communication and whether the communication is an attempt to influence  
 22 legislative or administrative action, or both. The principal shall file the report no  
 23 later than the end of the 15th day after the date on which the principal makes a  
 24 lobbying communication with respect to a legislative proposal, proposed  
 25

**BILL**

1 administrative rule, procurement proposal, budget bill subject, or other topic not  
2 previously reported by the principal under this section during the biennial period for  
3 which the principal is registered. The report shall be made by a person who is  
4 identified by the principal under s. 13.64 (1) (e).

5 (2) Any person who is not a principal may, upon payment of the fee prescribed  
6 under s. 13.75 (5), register with the board an interest in any legislative proposal,  
7 proposed administrative rule, budget bill subject, procurement proposal, or other  
8 topic.

9 **SECTION 5.** 13.68 (1) (bn) of the statutes is amended to read:

10 13.68 (1) (bn) For each legislative proposal, proposed administrative rule,  
11 procurement proposal, budget bill subject, or other topic that accounts for ~~10%~~ 10  
12 percent or more of the principal's time spent in lobbying during the reporting period,  
13 the principal's reasonable estimate of the proportion of its time spent in lobbying  
14 associated with that legislative proposal, proposed administrative rule, budget bill  
15 subject, or other topic.

16 **SECTION 6.** 13.75 (5) of the statutes is amended to read:

17 13.75 (5) Registering an interest in a legislative proposal, proposed  
18 administrative rule, procurement proposal, budget bill subject, or other topic under  
19 s. 13.67 (2), \$10.

20 **SECTION 7. Effective date.**

21 (1) This act takes effect on the first day of the first reporting period under  
22 section 13.62 (12r) that begins on or after the effective date of this act.

23 (END)



**Kuesel, Jeffery**

---

**To:** Wornson, Bryon  
**Cc:** Nowak, Ellen  
**Subject:** RE: Irb 0693/2

Byron,

This will confirm I am back at my desk and will take care of your redraft this week. As I told you on the phone, I think something like this should work. If I have a further question when I actually tackle it, I will get back to you.

Jeff Kuesel

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**From:** Wornson, Bryon  
**Sent:** Wednesday, August 31, 2005 2:06 PM  
**To:** Kuesel, Jeffery  
**Cc:** Nowak, Ellen  
**Subject:** Irb 0693/2

Jeff-

I would like to rewrite the bill so state government departments are required to update the status of RFPs from being issued to bids coming to approval. They can do that electronically on one web page. Much like campaign contributions, anything over certain amount would have to be reported in 24 hours. Start the dollar amount at \$25000

Change orders would have to be listed when approved as well.

Does this give you enough direction?

2005

Date (time) needed

Fr: 9/9

LRB - 0693 / 3

JAK: /gf:

↓  
CRS: all new text gutted from 1/2 version

**BILL**

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the

statutes; relating to: *Posting of information relating to certain pending State contracts and orders on the Internet*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

*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 #.

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0693/3ins2  
JTK.....

X  
X  
This bill directs the Department of Administration (DOA), and each executive branch state agency to which DOA delegates purchasing authority, to post on the Internet a list identifying each solicitation for bids or proposals and each proposed order or contract for which bids or proposals will not be solicited involving an expenditure of \$25,000 or more, or if a contract or order is for continuing purchases, an expenditure of \$25,000 or more in the current fiscal biennium. The list must contain certain information concerning each solicitation, order, or contract. The information must be posted within 24 hours after the time of the initial solicitation or commencement of negotiations and must remain posted until at least 90 days following the time of award of the contract or placement of the order. Change orders must also be posted. Under the bill, all information required to be posted must be accessible from or by linkage from a single page on the Internet.

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

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0693/3ins  
JTK.....

SECTION 1. 16.753 of the statutes is created to read:

**16.753 Information relating to pending contracts and orders.** (1) In this section, "major expenditure" means an expenditure of \$25,000 or more or, if a contract or order is for continuing purchases, an expenditure of \$25,000 or more in the current fiscal biennium.

(2) The department and its designated agents under s. 16.71 (1) shall post on the Internet a list identifying each solicitation for bids or competitive sealed proposals and each proposed order or contract for which bids or competitive sealed proposals will not be solicited involving a major expenditure, together with all information required under sub. (3).

(3) The information under sub. (2) shall be posted within 24 hours of the time of initial solicitation or commencement of negotiations, or the time that the information becomes available, if the information is not available at the time of solicitation or commencement of negotiations, and shall remain posted until at least 90 days following the time of award of the contract or placement of the order or 90 days following the date of any change order, whichever is later. The department or its designated agents under s. 16.71 (1) shall also post any change order to a listed order or contract. If an original order or contract that did not involve a major expenditure, together with a change order, aggregates to a contract or order involving a major expenditure, the department or its designated agents under s. 16.71 (1) shall post the information under sub. (1) with respect to that order or contract.

(4) For each solicitation, contract, or order, the posting shall include:

X

(a) A brief description of the purpose of the solicitation, contract, or order.

X

(b) The name of the agency to which the materials, supplies, equipment, or contractual services are to be provided.

(c) A contact person within the agency under par. (b) from whom further information may be obtained.

X

(d) The date of the solicitation and, if the contract has been entered into or the order has been placed, the date of that action.

(e) A brief description and the date of any change order.

(f) The estimated expenditures to be made under the contract or order, including any changes thereto, or if the contract or order is for continuing purchases the estimated expenditures to be made under the contract or order in the current fiscal biennium.

(4) All the information posted under this section shall be accessible from or by linkage from a single page on the Internet.

WS  
2A

**SECTION 2. Initial applicability.**

(1) This act first applies with respect to solicitations made, negotiations for proposed contracts commenced, and orders placed, whichever first occurs, on the effective date of this subsection.

(END)

ANS 2A:1

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, <sup>16.753</sup> 16.754 and <sup>16.753</sup> 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. <sup>16.753</sup> ~~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.

INS 2A:2

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

(HNS 2A:3)

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 <sup>restore</sup> 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 <sup>restore</sup> 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

restore

16.753

16.753

restore



**SECTION 9**

*ANS 2A:4*

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. ~~16.754, 16.771, and 16.871~~ <sup>16.753 and</sup>. 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:

FWS 2A: 5

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.

16.753

relative

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 ~~16.771~~  
 25 ~~16.78~~ to 16.82 and, 16.85 to 16.87, and 16.875 to 16.89.

16.753

16.771

IN 52A:6

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~~<sup>16.753</sup>, 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<sup>2</sup> and 16.767 to ~~16.77~~ and ~~16.78~~ to 16.82. re/ore

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

16.752  
16.754 to

ANS 2A: 7

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~~ <sup>16.753 and</sup>, 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)

**Kuesel, Jeffery**

---

**From:** Kuesel, Jeffery  
**Sent:** Thursday, October 13, 2005 2:08 PM  
**To:** Nowak, Ellen  
**Subject:** RE: LRB 0693/3

Ellen,  
I will take care of the change this afternoon.  
Jeff Kuesel

---

**From:** Nowak, Ellen  
**Sent:** Thursday, October 13, 2005 11:21 AM  
**To:** Kuesel, Jeffery  
**Subject:** LRB 0693/3

Hi Jeff:  
Can you make one change to this draft - change the dollar amount from \$25,000 to \$10,000. Please have it jacketed for introduction after the change is made.  
Thanks,  
Ellen