



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0760/P3

TJD&PJK:cjs&kjf:es

Stays RM is R

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SAW

D-note

regenerate ↓

1 AN ACT ~~to amend~~ 1.12 (1) (b), 13.172 (1), 13.62 (2), 13.95 (intro.), 16.002 (2),
2 16.004 (4), 16.004 (5), 16.004 (12) (a), 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4),
3 16.417 (1) (a), 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.70 (2), 16.72
4 (2) (e) (intro.), 16.72 (2) (f), 16.75 (1m), 16.75 (8) (a) 1., 16.75 (8) (a) 2., 16.75 (9),
5 16.765 (1), 16.765 (2), 16.765 (4), 16.765 (5), 16.765 (6), 16.765 (7) (intro.),
6 16.765 (7) (d), 16.765 (8), 16.85 (2), 16.865 (8), 25.50 (1) (d), 71.26 (1) (be), 77.54
7 (9a) (a), 101.055 (2) (a), 101.177 (1) (d), 230.03 (3), 230.80 (4), 230.90 (1) (c) and
8 635.18 (1); **to repeal and recreate** 16.417 (1) (a); and **to create** 13.94 (1) (dj),
9 13.94 (1s) (c) 6., 40.02 (54) (n), 70.11 (41c) and chapter 636 of the statutes;

1 relating to: the Badger Health Benefit Authority, health benefit exchange
2 operation, and granting rule-making authority.

and providing a penalty

Insert Analysis

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

Insert A-2

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

3 SECTION 1. 1.12 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 7, is
4 amended to read:

5 1.12 (1) (b) "State agency" means an office, department, agency, institution of
6 higher education, the legislature, a legislative service agency, the courts, a judicial
7 branch agency, an association, society, or other body in state government that is
8 created or authorized to be created by the constitution or by law, for which
9 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
10 Authority, the Badger Health Benefit Authority, and the Wisconsin Economic
11 Development Corporation.

12 SECTION 2. 13.172 (1) of the statutes, as affected by 2011 Wisconsin Act 10, is
13 amended to read:

14 13.172 (1) In this section, "agency" means an office, department, agency,
15 institution of higher education, association, society, or other body in state
16 government created or authorized to be created by the constitution or any law, that
17 is entitled to expend moneys appropriated by law, including the legislature and the
18 courts, and any authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or
19 subch. III of ch. 636 or in ch. 231, 233, 234, 238, or 279.

1 **SECTION 3.** 13.62 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 **13.62 (2)** “Agency” means any board, commission, department, office, society,
4 institution of higher education, council, or committee in the state government, or any
5 authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch.
6 636 or in ch. 231, 232, 233, 234, 237, 238, or 279, except that the term does not include
7 a council or committee of the legislature.

8 **SECTION 4.** 13.94 (1) (dj) of the statutes is created to read:

9 **13.94 (1) (dj)** At least once every 2 years, perform a financial audit and
10 performance evaluation audit of any health benefit plan exchange under subch. II
11 of ch. 636 and an audit of the Badger Health Benefit Authority’s policies and
12 management practices and file copies of each audit report under this paragraph with
13 the distributees specified in par. (b).

14 **SECTION 5.** 13.94 (1s) (c) 6. of the statutes is created to read:

15 **13.94 (1s) (c) 6.** The Badger Health Benefit Authority for the cost of the audit
16 under sub. (1) (dj).

17 **SECTION 6.** 13.95 (intro.) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
20 known as the “Legislative Fiscal Bureau” headed by a director. The fiscal bureau
21 shall be strictly nonpartisan and shall at all times observe the confidential nature
22 of the research requests received by it; however, with the prior approval of the
23 requester in each instance, the bureau may duplicate the results of its research for
24 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director’s
25 designated employees shall at all times, with or without notice, have access to all

SECTION 6

1 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
2 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
3 the Badger Health Benefit Authority, the Lower Fox River Remediation Authority,
4 the Wisconsin Economic Development Corporation, and the Fox River Navigational
5 System Authority, and to any books, records, or other documents maintained by such
6 agencies or authorities and relating to their expenditures, revenues, operations, and
7 structure.

8 **SECTION 7.** 16.002 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
9 amended to read:

10 16.002 (2) "Departments" means constitutional offices, departments, and
11 independent agencies and includes all societies, associations, and other agencies of
12 state government for which appropriations are made by law, but not including
13 authorities an authority created in subch. II of ch. 114 or subch. III of ch. 149 or
14 subch. III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

15 **SECTION 8.** 16.004 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
16 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 and subch. III of ch. 149 and subch.
20 III of ch. 636 and under chs. 231, 233, 234, 237, 238, and 279, and may examine their
21 books and accounts and any other matter that in the secretary's judgment should be
22 examined and may interrogate the agency's employees publicly or privately relative
23 thereto.

24 **SECTION 9.** 16.004 (5) of the statutes, as affected by 2011 Wisconsin Act 10, is
25 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 and subch. III of ch. 149 and subch. III
3 of ch. 636 and under chs. 231, 233, 234, 237, 238, and 279, and their officers and
4 employees, shall cooperate with the secretary and shall comply with every request
5 of the secretary relating to his or her functions.

6 **SECTION 10.** 16.004 (12) (a) of the statutes, as affected by 2011 Wisconsin Act
7 10, is amended to read:

8 16.004 (12) (a) In this subsection, “state agency” means an association,
9 authority, board, department, commission, independent agency, institution, office,
10 society, or other body in state government created or authorized to be created by the
11 constitution or any law, including the legislature, the office of the governor, and the
12 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
13 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
14 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
15 Development Corporation, the Badger Health Benefit Authority, and the Fox River
16 Navigational System Authority.

17 **SECTION 11.** 16.045 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 16.045 (1) (a) “Agency” means an office, department, independent 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, but not including an authority created in subch. II of ch. 114 ~~or~~, subch. III of
24 ch. 149, or subch. III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

1 **SECTION 12.** 16.15 (1) (ab) of the statutes, as affected by 2011 Wisconsin Act 10,
2 is amended to read:

3 16.15 (1) (ab) “Authority” has the meaning given under s. 16.70 (2), but
4 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
5 River Remediation Authority, the Wisconsin Economic Development Corporation,
6 the Badger Health Benefit Authority, and the Health Insurance Risk-Sharing Plan
7 Authority.

8 **SECTION 13.** 16.41 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
9 amended to read:

10 16.41 (4) In this section, “authority” means a body created under subch. II of
11 ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch. 636 or under ch. 231, 233, 234, 237,
12 238, or 279.

13 **SECTION 14.** 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 7,
14 section 19, 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 subch. III of ch. 636 or under ch. 238.

21 **SECTION 15.** 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 7,
22 section 20, and 2011 Wisconsin Acts 32 and (this act), is repealed and recreated
23 to read:

24 16.417 (1) (a) “Agency” means an office, department, independent agency,
25 institution of higher education, association, society, or other body in state

1 government created or authorized to be created by the constitution or any law, that
2 is entitled to expend moneys appropriated by law, including the legislature and the
3 courts, but not including an authority or the body created under subch. III of ch. 149
4 or subch. III of ch. 636.

5 **SECTION 16.** 16.52 (7) of the statutes, as affected by 2011 Wisconsin Act 10, is
6 amended to read:

7 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
8 that is authorized to maintain a contingent fund under s. 20.920 may establish a
9 petty cash account from its contingent fund. The procedure for operation and
10 maintenance of petty cash accounts and the character of expenditures therefrom
11 shall be prescribed by the secretary. In this subsection, "agency" means an office,
12 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, that 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 subch. III of ch. 636 or in ch. 231, 233,
17 234, 237, 238, or 279.

18 **SECTION 17.** 16.528 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
19 is amended to read:

20 16.528 (1) (a) "Agency" means an office, department, independent agency,
21 institution of higher education, association, society, or other body in state
22 government created or authorized to be created by the constitution or any law, that
23 is entitled to expend moneys appropriated by law, including the legislature and the
24 courts, but not including an authority created in subch. II of ch. 114 or, subch. III of
25 ch. 149, or subch. III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

1 **SECTION 18.** 16.53 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
2 amended to read:

3 16.53 (2) **IMPROPER INVOICES.** If an agency receives an improperly completed
4 invoice, the agency shall notify the sender of the invoice within 10 working days after
5 it receives the invoice of the reason it is improperly completed. In this subsection,
6 “agency” means an office, department, independent agency, institution of higher
7 education, association, society, or other body in state government created or
8 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 subch.
11 III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

12 **SECTION 19.** 16.54 (9) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
13 10, is amended to read:

14 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
15 institution of higher education, association, society or other body in state
16 government created or authorized to be created by the constitution or any law, which
17 is entitled to expend moneys appropriated by law, including the legislature and the
18 courts, but not including an authority created in subch. II of ch. 114 ~~or~~, subch. III of
19 ch. 149, or subch. III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

20 **SECTION 20.** 16.70 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
21 amended to read:

22 16.70 (2) “Authority” means a body created under subch. II of ch. 114 ~~or~~, subch.
23 III of ch. 149, or subch. III of ch. 636 or under ch. 231, 232, 233, 234, 235, 237, or 279.

24 **SECTION 21.** 16.72 (2) (e) (intro.) of the statutes is amended to read:

1 16.72 (2) (e) (intro.) In writing the specifications under this subsection, the
2 department and any other designated purchasing agent under s. 16.71 (1) shall
3 incorporate requirements for the purchase of products made from recycled materials
4 and recovered materials if their use is technically and economically feasible. Each
5 authority other than the University of Wisconsin Hospitals and Clinics Authority,
6 the Lower Fox River Remediation Authority, the Badger Health Benefit Authority,
7 and the Health Insurance Risk-Sharing Plan Authority, in writing specifications for
8 purchasing by the authority, shall incorporate requirements for the purchase of
9 products made from recycled materials and recovered materials if their use is
10 technically and economically feasible. The specifications shall include requirements
11 for the purchase of the following materials:

12 **SECTION 22.** 16.72 (2) (f) of the statutes is amended to read:

13 16.72 (2) (f) In writing specifications under this subsection, the department,
14 any other designated purchasing agent under s. 16.71 (1), and each authority other
15 than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
16 River Remediation Authority, the Badger Health Benefit Authority, and the Health
17 Insurance Risk-Sharing Plan Authority shall incorporate requirements relating to
18 the recyclability and ultimate disposition of products and, wherever possible, shall
19 write the specifications so as to minimize the amount of solid waste generated by the
20 state, consistent with the priorities established under s. 287.05 (12). All
21 specifications under this subsection shall discourage the purchase of single-use,
22 disposable products and require, whenever practical, the purchase of multiple-use,
23 durable products.

24 **SECTION 23.** 16.75 (1m) of the statutes is amended to read:

1 16.75 (1m) The department shall award each order or contract for materials,
2 supplies or equipment on the basis of life cycle cost estimates, whenever such action
3 is appropriate. Each authority other than the University of Wisconsin Hospitals and
4 Clinics Authority, the Lower Fox River Remediation Authority, the Wisconsin
5 Aerospace Authority, the Badger Health Benefit Authority, and the Health
6 Insurance Risk-Sharing Plan Authority shall award each order or contract for
7 materials, supplies or equipment on the basis of life cycle cost estimates, whenever
8 such action is appropriate. The terms, conditions and evaluation criteria to be
9 applied shall be incorporated in the solicitation of bids or proposals. The life cycle
10 cost formula may include, but is not limited to, the applicable costs of energy
11 efficiency, acquisition and conversion, money, transportation, warehousing and
12 distribution, training, operation and maintenance and disposition or resale. The
13 department shall prepare documents containing technical guidance for the
14 development and use of life cycle cost estimates, and shall make the documents
15 available to local governmental units.

16 **SECTION 24.** 16.75 (8) (a) 1. of the statutes is amended to read:

17 16.75 (8) (a) 1. The department, any other designated purchasing agent under
18 s. 16.71 (1), any agency making purchases under s. 16.74, and each authority other
19 than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
20 River Remediation Authority, the Badger Health Benefit Authority, and the Health
21 Insurance Risk-Sharing Plan Authority shall, to the extent practicable, make
22 purchasing selections using specifications developed under s. 16.72 (2) (e) to
23 maximize the purchase of materials utilizing recycled materials and recovered
24 materials.

25 **SECTION 25.** 16.75 (8) (a) 2. of the statutes is amended to read:

1 16.75 (8) (a) 2. Each agency and authority other than the University of
2 Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation
3 Authority, the Badger Health Benefit Authority, and the Health Insurance
4 Risk-Sharing Plan Authority shall ensure that the average recycled or recovered
5 content of all paper purchased by the agency or authority measured as a proportion,
6 by weight, of the fiber content of paper products purchased in a fiscal year, is not less
7 than 40% of all purchased paper.

8 **SECTION 26.** 16.75 (9) of the statutes is amended to read:

9 16.75 (9) The department, any other designated purchasing agent under s.
10 16.71 (1), any agency making purchases under s. 16.74, and any authority other than
11 the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River
12 Remediation Authority, the Badger Health Benefit Authority, and the Health
13 Insurance Risk-Sharing Plan Authority shall, to the extent practicable, make
14 purchasing selections using specifications prepared under s. 16.72 (2) (f).

15 **SECTION 27.** 16.765 (1) of the statutes, as affected by 2011 Wisconsin Act 10,
16 is amended to read:

17 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
18 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
19 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
20 Badger Health Benefit Authority, the Lower Fox River Remediation Authority, the
21 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
22 Entertainment Corporation shall include in all contracts executed by them a
23 provision obligating the contractor not to discriminate against any employee or
24 applicant for employment because of age, race, religion, color, handicap, sex, physical
25 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as

1 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
2 orientation, obligating the contractor to take affirmative action to ensure equal
3 employment opportunities.

4 **SECTION 28.** 16.765 (2) of the statutes, as affected by 2011 Wisconsin Act 10,
5 is amended to read:

6 16.765 (2) Contracting agencies, 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 Badger Health Benefit Authority, the Lower Fox River Remediation Authority, the
10 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
11 Entertainment Corporation shall include the following provision in every contract
12 executed by them: "In connection with the performance of work under this contract,
13 the contractor agrees not to discriminate against any employee or applicant for
14 employment because of age, race, religion, color, handicap, sex, physical condition,
15 developmental disability as defined in s. 51.01 (5), sexual orientation or national
16 origin. This provision shall include, but not be limited to, the following: employment,
17 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
18 termination; rates of pay or other forms of compensation; and selection for training,
19 including apprenticeship. Except with respect to sexual orientation, the contractor
20 further agrees to take affirmative action to ensure equal employment opportunities.
21 The contractor agrees to post in conspicuous places, available for employees and
22 applicants for employment, notices to be provided by the contracting officer setting
23 forth the provisions of the nondiscrimination clause".

24 **SECTION 29.** 16.765 (4) of the statutes, as affected by 2011 Wisconsin Act 10,
25 is amended to read:

1 16.765 (4) 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 Badger Health Benefit Authority, the Lower Fox River Remediation Authority, and
5 the Bradley Center Sports and Entertainment Corporation shall take appropriate
6 action to revise the standard government contract forms under this section.

7 **SECTION 30.** 16.765 (5) of the statutes, as affected by 2011 Wisconsin Act 10,
8 is amended to read:

9 16.765 (5) The head of each contracting agency and the boards of directors of
10 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 Badger Health Benefit Authority, the
13 Lower Fox River Remediation Authority, the Wisconsin Economic Development
14 Corporation, and the Bradley Center Sports and Entertainment Corporation shall
15 be primarily responsible for obtaining compliance by any contractor with the
16 nondiscrimination and affirmative action provisions prescribed by this section,
17 according to procedures recommended by the department. The department shall
18 make recommendations to the contracting agencies and the boards of directors of the
19 University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational
20 System Authority, the Wisconsin Aerospace Authority, the Health Insurance
21 Risk-Sharing Plan Authority, the Badger Health Benefit Authority, the Lower Fox
22 River Remediation Authority, the Wisconsin Economic Development Corporation,
23 and the Bradley Center Sports and Entertainment Corporation for improving and
24 making more effective the nondiscrimination and affirmative action provisions of

1 contracts. The department shall promulgate such rules as may be necessary for the
2 performance of its functions under this section.

3 **SECTION 31.** 16.765 (6) of the statutes, as affected by 2011 Wisconsin Act 10,
4 is amended to read:

5 16.765 (6) The department may receive complaints of alleged violations of the
6 nondiscrimination provisions of such contracts. The department shall investigate
7 and determine whether a violation of this section has occurred. The department may
8 delegate this authority to the contracting agency, the University of Wisconsin
9 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
10 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
11 the Badger Health Benefit Authority, the Lower Fox River Remediation Authority,
12 the Wisconsin Economic Development Corporation, or the Bradley Center Sports
13 and Entertainment Corporation for processing in accordance with the department's
14 procedures.

15 **SECTION 32.** 16.765 (7) (intro.) of the statutes, as affected by 2011 Wisconsin
16 Act 10, is amended to read:

17 16.765 (7) (intro.) When a violation of this section has been determined by the
18 department, the contracting agency, the University of Wisconsin Hospitals and
19 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
20 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
21 Badger Health Benefit Authority, the Lower Fox River Remediation Authority, the
22 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
23 Entertainment Corporation, the contracting agency, the University of Wisconsin
24 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
25 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,

1 the Badger Health Benefit Authority, the Lower Fox River Remediation Authority,
2 the Wisconsin Economic Development Corporation, or the Bradley Center Sports
3 and Entertainment Corporation shall:

4 **SECTION 33.** 16.765 (7) (d) of the statutes, as affected by 2011 Wisconsin Act 10,
5 is amended to read:

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

13 **SECTION 34.** 16.765 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
14 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 Badger Health Benefit Authority, the Lower Fox River Remediation
19 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
20 Sports and Entertainment Corporation may permit the violating party to complete
21 the contract, after complying with this section, but thereafter the contracting agency,
22 the Fox River Navigational System Authority, the Wisconsin Aerospace Authority,
23 the Health Insurance Risk-Sharing Plan Authority, the Badger Health Benefit
24 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
25 Development Corporation, or the Bradley Center Sports and Entertainment

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

10 **SECTION 35.** 16.85 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is
11 amended to read:

12 16.85 (2) To furnish engineering, architectural, project management, and other
13 building construction services whenever requisitions therefor are presented to the
14 department by any agency. The department may deposit moneys received from the
15 provision of these services in the account under s. 20.505 (1) (kc) or in the general
16 fund as general purpose revenue — earned. In this subsection, “agency” means an
17 office, department, independent agency, institution of higher education, association,
18 society, or other body in state government created or authorized to be created by the
19 constitution or any law, which is entitled to expend moneys appropriated by law,
20 including the legislature and the courts, but not including an authority created in
21 subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch. 636 or in ch. 231, 233,
22 234, 237, 238, or 279.

23 **SECTION 36.** 16.865 (8) of the statutes, as affected by 2011 Wisconsin Act 10,
24 is amended to read:

1 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
2 proportionate share of the estimated costs attributable to programs administered by
3 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
4 may charge premiums to agencies to finance costs under this subsection and pay the
5 costs from the appropriation on an actual basis. The department shall deposit all
6 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
7 Costs assessed under this subsection may include judgments, investigative and
8 adjustment fees, data processing and staff support costs, program administration
9 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
10 subsection, "agency" means an office, department, independent agency, institution
11 of higher education, association, society, or other body in state government created
12 or authorized to be created by the constitution or any law, that is entitled to expend
13 moneys appropriated by law, including the legislature and the courts, but not
14 including an authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch.
15 III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

16 **SECTION 37.** 25.50 (1) (d) of the statutes is amended to read:

17 25.50 (1) (d) "Local government" means any county, town, village, city, power
18 district, sewerage district, drainage district, town sanitary district, public inland
19 lake protection and rehabilitation district, local professional baseball park district
20 created under subch. III of ch. 229, long-term care district under s. 46.2895, local
21 professional football stadium district created under subch. IV of ch. 229, local
22 cultural arts district created under subch. V of ch. 229, public library system, school
23 district or technical college district in this state, any commission, committee, board
24 or officer of any governmental subdivision of this state, any court of this state, other

1 than the court of appeals or the supreme court, or any authority created under s.
2 114.61, 149.41, 231.02, 233.02 ~~or~~, 234.02, or 636.70.

3 SECTION 38. 40.02 (54) (n) of the statutes is created to read:

4 40.02 (54) (n) The Badger Health Benefit Authority.

5 SECTION 39. 70.11 (41c) of the statutes is created to read:

6 70.11 (41c) BADGER HEALTH BENEFIT AUTHORITY. All property owned by the
7 Badger Health Benefit Authority, provided that the use of the property is primarily
8 related to the purposes of the authority.

9 SECTION 40. 71.26 (1) (be) of the statutes, as affected by 2011 Wisconsin Act 10,
10 is amended to read:

11 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
12 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
13 Authority, of the Badger Health Benefit Authority, of the Fox River Navigational
14 System Authority, of the Wisconsin Economic Development Corporation, and of the
15 Wisconsin Aerospace Authority.

16 SECTION 41. 77.54 (9a) (a) of the statutes, as affected by 2011 Wisconsin Act 10,
17 is amended to read:

18 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
19 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
20 Insurance Risk-Sharing Plan Authority, the Badger Health Benefit Authority, the
21 Wisconsin Economic Development Corporation, and the Fox River Navigational
22 System Authority.

23 SECTION 42. 101.055 (2) (a) of the statutes is amended to read:

24 101.055 (2) (a) "Agency" means an office, department, independent agency,
25 authority, institution, association, society, or other body in state government created

Insert 18-4

1 or authorized to be created by the constitution or any law, and includes the
2 legislature and the courts, but excludes the Health Insurance Risk-Sharing Plan
3 Authority and the Badger Health Benefit Authority.

4 **SECTION 43.** 101.177 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
5 10, is amended to read:

6 101.177 (1) (d) "State agency" means any office, department, 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, the Wisconsin Housing and Economic Development Authority, the Bradley
11 Center Sports and Entertainment Corporation, the University of Wisconsin
12 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
13 Economic Development Corporation, and the Wisconsin Health and Educational
14 Facilities Authority, but excluding the Health Insurance Risk-Sharing Plan
15 Authority, the Badger Health Benefit Authority, and the Lower Fox River
16 Remediation Authority.

17 **SECTION 44.** 230.03 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
18 is amended to read:

19 230.03 (3) "Agency" means any board, commission, committee, council, or
20 department in state government or a unit thereof created by the constitution or
21 statutes if such board, commission, committee, council, department, unit, or the
22 head thereof, is authorized to appoint subordinate staff by the constitution or
23 statute, except a legislative or judicial board, commission, committee, council,
24 department, or unit thereof or an authority created under subch. II of ch. 114 or,
25 subch. III of ch. 149, or subch. III of ch. 636 or under ch. 231, 232, 233, 234, 235, 237,

1 238, or 279. "Agency" does not mean any local unit of government or body within one
2 or more local units of government that is created by law or by action of one or more
3 local units of government.

4 **SECTION 45.** 230.80 (4) of the statutes is amended to read:

5 230.80 (4) "Governmental unit" means any association, authority, board,
6 commission, department, independent agency, institution, office, society, or other
7 body in state government created or authorized to be created by the constitution or
8 any law, including the legislature, the office of the governor, and the courts, but
9 excluding the Health Insurance Risk-Sharing Plan Authority and the Badger
10 Health Benefit Authority. "Governmental unit" does not mean any political
11 subdivision of the state or body within one or more political subdivisions that is
12 created by law or by action of one or more political subdivisions.

13 **SECTION 46.** 230.90 (1) (c) of the statutes is amended to read:

14 230.90 (1) (c) "Governmental unit" means any association, authority, board,
15 commission, department, independent agency, institution, office, society or other
16 body in state government created or authorized to be created by the constitution or
17 any law, including the legislature, the office of the governor and the courts.
18 "Governmental unit" does not mean the University of Wisconsin Hospitals and
19 Clinics Authority, the Health Insurance Risk-Sharing Plan Authority, the Badger
20 Health Benefit Authority, or any political subdivision of the state or body within one
21 or more political subdivisions which is created by law or by action of one or more
22 political subdivisions.

23 **SECTION 47.** 635.18 (1) of the statutes is amended to read:

24 635.18 (1) ~~Every~~ Any small employer insurer shall may actively market health
25 benefit plan coverage to small employers in the state.

1 **SECTION 48.** Chapter 636 of the statutes is created to read:

2 **CHAPTER 636**

3 **HEALTH BENEFIT PLAN EXCHANGE**

4 **SUBCHAPTER I**

5 **GENERAL PROVISIONS**

6 **636.01 Definitions.** In this chapter:

7 **(1)** “Authority” means the Badger Health Benefit Authority.

8 **(2)** “Educated health care consumer” means an individual who is
9 knowledgeable about the health care system and who has background or experience
10 in making informed decisions regarding health, medical, and scientific matters.

11 **(3)** “Federal act” means the federal Patient Protection and Affordable Care Act
12 (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation
13 Act of 2010 (P.L. 111-152), and any amendments to, or regulations or guidance issued
14 under, those acts.

15 **(4)** (a) Except as provided in pars. (b) to (e), “health benefit plan” means a policy,
16 contract, certificate, or agreement offered or issued by a health carrier to provide,
17 deliver, arrange for, pay for, or reimburse any of the costs of health care services.

18 (b) “Health benefit plan” does not include any of the following:

19 1. Coverage only for accident, or disability income insurance, or any
20 combination of those.

21 2. Coverage issued as a supplement to liability insurance.

22 3. Liability insurance, including general liability insurance and automobile
23 liability insurance.

24 4. Worker’s compensation or similar insurance.

25 5. Automobile medical payment insurance.

1 6. Credit-only insurance.

2 7. Coverage for on-site medical clinics.

3 8. Other similar insurance coverage, specified in federal regulations issued
4 under P.L. 104-191, under which benefits for health care services are secondary or
5 incidental to other insurance benefits.

6 (c) "Health benefit plan" does not include any of the following benefits if they
7 are provided under a separate policy, certificate, or contract of insurance or otherwise
8 not an integral part of the plan:

9 1. Limited scope dental or vision benefits.

10 2. Benefits for long-term care, nursing home care, home health care,
11 community-based care, or any combination of those.

12 3. Other similar, limited benefits specified in federal regulations issued under
13 P.L. 104-191.

14 (d) "Health benefit plan" does not include any of the following benefits if the
15 benefits are provided under a separate policy, certificate, or contract of insurance,
16 there is no coordination between the provision of the benefits and any exclusion of
17 benefits under any group health plan maintained by the same plan sponsor, and the
18 benefits are paid with respect to an event without regard to whether benefits are
19 provided with respect to such an event under any group health plan maintained by
20 the same plan sponsor:

21 1. Coverage only for a specified disease or illness.

22 2. Hospital indemnity or other fixed indemnity insurance.

23 (e) "Health benefit plan" does not include any of the following if offered as a
24 separate policy, certificate, or contract of insurance:

1 1. Medicare supplemental health insurance as defined under section 1882 (g)
2 (1) of the federal Social Security Act.

3 2. Coverage supplemental to the coverage provided under 10 USC ch. 55
4 (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

5 3. Similar supplemental coverage provided to coverage under a group health
6 plan.

7 **(5)** “Health carrier” or “carrier” means an entity subject to the insurance laws
8 and rules of this state, or subject to the jurisdiction of the commissioner, that
9 contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse
10 any of the costs of health care services, including a sickness and accident insurance
11 company, a health maintenance organization, a nonprofit hospital and health service
12 corporation, or any other entity providing a plan of health insurance, health benefits,
13 or health services.

14 **(5m)** “Minimum essential coverage” has the meaning given in 26 USC 5000A
15 (f) (1).

16 **(6)** “Qualified dental plan” means a limited scope dental plan that has been
17 certified in accordance with s. 636.42 (5).

18 **(7)** “Qualified employer” means a small employer that elects to make its
19 full-time employees eligible for one or more qualified health plans offered through
20 the SHOP Exchange and, at the option of the employer, some or all of its part-time
21 employees, provided that the employer satisfies any of the following:

22 (a) The employer has its principal place of business in this state and elects to
23 provide coverage through the SHOP Exchange to all of its eligible employees,
24 wherever employed.

1 (b) The employer elects to provide coverage through the SHOP Exchange to all
2 of its eligible employees who are principally employed in this state.

3 (8) "Qualified health plan" means a health benefit plan that has in effect a
4 certification that the plan meets the criteria for certification described in section
5 1311 (c) of the federal act and s. 636.42.

6 (9) "Qualified individual" means an individual, including a minor, who satisfies
7 all of the following:

8 (a) The individual is seeking to enroll in a qualified health plan offered to
9 individuals through the exchange under subch. II.

10 (b) The individual resides in this state.

11 (c) At the time of enrollment, the individual is not incarcerated in a correctional
12 facility, other than incarceration pending the disposition of charges.

13 (d) The individual is, and is reasonably expected to be for the entire period for
14 which enrollment is sought, a citizen or national of the United States or an alien
15 lawfully present in the United States.

16 (10) "Secretary" means the secretary of the federal department of health and
17 human services.

18 (11) "SHOP Exchange" means a small business health options program
19 established under s. 636.30 (1) (q).

20 (12) (a) "Small employer" means an employer that employed an average of not
21 more than 100 employees during the preceding calendar year.

22 (b) For purposes of this subsection, all of the following apply:

23 1. All persons treated as a single employer under section 414 (b), (c), (m), or (o)
24 of the Internal Revenue Code shall be treated as a single employer.

1 2. An employer and any predecessor employer shall be treated as a single
2 employer.

3 3. All employees shall be counted, including part-time employees and
4 employees who are not eligible for coverage through the employer.

5 4. If an employer was not in existence during the entire preceding calendar
6 year, the determination of whether that employer is a small employer shall be based
7 on the average number of employees that it is reasonably expected that employer will
8 employ on business days in the current calendar year.

9 5. An employer that makes enrollment in qualified health plans available to
10 its employees through the SHOP Exchange and that would cease to be a small
11 employer by reason of an increase in the number of its employees shall continue to
12 be treated as a small employer for purposes of this chapter as long as it continuously
13 makes enrollment through the SHOP Exchange available to its employees.

14 SUBCHAPTER II

15 OPERATION OF EXCHANGE

16 **636.25 General matters.** (1) The authority shall make qualified health
17 plans, with effective dates on or before January 1, 2014, available to qualified
18 individuals and qualified employers.

19 (2) (a) The authority may not make available any health benefit plan that is
20 not a qualified health plan.

21 (b) The authority shall allow a health carrier to offer a plan that provides
22 limited scope dental benefits meeting the requirements of section 9832 (c) (2) (A) of
23 the Internal Revenue Code through the exchange, either separately or in conjunction
24 with a qualified health plan, if the plan provides pediatric dental benefits meeting
25 the requirements of section 1302 (b) (1) (J) of the federal act.

1 (3) Neither the authority nor a carrier offering health benefit plans through
2 the exchange may charge an individual a fee or penalty for termination of coverage
3 if the individual enrolls in another type of minimum essential coverage because the
4 individual has become newly eligible for that coverage or because the individual's
5 employer-sponsored coverage has become affordable under the standards of section
6 36B (c) (2) (C) of the Internal Revenue Code.

7 (4) The authority may enter into information-sharing agreements with federal
8 and state agencies and entities operating exchanges in other states to carry out its
9 responsibilities under this chapter, provided that such agreements include adequate
10 protections with respect to the confidentiality of the information to be shared and
11 comply with all state and federal laws and rules and regulations.

12 **636.30 Exchange duties and powers.** (1) In addition to all other duties
13 imposed under this chapter, the authority shall do all of the following relating to the
14 exchange:

15 (a) Implement procedures for the certification, recertification, and
16 decertification, consistent with guidelines developed by the secretary under section
17 1311 (c) of the federal act and s. 636.42, of health benefit plans as qualified health
18 plans.

19 (b) Provide for the operation of a toll-free telephone hotline to respond to
20 requests for assistance.

21 (c) Provide for enrollment periods, as provided under section 1311 (c) (6) of the
22 federal act.

23 (d) Maintain an Internet Web site through which enrollees and prospective
24 enrollees of qualified health plans may obtain standardized comparative
25 information on such plans.

1 (e) Assign a rating to each qualified health plan offered through the exchange
2 in accordance with the criteria developed by the secretary under section 1311 (c) (3)
3 of the federal act, and determine each qualified health plan's level of coverage in
4 accordance with regulations issued by the secretary under section 1302 (d) (2) (A) of
5 the federal act.

6 (f) Use a standardized format for presenting health benefit options in the
7 exchange, including the use of the uniform outline of coverage established under
8 section 2715 of the federal Public Health Service Act (42 USC 300gg-15).

9 (g) Establish quality improvement standards for health benefit plans offered
10 through the exchange.

11 (h) Establish a system for enrolling eligible groups and individuals, using a
12 standard application form developed by the commissioner under s. 636.46 (2).

13 (i) Establish procedures for collecting premiums and remitting premium
14 payments and providing enrollment information to health carriers.

15 (j) Establish, in consultation with the commissioner, the method for
16 determining the amount of the surcharge under s. 636.45 (1) and establish the
17 procedure for imposing and collecting the surcharge.

18 (k) Establish a plan for publicizing the exchange and the eligibility
19 requirements and enrollment procedures.

20 (L) Establish and operate a service center to provide information to small
21 employers, individuals, enrollees, and insurance intermediaries about the exchange.

22 (m) Establish a mechanism for regular communication and cooperation with
23 insurance intermediaries.

24 (n) Establish an independent and binding appeals process for resolving
25 disputes over eligibility and other determinations made by the authority.

1 (o) In accordance with section 1413 of the federal act, inform individuals of
2 eligibility requirements for Medical Assistance under subch. IV of ch. 49 or any other
3 applicable state or local public program and if, through screening of the application
4 by the authority, the authority determines that any individual is eligible for any such
5 program, ^{assist} ~~enroll~~ that individual ^{to enroll} in that program.

6 (p) Establish and make available by electronic means a calculator to determine
7 the actual cost of coverage after application of any premium tax credit under section
8 36B of the Internal Revenue Code and any cost-sharing reduction under section
9 1402 of the federal act.

10 (q) Establish a SHOP Exchange through which qualified employers may access
11 health care coverage for their employees and which shall enable any qualified
12 employer to specify a level of coverage so that any of its employees may enroll in any
13 qualified health plan offered through the SHOP Exchange at the specified level of
14 coverage.

15 (r) Perform duties required of the authority by the secretary or the federal
16 secretary of the treasury related to determining eligibility for premium tax credits,
17 reduced cost-sharing, or individual responsibility requirement exemptions.

18 (s) Select entities, which may include insurance intermediaries, that are
19 qualified to serve as navigators in accordance with section 1311 (i) of the federal act
20 and standards developed by the secretary, and award grants to enable navigators to
21 do all of the following:

22 1. Conduct public education activities to raise awareness of the availability of
23 qualified health plans.

24 2. Distribute fair and impartial information concerning enrollment in qualified
25 health plans and concerning the availability of premium tax credits under section

1 36B of the Internal Revenue Code and cost-sharing reductions under section 1402
2 of the federal act.

3 3. Facilitate enrollment in qualified health plans.

4 4. Provide referrals to any applicable office of health insurance consumer
5 assistance or health insurance ombudsman established under section 2793 of the
6 federal Public Health Service Act (42 USC 300gg-93), or to any other appropriate
7 state agency or agencies, for any enrollee with a grievance, complaint, or question
8 regarding their health benefit plan, coverage, or determination under that plan or
9 coverage.

10 5. Provide information in a manner that is culturally and linguistically
11 appropriate to the needs of the population being served by the exchange.

12 (t) Assist in the coordination of any necessary administrative operations
13 between the department of corrections and the department of health services to
14 ensure all of the following:

15 1. That an individual, upon placement in a correctional facility, is disenrolled
16 for the duration of his or her incarceration from any health care coverage in which
17 he or she is enrolled.

18 2. That an individual who is incarcerated in a correctional facility is enrolled
19 in some form of minimum essential coverage on the date of his or her release from
20 the facility.

21 (u) For those persons whose alcohol or other drug abuse or mental health
22 treatment is not covered by a federally administered program, coordinate the
23 relationship between the exchange and the county departments under s. 51.42 or
24 51.437 to provide outpatient and inpatient mental health and alcohol or other drug
25 abuse treatment with all of the following goals for the coordination:

****NOTE: I am unsure whether the county systems under s. 51.42 and 51.437 were the state-mandated, county-administered systems the draft language was referring to. You may want to check with whomever drafted that language if my references are correct, and, if they are not, to get a statutory citation or a more exact name of the program or facility.

1 1. Maximizing coverage and improving access through the exchange for
2 outpatient and inpatient treatment of mental illness and alcohol or other drug abuse.

3 2. Improving the quality of treatment for persons with alcohol or other drug
4 dependence or a mental illness.

5 3. Fully integrating the treatment for physical conditions, alcohol or other drug
6 abuse, and mental illness.

7 4. Reducing the cost of the county departments under ss. 51.42 and 51.437 to
8 taxpayers by avoiding unnecessary overlap between the improved coverage of
9 alcohol or other drug abuse treatment or mental illness treatment by health plans
10 offered through the exchange and the services provided by county departments
11 under s. 51.42 or 51.437.

12 (v) Review the rate of premium growth within the exchange and outside the
13 exchange, and consider the information in developing recommendations on whether
14 to continue limiting qualified employer status to small employers.

15 (w) Credit the amount of any free choice voucher to the monthly premium of
16 the plan in which a qualified employee is enrolled, in accordance with section 10108
17 of the federal act, and collect the amount credited from the offering employer.

18 (x) Consult with stakeholders relevant to carrying out the activities required
19 under this chapter, including any of the following:

20 1. Educated health care consumers who are enrollees in qualified health plans.

21 2. Individuals and entities with experience in facilitating enrollment in
22 qualified health plans.

1 3. Representatives of small businesses and self-employed individuals.

2 4. The department of health services.

3 5. Advocates for enrolling hard-to-reach populations.

4 (y) Meet all of the following financial integrity requirements:

5 1. Keep an accurate accounting of all activities, receipts, and expenditures and
6 annually submit to the secretary, the governor, the commissioner, and the legislature
7 a report concerning such accountings.

8 2. Fully cooperate with any investigation conducted by the secretary under the
9 secretary's authority under the federal act and allow the secretary, in coordination
10 with the inspector general of the federal department of health and human services,
11 to do all of the following:

12 a. Investigate the affairs of the authority.

13 b. Examine the properties and records of the authority.

14 c. Require periodic reports in relation to the activities undertaken by the
15 authority.

16 3. In carrying out its activities under this chapter, not use any funds intended
17 for the administrative and operational expenses of the authority for staff retreats,
18 promotional giveaways, excessive executive compensation, or promotion of federal
19 or state legislative or regulatory modifications.

20 (2) The authority may do all of the following relating to the exchange:

21 (a) Contract with a 3rd-party administrator for the provision of services on
22 behalf of the exchange.

23 (b) Establish risk adjustment mechanisms for the exchange.

24 (c) Enter into agreements with or establish sub-exchanges.

1 (d) Create any other exchange, or component of the exchange, that is provided
2 for under federal law.

3 (3) The authority shall seek grants or other funding from the federal or state
4 government for which it may be eligible and from private foundations. The authority
5 may begin operating the exchange only if it receives federal grant moneys or other
6 funds for that purpose.

7 **636.42 Health benefit plan certification.** (1) The authority may certify a
8 health benefit plan as a qualified health plan if all of the following are true:

9 (a) The plan provides the essential health benefits package described in section
10 1302 (a) of the federal act, except that the plan is not required to provide essential
11 benefits that duplicate the minimum benefits of qualified dental plans, as provided
12 in sub. (5), if all of the following are satisfied:

13 1. The authority has determined that at least one qualified dental plan is
14 available to supplement the plan's coverage.

15 2. The carrier makes prominent disclosure at the time it offers the plan, in a
16 form approved by the authority, that the plan does not provide the full range of
17 essential pediatric benefits and that qualified dental plans providing those benefits
18 and other dental benefits not covered by the plan are offered through the exchange.

19 (b) The premium rates and contract language have been filed with and not
20 disapproved by the commissioner.

21 (c) The plan provides at least a bronze level of coverage, as determined under
22 s. 636.30 (1) (e), unless the plan is certified as a qualified catastrophic plan, meets
23 the requirements of the federal act for catastrophic plans, and will only be offered to
24 individuals eligible for catastrophic coverage.

1 (d) The plan's cost-sharing requirements do not exceed the limits established
2 under section 1302 (c) (1) of the federal act and, if the plan is offered through the
3 SHOP Exchange, the plan's deductible does not exceed the limits established under
4 section 1302 (c) (2) of the federal act.

5 (e) The health carrier offering the plan satisfies all of the following:

6 1. Is licensed and in good standing to offer health insurance coverage in this
7 state.

8 2. Offers at least one qualified health plan in the silver level and at least one
9 *qualified health* plan in the gold level through each component of the exchange in which the carrier
10 participates. In this subdivision, "component" refers to the SHOP Exchange and the
11 exchange for individual coverage.

12 3. Charges the same premium rate for each qualified health plan without
13 regard to whether the plan is offered through the exchange or outside of the
14 exchange, and without regard to whether the plan is offered directly from the carrier
15 or through an insurance intermediary.

16 4. Does not charge any cancellation fees or penalties in violation of s. 636.25
17 (3).

18 5. Complies with the regulations developed by the secretary under section 1311
19 (d) of the federal act and such other requirements as the authority may establish.

20 (f) The plan meets the requirements of certification as required by any rules
21 promulgated under s. 636.46 (1) and by the secretary under section 1311 (c) of the
22 federal act, including minimum standards in the areas of marketing practices,
23 network adequacy, essential community providers in underserved areas,
24 accreditation, quality improvement, uniform enrollment forms, and descriptions of
25 coverage and information on quality measures for health benefit plan performance.

1 (g) The authority determines that making the plan available through the
2 exchange is in the interest of qualified individuals and qualified employers in this
3 state.

4 (2) The authority shall not exclude a health benefit plan for any of the following
5 reasons or in any of the following ways:

6 (a) On the basis that the plan is a fee-for-service plan.

7 (b) Through the imposition of premium price controls by the authority.

8 (c) On the basis that the health benefit plan provides treatments necessary to
9 prevent patients' deaths in circumstances the authority determines are
10 inappropriate or too costly.

11 (3) The authority shall require each health carrier seeking certification of a
12 ^{health benefit} plan as a qualified health plan to do all of the following:

13 (a) Submit a justification for any premium increase before implementation of
14 that increase. The carrier shall prominently post the information on its Internet Web
15 site. The authority shall take this information, along with the information and the
16 recommendations provided to the authority by the commissioner under section 2794
17 (b) of the federal Public Health Service Act (42 USC 300gg-94 (b)), into consideration
18 when determining whether to allow the carrier to make the plan available through
19 the authority.

20 (b) 1. Make available to the public, in the format described in subd. 2., and
21 submit to the authority, the secretary, and the commissioner, accurate and timely
22 disclosure of all of the following:

23 a. Claims payment policies and practices.

24 b. Periodic financial disclosures.

25 c. Data on enrollment.

- 1 d. Data on disenrollment.
- 2 e. Data on the number of claims that are denied.
- 3 f. Data on rating practices.
- 4 g. Information on cost-sharing and payments with respect to any
- 5 out-of-network coverage.
- 6 h. Information on enrollee and participant rights under title I of the federal act.
- 7 i. Other information as determined appropriate by the secretary.

8 2. The information required in subd. 1. shall be provided in plain language, as
9 that term is defined in section 1311 (e) (3) (B) of the federal act.

10 (c) Permit individuals to learn, in a timely manner upon the request of the
11 individual, the amount of cost-sharing, including deductibles, copayments, and
12 coinsurance, under the individual's plan or coverage that the individual would be
13 responsible for paying with respect to the furnishing of a specific item or service by
14 a participating provider. At a minimum, this information shall be made available
15 to the individual through an Internet Web site and through other means for
16 individuals without access to the Internet.

17 (4) The authority shall not exempt any health carrier seeking certification of
18 a qualified health plan, regardless of the type or size of the carrier, from state
19 licensure or solvency requirements and shall apply the criteria of this section in a
20 manner that assures equitable treatment of all health carriers participating in the
21 exchange.

22 (5) (a) The provisions of this chapter that are applicable to qualified health
23 plans shall also apply to the extent relevant to qualified dental plans except as
24 modified in accordance with pars. (b), (c), and (d) or by regulations adopted by the
25 authority.

a health benefit plan as

1 (b) The carrier shall be licensed to offer dental coverage, but need not be
2 licensed to offer other health benefits.

3 (c) The plan shall be limited to dental and oral health benefits, without
4 substantially duplicating the benefits typically offered by health benefit plans
5 without dental coverage and shall include, at a minimum, the essential pediatric
6 dental benefits prescribed by the secretary under section 1302 (b) (1) (J) of the federal
7 act, and such other dental benefits as the authority or the secretary may specify by
8 regulation.

9 (d) Carriers may jointly offer a comprehensive plan through the exchange in
10 which the dental benefits are provided by a carrier through a qualified dental plan
11 and the other benefits are provided by a carrier through a qualified health plan,
12 provided that the plans are priced separately and are also made available for
13 purchase separately at the same price.

14 **636.43 Insurer requirements.** (1) Any health carrier that is authorized to
15 do business in this state in one or more lines of insurance that includes health
16 insurance may offer health benefit plans through the exchange. After the exchange
17 becomes operational, no health carrier may offer or issue a health benefit plan in this
18 state to an individual or to a small employer except through the exchange.

19 (2) For the purpose of determining premiums, a carrier may pool together all
20 individuals and employees who have coverage under all of the plans issued by the
21 carrier through the exchange.

22 (3) A carrier that offers health benefit plans through the exchange shall
23 establish a toll-free hotline for providing information to enrollees and other
24 individuals and shall furnish such reasonable reports as the authority determines
25 necessary for the administration of the exchange.

qualified health

qualified

qualified
↑

1 (4) The authority may audit any carrier that provides coverage under a health
2 benefit plan through the exchange for the purpose of ensuring that the carrier is
3 providing covered individuals with the benefits provided for under this subchapter
4 in a manner that does all of the following:

- 5 (a) Complies with the provisions of this chapter.
- 6 (b) Promotes positive health outcomes.
- 7 (c) Advances value-based and evidence-based medical practices.
- 8 (d) Avoids unnecessary operating and capital costs arising from inappropriate
9 utilization or inefficient delivery of health care services, unwarranted duplication of
10 services and infrastructure, or creation of excess care delivery capacity.
- 11 (e) Holds down the growth of health care costs.

12 **636.44 Intermediaries.** An insurance intermediary that enrolls a qualified
13 individual in a health benefit plan through the exchange shall be paid a commission
14 by the carrier offering the health benefit plan. An insurance intermediary that
15 enrolls the employees of a qualified employer in one or more health benefit plans
16 through the exchange shall be paid a commission by each carrier offering a health
17 benefit plan selected by an employee of the qualified employer. The authority shall
18 determine the commission amounts that must be paid to intermediaries under this
19 section after considering information provided to the commissioner under s. 628.81
20 with respect to health insurance.

21 **636.45 Funding; publication of costs.** (1) For payment of administrative
22 expenses, the authority may impose a surcharge on each health carrier offering
23 health benefit plans through the exchange. The surcharge shall be based on the
24 carrier's total premium collected through the exchange.

qualified

1 Health Insurance Risk-Sharing Plan Authority, or his or her designee; the executive
2 director, or his or her designee, of the Wisconsin Collaborative for Healthcare
3 Quality, if that organization exists; the executive director, or his or her designee, of
4 the the Wisconsin Health Information Organization, if that organization exists; and
5 all of the following members, who shall be nominated by the governor, and with the
6 advice and consent of the senate appointed for 3-year terms except as provided in
7 sub. (2):

8 (a) A member in good standing of the American Academy of Actuaries.

9 (b) A health economist.

10 (c) An employee benefits specialist.

11 (d) A representative of small employers.

12 (e) A representative of an organization that represents consumer interests.

13 (f) A representative of organized labor.

14 (g) An individual with experience in health care administration.

15 **(2)** No member of the board appointed under sub. (1) (a) to (g) may be a health
16 care provider, as defined in s. 146.81 (1) (a) to (hp); an employee of a health care
17 provider, as defined in s. 146.81 (1) (i) to (p); an employee of an insurer that is
18 authorized to do business in the state; or an insurance intermediary.

19 **(3)** A vacancy on the board shall be filled in the same manner as the original
20 appointment to the board for the remainder of the unexpired term, if any.

21 **(4)** A member of the board shall receive no compensation for services under this
22 chapter but shall be reimbursed for actual and necessary expenses, including travel
23 expenses, incurred in the discharge of the member's duties under this chapter.

24 **(5)** The commissioner or the commissioner's designee shall be the chairperson
25 of the board. Seven members of the board constitute a quorum for the purpose of

1 conducting the business and exercising the powers of the authority, notwithstanding
2 the existence of any vacancy. The board may take action upon a vote of a majority
3 of the members present, unless the bylaws of the authority require a larger number.

4 (6) The chairperson shall appoint an executive director who shall not be a
5 member of the board and who shall serve at the pleasure of the board. The executive
6 director shall receive compensation commensurate with the duties of the office, as
7 determined by the board. The executive director shall serve as secretary of the
8 authority and shall keep a record of the proceedings of the authority and shall be
9 custodian of all books, documents, and papers filed with the authority, the minute
10 book or journal of the authority, and its official seal. The executive director or other
11 person may cause copies to be made of all minutes and other records and documents
12 of the authority and may give certificates under the official seal of the authority to
13 the effect that such copies are true copies, and all persons dealing with the authority
14 may rely upon such certificates. The executive director shall have all of the following
15 duties:

16 (a) Supervising the administrative affairs and the general management and
17 operation of the authority.

18 (b) Planning, directing, coordinating, and executing administrative functions
19 in conformity with the policies and directives of the board.

20 (c) Employing professional and clerical staff, as necessary.

21 (d) Reporting to the board on all operations under his or her control and
22 supervision.

23 (e) Preparing an annual budget and managing the administrative expenses of
24 the authority.

1 (f) Undertaking any activities necessary to implement the powers and duties
2 set forth in this chapter.

3 **636.72 Authority duties.** In addition to all other duties imposed under this
4 chapter, the authority shall do all of the following:

5 (1) Establish its annual budget and monitor its fiscal management.

6 (2) No later than two years after an exchange under subch. II begins operation,
7 and annually thereafter, submit a report to the legislature under s. 13.172 (2) and
8 to the governor on the operation of any exchange under subch. II, including a review
9 of all of the following:

10 (a) Progress toward the goals of the exchange.

11 (b) The operations and administration of the exchange.

12 (c) The types of health insurance plans available to eligible individuals and
13 groups and the percentage of the total exchange enrollees served by each plan.

14 (d) Surveys and reports on the insurers' experiences with different plans,
15 including aggregated data on enrollees, claims, statistics, complaint data, and
16 enrollee satisfaction data.

17 (e) Significant observations regarding utilization and adoption of the
18 exchange.

19 (3) Annually submit to the governor and the legislative audit bureau a
20 statement of its activities and financial condition.

21 (4) Approve the use of any trademarks, seals, or logos by participating insurers
22 and small employers.

23 (5) Comply with the requirements of s. 16.413 as if the authority is a state
24 agency.

1 **636.74 Authority powers.** The authority has all of the powers necessary or
2 convenient to carry out its duties under this chapter, except that it may not acquire
3 or hold title to real estate or issue bonds. In addition, the authority may do any of
4 the following:

5 (1) Adopt bylaws and policies and procedures for the regulation of its affairs
6 and the conduct of its business.

7 (2) Have a seal and alter the seal at pleasure; have perpetual existence; and
8 maintain an office.

9 (3) Hire employees, define their duties, and fix their rate of compensation.

10 (4) Delegate by resolution to one or more of its members any powers and duties
11 that it considers proper.

12 (5) Incur debt.

13 (6) Appoint any technical or professional advisory committee that the
14 authority finds necessary to assist the authority in exercising its duties and powers.
15 If the authority appoints a committee, the authority shall define the duties of the
16 committee and provide reimbursement for the expenses of the committee.

17 (7) Accept gifts, grants, loans, or other contributions from private or public
18 sources.

19 (8) Procure liability insurance.

20 (9) Sue and be sued in its own name and plead and be impleaded.

21 (10) Execute contracts and other instruments, including contracts for
22 professional or technical services required for the authority or the operation of an
23 exchange under subch. II.

24 **636.76 Contracting for professional services.** (1) Whenever contracting
25 for professional services, the authority shall solicit competitive sealed bids or

1 competitive sealed proposals, whichever is appropriate. Each request for
2 competitive sealed proposals shall state the relative importance of price and other
3 evaluation factors.

4 (2) (a) When the estimated cost exceeds \$25,000, the authority may invite
5 competitive sealed bids or proposals by publishing a class 2 notice under ch. 985 or
6 by posting notice on the Internet at a site determined or approved by the authority.
7 The notice shall describe the contractual services to be purchased, the intent to make
8 the procurement by solicitation of bids or proposals, any requirement for surety, and
9 the date the bids or proposals will be opened, which shall be at least 7 days after the
10 date of the last insertion of the notice or at least 7 days after the date of posting on
11 the Internet.

12 (b) When the estimated cost is \$25,000 or less, the authority may award the
13 contract in accordance with simplified procedures established by the authority for
14 such transactions.

15 (c) For purposes of clarification, the authority may discuss the requirements
16 of the proposed contract with any person who submits a bid or proposal and shall
17 permit any offerer to revise his or her bid or proposal to ensure its responsiveness to
18 those requirements.

19 (3) (a) The authority shall determine which bids or proposals are reasonably
20 likely to be awarded the contract and shall provide each offerer of such a bid or
21 proposal a fair and equal opportunity to discuss the bid or proposal. The authority
22 may negotiate with each offerer in order to obtain terms that are advantageous to
23 the authority. Prior to the award of the contract, any offerer may revise his or her
24 bid or proposal. The authority shall keep a written record of all meetings,

1 conferences, oral presentations, discussions, negotiations, and evaluations of bids or
2 proposals under this section.

3 (b) In opening, discussing, and negotiating bids or proposals, the authority may
4 not disclose any information that would reveal the terms of a competing bid or
5 proposal.

6 (4) (a) After receiving each offerer's best and final offer, the authority shall
7 determine which proposal is most advantageous and shall award the contract to the
8 person who offered it. The authority's determination shall be based only on price and
9 the other evaluation factors specified in the request for bids or proposals. The
10 authority shall state in writing the reason for the award and shall place the
11 statement in the contract file.

12 (b) Following the award of the contract, the authority shall prepare a register
13 of all bids or proposals.

14 **636.78 Political activities.** (1) No employee of the authority may directly
15 or indirectly solicit or receive subscriptions or contributions for any partisan political
16 party or any political purpose while engaged in his or her official duties as an
17 employee. No employee of the authority may engage in any form of political activity
18 calculated to favor or improve the chances of any political party or any person seeking
19 or attempting to hold partisan political office while engaged in his or her official
20 duties as an employee or engage in any political activity while not engaged in his or
21 her official duties as an employee to such an extent that the person's efficiency during
22 working hours will be impaired or that he or she will be tardy or absent from work.
23 Any violation of this section is adequate grounds for dismissal.

24 (2) If an employee of the authority declares an intention to run for partisan
25 political office, the employee shall be placed on a leave of absence for the duration

1 of the election campaign and if elected shall no longer be employed by the authority
2 on assuming the duties and responsibilities of such office.

3 (3) An employee of the authority may be granted, by the executive director, a
4 leave of absence to participate in partisan political campaigning.

5 (4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the
6 restrictions of sub. (1), except as they apply to the solicitation of assistance,
7 subscription, or support from any other employee in the authority.

8 **636.80 Financial disclosure.** (1) In this section, "individual required to file"
9 means a person who is a member of the board of the authority or the executive
10 director of the authority.

****NOTE: Did you want all employees of the authority to be required to file financial disclosure forms?

11 (2) Each individual who in January of any year is an individual required to file
12 shall file with the government accountability board no later than April 30 of that year
13 a statement of economic interests meeting each of the requirements of s. 19.44 (1).
14 The information contained on the statement shall be current as of December 31 of
15 the preceding year.

16 (3) An individual required to file shall file with the government accountability
17 board a statement of economic interests meeting each of the requirements of s. 19.44
18 (1) no later than 21 days following the date he or she assumes a position on the board
19 or the position of executive director if the individual required to file has not
20 previously filed a statement of economic interests with the government
21 accountability board during that year. The information on the statement shall be
22 current as per the date he or she assumes the position.

1 (4) If an individual required to file fails to make a timely filing, the government
 2 accountability board shall promptly provide notice of the delinquency to the
 3 secretary of administration, and to the executive director of the authority, or the
 4 chairperson of the board if the executive director's filing is untimely. Upon such
 5 notification, both the secretary of administration and the executive director, or
 6 chairperson, shall withhold all payments for compensation, reimbursement of
 7 expenses, and other obligations to the individual until the government
 8 accountability board notifies those to whom notice of the delinquency was provided
 9 that the individual has complied with this section.

10 (5) On its own motion or at the request of any individual required to file a
 11 statement of economic interests, the government accountability board may extend
 12 the time for filing or waive any filing requirement if the government accountability
 13 board determines that the literal application of the filing requirements of this
 14 subchapter would work an unreasonable hardship on that individual or that the
 15 extension of the time for filing or waiver is in the public interest. The government
 16 accountability board shall set forth in writing as a matter of public record its reason
 17 for the extension or waiver.

Insert
46-18
→

18 **636.82 Conflict of interest prohibited; exception.** (1) Except in
 19 accordance with the government accountability board's advice under s. 5.05 (6a) and
 20 except as otherwise provided in sub. (2), a member of the board and the executive
 21 director may not do any of the following:

22 (a) Take any official action substantially affecting a matter in which the board
 23 member or executive director, a member of his or her immediate family, or an
 24 organization with which the board member or director is associated has a substantial
 25 financial interest.

1 (b) Use his or her office or position in a way that produces or assists in the
2 production of a substantial benefit, direct or indirect, for the board member or
3 executive director, one or more members of his or her immediate family either
4 separately or together, or an organization with which the board member or executive
5 director is associated.

6 (2) This section does not prohibit a board member or the executive director from
7 taking any action concerning the lawful payment of salaries or employee benefits or
8 reimbursement of actual and necessary expenses.

Insert
47-9

****NOTE: Do you want any penalties to apply for violating the conflict of interest
or financial disclosure provisions?

9 **636.84 Liability; expenses; limitations.** (1) Neither the state, nor any
10 political subdivision of the state, nor any officer, employee, or agent of the state or
11 a political subdivision who is acting within the scope of employment or agency is
12 liable for any debt, obligation, act, or omission of the authority.

13 (2) All of the expenses incurred by the authority in exercising its duties and
14 powers under this chapter shall be payable only from funds of the authority.

15 (3) A cause of action may arise against and civil liability may be imposed on
16 the authority for its acts or omissions or for any act or omission of a member of the
17 board, the executive director, or an employee of the authority in the performance of
18 his or her powers and duties under this chapter.

19 (4) A cause of action may not arise against and civil liability may not be imposed
20 on a member of the board, the executive director, or an employee of the authority for
21 any act or omission in the performance of his or her powers and duties under this
22 chapter, unless the person asserting liability proves that the act or omission
23 constitutes willful misconduct or intentional violation of the law. The member of the

1 board, executive director, or employee who performed the act or omission that formed
2 the basis of liability shall be jointly liable with the authority if that board member,
3 executive director, or employee fails to cooperate with the authority in defense of the
4 claim and if the failure to cooperate affects the defense of the action.

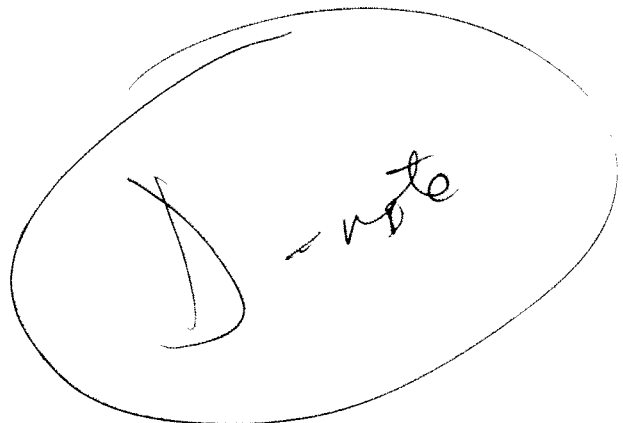
5 (5) The amount recoverable by any person for any damages, injuries, or death
6 in any civil action or civil proceeding against the authority, including any such action
7 or proceeding based on contribution or indemnification, shall not exceed \$100,000.

8 **SECTION 49. Effective dates.** This act takes effect on the day after publication,
9 except as follows:

10 (1) The repeal and recreation of section 16.417 (1) (a) of the statutes takes effect
11 on January 1, 2012, or on the day after publication, whichever is later.

12 (2) The treatment of section 635.18 (1) of the statutes takes effect on January
13 1, 2014.

14 (END)

A handwritten signature, possibly "D. Note", is enclosed in a large, hand-drawn oval. The signature is written in cursive and appears to be a name followed by the word "note".

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0760/lins
PJK:.....

INSERT A-2

182

Health benefit exchange

Under the bill, the authority has responsibility for operating a health benefit exchange in this state, as long as the authority receives federal grant moneys or other funds for the operation of the exchange. The authority must make qualified health plans, with effective dates on or before January 1, 2014, available to qualified individuals and qualified employers. A qualified health plan is defined in the bill, generally, as a health benefit plan that covers the costs of health care services and that meets the certification criteria described in the federal Patient Protection and Affordable Care Act (PPACA). A qualified individual is defined in the bill, generally, as a citizen or national of the United States, or an alien lawfully present in the United States, who is not imprisoned in a correctional facility and who resides in this state. A qualified employer is defined in the bill, generally, as an employer with not more than 100 employees (small employer) that either: 1) has its principal place of business in this state and elects to provide coverage to all of its eligible employees, wherever employed, through the small business health options program component of the exchange (SHOP Exchange) established by the authority or 2) elects to provide coverage through the SHOP Exchange to all of its eligible employees who are principally employed in this state.

Only health benefit plans that are certified by the authority as qualified health plans may be offered through the exchange. To be certified as a qualified health plan, a health benefit plan must provide the essential health benefits package described in PPACA, its premium rates and contract language must have been filed with and not disapproved by the commissioner of insurance (commissioner), it must provide at least a bronze level of coverage, as determined by the authority in accordance with criteria developed by the secretary of the federal department of health and human services (federal secretary), its cost-sharing must not exceed limits established in PPACA, the insurer offering it must meet specified criteria, and the authority must determine that making the plan available through the exchange is in the interest of qualified individuals and qualified employers in this state.

The authority must assign a rating to, and determine the level of coverage of, each qualified health plan offered through the exchange. The levels of coverage under PPACA are bronze, silver, gold, and platinum, and are based on what percentage of the full actuarial value of the benefits provided under the plan the benefits under the plan provides. An eligible employee of a qualified employer that provides coverage through the SHOP Exchange may enroll in any qualified health plan offered through the SHOP Exchange that has the level of coverage specified by his or her employer.

After the exchange begins operating, no insurer may offer or issue health benefit plan coverage in this state to an individual or a small employer except through the exchange. Although any insurer that is authorized to do business in this state in one or more lines of insurance that includes health insurance may offer qualified health plans through the exchange, a health benefit plan may not be certified as a qualified health plan unless the insurer that offers it, among other

↓

Ins A-2 cont'd 2012

things, is in good standing, charges the same premium for the plan through the exchange and outside of the exchange, offers through the exchange at least one qualified health plan in each of the silver and gold levels of coverage, and complies with regulations of the federal secretary and any other requirements established by the authority. In addition, any insurer that seeks certification of a health benefit plan as a qualified health plan must provide a justification for any premium increase; must make specified information available to the public, such as data on enrollment and on the number of claims denied, claims payment policies and practices, and financial disclosures; and must permit individuals enrolled in the plan to learn the amount that an individual would be responsible for paying toward the cost of a specific item or service.

✓ An insurer that offers coverage through the exchange must establish a toll-free hotline for providing information to enrollees and must pay a commission, determined by the authority, to an insurance intermediary who enrolls a qualified individual or employees of a qualified employer in a qualified health plan offered by the insurer through the exchange. For determining premiums, an insurer that offers coverage through the exchange may pool together all individuals and employers with coverage under all of the plans issued by the insurer through the exchange. To pay administrative expenses of the exchange, the authority may impose on each insurer offering plans through the exchange a surcharge that is based on the insurer's total premium collected through the exchange.

enroll

✓ The bill sets out numerous responsibilities for the authority with respect to the exchange. In addition to the administrative duties related to certifying and rating health benefit plans and enrolling qualified individuals and qualified employers, the authority must provide for the operation of a toll-free telephone hotline to respond to requests for assistance; establish an appeals process; establish and operate a service center to provide information; publicize the exchange; maintain a Web site with comparative information about qualified health plans; screen applicants for eligibility for Medical Assistance (MA) and, if eligible, assist them in MA; select, and award grants to, entities to (service) as navigators for conducting public education activities and distributing information about, and facilitating enrollment in, qualified health plans; review the rate of premium growth within the exchange and outside of the exchange; and develop recommendations on whether qualified employers should be limited to small employers. The authority may establish risk adjustment mechanisms for the exchange, contract with a third-party administrator for services on behalf of the exchange, and establish sub-exchanges or other exchanges provided for under federal law. The authority must keep an accounting of all exchange-related activities and receipts and expenditures and annually submit a report of the accounting to the federal secretary, the governor, the commissioner, and the legislature.

to enroll

serve

✓ The commissioner may promulgate rules related to the implementation of the exchange and must develop a standard application form for use in the exchange.

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

(END OF INSERT A-2)

insert space before CRIME and FE-S tags

add CRIME tag

Insert 18-4)



Section #. 49.45 (2) (a) 3. of the statutes is amended to read:

↓ → Subject to s. 636.30 (1)(o), determine

49.45 (2) (a) 3. ~~Determine~~ the eligibility of persons for medical assistance, rehabilitative, and social services under ss. 49.46, 49.468, 49.47, and 49.471 and rules and policies adopted by the department and may, under a contract under s. 49.78 (2), delegate all, or any portion, of this function to the county department under s. 46.215, 46.22, or 46.23 or a tribal governing body.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342; 2011 a. 10, 32.

(end of ins. 18-4)



1 INSERT ANALYSIS

Badger Health Benefit Authority

This bill creates the Badger Health Benefit Program Authority (authority) that is a public body corporate and politic that is created by state law but that is not a state agency. The authority is governed by a board of directors consisting of the commissioner of insurance (commissioner), the secretary of employee trust funds, the director of the state Medical Assistance program, the executive director of the Health Insurance Risk-Sharing Plan Authority, and the following members who are nominated by the governor, and with the advice and consent of the senate appointed, for three-year terms: a member in good-standing of the American Academy of Actuaries, a health economist, an employee benefits specialist, a representative of small employers, a representative of an organization that represents consumer interests, a representative of organized labor, and an individual with experience in health care administration. The chairperson of the board is the commissioner, who must appoint an executive director of the authority. The executive director must, among other duties, supervise the administrative affairs and general management and operation of the authority, employ professional and clerical staff, as necessary, and prepare the authority's annual budget.

The authority is not a state agency, so numerous laws that apply to state agencies do not apply to the authority. However, the authority is treated like a state agency in the following ways, among others: it is subject to auditing by the Legislative Audit Bureau; it is subject to open meeting and open records laws; and it is exempt from property tax, income tax, and sales and uses taxes. The authority has powers, including adopting bylaws and policies and procedures for the regulation of its affairs and conduct of its business; hiring employees; incurring debt; suing and being sued in its own name; and executing contracts. The bill establishes a process that the authority must use when it contracts for professional services. Under the bill, the authority is subject to civil liability for its acts or omissions except that the maximum amount recoverable in a civil action against the authority is \$100,000. However, a member of the authority's board of directors, the authority's executive director, or an authority employee is exempt from civil liability unless the member, director, or employee acted with willful misconduct or in intentional violation of the law. The bill also imposes restrictions on board members and the authority's executive director pertaining to conflicts of interest and requires board members and the executive director to file financial disclosures.

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

(END INSERT ANALYSIS)

1 **(6)** (a) Any person who violates this section may be required to forfeit not more
2 than \$500 for each violation. If the court determines that the accused has realized
3 economic gain as a result of the violation, the court may, in addition, order the
4 accused to forfeit the amount gained as a result of the violation. The attorney
5 general, when so requested by the government accountability board, shall institute
6 proceedings to recover any forfeiture incurred under this subsection that is not paid
7 by the person against whom it is assessed. ✓

8 (b) Any person who intentionally violates this section shall be fined not less
9 than \$100 nor more than \$5,000 or imprisoned not more than one year in the county
10 jail or both.

(END INSERT 46-18)

11 INSERT 47-9

12 **(3)** (a) Any person who violates this section may be required to forfeit not more
13 than \$5,000 for each violation. If the court determines that the accused has realized
14 economic gain as a result of the violation, the court may, in addition, order the
15 accused to forfeit the amount gained as a result of the violation. The attorney
16 general, when so requested by the government accountability board, shall institute
17 proceedings to recover any forfeiture incurred under this subsection that is not paid
18 by the person against whom it is assessed.

19 (b) Any person who intentionally violates this section shall be fined not less
20 than \$100 nor more than \$5,000 or imprisoned not more than one year in the county
21 jail or both.

(END INSERT 47-9)

-0760/1 dn
PJK :cjs:

§ - note

I have modified proposed s. 636.30
 (1) (a) to say
 (1) (a) ~~from~~ to say that the authority
 assists ~~a~~ a person to enroll in Medical
 assistance (MA) rather than actually
 enrolling the person in MA, because
 I'm not sure
 I'm not sure that the authority
 is given under federal law
 to give the power to actually
 enroll a person in MA o

PJK

Dodge, Tamara

From: Kleinschmidt, Linda
Sent: Monday, September 26, 2011 6:05 PM
To: Kahler, Pam; Dodge, Tamara
Cc: 'kathleen@riverland.org'
Subject: Modifications to LRB 0760/P3

Importance: High

Hi Pam and Tamara,

Below are modifications to LRB 0760/P3 requested by Kathleen:

- ✓ 1. Page 28, Line 12: delete "a" and replace with "the" and delete "so that any of" and replace with "within which". So line 12 will read: employer to specify the level of coverage within which its employees may enroll in any
- ✓ 2. Page 29, Line 18 – 20: after "correctional facility" delete the rest of line 18, line 19 and line 20. Replace that language with "but scheduled to be released from incarceration in the near future is enrolled prior to release, through the exchange and effective upon the date of release, in Medicaid, a qualified health plan, or some other form of minimum essential coverage on the date of his or her release from incarceration." So lines 18, 19 and 20 will read: 2. That an individual who is incarcerated in a correctional facility but scheduled to be released from incarceration in the near future is enrolled prior to release, through the exchange and effective upon the date of release, in Medicaid, a qualified health plan, or some other form of minimum essential coverage on the date of his or her release from incarceration.
- ✓ 3. Page 29, Line 23: insert "Medical Assistance," after the word "between" and before the word "the". So the line will read: relationship between Medical Assistance, the exchange and the county department under s. 51.42 or
- ✓ 4. Page 31, Lines 16 – 19: Kathleen would like to add language that allows the authority to defend the law if necessary. She suggested language like "This provision does not preclude answering inquiries of the state and federal legislative bodies and/or advancing policies established by the board or by law." Don't hesitate to offer your suggestions on how that language might appear in the draft as long as we accomplish the goal of allowing the authority to do those functions.
- ✓ 5. Page 32, Lines 3 – 6: Kathleen thinks the draft should reference the federal law that the authority must apply for federal dollars for start-up. If you have questions about this item, please let me know. I am not as versed on the federal law as Kathleen or the two of you but can pass a question on to Kathleen.
- ✓ 6. Page 37, Line 24: insert "or flat dollar amount per enrollee" after the word "premium" and before the word "collected". So line 24 will read: "carrier's total premium or flat dollar amount per enrollee collected through the exchange.
- ✓ 7. Page 39, Line 1: insert "if that organization exists;" after the word "designee,". So line 1 reads "Health Insurance Risk-Sharing Plan Authority, or his or her designee, if that organization exists; the executive"
- ✓ 8. I cannot find the language that permits the authority to create other exchanges or require governments to use the SHOP exchange. Can you point that out to me or is it possible we need to add this provision to the draft.

Let me know if you have questions or comments I need to bring to Kathleen. Thanks for all of your work on this draft.

Linda Kleinschmidt

Chief of Staff
Office of State Senator Kathleen Vinehout
3 South State Capitol - PO Box 7882
Madison, WI 53707-7882
608-266-8546
1-877-763-6636

Kahler, Pam

From: Kleinschmidt, Linda
Sent: Wednesday, September 28, 2011 10:18 AM
To: Kahler, Pam
Subject: RE: Language for bill

You are right...we are not adding the requirement for governmental bodies.

Thanks Pam

Linda Kleinschmidt

Chief of Staff
Office of State Senator Kathleen Vinehout
3 South State Capitol - PO Box 7882
Madison, WI 53707-7882
608-266-8546
1-877-763-6636

From: Kahler, Pam
Sent: Wednesday, September 28, 2011 10:03 AM
To: Kleinschmidt, Linda
Subject: RE: Language for bill

Sounds like you're not adding the requirement for governmental bodies - if that is the case, I would say tomorrow afternoon or Friday.

From: Kleinschmidt, Linda
Sent: Tuesday, September 27, 2011 5:26 PM
To: Kahler, Pam
Subject: RE: Language for bill

Hi Pam,

I spoke with Kathleen about the language you offered and she liked it so go ahead with that change. Kathleen was wondering about status...when you might have the draft ready.

Thanks so much!

Linda Kleinschmidt

Chief of Staff
Office of State Senator Kathleen Vinehout
3 South State Capitol - PO Box 7882
Madison, WI 53707-7882
608-266-8546
1-877-763-6636

From: Kahler, Pam
Sent: Tuesday, September 27, 2011 11:41 AM
To: Kleinschmidt, Linda
Subject: Language for bill

Linda:

Here is the language I had in mind: at the end of page 31, line 19, add: , except that this subdivision does not prohibit the authority from advocating, as part of administering the exchange, for policies that the authority determines are in the best interest of the exchange or of individuals and employees receiving coverage through the exchange.

Pamela J. Kahler

Legislative Attorney

Legislative Reference Bureau

608-266-2682