

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1272/1

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DOA:.....Pink, BB0266 - Healthy Wisconsin Authority

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT *do not generate*; relating to: creating a Healthy Wisconsin Authority. ✓

Analysis by the Legislative Reference Bureau

INSURANCE

This bill creates the Healthy Wisconsin Authority (HWA). An authority is a public body corporate and politic with a board of directors that is created by state law but that is not a state agency. The board of directors of HWA consists of the commissioner of insurance, or the commissioner's designee, as a nonvoting member and 13 other members who will serve four-year terms, including a majority party senator and a majority party representative to the assembly, appointed by the senate majority leader and the speaker of the assembly, respectively, and a minority party senator and a minority party representative to the assembly, appointed by the senate minority leader and the assembly minority leader, respectively. Nine other members are nominated by the governor and appointed with the advice and consent of the senate and consist of a health care provider and representatives of a health insurance company, a small employer, Wisconsin labor unions, health benefit purchasing cooperatives, and the public interest. The board must appoint an executive director, who may not be a member of the board.

Because HWA is not a state agency, numerous laws that apply to state agencies do not apply to HWA. However, HWA is treated like a state agency in the following respects, among others: 1) it is generally subject to the open records and open meetings laws; 2) it is treated like a state agency for purposes of the law regulating lobbying; 3) it is subject to state purchasing requirements and must use a competitive

bid or proposal process whenever contracting for services; 4) it is exempt from income tax, sales and use tax, and property taxes; 5) the Code of Ethics for Public Officials and Employees covers HWA; 6) it is to be treated as a state agency for all purposes under the Wisconsin Retirement System; and 7) it is subject to auditing by the Legislative Audit Bureau.

HWA is unlike a state agency in many other ways, including: 1) it may approve its own budget without going through the state budgetary process; 2) its employees are not state employees, are not included in the state system of personnel management, and are hired outside the state hiring system; and 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules. Unlike most authorities under current law, HWA may not issue bonds.

HWA must create a catastrophic health care claims reinsurance program to begin operating on January 1, 2008. All insurers that offer health insurance in the small group market and all insurers that contract to provide health care benefits to health benefit purchasing cooperatives must participate in the program. The insurers must pay premiums to HWA for reinsurance coverage and HWA must pay high-cost claims incurred by the insurers participating in the program. HWA must design the program features, including determining which claims will be paid and setting the premiums and the coinsurance rates. HWA may contract with a vendor to administer the program. HWA must contract with an independent entity for annual program and financial evaluations, and must explore the feasibility of expanding the program to cover more state residents. *Insert A*

For further information see the *state* 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.** 13.172 (1) of the statutes is amended to read:

2 13.172 (1) In this section, "agency" means an office, department, agency,
3 institution of higher education, association, society, or other body in state
4 government created or authorized to be created by the constitution or any law, that
5 is entitled to expend moneys appropriated by law, including the legislature and the
6 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
7 ch. 231, 233, or 234, or 238.

8 **SECTION 2.** 13.48 (13) (a) of the statutes is amended to read:

1 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
2 facility that is constructed for the benefit of or use of the state, any state agency,
3 board, commission or department, the University of Wisconsin Hospitals and Clinics
4 Authority, the Fox River Navigational System Authority, the Healthy Wisconsin
5 Authority, or any local professional baseball park district created under subch. III
6 of ch. 229 if the construction is undertaken by the department of administration on
7 behalf of the district, shall be in compliance with all applicable state laws, rules,
8 codes and regulations but the construction is not subject to the ordinances or
9 regulations of the municipality in which the construction takes place except zoning,
10 including without limitation because of enumeration ordinances or regulations
11 relating to materials used, permits, supervision of construction or installation,
12 payment of permit fees, or other restrictions.

13 **SECTION 3.** 13.62 (2) of the statutes is amended to read:

14 13.62 (2) "Agency" means any board, commission, department, office, society,
15 institution of higher education, council, or committee in the state government, or any
16 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
17 234, ~~or 237~~, or 238, except that the term does not include a council or committee of
18 the legislature.

19 **SECTION 4.** 13.95 (intro.) of the statutes is amended to read:

20 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
21 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
22 shall be strictly nonpartisan and shall at all times observe the confidential nature
23 of the research requests received by it; however, with the prior approval of the
24 requester in each instance, the bureau may duplicate the results of its research for
25 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's

1 designated employees shall at all times, with or without notice, have access to all
2 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
3 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
4 the Healthy Wisconsin Authority, and the Fox River Navigational System Authority,
5 and to any books, records, or other documents maintained by such agencies or
6 authorities and relating to their expenditures, revenues, operations, and structure.

7 **SECTION 5.** 16.002 (2) of the statutes is amended to read:

8 16.002 (2) "Departments" means constitutional offices, departments, and
9 independent agencies and includes all societies, associations, and other agencies of
10 state government for which appropriations are made by law, but not including
11 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and in chs. 231, 232,
12 233, 234, 235, and 237, and 238.

13 **SECTION 6.** 16.004 (4) of the statutes is amended to read:

14 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
15 department as the secretary designates may enter into the offices of state agencies
16 and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under
17 chs. 231, 233, 234, and 237, and 238, and may examine their books and accounts and
18 any other matter that in the secretary's judgment should be examined and may
19 interrogate the agency's employees publicly or privately relative thereto.

20 **SECTION 7.** 16.004 (5) of the statutes is amended to read:

21 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
22 authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs.
23 231, 233, 234, and 237, and 238, and their officers and employees, shall cooperate
24 with the secretary and shall comply with every request of the secretary relating to
25 his or her functions.

1 **SECTION 8.** 16.045 (1) (a) of the statutes is amended to read:

2 16.045 (1) (a) "Agency" means an office, department, independent agency,
3 institution of higher education, association, society, or other body in state
4 government created or authorized to be created by the constitution or any law, that
5 is entitled to expend moneys appropriated by law, including the legislature and the
6 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
7 ch. 149 or in ch. 231, 232, 233, 234, 235, ~~or 237,~~ or 238.

8 **SECTION 9.** 16.41 (4) of the statutes is amended to read:

9 16.41 (4) In this section, "authority" means a body created under subch. II of
10 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, ~~or 237,~~ or 238.

11 **SECTION 10.** 16.417 (1) (a) of the statutes, as affected by 2005 Wisconsin Act 74,
12 is amended to read:

13 16.417 (1) (a) "Agency" means an office, department, independent agency,
14 institution of higher education, association, society, or other body in state
15 government created or authorized to be created by the constitution or any law, that
16 is entitled to expend moneys appropriated by law, including the legislature and the
17 courts, but not including an authority or the body created under subch. III of ch. 149
18 or under ch. 238.

19 **SECTION 11.** 16.52 (7) of the statutes is amended to read:

20 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
21 that is authorized to maintain a contingent fund under s. 20.920 may establish a
22 petty cash account from its contingent fund. The procedure for operation and
23 maintenance of petty cash accounts and the character of expenditures therefrom
24 shall be prescribed by the secretary. In this subsection, "agency" means an office,
25 department, independent agency, institution of higher education, association,

1 society, or other body in state government created or authorized to be created by the
2 constitution or any law, that is entitled to expend moneys appropriated by law,
3 including the legislature and the courts, but not including an authority created in
4 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, ~~or 237,~~ or 238.

5 **SECTION 12.** 16.528 (1) (a) of the statutes is amended to read:

6 16.528 (1) (a) "Agency" means an office, department, independent agency,
7 institution of higher education, association, society, or other body in state
8 government created or authorized to be created by the constitution or any law, that
9 is entitled to expend moneys appropriated by law, including the legislature and the
10 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
11 ch. 149 or in ch. 231, 233, 234, ~~or 237,~~ or 238.

12 **SECTION 13.** 16.53 (2) of the statutes is amended to read:

13 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
14 invoice, the agency shall notify the sender of the invoice within 10 working days after
15 it receives the invoice of the reason it is improperly completed. In this subsection,
16 "agency" means an office, department, independent agency, institution of higher
17 education, association, society, or other body in state government created or
18 authorized to be created by the constitution or any law, that is entitled to expend
19 moneys appropriated by law, including the legislature and the courts, but not
20 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
21 231, 233, 234, ~~or 237,~~ or 238.

22 **SECTION 14.** 16.54 (9) (a) 1. of the statutes is amended to read:

23 16.54 (9) (a) 1. "Agency" means an office, department, independent agency,
24 institution of higher education, association, society or other body in state
25 government created or authorized to be created by the constitution or any law, which

1 is entitled to expend moneys appropriated by law, including the legislature and the
2 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
3 ch. 149 or in ch. 231, 233, 234, ~~or 237~~, or 238.

4 **SECTION 15.** 16.70 (2) of the statutes is amended to read:

5 16.70 (2) "Authority" means a body created under subch. II of ch. 114 or subch.
6 III of ch. 149 or under ch. 231, 232, 233, 234, 235, ~~or 237~~, or 238.

7 **SECTION 16.** 16.765 (1) of the statutes is amended to read:

8 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
9 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
10 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
11 Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
12 Corporation shall include in all contracts executed by them a provision obligating the
13 contractor not to discriminate against any employee or applicant for employment
14 because of age, race, religion, color, handicap, sex, physical condition, developmental
15 disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m),
16 or national origin and, except with respect to sexual orientation, obligating the
17 contractor to take affirmative action to ensure equal employment opportunities.

18 **SECTION 17.** 16.765 (2) of the statutes is amended to read:

19 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
20 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
21 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
22 Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
23 Corporation shall include the following provision in every contract executed by them:
24 "In connection with the performance of work under this contract, the contractor
25 agrees not to discriminate against any employee or applicant for employment

1 because of age, race, religion, color, handicap, sex, physical condition, developmental
2 disability as defined in s. 51.01 (5), sexual orientation or national origin. This
3 provision shall include, but not be limited to, the following: employment, upgrading,
4 demotion or transfer; recruitment or recruitment advertising; layoff or termination;
5 rates of pay or other forms of compensation; and selection for training, including
6 apprenticeship. Except with respect to sexual orientation, the contractor further
7 agrees to take affirmative action to ensure equal employment opportunities. The
8 contractor agrees to post in conspicuous places, available for employees and
9 applicants for employment, notices to be provided by the contracting officer setting
10 forth the provisions of the nondiscrimination clause”.

11 **SECTION 18.** 16.765 (4) of the statutes is amended to read:

12 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
13 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
14 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
15 Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
16 Corporation shall take appropriate action to revise the standard government
17 contract forms under this section.

18 **SECTION 19.** 16.765 (5) of the statutes is amended to read:

19 16.765 (5) The head of each contracting agency and the boards of directors of
20 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
21 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
22 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
23 Bradley Center Sports and Entertainment Corporation shall be primarily
24 responsible for obtaining compliance by any contractor with the nondiscrimination
25 and affirmative action provisions prescribed by this section, according to procedures

1 recommended by the department. The department shall make recommendations to
2 the contracting agencies and the boards of directors of the University of Wisconsin
3 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
4 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
5 the Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
6 Corporation for improving and making more effective the nondiscrimination and
7 affirmative action provisions of contracts. The department shall promulgate such
8 rules as may be necessary for the performance of its functions under this section.

9 **SECTION 20.** 16.765 (6) of the statutes is amended to read:

10 16.765 (6) The department may receive complaints of alleged violations of the
11 nondiscrimination provisions of such contracts. The department shall investigate
12 and determine whether a violation of this section has occurred. The department may
13 delegate this authority to the contracting agency, the University of Wisconsin
14 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
15 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
16 the Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
17 Corporation for processing in accordance with the department's procedures.

18 **SECTION 21.** 16.765 (7) (intro.) of the statutes is amended to read:

19 16.765 (7) (intro.) When a violation of this section has been determined by the
20 department, the contracting agency, the University of Wisconsin Hospitals and
21 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
22 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
23 Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
24 Corporation, the contracting agency, the University of Wisconsin Hospitals and
25 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin

1 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
2 Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
3 Corporation shall:

4 **SECTION 22.** 16.765 (7) (d) of the statutes is amended to read:

5 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
6 further violations of this section and to report its corrective action to the contracting
7 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
8 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
9 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, or the
10 Bradley Center Sports and Entertainment Corporation.

11 **SECTION 23.** 16.765 (8) of the statutes is amended to read:

12 16.765 (8) If further violations of this section are committed during the term
13 of the contract, the contracting agency, the Fox River Navigational System Authority,
14 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
15 Authority, the Healthy Wisconsin Authority, or the Bradley Center Sports and
16 Entertainment Corporation may permit the violating party to complete the contract,
17 after complying with this section, but thereafter the contracting agency, the Fox
18 River Navigational System Authority, the Wisconsin Aerospace Authority, the
19 Health Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority,
20 or the Bradley Center Sports and Entertainment Corporation shall request the
21 department to place the name of the party on the ineligible list for state contracts,
22 or the contracting agency, the Fox River Navigational System Authority, the
23 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
24 the Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
25 Corporation may terminate the contract without liability for the uncompleted

1 portion or any materials or services purchased or paid for by the contracting party
2 for use in completing the contract.

3 **SECTION 24.** 16.85 (2) of the statutes is amended to read:

4 16.85 (2) To furnish engineering, architectural, project management, and other
5 building construction services whenever requisitions therefor are presented to the
6 department by any agency. The department may deposit moneys received from the
7 provision of these services in the account under s. 20.505 (1) (kc) or in the general
8 fund as general purpose revenue — earned. In this subsection, “agency” means an
9 office, department, independent agency, institution of higher education, association,
10 society, or other body in state government created or authorized to be created by the
11 constitution or any law, which is entitled to expend moneys appropriated by law,
12 including the legislature and the courts, but not including an authority created in
13 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, ~~or 237,~~ or 238.

14 **SECTION 25.** 16.865 (8) of the statutes is amended to read:

15 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
16 proportionate share of the estimated costs attributable to programs administered by
17 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
18 may charge premiums to agencies to finance costs under this subsection and pay the
19 costs from the appropriation on an actual basis. The department shall deposit all
20 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
21 Costs assessed under this subsection may include judgments, investigative and
22 adjustment fees, data processing and staff support costs, program administration
23 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
24 subsection, “agency” means an office, department, independent agency, institution
25 of higher education, association, society, or other body in state government created

1 or authorized to be created by the constitution or any law, that is entitled to expend
2 moneys appropriated by law, including the legislature and the courts, but not
3 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
4 231, 232, 233, 234, 235, ~~or 237,~~ or 238.

5 **SECTION 26.** 40.02 (54) (k) of the statutes is created to read:

6 40.02 (54) (k) The Healthy Wisconsin Authority.

7 **SECTION 27.** 70.11 (41p) of the statutes is created to read:

8 70.11 (41p) HEALTHY WISCONSIN AUTHORITY. All property owned by the Healthy
9 Wisconsin Authority, provided that use of the property is primarily related to the
10 purposes of the authority.

11 **SECTION 28.** 71.26 (1) (be) of the statutes is amended to read:

12 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
13 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
14 Authority, of the Healthy Wisconsin Authority, and of the Fox River Navigational
15 System Authority, and of the Wisconsin Aerospace Authority.

16 **SECTION 29.** 77.54 (9a) (a) of the statutes is amended to read:

17 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
18 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
19 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
20 Fox River Navigational System Authority.

21 **SECTION 30.** 100.45 (1) (dm) of the statutes is amended to read:

22 100.45 (1) (dm) "State agency" means any office, department, agency,
23 institution of higher education, association, society or other body in state
24 government created or authorized to be created by the constitution or any law which
25 is entitled to expend moneys appropriated by law, including the legislature and the

1 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
2 Center Sports and Entertainment Corporation, the University of Wisconsin
3 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
4 Authority, the Wisconsin Aerospace Authority, and the Fox River Navigational
5 System Authority, and the Healthy Wisconsin Authority.

6 **SECTION 31.** 101.177 (1) (d) of the statutes is amended to read:

7 101.177 (1) (d) "State agency" means any office, department, agency,
8 institution of higher education, association, society, or other body in state
9 government created or authorized to be created by the constitution or any law, that
10 is entitled to expend moneys appropriated by law, including the legislature and the
11 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
12 Center Sports and Entertainment Corporation, the University of Wisconsin
13 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, and the
14 Wisconsin Health and Educational Facilities Authority, and the Healthy Wisconsin
15 Authority, but excluding the Health Insurance Risk-Sharing Plan Authority.

16 **SECTION 32.** 185.99 (4) (d) of the statutes is created to read:

17 185.99 (4) (d) An insurer that contracts with a health benefit purchasing
18 cooperative shall be required to participate in a catastrophic health care reinsurance
19 program under s. 238.15.

20 **SECTION 33.** 230.03 (3) of the statutes is amended to read:

21 230.03 (3) "Agency" means any board, commission, committee, council, or
22 department in state government or a unit thereof created by the constitution or
23 statutes if such board, commission, committee, council, department, unit, or the
24 head thereof, is authorized to appoint subordinate staff by the constitution or
25 statute, except a legislative or judicial board, commission, committee, council,

1 department, or unit thereof or an authority created under subch. II of ch. 114 or
2 subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, ~~or 237~~, or 238. "Agency" does
3 not mean any local unit of government or body within one or more local units of
4 government that is created by law or by action of one or more local units of
5 government.

6 **SECTION 34.** Chapter 238 of the statutes is created to read:

7 **CHAPTER 238**

8 **HEALTHY WISCONSIN AUTHORITY**

9 **238.01 Definitions.** In this chapter:

10 (1) "Authority" means the Healthy Wisconsin Authority.

11 (2) "Board" means the board of directors of the authority.

12 (3) "Health benefit purchasing cooperative" means a cooperative under s.
13 185.99.

14 (4) "Small group market" has the meaning given in s. 632.745 (26).

15 **238.05 Creation and organization of authority.** (1) There is created a
16 public body corporate and politic to be known as the "Healthy Wisconsin Authority."
17 The board of directors of the authority shall consist of the commissioner of insurance,
18 or his or her designee, as a nonvoting member, and the following 13 members, who
19 shall serve 4-year terms:

20 (a) One majority party senator appointed by the senate majority leader.

21 (b) One minority party senator appointed by the senate minority leader.

22 (c) One majority party representative to the assembly appointed by the speaker
23 of the assembly.

24 (d) One minority party representative to the assembly appointed by the
25 assembly minority leader.

1 (e) Nine nominees of the governor, appointed with the advice and consent of the
2 senate, consisting of all of the following:

3 1. One health care provider.

4 2. One representative of a Wisconsin health insurance company that offers
5 coverage in the small group market.

6 3. One representative of a Wisconsin small employer.

7 4. One representative of Wisconsin labor unions.

8 5. One representative of health benefit purchasing cooperatives.

9 6. Four other members who represent the public interest.

10 (2) Each member of the board shall hold office until a successor is appointed
11 and qualified unless the member vacates or is removed from his or her office. A
12 member who serves as a result of holding another office or position vacates his or her
13 office as a member when he or she vacates the other office or position. A member who
14 ceases to qualify for office vacates his or her office. A vacancy on the board shall be
15 filled in the same manner as the original appointment to the board for the remainder
16 of the unexpired term, if any.

17 (3) Annually, the governor shall appoint one member as chairperson, and the
18 members of the board may elect other officers as they consider appropriate.

19 (4) The board shall appoint an executive director. The executive director shall
20 not be a member of the board and shall serve at the pleasure of the board. The
21 authority may delegate by resolution to one or more of its members or its executive
22 director any powers and duties that it considers proper. The executive director shall
23 receive such compensation as may be determined by the board. The executive
24 director or other person designated by resolution of the board shall keep a record of
25 the proceedings of the authority and shall be custodian of all books, documents, and

1 papers filed with the authority, the minute book or journal of the authority, and its
2 official seal. The executive director or other person may cause copies to be made of
3 all minutes and other records and documents of the authority and may give
4 certificates under the official seal of the authority to the effect that such copies are
5 true copies, and all persons dealing with the authority may rely upon such
6 certificates.

7 (5) A majority of the members of the board constitutes a quorum for the purpose
8 of conducting its business and exercising its powers and for all other purposes,
9 notwithstanding the existence of any vacancies. Action may be taken by the board
10 upon a vote of a majority of the members present. Meetings of the members of the
11 board may be held anywhere within or without the state.

12 (6) A member of the board may not be compensated for his or her services but
13 shall be reimbursed for actual and necessary expenses incurred in the performance
14 of his or her duties, including travel expenses, subject to uniform travel schedule
15 amounts approved under s. 20.916 (8).

16 (7) No cause of action may arise against and no civil liability may be imposed
17 upon a member or executive director of the authority for any act or omission in the
18 performance of his or her powers and duties under this chapter, unless the person
19 asserting liability proves that the act or omission constitutes willful misconduct.

20 **238.10 Powers of authority.** (1) Except as restricted under sub. (2), the
21 authority shall have all the powers necessary or convenient to carry out the purposes
22 and provisions of this chapter. In addition to all other powers granted by this chapter,
23 the authority may:

24 (a) Adopt, amend, and repeal bylaws and policies and procedures for the
25 regulation of its affairs and the conduct of its business.

1 (b) Have a seal and alter the seal at pleasure.

2 (c) Maintain an office.

3 (d) Sue and be sued.

4 (e) Accept gifts, grants, loans, or other contributions from private or public
5 sources.

6 (f) Establish the authority's annual budget and monitor the fiscal management
7 of the authority.

8 (g) Execute contracts and other instruments, including contracts for any
9 professional services required for the authority.

10 (h) Employ any officers, agents, and employees that it may require and
11 determine their qualifications and compensation.

12 (i) Procure liability insurance.

13 (2) The authority may not issue bonds.

14 **238.15 Catastrophic health care reinsurance program.** (1) The
15 authority shall create and administer a catastrophic health care claims reinsurance
16 program, to begin operating on January 1, 2008. Under the program, the authority
17 shall pay high-cost claims incurred by insurers participating in the program.

18 (2) Every insurer offering health care coverage in the small group market and
19 every insurer that contracts with a health benefit purchasing cooperative to provide
20 health care benefits to the cooperative shall be required to participate in the program
21 under this section and to pay premiums to the authority for the reinsurance
22 coverage. Every insurer offering coverage in the small group market shall include
23 in the reinsurance pool every covered life under every policy written by the insurer
24 in this state in the small group market. Every insurer that contracts with a health
25 benefit purchasing cooperative shall include in the reinsurance pool every covered

1 life under every policy written by the insurer under the contract with the health
2 benefit purchasing cooperative.

3 (3) The authority shall do all of the following:

4 1. ~~(a)~~ Develop guidelines for defining high-cost claims and attachment points.

5 2. ~~(b)~~ Set premiums to be paid for the reinsurance coverage, based on the number
6 of covered lives included in the reinsurance pool.

7 3. ~~(c)~~ Set coinsurance rates for claims paid.

8 4. ~~(d)~~ Design all other program features.

9 (4) The authority may contract with a vendor to administer the program,
10 including the performance of such responsibilities as estimating reinsurance
11 premiums, paying claims, customer service, and day-to-day administration.

12 **238.20 Annual evaluations.** Annually, the authority shall contract with an
13 independent entity to conduct an evaluation of the program and a financial audit.
14 The program evaluation shall include a review of best practices that may impact
15 appropriate use of health care and disease management. The authority shall make
16 any necessary adjustments or improvements if, as a result of the evaluation or audit,
17 problems or deficiencies are determined to exist. After each evaluation and audit,
18 the authority shall explore the feasibility of expanding the program to cover more
19 state residents.

20 **SECTION 35.** 285.59 (1) (b) of the statutes is amended to read:

21 285.59 (1) (b) "State agency" means any office, department, agency, institution
22 of higher education, association, society, or other body in state government created
23 or authorized to be created by the constitution or any law ~~which~~ that is entitled to
24 expend moneys appropriated by law, including the legislature and the courts, the
25 Wisconsin Housing and Economic Development Authority, the Bradley Center

Insert 18-8

Insert 18-19

after June 30

of the most recent fiscal year ending before the audit

1 Sports and Entertainment Corporation, the University of Wisconsin Hospitals and
2 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
3 Aerospace Authority, and the Wisconsin Health and Educational Facilities
4 Authority, and the Healthy Wisconsin Authority.

5 **SECTION 36.** 632.7497 of the statutes is created to read:

6 **632.7497 Required participation in reinsurance program.** An insurer
7 that offers coverage in the small group market, as defined in s. 632.745 (26), shall
8 be required to participate in a catastrophic health care reinsurance program under
9 s. 238.15.

10 **SECTION 37. Nonstatutory provisions.**

11 (1) INITIAL TERMS OF BOARD MEMBERS. Notwithstanding the lengths of terms of
12 the members of the board of directors of the Healthy Wisconsin Authority specified
13 in section 238.05 (1) (intro.) of the statutes, as created by this act, the initial members
14 shall be appointed for the following terms:

15 (a) The 4 members specified under section 238.05 (1) (a) to (d) of the statutes,
16 as created by this act, for terms that expire on July 1, 2009.

17 (b) Four members specified under section 238.05 (1) (e) of the statutes, as
18 created by this act, for terms that expire on July 1, 2010.

19 (c) Five members specified under section 238.05 (1) (e) of the statutes, as
20 created by this act, for terms that expire on July 1, 2011.

21 (2) PROVISIONAL APPOINTMENTS OF BOARD MEMBERS. Notwithstanding the
22 requirement for senate confirmation of the appointment of the members of the board
23 of directors of the Healthy Wisconsin Authority under section 238.05 (1) (e) of the
24 statutes, as created by this act, the initial members may be provisionally appointed
25 by the governor, subject to confirmation by the senate. Any such appointment shall

1 be in full force until acted upon by the senate, and when confirmed by the senate shall
2 continue for the remainder of the term, or until a successor is chosen and qualifies.
3 A provisional appointee may exercise all of the powers and duties of the office to
4 which such person is appointed during the time in which the appointee qualifies.
5 Any appointment made under this subsection that is withdrawn or rejected by the
6 senate shall lapse. When a provisional appointment lapses, a vacancy occurs.
7 Whenever a new legislature is organized, any appointments then pending before the
8 senate shall be referred by the president to the appropriate standing committee of
9 the newly organized senate.

10 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1272/2ins
PJK:lmk:nwn

INSERT A

wof
HWA may make recommendations to the governor on the impact of allowing health benefit purchasing cooperatives to participate in the program and on proposals to reduce health insurance premiums for American Indian tribes and bands in the state and other sectors of the group health insurance market. ✓

(END OF INSERT A)

INSERT 18-8

1 (b) The authority may do all of the following:

2 1. Consider the impact of, and make recommendations to the governor on,
3 allowing health benefit purchasing cooperatives to participate in the reinsurance
4 program under this section. ✓

5 2. Evaluate the challenges faced by American Indian tribes and bands in this
6 state and other sectors of the group health insurance market and make
7 recommendations to the governor on proposals to reduce health insurance premiums
8 for the tribes and bands and other sectors. ✓

(END OF INSERT 18-8)

INSERT 18-19

wof
9 The authority shall submit to the governor a report of the results of each
10 evaluation and audit no later than January 1 of the year beginning after the year in
11 which the evaluation and audit are conducted. ✓

(END OF INSERT 18-19)

Kahler, Pam

From: Johnston, James - DOA
Sent: Saturday, January 27, 2007 2:35 PM
To: Kahler, Pam
Cc: Pink, Michelle C - DOA
Subject: Appropriation for the Healthy Wisconsin Authority

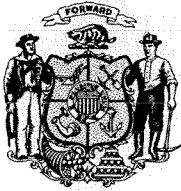
Hi Pam,

I need a segregated fund; state operations, continuing appropriation, for \$500,000/FY; for the Healthy Wisconsin Authority.

While the authority is detailed in LRB draft #1272, the Healthy Wisconsin Authority appropriation will be funded from the Health Care Quality Fund, which is detailed in LRB draft # 892.

Awhile back, Michelle sent a note assuming the appropriation would be created in the Health Care Quality draft #892. I am not sure, which draft is the better fit, but we do need an appropriation to fund the authority's operations. Based on our conversation, let's put the appropriation at OCI for the Authority operations.

Thanks,
Jim



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1272/3

PJK:lmk/jf

stays

DOA:.....Pink, BB0266 - Healthy Wisconsin Authority

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note
(see pp 2 & 12)

do not
get cut

1 AN ACT *...*; relating to: creating a Healthy Wisconsin Authority.

Analysis by the Legislative Reference Bureau

INSURANCE

This bill creates the Healthy Wisconsin Authority (HWA). An authority is a public body corporate and politic with a board of directors that is created by state law but that is not a state agency. The board of directors of HWA consists of the commissioner of insurance, or the commissioner's designee, as a nonvoting member and 13 other members who will serve four-year terms, including a majority party senator and a majority party representative to the assembly, appointed by the senate majority leader and the speaker of the assembly, respectively, and a minority party senator and a minority party representative to the assembly, appointed by the senate minority leader and the assembly minority leader, respectively. Nine other members are nominated by the governor and appointed with the advice and consent of the senate and consist of a health care provider and representatives of a health insurance company, a small employer, Wisconsin labor unions, health benefit purchasing cooperatives, and the public interest. The board must appoint an executive director, who may not be a member of the board.

Because HWA is not a state agency, numerous laws that apply to state agencies do not apply to HWA. However, HWA is treated like a state agency in the following respects, among others: 1) it is generally subject to the open records and open meetings laws; 2) it is treated like a state agency for purposes of the law regulating lobbying; 3) it is subject to state purchasing requirements and must use a competitive

bid or proposal process whenever contracting for services; 4) it is exempt from income tax, sales and use tax, and property taxes; 5) the Code of Ethics for Public Officials and Employees covers HWA; 6) it is to be treated as a state agency for all purposes under the Wisconsin Retirement System; and 7) it is subject to auditing by the Legislative Audit Bureau.

HWA is unlike a state agency in many other ways, including: 1) it may approve its own budget without going through the state budgetary process; 2) its employees are not state employees, are not included in the state system of personnel management, and are hired outside the state hiring system; and 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules. Unlike most authorities under current law, HWA may not issue bonds.

HWA must create a catastrophic health care claims reinsurance program to begin operating on January 1, 2008. All insurers that offer health insurance in the small group market must participate in the program. The insurers must pay premiums to HWA for reinsurance coverage and HWA must pay high-cost claims incurred by the insurers participating in the program. HWA must design the program features, including determining which claims will be paid and setting the premiums and the coinsurance rates. HWA may contract with a vendor to administer the program. HWA must contract with an independent entity for annual program and financial evaluations, and must explore the feasibility of expanding the program to cover more state residents. HWA may make recommendations to the governor on the impact of allowing health benefit purchasing cooperatives to participate in the program and on proposals to reduce health insurance premiums for American Indian tribes and bands in the state and other sectors of the group health insurance market. *→ sunset A*

For further information see the *state* 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.** 13.172 (1) of the statutes is amended to read:
- 2 13.172 (1) In this section, "agency" means an office, department, agency,
- 3 institution of higher education, association, society, or other body in state
- 4 government created or authorized to be created by the constitution or any law, that
- 5 is entitled to expend moneys appropriated by law, including the legislature and the
- 6 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
- 7 ch. 231, 233, ~~or 234~~, or 238.

1 **SECTION 2.** 13.48 (13) (a) of the statutes is amended to read:

2 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
3 facility that is constructed for the benefit of or use of the state, any state agency,
4 board, commission or department, the University of Wisconsin Hospitals and Clinics
5 Authority, the Fox River Navigational System Authority, the Healthy Wisconsin
6 Authority, or any local professional baseball park district created under subch. III
7 of ch. 229 if the construction is undertaken by the department of administration on
8 behalf of the district, shall be in compliance with all applicable state laws, rules,
9 codes and regulations but the construction is not subject to the ordinances or
10 regulations of the municipality in which the construction takes place except zoning,
11 including without limitation because of enumeration ordinances or regulations
12 relating to materials used, permits, supervision of construction or installation,
13 payment of permit fees, or other restrictions.

14 **SECTION 3.** 13.62 (2) of the statutes is amended to read:

15 13.62 (2) "Agency" means any board, commission, department, office, society,
16 institution of higher education, council, or committee in the state government, or any
17 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
18 234, ~~or 237~~, or 238, except that the term does not include a council or committee of
19 the legislature.

20 **SECTION 4.** 13.95 (intro.) of the statutes is amended to read:

21 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
22 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
23 shall be strictly nonpartisan and shall at all times observe the confidential nature
24 of the research requests received by it; however, with the prior approval of the
25 requester in each instance, the bureau may duplicate the results of its research for

1 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
2 designated employees shall at all times, with or without notice, have access to all
3 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
4 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
5 the Healthy Wisconsin Authority, and the Fox River Navigational System Authority,
6 and to any books, records, or other documents maintained by such agencies or
7 authorities and relating to their expenditures, revenues, operations, and structure.

8 **SECTION 5.** 16.002 (2) of the statutes is amended to read:

9 16.002 (2) "Departments" means constitutional offices, departments, and
10 independent agencies and includes all societies, associations, and other agencies of
11 state government for which appropriations are made by law, but not including
12 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and in chs. 231, 232,
13 233, 234, 235, and 237, and 238.

14 **SECTION 6.** 16.004 (4) of the statutes is amended to read:

15 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
16 department as the secretary designates may enter into the offices of state agencies
17 and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under
18 chs. 231, 233, 234, and 237, and 238, and may examine their books and accounts and
19 any other matter that in the secretary's judgment should be examined and may
20 interrogate the agency's employees publicly or privately relative thereto.

21 **SECTION 7.** 16.004 (5) of the statutes is amended to read:

22 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
23 authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs.
24 231, 233, 234, and 237, and 238, and their officers and employees, shall cooperate

1 with the secretary and shall comply with every request of the secretary relating to
2 his or her functions.

3 **SECTION 8.** 16.045 (1) (a) of the statutes is amended to read:

4 16.045 (1) (a) "Agency" means an office, department, independent agency,
5 institution of higher education, association, society, or other body in state
6 government created or authorized to be created by the constitution or any law, that
7 is entitled to expend moneys appropriated by law, including the legislature and the
8 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
9 ch. 149 or in ch. 231, 232, 233, 234, 235, ~~or 237~~, or 238.

10 **SECTION 9.** 16.41 (4) of the statutes is amended to read:

11 16.41 (4) In this section, "authority" means a body created under subch. II of
12 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, ~~or 237~~, or 238.

13 **SECTION 10.** 16.417 (1) (a) of the statutes, as affected by 2005 Wisconsin Act 74,
14 is amended to read:

15 16.417 (1) (a) "Agency" means an office, department, independent agency,
16 institution of higher education, association, society, or other body in state
17 government created or authorized to be created by the constitution or any law, that
18 is entitled to expend moneys appropriated by law, including the legislature and the
19 courts, but not including an authority or the body created under subch. III of ch. 149
20 or under ch. 238.

21 **SECTION 11.** 16.52 (7) of the statutes is amended to read:

22 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
23 that is authorized to maintain a contingent fund under s. 20.920 may establish a
24 petty cash account from its contingent fund. The procedure for operation and
25 maintenance of petty cash accounts and the character of expenditures therefrom

1 shall be prescribed by the secretary. In this subsection, "agency" means an office,
2 department, independent agency, institution of higher education, association,
3 society, or other body in state government created or authorized to be created by the
4 constitution or any law, that is entitled to expend moneys appropriated by law,
5 including the legislature and the courts, but not including an authority created in
6 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, ~~or 237~~, or 238.

7 **SECTION 12.** 16.528 (1) (a) of the statutes is amended to read:

8 16.528 (1) (a) "Agency" means an office, department, independent agency,
9 institution of higher education, association, society, or other body in state
10 government created or authorized to be created by the constitution or any law, that
11 is entitled to expend moneys appropriated by law, including the legislature and the
12 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
13 ch. 149 or in ch. 231, 233, 234, ~~or 237~~, or 238.

14 **SECTION 13.** 16.53 (2) of the statutes is amended to read:

15 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
16 invoice, the agency shall notify the sender of the invoice within 10 working days after
17 it receives the invoice of the reason it is improperly completed. In this subsection,
18 "agency" means an office, department, independent agency, institution of higher
19 education, association, society, or other body in state government created or
20 authorized to be created by the constitution or any law, that is entitled to expend
21 moneys appropriated by law, including the legislature and the courts, but not
22 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
23 231, 233, 234, ~~or 237~~, or 238.

24 **SECTION 14.** 16.54 (9) (a) 1. of the statutes is amended to read:

1 16.54 (9) (a) 1. "Agency" means an office, department, independent agency,
2 institution of higher education, association, society or other body in state
3 government created or authorized to be created by the constitution or any law, which
4 is entitled to expend moneys appropriated by law, including the legislature and the
5 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
6 ch. 149 or in ch. 231, 233, 234, ~~or 237~~, or 238.

7 **SECTION 15.** 16.70 (2) of the statutes is amended to read:

8 16.70 (2) "Authority" means a body created under subch. II of ch. 114 or subch.
9 III of ch. 149 or under ch. 231, 232, 233, 234, 235, ~~or 237~~, or 238.

10 **SECTION 16.** 16.765 (1) of the statutes is amended to read:

11 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
12 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
13 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
14 Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
15 Corporation shall include in all contracts executed by them a provision obligating the
16 contractor not to discriminate against any employee or applicant for employment
17 because of age, race, religion, color, handicap, sex, physical condition, developmental
18 disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m),
19 or national origin and, except with respect to sexual orientation, obligating the
20 contractor to take affirmative action to ensure equal employment opportunities.

21 **SECTION 17.** 16.765 (2) of the statutes is amended to read:

22 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
23 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
24 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
25 Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment

1 Corporation shall include the following provision in every contract executed by them:
2 "In connection with the performance of work under this contract, the contractor
3 agrees not to discriminate against any employee or applicant for employment
4 because of age, race, religion, color, handicap, sex, physical condition, developmental
5 disability as defined in s. 51.01 (5), sexual orientation or national origin. This
6 provision shall include, but not be limited to, the following: employment, upgrading,
7 demotion or transfer; recruitment or recruitment advertising; layoff or termination;
8 rates of pay or other forms of compensation; and selection for training, including
9 apprenticeship. Except with respect to sexual orientation, the contractor further
10 agrees to take affirmative action to ensure equal employment opportunities. The
11 contractor agrees to post in conspicuous places, available for employees and
12 applicants for employment, notices to be provided by the contracting officer setting
13 forth the provisions of the nondiscrimination clause".

14 **SECTION 18.** 16.765 (4) of the statutes is amended to read:

15 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
16 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
17 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
18 Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
19 Corporation shall take appropriate action to revise the standard government
20 contract forms under this section.

21 **SECTION 19.** 16.765 (5) of the statutes is amended to read:

22 16.765 (5) The head of each contracting agency and the boards of directors of
23 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
24 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
25 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the

1 Bradley Center Sports and Entertainment Corporation shall be primarily
2 responsible for obtaining compliance by any contractor with the nondiscrimination
3 and affirmative action provisions prescribed by this section, according to procedures
4 recommended by the department. The department shall make recommendations to
5 the contracting agencies and the boards of directors of the University of Wisconsin
6 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
7 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
8 the Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
9 Corporation for improving and making more effective the nondiscrimination and
10 affirmative action provisions of contracts. The department shall promulgate such
11 rules as may be necessary for the performance of its functions under this section.

12 **SECTION 20.** 16.765 (6) of the statutes is amended to read:

13 16.765 (6) The department may receive complaints of alleged violations of the
14 nondiscrimination provisions of such contracts. The department shall investigate
15 and determine whether a violation of this section has occurred. The department may
16 delegate this authority to the contracting agency, the University of Wisconsin
17 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
18 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
19 the Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
20 Corporation for processing in accordance with the department's procedures.

21 **SECTION 21.** 16.765 (7) (intro.) of the statutes is amended to read:

22 16.765 (7) (intro.) When a violation of this section has been determined by the
23 department, the contracting agency, the University of Wisconsin Hospitals and
24 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
25 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the

1 Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
2 Corporation, the contracting agency, the University of Wisconsin Hospitals and
3 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
4 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
5 Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
6 Corporation shall:

7 **SECTION 22.** 16.765 (7) (d) of the statutes is amended to read:

8 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
9 further violations of this section and to report its corrective action to the contracting
10 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
11 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
12 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, or the
13 Bradley Center Sports and Entertainment Corporation.

14 **SECTION 23.** 16.765 (8) of the statutes is amended to read:

15 16.765 (8) If further violations of this section are committed during the term
16 of the contract, the contracting agency, the Fox River Navigational System Authority,
17 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
18 Authority, the Healthy Wisconsin Authority, or the Bradley Center Sports and
19 Entertainment Corporation may permit the violating party to complete the contract,
20 after complying with this section, but thereafter the contracting agency, the Fox
21 River Navigational System Authority, the Wisconsin Aerospace Authority, the
22 Health Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority,
23 or the Bradley Center Sports and Entertainment Corporation shall request the
24 department to place the name of the party on the ineligible list for state contracts,
25 or the contracting agency, the Fox River Navigational System Authority, the

1 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
2 the Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
3 Corporation may terminate the contract without liability for the uncompleted
4 portion or any materials or services purchased or paid for by the contracting party
5 for use in completing the contract.

6 **SECTION 24.** 16.85 (2) of the statutes is amended to read:

7 16.85 (2) To furnish engineering, architectural, project management, and other
8 building construction services whenever requisitions therefor are presented to the
9 department by any agency. The department may deposit moneys received from the
10 provision of these services in the account under s. 20.505 (1) (kc) or in the general
11 fund as general purpose revenue — earned. In this subsection, “agency” means an
12 office, department, independent agency, institution of higher education, association,
13 society, or other body in state government created or authorized to be created by the
14 constitution or any law, which is entitled to expend moneys appropriated by law,
15 including the legislature and the courts, but not including an authority created in
16 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, ~~or 237~~, or 238.

17 **SECTION 25.** 16.865 (8) of the statutes is amended to read:

18 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
19 proportionate share of the estimated costs attributable to programs administered by
20 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
21 may charge premiums to agencies to finance costs under this subsection and pay the
22 costs from the appropriation on an actual basis. The department shall deposit all
23 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
24 Costs assessed under this subsection may include judgments, investigative and
25 adjustment fees, data processing and staff support costs, program administration

1 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
2 subsection, "agency" means an office, department, independent agency, institution
3 of higher education, association, society, or other body in state government created
4 or authorized to be created by the constitution or any law, that is entitled to expend
5 moneys appropriated by law, including the legislature and the courts, but not
6 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
7 231, 232, 233, 234, 235, ~~or 237,~~ or 238.

Insert (2-7)

8 **SECTION 26.** 40.02 (54) (k) of the statutes is created to read:

9 40.02 (54) (k) The Healthy Wisconsin Authority.

10 **SECTION 27.** 70.11 (41p) of the statutes is created to read:

11 70.11 (41p) HEALTHY WISCONSIN AUTHORITY. All property owned by the Healthy
12 Wisconsin Authority, provided that use of the property is primarily related to the
13 purposes of the authority.

14 **SECTION 28.** 71.26 (1) (be) of the statutes is amended to read:

15 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
16 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
17 Authority, of the Healthy Wisconsin Authority, and of the Fox River Navigational
18 System Authority, and of the Wisconsin Aerospace Authority.

19 **SECTION 29.** 77.54 (9a) (a) of the statutes is amended to read:

20 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
21 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
22 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
23 Fox River Navigational System Authority.

24 **SECTION 30.** 100.45 (1) (dm) of the statutes is amended to read:

1 100.45 (1) (dm) "State agency" means any office, department, agency,
2 institution of higher education, association, society or other body in state
3 government created or authorized to be created by the constitution or any law which
4 is entitled to expend moneys appropriated by law, including the legislature and the
5 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
6 Center Sports and Entertainment Corporation, the University of Wisconsin
7 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
8 Authority, the Wisconsin Aerospace Authority, and the Fox River Navigational
9 System Authority, and the Healthy Wisconsin Authority.

10 **SECTION 31.** 101.177 (1) (d) of the statutes is amended to read:

11 101.177 (1) (d) "State agency" means any office, department, agency,
12 institution of higher education, association, society, or other body in state
13 government created or authorized to be created by the constitution or any law , that
14 is entitled to expend moneys appropriated by law, including the legislature and the
15 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
16 Center Sports and Entertainment Corporation, the University of Wisconsin
17 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, and the
18 Wisconsin Health and Educational Facilities Authority, and the Healthy Wisconsin
19 Authority, but excluding the Health Insurance Risk-Sharing Plan Authority.

20 **SECTION 32.** 230.03 (3) of the statutes is amended to read:

21 230.03 (3) "Agency" means any board, commission, committee, council, or
22 department in state government or a unit thereof created by the constitution or
23 statutes if such board, commission, committee, council, department, unit, or the
24 head thereof, is authorized to appoint subordinate staff by the constitution or
25 statute, except a legislative or judicial board, commission, committee, council,

1 department, or unit thereof or an authority created under subch. II of ch. 114 or
2 subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, or 237, or 238. "Agency" does
3 not mean any local unit of government or body within one or more local units of
4 government that is created by law or by action of one or more local units of
5 government.

6 SECTION 33. Chapter 238 of the statutes is created to read:

7 **CHAPTER 238**

8 **HEALTHY WISCONSIN AUTHORITY**

9 **238.01 Definitions.** In this chapter:

10 (1) "Authority" means the Healthy Wisconsin Authority.

11 (2) "Board" means the board of directors of the authority.

12 (3) "Health benefit purchasing cooperative" means a cooperative under s.
13 185.99.

14 (4) "Small group market" has the meaning given in s. 632.745 (26).

15 **238.05 Creation and organization of authority.** (1) There is created a
16 public body corporate and politic to be known as the "Healthy Wisconsin Authority."
17 The board of directors of the authority shall consist of the commissioner of insurance,
18 or his or her designee, as a nonvoting member, and the following 13 members, who
19 shall serve 4-year terms:

20 (a) One majority party senator appointed by the senate majority leader.

21 (b) One minority party senator appointed by the senate minority leader.

22 (c) One majority party representative to the assembly appointed by the speaker
23 of the assembly.

24 (d) One minority party representative to the assembly appointed by the
25 assembly minority leader.

1 (e) Nine nominees of the governor, appointed with the advice and consent of the
2 senate, consisting of all of the following:

3 1. One health care provider.

4 2. One representative of a Wisconsin health insurance company that offers
5 coverage in the small group market.

6 3. One representative of a Wisconsin small employer.

7 4. One representative of Wisconsin labor unions.

8 5. One representative of health benefit purchasing cooperatives.

9 6. Four other members who represent the public interest.

10 (2) Each member of the board shall hold office until a successor is appointed
11 and qualified unless the member vacates or is removed from his or her office. A
12 member who serves as a result of holding another office or position vacates his or her
13 office as a member when he or she vacates the other office or position. A member who
14 ceases to qualify for office vacates his or her office. A vacancy on the board shall be
15 filled in the same manner as the original appointment to the board for the remainder
16 of the unexpired term, if any.

17 (3) Annually, the governor shall appoint one member as chairperson, and the
18 members of the board may elect other officers as they consider appropriate.

19 (4) The board shall appoint an executive director. The executive director shall
20 not be a member of the board and shall serve at the pleasure of the board. The
21 authority may delegate by resolution to one or more of its members or its executive
22 director any powers and duties that it considers proper. The executive director shall
23 receive such compensation as may be determined by the board. The executive
24 director or other person designated by resolution of the board shall keep a record of
25 the proceedings of the authority and shall be custodian of all books, documents, and

1 papers filed with the authority, the minute book or journal of the authority, and its
2 official seal. The executive director or other person may cause copies to be made of
3 all minutes and other records and documents of the authority and may give
4 certificates under the official seal of the authority to the effect that such copies are
5 true copies, and all persons dealing with the authority may rely upon such
6 certificates.

7 (5) A majority of the members of the board constitutes a quorum for the purpose
8 of conducting its business and exercising its powers and for all other purposes,
9 notwithstanding the existence of any vacancies. Action may be taken by the board
10 upon a vote of a majority of the members present. Meetings of the members of the
11 board may be held anywhere within or without the state.

12 (6) A member of the board may not be compensated for his or her services but
13 shall be reimbursed for actual and necessary expenses incurred in the performance
14 of his or her duties, including travel expenses, subject to uniform travel schedule
15 amounts approved under s. 20.916 (8).

16 (7) No cause of action may arise against and no civil liability may be imposed
17 upon a member or executive director of the authority for any act or omission in the
18 performance of his or her powers and duties under this chapter, unless the person
19 asserting liability proves that the act or omission constitutes willful misconduct.

20 **238.10 Powers of authority.** (1) Except as restricted under sub. (2), the
21 authority shall have all the powers necessary or convenient to carry out the purposes
22 and provisions of this chapter. In addition to all other powers granted by this chapter,
23 the authority may:

24 (a) Adopt, amend, and repeal bylaws and policies and procedures for the
25 regulation of its affairs and the conduct of its business.

1 (b) Have a seal and alter the seal at pleasure.

2 (c) Maintain an office.

3 (d) Sue and be sued.

4 (e) Accept gifts, grants, loans, or other contributions from private or public
5 sources.

6 (f) Establish the authority's annual budget and monitor the fiscal management
7 of the authority.

8 (g) Execute contracts and other instruments, including contracts for any
9 professional services required for the authority.

10 (h) Employ any officers, agents, and employees that it may require and
11 determine their qualifications and compensation.

12 (i) Procure liability insurance.

13 (2) The authority may not issue bonds.

14 **238.15 Catastrophic health care reinsurance program.** (1) The
15 authority shall create and administer a catastrophic health care claims reinsurance
16 program, to begin operating on January 1, 2008. Under the program, the authority
17 shall pay high-cost claims incurred by insurers participating in the program.

18 (2) Every insurer offering health care coverage in the small group market shall
19 be required to participate in the program under this section and to pay premiums to
20 the authority for the reinsurance coverage. Every insurer offering coverage in the
21 small group market shall include in the reinsurance pool every covered life under
22 every policy written by the insurer in this state in the small group market.

23 (3) (a) The authority shall do all of the following:

24 1. Develop guidelines for defining high-cost claims and attachment points.

1 2. Set premiums to be paid for the reinsurance coverage, based on the number
2 of covered lives included in the reinsurance pool.

3 3. Set coinsurance rates for claims paid.

4 4. Design all other program features.

5 (b) The authority may do all of the following:

6 1. Consider the impact of, and make recommendations to the governor on,
7 allowing health benefit purchasing cooperatives to participate in the reinsurance
8 program under this section.

9 2. Evaluate the challenges faced by American Indian tribes and bands in this
10 state and other sectors of the group health insurance market and make
11 recommendations to the governor on proposals to reduce health insurance premiums
12 for the tribes and bands and other sectors.

13 (4) The authority may contract with a vendor to administer the program,
14 including the performance of such responsibilities as estimating reinsurance
15 premiums, paying claims, customer service, and day-to-day administration.

16 **238.20 Annual evaluations.** Annually, after June 30, the authority shall
17 contract with an independent entity to conduct an evaluation of the program and a
18 financial audit of the most recent fiscal year ending before the audit. The program
19 evaluation shall include a review of best practices that may impact appropriate use
20 of health care and disease management. The authority shall make any necessary
21 adjustments or improvements if, as a result of the evaluation or audit, problems or
22 deficiencies are determined to exist. After each evaluation and audit, the authority
23 shall explore the feasibility of expanding the program to cover more state residents.
24 The authority shall submit to the governor a report of the results of each evaluation

1 and audit no later than January 1 of the year beginning after the year in which the
2 evaluation and audit are conducted.

3 **SECTION 34.** 285.59 (1) (b) of the statutes is amended to read:

4 285.59 (1) (b) "State agency" means any office, department, agency, institution
5 of higher education, association, society, or other body in state government created
6 or authorized to be created by the constitution or any law ~~which~~ that is entitled to
7 expend moneys appropriated by law, including the legislature and the courts, the
8 Wisconsin Housing and Economic Development Authority, the Bradley Center
9 Sports and Entertainment Corporation, the University of Wisconsin Hospitals and
10 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
11 Aerospace Authority, ~~and~~ the Wisconsin Health and Educational Facilities
12 Authority, and the Healthy Wisconsin Authority.

13 **SECTION 35.** 632.7497 of the statutes is created to read:

14 **632.7497 Required participation in reinsurance program.** An insurer
15 that offers coverage in the small group market, as defined in s. 632.745 (26), shall
16 be required to participate in a catastrophic health care reinsurance program under
17 s. 238.15.

18 **SECTION 36. Nonstatutory provisions.**

19 (1) INITIAL TERMS OF BOARD MEMBERS. Notwithstanding the lengths of terms of
20 the members of the board of directors of the Healthy Wisconsin Authority specified
21 in section 238.05 (1) (intro.) of the statutes, as created by this act, the initial members
22 shall be appointed for the following terms:

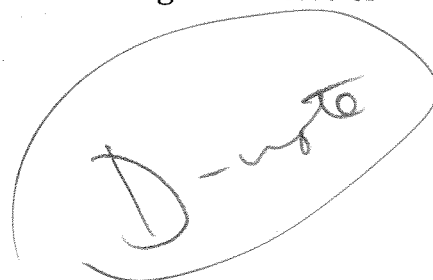
23 (a) The 4 members specified under section 238.05 (1) (a) to (d) of the statutes,
24 as created by this act, for terms that expire on July 1, 2009.

1 (b) Four members specified under section 238.05 (1) (e) of the statutes, as
2 created by this act, for terms that expire on July 1, 2010.

3 (c) Five members specified under section 238.05 (1) (e) of the statutes, as
4 created by this act, for terms that expire on July 1, 2011.

5 (2) PROVISIONAL APPOINTMENTS OF BOARD MEMBERS. Notwithstanding the
6 requirement for senate confirmation of the appointment of the members of the board
7 of directors of the Healthy Wisconsin Authority under section 238.05 (1) (e) of the
8 statutes, as created by this act, the initial members may be provisionally appointed
9 by the governor, subject to confirmation by the senate. Any such appointment shall
10 be in full force until acted upon by the senate, and when confirmed by the senate shall
11 continue for the remainder of the term, or until a successor is chosen and qualifies.
12 A provisional appointee may exercise all of the powers and duties of the office to
13 which such person is appointed during the time in which the appointee qualifies.
14 Any appointment made under this subsection that is withdrawn or rejected by the
15 senate shall lapse. When a provisional appointment lapses, a vacancy occurs.
16 Whenever a new legislature is organized, any appointments then pending before the
17 senate shall be referred by the president to the appropriate standing committee of
18 the newly organized senate.

19 (END)



2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1272/3ins
PJK:lmk:jf

INSERT A

WJF
The bill also appropriates initial and operating costs to HWA from the health care quality fund, which is created in the bill and funded with moneys obtained from an increase in cigarette and other tobacco products taxes and certain other sources. ✓

(END OF INSERT A)

INSERT 12-7

1 SECTION 1. 20.147 of the statutes is created to read:

2 20.147 **Healthy Wisconsin Authority.** There is appropriated, from the
3 health care quality fund, to the Healthy Wisconsin Authority for the following
4 program: ✓

5 (1) INITIAL AND OPERATING COSTS. (q) *Establishment and operation.* ✓ As a
6 continuing appropriation, the amounts in the schedule for the establishment of the
7 Healthy Wisconsin Authority and for its operating costs. ✓

(END OF INSERT 12-7)

NOTE: bud

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1272/3dn
PJK:lmk:jf

(date)

Jim:

I know we discussed having an OCI appropriation, but I saw the appropriation for the Fox River Navigational System Authority (s. 20.373) after I got to the office and thought something similar would work well for the Healthy Wisconsin Authority.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Johnston, James - DOA
Sent: Monday, January 29, 2007 11:24 AM
To: Kahler, Pam
Cc: Casper, Tim - GOV; Schmiedicke, David P - DOA; Pink, Michelle C - DOA
Subject: FW: Healthy Wisconsin Authority LRB # 1272

Pam,
 Good point, let's have the Authority report by 9/15/08, which is when agency requests will be due for the next biennial budget.
 Thanks,
 Jim

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Monday, January 29, 2007 11:16 AM
To: Johnston, James - DOA
Subject: RE: Healthy Wisconsin Authority LRB # 1272

Jim:

As in the bill draft from last session, do you want the authority to submit those recommendations to the sec. of DOA - if so, by any particular date?

From: Johnston, James - DOA
Sent: Monday, January 29, 2007 11:09 AM
To: Kahler, Pam
Cc: Pink, Michelle C - DOA
Subject: Healthy Wisconsin Authority LRB # 1272

Pam,
 I need a revision to LRB draft 1273/3, which creates the Healthy Wisconsin Authority. During the 2007-09 biennium the authority will be developing recommendations for how a catastrophic health care claims reinsurance program will work. Later the authority can develop and administer the reinsurance program in accordance with any legislation enacted that requires or authorizes the authority to do so. Thus, for this draft please delete all references to actually administering the reinsurance program, i.e. the requirements for insurers to participate in the plan and starting the program on January 1, 2008.

Specifically:

Under s. 238.15 (1) please rewrite the duties to only direct the authority to develop recommendations for catastrophic health care claims reinsurance program, and delete start date. Delete sub section (2) requiring insurers to participate.

Sub (3) (a) & (b) should remain, since the authority needs to consider the points in (a) and may consider the points (b) as it develops the reinsurance program.

Under (4) the ability to contract with a vendor should be timed to allow the authority to do the contract only after the reinsurance plan has been approved and enacted.

The requirement under s. 632.7497 (section 36) should be deleted

Thanks,
 Jim

01/29/2007