

## 2007 DRAFTING REQUEST

### Bill

Received: **09/18/2006**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Jablonsky**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **GMM**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **robin.ryan@legis.wisconsin.gov**

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### Pre Topic:

DOA:.....Jablonsky, BB0023 -

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### Topic:

Audit limit

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### Instructions:

See Attached

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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>
/?	dkennedy 09/26/2006	kfollett 09/28/2006		_____			S&L
/1	dkennedy 11/10/2006 dkennedy 11/13/2006		rschluet 09/28/2006	_____	sbasford 09/28/2006		S&L
/2	dkennedy 01/30/2007	kfollett 01/31/2007	rschluet 01/31/2007	_____	cduerst 01/31/2007		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

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**forsaac@dhfs.state.wi.us**

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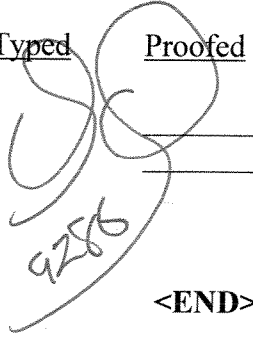
**Instructions:**

See Attached

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/?	dkennedy	1/1kf 9/28					
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FE Sent For:

<END>

**2007-09 Budget Bill Statutory Language Drafting Request**

- Topic: Audit Limit
- Tracking Code: BB0023
- SBO team: Health/Ins
- SBO analyst: Sue Jablonsky
  - Phone: 7-9546
  - Email: Sue.Jablonsky@Wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435

Change the audit requirement limit from \$25,000 to \$100,000.

Medium Priority



## Audit Requirements for Agencies Receiving DHFS Funds

### Current Language

Chapter 46.036(4)(c) applies to the department and to counties when the counties subcontract department funds. It states the following:

Unless waived by the department, biennially, or annually if required under federal law, provide the purchaser with a certified financial and compliance audit report if the care and services purchased exceed \$25,000. The audit shall follow standards that the department prescribes. A purchaser may waive the requirements of this paragraph for any family-operated group home, as defined under par. (a), from which it purchases services.

### Proposed Change

Amend s. 46.036 to increase the threshold to \$100,000 with a provision allowing the department to establish a higher threshold by policy if circumstances show that a higher threshold is warranted.

### Effect of the Change

Many audits of smaller, low risk agencies are likely to be eliminated under this proposal, which would reduce costs to programs and result in more funds being available for program activities. In addition, counties and the department would save some costs associated with the time that staff now invest in obtaining and reviewing audit reports of smaller, low risk agencies or in approving waivers of those audits.

Several of the department's policy documents would need minor adjustments to reflect a change in the statute:

- The Provider Agency Audit Guide and State Single Audit Guidelines would need changes to the discussion of when audits are required and the process for obtaining waivers of audit requirements.
- The department's annual memo to counties with instructions for waivers of audits would need to reflect the change.
- The department's model contracts and the guidance the department provides to counties to use when subcontracting department funds would need updates to the audit sections.

The statute allows the department to waive audits. The waivers save programs from having to bear the costs of audits. However, counties and the department are incurring costs associated with staff time for justifying these waivers.

### **Rationale for the Change**

The current audit requirement is outdated and results in requiring costly audits when they are not needed. The current threshold is too low at \$25,000, requiring some smaller agencies to have audits that cost more than any benefits received from conducting the audits. This also adds to purchaser costs in obtaining and reviewing unneeded audits.

The statute includes a provision which allows the department to waive audits. According to the Office of Legal Counsel, this provision requiring each waiver must be considered individually. Obtaining individual waivers of audits for hundreds of very small agencies adds substantially to the workload for county and department staff.

Another consideration is a recent provision in Chapter 66 of the statutes. This provision allows individual counties to petition for waivers of mandates. The only petitions under this waiver that state agencies have approved are for raising the audit threshold in 46.036. Under this waiver, 25 counties now have audit thresholds at \$75,000 and, more recently, two counties have obtained thresholds of \$100,000. The experience with the mandate waiver provision shows general recognition that the current threshold is too low.

**Desired Effective Date:** Upon passage of the bill.  
**Agency:** DHFS  
**Agency Contact:** Andy Forsaith  
**Phone:** 266-7684



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0243/2  
DAK: Kjf

D-NOTE

DOA:.....Jablonsky, BB0023 - Audit limit

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, each provider of care or services exceeding \$25,000 purchased by DHFS or by a county department of social services, human services, developmental disabilities services, or community programs, except a family-operated group home, must provide the purchaser with a certified financial and compliance audit report annually, or if required by federal law, biennially. DHFS may waive this requirement.

This bill changes the audit report requirement so that it applies to care and services that exceed \$100,000, or any higher threshold amount determined by DHFS.

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:*

2 SECTION 1. 46.036 (4) (c) of the statutes is amended to read:

plain  
↓

1

46.036 (4) (c) Unless waived by the department, biennially, or annually if  
required under federal law, provide the purchaser with a certified financial and  
compliance audit report if the care and services purchased exceed \$25,000 \$100,000  
or any higher threshold amount determined by the department. The audit shall  
follow standards that the department prescribes. A purchaser may waive the  
requirements of this paragraph for any family-operated group home, as defined  
under par. (a), from which it purchases services.

History: 1973 c. 90, 333; 1975 c. 39; 1975 c. 198 s. 65; 1977 c. 29, 418; 1981 c. 20; 1983 a. 27, 116, 192; 1985 a. 176; 1985 a. 332 s. 251 (3); 1987 a. 27; 1987 a. 161 s. 13m; 1989 a. 31, 122, 359; 1993 a. 375, 380, 446; 1995 a. 27; 1997 a. 27, 79, 237; 1999 a. 9, 103; 2001 a. 16.

8

SECTION 2. 301.08 (2) (d) 3. of the statutes is amended to read:

301.08 (2) (d) 3. Unless waived by the department, biennially, or annually if  
required under federal law, provide the purchaser with a certified financial and  
compliance audit report if the care and services purchased exceed \$100,000 or any  
higher threshold amount determined by the department. The audit shall follow  
standards that the department prescribes. A purchaser may waive the requirements  
of this subdivision as provided in s. 46.036 (4) (c).

History: 1989 a. 31, 107; 1995 a. 27, 352; 1997 a. 27, 205, 237, 275, 283; 1999 a. 9, 185; 2001 a. 59; 2005 a. 344.

15

SECTION 9321. Initial applicability; Health and Family Services.

(1) SERVICE PROVIDER AUDIT REQUIREMENT. The treatment of sections 46.036 (4)  
(c) and 301.08 (2) (d) 3. of the statutes first applies to contracts entered into or  
renewed on the effective date of this subsection.

19

(END)

D-NOTE

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

LRB-0243/rdn  
DAK:.....

kgf

*Date*

To Sue Jablonsky and Andy Forsaith:

Please note my amendment to s. 301.08 (2) (d) 3., stats., for the sake of consistency. Is this what you want?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.wisconsin.gov](mailto:debora.kennedy@legis.wisconsin.gov)

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

LRB-0243/1dn  
DAK:kjf:rs

September 28, 2006

To Sue Jablonsky and Andy Forsaith:

Please note my amendment to s. 301.08 (2) (d) 3., stats., for the sake of consistency. Is this what you want?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.wisconsin.gov](mailto:debora.kennedy@legis.wisconsin.gov)

**Kennedy, Debora**

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**From:** Forsaith, Andrew  
**Sent:** Friday, September 29, 2006 5:32 PM  
**To:** Kennedy, Debora  
**Cc:** Anderson, Ann Marie; Cooper, Patrick; Sue Jablonsky  
**Subject:** Re: Draft review: LRB 07-0243/1 Topic: Audit limit

**Attachments:** 07-02431.pdf; 07-02431dn.pdf



07-02431.pdf (16 KB) 07-02431dn.pdf (8 KB)

Debora -- Thanks for preparing this draft. The amendment to s. 46.036 is consistent with our intent.

Regarding s. 301.08, we feel DHFS cannot recommend amending that section, because it affects another agency, DOC. Sue: please provide guidance on whether the DOC statute should be amended. Also, there is a similar provision for DWD.

>>> "Basford, Sarah" <Sarah.Basford@legis.wisconsin.gov> 09/28/06 1:11 PM >>>  
Draft Requester: Administration-Budget

Following is the PDF version of draft LRB 07-0243/1 and drafter's note.

49.34 (4) (c)

10/1/06 Pending callback from S. Jablonsky  
10/9 Called S. J; she will get back to me.

## Kennedy, Debora

---

**From:** Jablonsky, Sue - DOA  
**Sent:** Friday, December 15, 2006 10:15 AM  
**To:** Kennedy, Debora  
**Subject:** FW: 07-0243: Audit limit

Here's 1 part

---

**From:** Steinmetz, Jana D - DOA  
**Sent:** Friday, December 15, 2006 10:12 AM  
**To:** Jablonsky, Sue - DOA  
**Subject:** RE: 07-0243: Audit limit

DOC is fine with the change to s. 301.08(2)(d)3.

---

**From:** Jablonsky, Sue - DOA  
**Sent:** Friday, December 15, 2006 9:32 AM  
**To:** Harshner, Samuel - DOA; Steinmetz, Jana D - DOA  
**Subject:** FW: 07-0243: Audit limit

I know this got lost in the shuffle of much bigger fish—can you guys let me know about this?

---

**From:** Kennedy, Debora [<mailto:Debora.Kennedy@legis.wisconsin.gov>]  
**Sent:** Thursday, December 14, 2006 11:43 AM  
**To:** Jablonsky, Sue - DOA  
**Subject:** 07-0243: Audit limit

In September I drafted this bill to change the annual financial and compliance audit report requirement that is triggered when care and services purchased by DHFS or a county department exceed \$25,000 to a \$100,00 or higher threshold, as determined by DHFS. The department requested that this change be made to s. 46.036 (4) ©, stats. In the bill, I also made the change to s. 301.08 (2) (d) 3., stats. (which affects the Dept. of Corrections). It turns out that there is yet another similar provision for DWD, at s. 49.34 (4) ©.

What would you like for me to do:

- A. Pare the draft down to the DHFS original request?
- B. Expand the draft to include the DWD provision?

Thanks very much.

*Debora A. Kennedy*

Managing Attorney  
Legislative Reference Bureau  
(608) 266-0137  
[debora.kennedy@legis.state.wi.us](mailto:debora.kennedy@legis.state.wi.us)





State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0243/12

DAK:kjf:rs

D-NOTE

DOA:.....Jablonsky, BB0023 - Audit limit

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Don't Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, each provider of care or services exceeding \$25,000 purchased by DHFS or by a county department of social services, human services, developmental disabilities services, or community programs, except a family-operated group home, must provide the purchaser with a certified financial and compliance audit report annually, or if required by federal law, biennially. DHFS may waive this requirement.

This bill changes the audit report requirement so that it applies to care and services that exceed \$100,000, or any higher threshold amount determined by DHFS.

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:*

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**SECTION 1.** 46.036 (4) (c) of the statutes is amended to read:

AUTOREF A

1 46.036 (4) (c) Unless waived by the department, biennially, or annually if  
 2 required under federal law, provide the purchaser with a certified financial and  
 3 compliance audit report if the care and services purchased exceed \$25,000 \$100,000  
 4 or any higher threshold amount determined by the department. The audit shall  
 5 follow standards that the department prescribes. A purchaser may waive the  
 6 requirements of this paragraph for any family-operated group home, as defined  
 7 under par. (a), from which it purchases services.

8 **SECTION 2.** 301.08 (2) (d) 3. of the statutes is amended to read:

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 10 required under federal law, provide the purchaser with a certified financial and  
 11 compliance audit report if the care and services purchased exceed \$100,000 or any  
 12 higher threshold amount determined by the department. The audit shall follow  
 13 standards that the department prescribes. A purchaser may waive the requirements  
 14 of this subdivision as provided in s. 46.036 (4) (c).

15 **SECTION 9321. Initial applicability; Health and Family Services.**

16 (1) SERVICE PROVIDER AUDIT REQUIREMENT. The treatment of sections 46.036 (4)  
 17 (c) and 301.08 (2) (d) 3. of the statutes first applies to contracts entered into or  
 18 renewed on the effective date of this subsection.

AUTO REF B

(by SECTION (CS) (AUTO REF B))

create auto ref (C)

(by SECTION (CS) (AUTO REF A))

D-NOTE

a.r. (C) \*\*\* NOTE: This is reconciled SECTION (CS) 9321 (\*). This subsection has been affected by drafts with the following LRB #'s: - 0243/1 and -1261/2.

a.r. (A) (END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341) · Library (608-266-7040) Legal (608-266-3561)

LRB

D-NOTE Date

LRB-0243/2dm  
DAK: kjf

To Sue Jablonsky:

This draft reconciles LRB-0243/2 and  
LRB-1261/2. Both LRB-0243 and LRB-1261  
should continue to appear in the  
compiled bill.

DAK

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

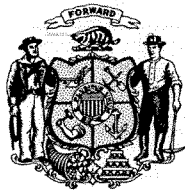
LRB-0243/2dn  
DAK:kjfrs

January 31, 2007

To Sue Jablonsky:

This draft reconciles LRB-0243/2 and LRB-1261/2. Both LRB-0243 and LRB-1261 should continue to appear in the compiled bill.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: [debora.kennedy@legis.wisconsin.gov](mailto:debora.kennedy@legis.wisconsin.gov)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0243/2  
DAK:kjf:rs

DOA:.....Jablonsky, BB0023 - Audit limit

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18 contracts entered into or renewed on the effective date of this subsection.

\*\*\*NOTE: This is reconciled SECTION 9321 (1). This subsection has been affected  
by drafts with the following LRB numbers: -0243/1 and -1261/2.

19   **(END)**