



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1272/3

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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 ...; 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.

→ *Insert A*

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. 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.

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

1 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
2 ch. 231, 233, ~~or 234~~, or 238.

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

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

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

17 13.62 (2) "Agency" means any board, commission, department, office, society,
18 institution of higher education, council, or committee in the state government, or any
19 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
20 234, ~~or 237~~, or 238, except that the term does not include a council or committee of
21 the legislature.

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

23 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
24 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
25 shall be strictly nonpartisan and shall at all times observe the confidential nature

1 of the research requests received by it; however, with the prior approval of the
2 requester in each instance, the bureau may duplicate the results of its research for
3 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
4 designated employees shall at all times, with or without notice, have access to all
5 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
6 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
7 the Healthy Wisconsin Authority, and the Fox River Navigational System Authority,
8 and to any books, records, or other documents maintained by such agencies or
9 authorities and relating to their expenditures, revenues, operations, and structure.

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

11 16.002 (2) "Departments" means constitutional offices, departments, and
12 independent agencies and includes all societies, associations, and other agencies of
13 state government for which appropriations are made by law, but not including
14 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and in chs. 231, 232,
15 233, 234, 235, and 237, and 238.

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

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

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

24 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
25 authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs.

1 231, 233, 234, ~~and 237, and 238~~, and their officers and employees, shall cooperate
2 with the secretary and shall comply with every request of the secretary relating to
3 his or her functions.

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

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

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

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

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

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

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

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

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

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

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

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

16 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
17 invoice, the agency shall notify the sender of the invoice within 10 working days after
18 it receives the invoice of the reason it is improperly completed. In this subsection,
19 "agency" means an office, department, independent agency, institution of higher
20 education, association, society, or other body in state government created or
21 authorized to be created by the constitution or any law, that is entitled to expend
22 moneys appropriated by law, including the legislature and the courts, but not
23 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
24 231, 233, 234, ~~or 237~~, or 238.

25 **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.

8 **SECTION 26.** 20.147 of the statutes is created to read:

9 **20.147 Healthy Wisconsin Authority.** There is appropriated, from the
10 health care quality fund, to the Healthy Wisconsin Authority for the following
11 program:

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

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

15 **SECTION 27.** 40.02 (54) (k) of the statutes is created to read:

16 40.02 (54) (k) The Healthy Wisconsin Authority.

17 **SECTION 28.** 70.11 (41p) of the statutes is created to read:

18 70.11 (41p) HEALTHY WISCONSIN AUTHORITY. All property owned by the Healthy
19 Wisconsin Authority, provided that use of the property is primarily related to the
20 purposes of the authority.

21 **SECTION 29.** 71.26 (1) (be) of the statutes is amended to read:

22 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
23 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan

1 Authority, of the Healthy Wisconsin Authority, and of the Fox River Navigational
2 System Authority, and of the Wisconsin Aerospace Authority.

3 **SECTION 30.** 77.54 (9a) (a) of the statutes is amended to read:

4 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
5 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
6 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
7 Fox River Navigational System Authority.

8 **SECTION 31.** 100.45 (1) (dm) of the statutes is amended to read:

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

18 **SECTION 32.** 101.177 (1) (d) of the statutes is amended to read:

19 101.177 (1) (d) "State agency" means any office, department, agency,
20 institution of higher education, association, society, or other body in state
21 government created or authorized to be created by the constitution or any law , that
22 is entitled to expend moneys appropriated by law, including the legislature and the
23 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
24 Center Sports and Entertainment Corporation, the University of Wisconsin
25 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, and the

1 Wisconsin Health and Educational Facilities Authority, and the Healthy Wisconsin
2 Authority, but excluding the Health Insurance Risk-Sharing Plan Authority.

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

4 230.03 (3) "Agency" means any board, commission, committee, council, or
5 department in state government or a unit thereof created by the constitution or
6 statutes if such board, commission, committee, council, department, unit, or the
7 head thereof, is authorized to appoint subordinate staff by the constitution or
8 statute, except a legislative or judicial board, commission, committee, council,
9 department, or unit thereof or an authority created under subch. II of ch. 114 or
10 subch. III of ch. 149 or under ch. 231, 232, 233, 234, 235, ~~or 237,~~ or 238. "Agency" does
11 not mean any local unit of government or body within one or more local units of
12 government that is created by law or by action of one or more local units of
13 government.

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

15 **CHAPTER 238**

16 **HEALTHY WISCONSIN AUTHORITY**

17 **238.01 Definitions.** In this chapter:

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

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

20 (3) "Health benefit purchasing cooperative" means a cooperative under s.
21 185.99.

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

23 **238.05 Creation and organization of authority.** (1) There is created a
24 public body corporate and politic to be known as the "Healthy Wisconsin Authority."

25 The board of directors of the authority shall consist of the commissioner of insurance,

1 or his or her designee, as a nonvoting member, and the following 13 members, who
2 shall serve 4-year terms:

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

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

5 (c) One majority party representative to the assembly appointed by the speaker
6 of the assembly.

7 (d) One minority party representative to the assembly appointed by the
8 assembly minority leader.

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

11 1. One health care provider.

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

14 3. One representative of a Wisconsin small employer.

15 4. One representative of Wisconsin labor unions.

16 5. One representative of health benefit purchasing cooperatives.

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

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

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

3 (4) The board shall appoint an executive director. The executive director shall
4 not be a member of the board and shall serve at the pleasure of the board. The
5 authority may delegate by resolution to one or more of its members or its executive
6 director any powers and duties that it considers proper. The executive director shall
7 receive such compensation as may be determined by the board. The executive
8 director or other person designated by resolution of the board shall keep a record of
9 the proceedings of the authority and shall be custodian of all books, documents, and
10 papers filed with the authority, the minute book or journal of the authority, and its
11 official seal. The executive director or other person may cause copies to be made of
12 all minutes and other records and documents of the authority and may give
13 certificates under the official seal of the authority to the effect that such copies are
14 true copies, and all persons dealing with the authority may rely upon such
15 certificates.

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

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

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

5 **238.10 Powers of authority.** (1) Except as restricted under sub. (2), the
6 authority shall have all the powers necessary or convenient to carry out the purposes
7 and provisions of this chapter. In addition to all other powers granted by this chapter,
8 the authority may:

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

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

12 (c) Maintain an office.

13 (d) Sue and be sued.

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

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

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

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

22 (i) Procure liability insurance.

23 (2) The authority may not issue bonds.

24 **238.15 Catastrophic health care reinsurance program.** (1) The
25 authority shall create and administer a catastrophic health care claims reinsurance

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(circled)

1 program, to begin operating on January 1, 2008. Under the program, the authority
2 shall pay high-cost claims incurred by insurers participating in the program.

3 (2) Every insurer offering health care coverage in the small group market shall
4 be required to participate in the program under this section and to pay premiums to
5 the authority for the reinsurance coverage. Every insurer offering coverage in the
6 small group market shall include in the reinsurance pool every covered life under
7 every policy written by the insurer in this state in the small group market.

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

- 9 1. Develop guidelines for defining high-cost claims and attachment points.
- 10 2. Set premiums to be paid for the reinsurance coverage, based on the number
- 11 of covered lives included in the reinsurance pool.
- 12 3. Set coinsurance rates for claims paid.
- 13 4. Design all other program features.

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

15 1. Consider the impact of, and make recommendations to the governor on,
16 allowing health benefit purchasing cooperatives to participate in the reinsurance
17 program under this section. → implemented

18 2. Evaluate the challenges faced by American Indian tribes and bands in this
19 state and other sectors of the group health insurance market and make
20 recommendations to the governor on proposals to reduce health insurance premiums
21 for the tribes and bands and other sectors.

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

In developing its recommendations for a reinsurance program under sub. (1),

any reinsurance program implemented under this section

implementation of any

reinsurance program under this section

1 **238.20 Annual evaluations.** Annually, after ~~June 30~~, the authority shall
2 contract with an independent entity to conduct an evaluation of the program and a
3 financial audit of the most recent fiscal year ending before the audit. The program
4 evaluation shall include a review of best practices that may impact appropriate use
5 of health care and disease management. The authority shall make any necessary
6 adjustments or improvements if, as a result of the evaluation or audit, problems or
7 deficiencies are determined to exist. After each evaluation and audit, the authority
8 shall explore the feasibility of expanding the program to cover more state residents.
9 The authority shall submit to the governor a report of the results of each evaluation
10 and audit no later than January 1 of the year beginning after the year in which the
11 evaluation and audit are conducted.

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

13 285.59 (1) (b) "State agency" means any office, department, agency, institution
14 of higher education, association, society, or other body in state government created
15 or authorized to be created by the constitution or any law which that is entitled to
16 expend moneys appropriated by law, including the legislature and the courts, the
17 Wisconsin Housing and Economic Development Authority, the Bradley Center
18 Sports and Entertainment Corporation, the University of Wisconsin Hospitals and
19 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
20 Aerospace Authority, and the Wisconsin Health and Educational Facilities
21 Authority, and the Healthy Wisconsin Authority.

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

23 **632.7497 Required participation in reinsurance program.** An insurer
24 that offers coverage in the small group market, as defined in s. 632.745 (26), shall

1 be required to participate in a catastrophic health care reinsurance program under
2 s. 238.15.

3 **SECTION 37. Nonstatutory provisions.**

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

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

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

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

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

1 senate shall be referred by the president to the appropriate standing committee of
2 the newly organized senate.

3 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1272/4ins
PJK:lmk:nwn

INSERT A

w/H study options and develop recommendations for implementing a reinsurance program to provide reinsurance to groups or individuals, or both, in the state for catastrophic claims under group or individual, or both, health insurance policies. By September 15, 2008, HWA must submit a report to the secretary of administration with its recommendations for implementing the reinsurance program. HWA must develop and administer any reinsurance program for which legislation is enacted that authorizes or requires HWA to do so. HWA may contract with a vendor to administer any reinsurance program that is implemented, and must contract with an independent entity for annual program and financial evaluations of an implemented reinsurance program. HWA may make recommendations to the governor on the impact of allowing health benefit purchasing cooperatives to participate in any implemented reinsurance program

(END OF INSERT A)

INSERT 17-24

w/H

- 1 In addition to all other duties under this chapter, the authority shall do all of
2 the following:
- 3 (a) Study options and develop recommendations for implementing a
4 reinsurance program to provide reinsurance to groups or individuals, or both, in this
5 state for catastrophic claims under group or individual, or both, health insurance
6 policies.
- 7 (b) No later than September 15, 2008, submit to the secretary of administration
8 a report with its recommendations for implementing a reinsurance program
9 described in par. (a).
- 10 (c) Develop and administer a reinsurance program in accordance with any
11 legislation enacted that requires or authorizes the authority to do so.

(end of ins 17-24)

Kahler, Pam

From: Johnston, James - DOA
Sent: Tuesday, January 30, 2007 3:53 PM
To: Kahler, Pam
Cc: Pink, Michelle C - DOA; Casper, Tim - GOV
Subject: Healthy Wisconsin Authority LRB # 1272

Hi Pam,

I am writing to follow up on my voice mail message regarding the Healthy Wisconsin Authority Draft LRB # 1272. I would like to add another option duty for the Authority to investigate under s.238.15(3)(b) please add a third point

The Authority may explore other ways to lower health care costs, increase access and improve quality; including consideration of options for comprehensive health care reform.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1272/4
PJK:lmk&cs:pg

Stays

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

do not go cut

1 AN ACT **relating to:** creating a Healthy Wisconsin Authority and making an
2 appropriation.

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 study options and develop recommendations for implementing a reinsurance program to provide reinsurance to groups or individuals, or both, in the state for catastrophic claims under group or individual, or both, health insurance policies. By September 15, 2008, HWA must submit a report to the secretary of administration with its recommendations for implementing the reinsurance program. HWA must develop and administer any reinsurance program for which legislation is enacted that authorizes or requires HWA to do so. HWA may contract with a vendor to administer any reinsurance program that is implemented, and must contract with an independent entity for annual program and financial evaluations of an implemented reinsurance program. HWA may make recommendations to the governor on the impact of allowing health benefit purchasing cooperatives to participate in any implemented reinsurance 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. 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.

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

10/11 HWA may explore other ways to lower health care costs including health care reform. considering options for comprehensive health care reform.

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

1 is entitled to expend moneys appropriated by law, including the legislature and the
2 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
3 ch. 231, 233, ~~or 234~~, or 238.

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

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

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

18 13.62 (2) "Agency" means any board, commission, department, office, society,
19 institution of higher education, council, or committee in the state government, or any
20 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233,
21 234, ~~or 237~~, or 238, except that the term does not include a council or committee of
22 the legislature.

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

24 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
25 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau

1 shall be strictly nonpartisan and shall at all times observe the confidential nature
2 of the research requests received by it; however, with the prior approval of the
3 requester in each instance, the bureau may duplicate the results of its research for
4 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
5 designated employees shall at all times, with or without notice, have access to all
6 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
7 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
8 the Healthy Wisconsin Authority, and the Fox River Navigational System Authority,
9 and to any books, records, or other documents maintained by such agencies or
10 authorities and relating to their expenditures, revenues, operations, and structure.

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

12 16.002 (2) "Departments" means constitutional offices, departments, and
13 independent agencies and includes all societies, associations, and other agencies of
14 state government for which appropriations are made by law, but not including
15 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and in chs. 231, 232,
16 233, 234, 235, and 237, and 238.

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

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

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

1 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
2 authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs.
3 231, 233, 234, ~~and 237, and 238~~, and their officers and employees, shall cooperate
4 with the secretary and shall comply with every request of the secretary relating to
5 his or her functions.

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

7 16.045 (1) (a) "Agency" means an office, department, independent 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, but not including an authority created in subch. II of ch. 114 or subch. III of
12 ch. 149 or in ch. 231, 232, 233, 234, 235, ~~or 237, or 238~~.

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

14 16.41 (4) In this section, "authority" means a body created under subch. II of
15 ch. 114 or subch. III of ch. 149 or under ch. 231, 233, 234, ~~or 237, or 238~~.

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

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

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

1 **16.52 (7) PETTY CASH ACCOUNT.** With the approval of the secretary, each agency
2 that is authorized to maintain a contingent fund under s. 20.920 may establish a
3 petty cash account from its contingent fund. The procedure for operation and
4 maintenance of petty cash accounts and the character of expenditures therefrom
5 shall be prescribed by the secretary. In this subsection, "agency" means an office,
6 department, independent agency, institution of higher education, association,
7 society, or other body in state government created or authorized to be created by the
8 constitution or any law, that is entitled to expend moneys appropriated by law,
9 including the legislature and the courts, but not including an authority created in
10 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, ~~or 237~~, or 238.

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

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

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

19 16.53 (2) **IMPROPER INVOICES.** If an agency receives an improperly completed
20 invoice, the agency shall notify the sender of the invoice within 10 working days after
21 it receives the invoice of the reason it is improperly completed. In this subsection,
22 "agency" means an office, department, independent agency, institution of higher
23 education, association, society, or other body in state government created or
24 authorized to be created by the constitution or any law, that is entitled to expend
25 moneys appropriated by law, including the legislature and the courts, but not

1 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
2 231, 233, 234, ~~or 237,~~ or 238.

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

4 16.54 (9) (a) 1. "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, which
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, 233, 234, ~~or 237,~~ or 238.

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

11 16.70 (2) "Authority" means a body created under subch. II of ch. 114 or subch.
12 III of ch. 149 or under ch. 231, 232, 233, 234, 235, ~~or 237,~~ or 238.

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

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

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

1 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
2 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
3 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
4 Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
5 Corporation shall include the following provision in every contract executed by them:
6 “In connection with the performance of work under this contract, the contractor
7 agrees not to discriminate against any employee or applicant for employment
8 because of age, race, religion, color, handicap, sex, physical condition, developmental
9 disability as defined in s. 51.01 (5), sexual orientation or national origin. This
10 provision shall include, but not be limited to, the following: employment, upgrading,
11 demotion or transfer; recruitment or recruitment advertising; layoff or termination;
12 rates of pay or other forms of compensation; and selection for training, including
13 apprenticeship. Except with respect to sexual orientation, the contractor further
14 agrees to take affirmative action to ensure equal employment opportunities. The
15 contractor agrees to post in conspicuous places, available for employees and
16 applicants for employment, notices to be provided by the contracting officer setting
17 forth the provisions of the nondiscrimination clause”.

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

19 16.765 (4) 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 take appropriate action to revise the standard government
24 contract forms under this section.

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

1 16.765 (5) The head of each contracting agency and the boards of directors of
2 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
3 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
4 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
5 Bradley Center Sports and Entertainment Corporation shall be primarily
6 responsible for obtaining compliance by any contractor with the nondiscrimination
7 and affirmative action provisions prescribed by this section, according to procedures
8 recommended by the department. The department shall make recommendations to
9 the contracting agencies and the boards of directors of the University of Wisconsin
10 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
11 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
12 the Healthy Wisconsin Authority, and the Bradley Center Sports and Entertainment
13 Corporation for improving and making more effective the nondiscrimination and
14 affirmative action provisions of contracts. The department shall promulgate such
15 rules as may be necessary for the performance of its functions under this section.

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

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

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

1 16.765 (7) (intro.) When a violation of this section has been determined by the
2 department, 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, the contracting agency, the University of Wisconsin Hospitals and
7 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
8 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
9 Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
10 Corporation shall:

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

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

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

19 16.765 (8) If further violations of this section are committed during the term
20 of the contract, the contracting agency, the Fox River Navigational System Authority,
21 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
22 Authority, the Healthy Wisconsin Authority, or the Bradley Center Sports and
23 Entertainment Corporation may permit the violating party to complete the contract,
24 after complying with this section, but thereafter the contracting agency, the Fox
25 River Navigational System Authority, the Wisconsin Aerospace Authority, the

1 Health Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority,
2 or the Bradley Center Sports and Entertainment Corporation shall request the
3 department to place the name of the party on the ineligible list for state contracts,
4 or the contracting agency, the Fox River Navigational System Authority, the
5 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
6 the Healthy Wisconsin Authority, or the Bradley Center Sports and Entertainment
7 Corporation may terminate the contract without liability for the uncompleted
8 portion or any materials or services purchased or paid for by the contracting party
9 for use in completing the contract.

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

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

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

22 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
23 proportionate share of the estimated costs attributable to programs administered by
24 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
25 may charge premiums to agencies to finance costs under this subsection and pay the

1 costs from the appropriation on an actual basis. The department shall deposit all
2 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
3 Costs assessed under this subsection may include judgments, investigative and
4 adjustment fees, data processing and staff support costs, program administration
5 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
6 subsection, "agency" means an office, department, independent agency, institution
7 of higher education, association, society, or other body in state government created
8 or authorized to be created by the constitution or any law, that is entitled to expend
9 moneys appropriated by law, including the legislature and the courts, but not
10 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
11 231, 232, 233, 234, 235, ~~or 237,~~ or 238.

12 **SECTION 26.** 20.147 of the statutes is created to read:

13 **20.147 Healthy Wisconsin Authority.** There is appropriated, from the
14 health care quality fund, to the Healthy Wisconsin Authority for the following
15 program:

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

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

19 **SECTION 27.** 40.02 (54) (k) of the statutes is created to read:

20 40.02 (54) (k) The Healthy Wisconsin Authority.

21 **SECTION 28.** 70.11 (41p) of the statutes is created to read:

1 70.11 (41p) HEALTHY WISCONSIN AUTHORITY. All property owned by the Healthy
2 Wisconsin Authority, provided that use of the property is primarily related to the
3 purposes of the authority.

4 **SECTION 29.** 71.26 (1) (be) of the statutes is amended to read:

5 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
6 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
7 Authority, of the Healthy Wisconsin Authority, and of the Fox River Navigational
8 System Authority, and of the Wisconsin Aerospace Authority.

9 **SECTION 30.** 77.54 (9a) (a) of the statutes is amended to read:

10 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
11 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
12 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
13 Fox River Navigational System Authority.

14 **SECTION 31.** 100.45 (1) (dm) of the statutes is amended to read:

15 100.45 (1) (dm) "State agency" means any office, department, 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 which
18 is entitled to expend moneys appropriated by law, including the legislature and the
19 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
20 Center Sports and Entertainment Corporation, the University of Wisconsin
21 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
22 Authority, the Wisconsin Aerospace Authority, and the Fox River Navigational
23 System Authority, and the Healthy Wisconsin Authority.

24 **SECTION 32.** 101.177 (1) (d) of the statutes is amended to read:

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

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

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

5 **238.05 Creation and organization of authority.** (1) There is created a
6 public body corporate and politic to be known as the "Healthy Wisconsin Authority."
7 The board of directors of the authority shall consist of the commissioner of insurance,
8 or his or her designee, as a nonvoting member, and the following 13 members, who
9 shall serve 4-year terms:

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

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

12 (c) One majority party representative to the assembly appointed by the speaker
13 of the assembly.

14 (d) One minority party representative to the assembly appointed by the
15 assembly minority leader.

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

18 1. One health care provider.

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

21 3. One representative of a Wisconsin small employer.

22 4. One representative of Wisconsin labor unions.

23 5. One representative of health benefit purchasing cooperatives.

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

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

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

10 (4) The board shall appoint an executive director. The executive director shall
11 not be a member of the board and shall serve at the pleasure of the board. The
12 authority may delegate by resolution to one or more of its members or its executive
13 director any powers and duties that it considers proper. The executive director shall
14 receive such compensation as may be determined by the board. The executive
15 director or other person designated by resolution of the board shall keep a record of
16 the proceedings of the authority and shall be custodian of all books, documents, and
17 papers filed with the authority, the minute book or journal of the authority, and its
18 official seal. The executive director or other person may cause copies to be made of
19 all minutes and other records and documents of the authority and may give
20 certificates under the official seal of the authority to the effect that such copies are
21 true copies, and all persons dealing with the authority may rely upon such
22 certificates.

23 (5) A majority of the members of the board constitutes a quorum for the purpose
24 of conducting its business and exercising its powers and for all other purposes,
25 notwithstanding the existence of any vacancies. Action may be taken by the board

1 upon a vote of a majority of the members present. Meetings of the members of the
2 board may be held anywhere within or without the state.

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

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

11 **238.10 Powers of authority.** (1) Except as restricted under sub. (2), the
12 authority shall have all the powers necessary or convenient to carry out the purposes
13 and provisions of this chapter. In addition to all other powers granted by this chapter,
14 the authority may:

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

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

18 (c) Maintain an office.

19 (d) Sue and be sued.

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

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

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

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

3 (i) Procure liability insurance.

4 **(2)** The authority may not issue bonds.

5 **238.15 Catastrophic health care reinsurance program.** **(1)** In addition
6 to all other duties under this chapter, the authority shall do all of the following:

7 (a) Study options and develop recommendations for implementing a
8 reinsurance program to provide reinsurance to groups or individuals, or both, in this
9 state for catastrophic claims under group or individual, or both, health insurance
10 policies.

11 (b) No later than September 15, 2008, submit to the secretary of administration
12 a report with its recommendations for implementing a reinsurance program
13 described in par. (a).

14 (c) Develop and administer a reinsurance program in accordance with any
15 legislation enacted that requires or authorizes the authority to do so.

16 **(2)** (a) In developing its recommendations for a reinsurance program under
17 sub. (1), the authority shall do all of the following:

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

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

21 3. Set coinsurance rates for claims paid.

22 4. Design all other program features.

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

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

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

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

12 **238.20 Annual evaluations.** Annually, after implementation of any
13 reinsurance program under this section, the authority shall contract with an
14 independent entity to conduct an evaluation of the program and a financial audit of
15 the most recent fiscal year ending before the audit. The program evaluation shall
16 include a review of best practices that may impact appropriate use of health care and
17 disease management. The authority shall make any necessary adjustments or
18 improvements if, as a result of the evaluation or audit, problems or deficiencies are
19 determined to exist. After each evaluation and audit, the authority shall explore the
20 feasibility of expanding the program to cover more state residents. The authority
21 shall submit to the governor a report of the results of each evaluation and audit no
22 later than January 1 of the year beginning after the year in which the evaluation and
23 audit are conducted.

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

Insert 19-7

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

10 **SECTION 36. 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
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GH 3. Explore other ways to lower health care costs and to increase access to and improve the quality of health care, including considering options for comprehensive health care reform. ✓

(END OF INSERT 19-7)