



State of Wisconsin
2011 – 2012 LEGISLATURE



LRB-2051/1
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2011 SENATE BILL 347

December 27, 2011 – Introduced by Senators TAYLOR, MILLER, CARPENTER, WIRCH and LASSA, cosponsored by Representatives C. TAYLOR, SINICKI, BARCA, GRIGSBY, BERCEAU, MOLEPSKE JR, PASCH, BEWLEY, POPE-ROBERTS and CLARK. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT** *to renumber* 16.84 (9); *to amend* 13.90 (9), 15.105 (5), 16.838 (2) to (6),
2 16.84 (1), 16.84 (8), 16.84 (13), 16.843 (1) (b), 16.843 (3) (intro.), 16.843 (4) and
3 (5), 20.855 (3) (c), 20.865 (2) (e), 101.123 (1) (ar), 227.01 (1), 342.40 (3) (a) and
4 941.235 (2); and *to create* 13.491 and 20.765 (5) of the statutes; **relating to:**
5 creation of a Capitol Council, granting rule-making authority, making
6 appropriations, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates an entity called the Capitol Council, which is given responsibility for the management, operation, maintenance, and repair of the state capitol and the capitol park. The council consists of the governor or his or her designee, the chief justice of the supreme court, the speaker of the assembly, the president of the senate, and one other member who is not a state officer or employee. The chief justice serves as chairperson. Currently, the Department of Administration (DOA) has responsibility for the management, operation, maintenance and repair of the capitol and capitol park. The bill transfers all assets, liabilities, positions, employees, tangible personal property, contracts, rules, orders, and pending matters of DOA that are primarily related to DOA's managerial responsibility for the capitol to the council. The bill also grants rule-making authority to the council to carry out its responsibilities with regard to management, operation, maintenance, repair, and security of the capitol and prescribes penalties for violations of the rules.

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Currently, any proposed renovation or installation of fixtures, decorative items, or furnishings on the grounds of the capitol or executive residence is subject to the review and approval of the State Capitol and Executive Residence Board. Currently, the secretary of administration or his or her designee and an architect employed by DOA who is appointed by the secretary serve as members of the board. This bill substitutes the chairperson of the Capitol Council or the chairperson's designee and the architect of the capitol as members of the board.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

1 **SECTION 1.** 13.491 of the statutes is created to read:

2 **13.491 Capitol council. (1) CREATION.** There is created a capitol council
3 consisting of the governor or his or her designee, the chief justice of the supreme
4 court, the speaker of the assembly, the president of the senate, and one other member
5 who is not a state officer or employee appointed by the governor to serve at the
6 governor's pleasure.

7 **(2) OFFICERS.** The chief justice of the supreme court shall serve as chairperson
8 of the capitol council. At its first meeting following the first Monday in January of
9 each odd-numbered year, the council shall elect a vice chairperson and secretary
10 from its membership, who shall serve until their successors are elected and qualified.
11 The council shall fill any vacancy in the offices of vice chairperson and secretary and
12 the person elected shall serve until his or her successor is elected and qualified.

13 **(3) EXPENSES.** The member of the capitol council who is not a state officer or
14 employee shall be reimbursed for actual, reasonable, and necessary expenses
15 incurred in the performance of his or her duties.

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1 **(4) STAFF.** The capitol council shall employ the personnel authorized by law to
2 carry out its functions. The chief staff member shall be known as “the architect of
3 the capitol.”

4 **(5) FUNCTIONS.** Except as otherwise expressly provided, the capitol council has
5 responsibility for the management, operation, maintenance, repair, and security of
6 the capitol building and capitol park. To this end, the council shall:

7 (a) Let concessions for periods not exceeding 2 years in the capitol, under such
8 terms and conditions as will in its judgment be most favorable to the state, in
9 coordination with the department of workforce development under s. 47.03 (4), (5),
10 (7), and (11).

11 (c) Maintain bicycle storage racks adjacent to the capitol.

12 (d) Subject to appropriations and position authorizations, appoint such
13 number of police officers as is necessary to safeguard the capitol. The council may,
14 to the extent it is necessary, authorize police officers employed by the council to
15 safeguard state officers, state employees, or other persons. A police officer who is
16 employed by the council and who is performing duties that are within the scope of
17 his or her employment as a police officer has the powers of a peace officer under s.
18 59.28, except that the officer has the arrest powers of a law enforcement officer under
19 s. 968.07 regardless of whether the violation is punishable by forfeiture or criminal
20 penalty. The officer may exercise the powers of a peace officer and the arrest powers
21 of a law enforcement officer while located anywhere within this state. Nothing in this
22 subsection limits or impairs the duty of the chief and each police officer of the police
23 force of the city of Madison to arrest and take before the proper court or magistrate
24 persons found in a state of intoxication or engaged in any disturbance of the peace
25 or violating any state law in the city, as required by s. 62.09 (13).

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1 **(6) RULES.** (a) The capitol council shall promulgate under ch. 227, and shall
2 enforce or have enforced, rules of conduct for the capitol and capitol park. Unless the
3 rule specifies a penalty as provided under par. (b), a person found guilty of violating
4 a rule promulgated under this paragraph shall be fined not more than \$100 or
5 imprisoned for not more than 30 days or both.

6 (b) A rule promulgated under par. (a) may provide that a person who violates
7 the rule is subject to one of the following:

8 1. A lesser criminal penalty than the criminal penalty specified in par. (a).

9 2. A forfeiture of not more than \$500.

10 (c) A forfeiture under par. (b) 2. may be sued for and collected in the name of
11 the council before any court having jurisdiction of such action. An action for a
12 forfeiture under par. (b) 2. may be brought by the council, by the department of justice
13 at the request of the council, or by a district attorney.

14 **(7) FINE AND FORFEITURE REVENUE.** The council shall transmit all fines imposed
15 and collected under this subsection to the county treasurer for disposition in
16 accordance with s. 59.25 (3) (f) and (j). The council shall transmit all forfeitures,
17 including forfeitures of posted bail, if any, imposed and collected under this section
18 to the county treasurer for disposition in accordance with ss. 778.13 and 778.17.

19 **SECTION 2.** 13.90 (9) of the statutes is amended to read:

20 13.90 **(9)** The joint committee on legislative organization may direct the
21 ~~department of administration~~ capitol council to take possession of any furnishing to
22 which the ~~department~~ capitol council has title under s. 16.838 (2), to restore any
23 furnishing in the department's possession, if necessary, and to locate any such
24 furnishing at the place in the capitol building specified by the committee.

25 **SECTION 3.** 15.105 (5) of the statutes is amended to read:

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1 15.105 (5) STATE CAPITOL AND EXECUTIVE RESIDENCE BOARD. There is created a
2 state capitol and executive residence board, attached to the department of
3 administration under s. 15.03, consisting of the ~~secretary of administration~~
4 chairperson of the capitol council or the secretary's chairperson's designee, the
5 director of the historical society or the director's designee, ~~an~~ the architect ~~or~~
6 ~~engineer employed by the department of administration appointed by the secretary~~
7 ~~of administration of the capitol~~, 3 senators and 3 representatives to the assembly
8 appointed as are the members of standing committees in their respective houses, and
9 7 citizen members appointed for staggered 6-year terms of whom at least 2 shall be
10 architects registered under ch. 443, one shall be a landscape architect registered
11 under ch. 443 and 3 shall be interior designers.

12 **SECTION 4.** 16.838 (2) to (6) of the statutes are amended to read:

13 16.838 (2) TITLE. Title to historically significant furnishings in the possession
14 of any agency or authority, including the senate and assembly, is vested in the capitol
15 council if the furnishings are associated with the capitol. ~~Title to other historically~~
16 significant furnishings in the possession of an agency or authority, including the
17 senate and assembly, is vested in the department.

18 **(3)** ACQUISITION. The capitol council and the department may acquire any
19 historically significant furnishing by purchase or gift. The capitol council and the
20 department shall pay for any such furnishing from the appropriation under s. 20.855
21 (3) (c).

22 **(4)** TRANSFER OF POSSESSION. The capitol council and the department shall take
23 possession of historically significant furnishings to which the council and the
24 department has have title whenever the department is directed to do so by the joint
25 committee on legislative organization. If a ceding agency or authority requires a

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1 replacement for a furnishing that is transferred to the department's possession, the
2 capitol council or the department shall pay for a suitable replacement from the
3 appropriation under s. 20.855 (3) (c).

4 **(5) RESTORATION.** The ~~department~~ capitol council shall restore any historically
5 significant furnishing in its possession prior to relocation of the furnishing to the
6 capitol if the joint committee on legislative organization so directs. The department
7 shall pay the cost of such restoration from the appropriation under s. 20.855 (3) (c).

8 **(6) LOCATION.** The ~~department~~ capitol council shall locate historically
9 significant furnishings in its possession at the places in the capitol specified by the
10 joint committee on legislative organization.

11 **SECTION 5.** 16.84 (1) of the statutes is amended to read:

12 16.84 **(1)** Have charge of, operate, maintain and keep in repair ~~the state capitol~~
13 ~~building,~~ the executive residence, the light, heat and power plant, the state office
14 buildings and their power plants, the grounds connected therewith, and such other
15 state properties as are designated by law. All costs of such operation and
16 maintenance shall be paid from the appropriations under s. 20.505 (5) (ka) and (kb),
17 except for debt service costs paid under s. 20.866 (1) (u). The department shall
18 transfer moneys from the appropriation under s. 20.505 (5) (ka) to the appropriation
19 account under s. 20.505 (5) (kc) sufficient to make principal and interest payments
20 on state facilities and payments to the United States under s. 13.488 (1) (m).

21 **SECTION 6.** 16.84 (8) of the statutes is amended to read:

22 16.84 **(8)** Let concessions for periods not exceeding 2 years in the ~~capitol and~~
23 state office buildings, under such terms and conditions as will in its judgment be
24 most favorable to the state, and in accordance with s. 47.03 (4), (5), (7) and (11).

25 **SECTION 7.** 16.84 (9) of the statutes is renumbered 13.491 (5) (b).

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1 **SECTION 8.** 16.84 (13) of the statutes is amended to read:

2 16.84 **(13)** Establish bicycle storage racks adjacent to ~~the capitol~~ and all state
3 office buildings.

4 **SECTION 9.** 16.843 (1) (b) of the statutes is amended to read:

5 16.843 **(1)** (b) Eight areas, for the parking of motor vehicles at the curb on the
6 capitol park side of the 4 streets surrounding the state capitol park, each area as near
7 as lawfully permissible to each near side of the intersections of the streets with the
8 driveways leading to the capitol building, are reserved for the parking of motor
9 vehicles by those persons designated in sub. (3) and only emergency police
10 regulations or city ordinances of the city of Madison are applicable to such areas. The
11 number of motor vehicles to be parked in each area shall be designated in a parking
12 plan approved by the joint committee on legislative organization. The department
13 ~~of administration~~ capitol council shall mark and post the areas and number the
14 parking spaces therein. Parking of motor vehicles in these areas is permitted only
15 by persons whose motor vehicles are identified as specified in sub. (4), and the
16 parking therein of any other vehicle is prohibited and any violation of this
17 prohibition shall be punished as in sub. (2).

18 **SECTION 10.** 16.843 (3) (intro.) of the statutes is amended to read:

19 16.843 **(3)** (intro.) The following persons or their designees may park motor
20 vehicles identified as provided by sub. (4) in assigned parking stalls and spaces in
21 the parking areas designated in subs. (1) (b) and (2) (a):

22 **SECTION 11.** 16.843 (4) and (5) of the statutes are amended to read:

23 16.843 **(4)** To facilitate the administration of sub. (3), the ~~state protective~~
24 ~~service~~ capitol council shall procure numbered identification tags which correspond
25 with the numbered parking stalls and spaces, and shall issue such tags to applicants

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SECTION 11

1 eligible under sub. (3) in accordance with the parking plan approved by the joint
2 committee on legislative organization under sub. (1).

3 (5) Notwithstanding the limited allocation of parking areas for state purposes
4 under sub. (1), the enforcement of parking regulations on the capitol park side of the
5 4 streets surrounding the state capitol park is vested exclusively in the designated
6 employees of the ~~state protective service~~ capitol council.

7 SECTION 12. 20.005 (3) (schedule) of the statutes: at the appropriate place,
8 insert the following amounts for the purposes indicated:

9 **2009-10** **2010-11**

10 **20.765 Legislature**

11 (5) CAPITOL COUNCIL

12 (a) General program operations GPR A -0- -0-

13 (ka) Facility operation and mainte-
14 nance; police and protective
15 functions PR-S A -0- -0-

16 SECTION 13. 20.765 (5) of the statutes is created to read:

17 20.765 (5) CAPITOL COUNCIL. (a) *General program operations*. The amounts in
18 the schedule for the general program operations of the capitol council.

19 (ka) *Facility operation and maintenance; police and protective functions*. The
20 amounts in the schedule for the purpose of financing the costs of operation of the
21 capitol that are not funded from other appropriations, including custodial and
22 maintenance services; minor projects; utilities, fuel, heat, and air conditioning;
23 assessments levied by the department of administration under s. 16.847 (3) for costs
24 and savings generated at the capitol; and costs incurred under s. 16.858 and 16.895

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1 by or on behalf of the capitol council; and for police and protection functions under
2 s. 13.491 (5) (d). All moneys received from state agencies for the operation of the
3 capitol and miscellaneous other sources, and all moneys transferred from the
4 appropriation account under s. 20.865 (2) (e) for that purpose shall be credited to this
5 appropriation account. The capitol council shall transfer moneys from the
6 appropriation under s. 20.765 (5) (ka) to the appropriation account under s. 20.505
7 (5) (kc) sufficient to make the principal and interest payments on public debt
8 incurred to maintain the capitol and to make payments to the United States under
9 s. 13.488 (1) (m).

10 **SECTION 14.** 20.855 (3) (c) of the statutes is amended to read:

11 20.855 **(3)** (c) *Historically significant furnishings.* Biennially, the amounts in
12 the schedule for the acquisition, restoration and replacement by the capitol council
13 and the department of administration of historically significant furnishings under
14 s. 16.838.

15 **SECTION 15.** 20.865 (2) (e) of the statutes is amended to read:

16 20.865 **(2)** (e) *Maintenance of capitol and executive residence.* The amounts in
17 the schedule for the cost of operations, protective services and maintenance of the
18 capitol building and the executive residence, including minor projects approved
19 under s. 13.48 (3) or (10) or 16.855 (16) (b), to be paid into the ~~appropriation~~
20 appropriations made under s. 20.765 (5) (ka) for the capitol and 20.505 (5) (ka) for
21 the executive residence.

22 **SECTION 16.** 101.123 (1) (ar) of the statutes is amended to read:

23 101.123 **(1)** (ar) “Immediate vicinity of the state capitol” means the area
24 directly adjacent to the state capitol building, as determined by rule of the
25 ~~department of administration~~ capitol council. “Immediate vicinity of the state

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1 capitol” does not include any location that is more than six feet from the state capitol
2 building.

3 **SECTION 17.** 227.01 (1) of the statutes is amended to read:

4 227.01 (1) “Agency” means a board, commission, committee, department or
5 officer in the state government, except the governor, a district attorney or a military
6 or judicial officer, and includes the capitol council.

7 **SECTION 18.** 342.40 (3) (a) of the statutes is amended to read:

8 342.40 (3) (a) Any municipal or university police officer, police officer appointed
9 under s. 13.491 (5) (d) or 16.84 (2), sheriff’s deputy, county traffic patrolman, state
10 traffic officer or conservation warden who discovers any motor vehicle, trailer,
11 semitrailer, or mobile home on any public highway or private or public property
12 which has been abandoned shall cause the vehicle to be removed to a suitable place
13 of impoundment. Upon removal of the vehicle the officer or warden shall notify the
14 sheriff or chief of police of the abandonment and of the location of the impounded
15 vehicle. Upon causing the removal of the motor vehicle by a towing service, the
16 officer or warden shall, within 24 hours of ordering the removal, notify the towing
17 service of the name and last-known address of the registered owner and all
18 lienholders of record of the vehicle, unless the officer is employed by a municipality
19 or county that has entered into a towing services agreement which requires the
20 municipality or county to provide notice to such owner and lienholders of the towing.

21 **SECTION 19.** 941.235 (2) of the statutes is amended to read:

22 941.235 (2) This section does not apply to peace officers or armed forces or
23 military personnel who go armed in the line of duty or to any person duly authorized
24 by the chief of police of any city, village or town, the chief ~~of the capitol police~~ officer
25 of any police force performing duties under ss. 13.491 (5) (d) or 16.84 (2), or the sheriff

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1 of any county to possess a firearm in any building under sub. (1). Notwithstanding
2 s. 939.22 (22), for purposes of this subsection, peace officer does not include a
3 commission warden who is not a state-certified commission warden.

SECTION 20. Nonstatutory provisions.

4 (1) TRANSFER OF CAPITOL MANAGERIAL RESPONSIBILITY.

5 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
6 liabilities of the department of administration that relate primary to its managerial
7 responsibility for the capitol, as determined by the secretary of administration, shall
8 become assets and liabilities of the capitol council.
9

10 (b) *Positions and employees.*

11 1. On the effective date of this subdivision, all full-time equivalent positions
12 in the department of administration having duties that are primarily related to the
13 department's managerial responsibility for the capitol, as determined by the
14 secretary of administration, are transferred to the capitol council.

15 2. All incumbent employees holding positions specified in subdivision 1. are
16 transferred on the effective date of this subdivision to the capitol council.

17 3. Employees transferred under subdivision 2. have all of the rights and the
18 same status under subchapter V of chapter 111 and chapter 230 of the statutes that
19 they enjoyed in the department of administration immediately before the transfer.
20 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
21 has attained permanent status in class is required to serve a probationary period.

22 (c) *Tangible personal property.* On the effective date of this paragraph, all
23 tangible personal property, including records, of the department of administration
24 that is primarily related to its managerial responsibility for the capitol, as
25 determined by the secretary of administration, is transferred to the capitol council.

