

2013 DRAFTING REQUEST

Bill

Received: 1/21/2013 Received By: pkahler
 Wanted: As time permits Same as LRB:
 For: Kathleen Vinehout (608) 266-8546 By/Representing: Joel Nilsestuen
 May Contact: Drafter: pkahler
 Subject: Insurance - health Addl. Drafters: tdodge

Extra Copies:

Submit via email: YES
 Requester's email: Sen.Vinehout@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Badger Health Benefit Authority and health insurance exchanges

Instructions:

Redraft of 11 SB 273

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 1/29/2013	kfollett 1/30/2013	phenry 1/31/2013	_____			
/1				_____	srose 1/31/2013	lparisi 2/8/2013	State Crime

FE Sent For:

/1 at intro

<END>

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/?	pkahler	1/15/13 1/30	1/31 ph	1/20/13 ph			
FE Sent For:							

<END>

PJK + TJD

Bill Request Form

Legislative Reference Bureau
One East Main Street, Suite 200
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 1/17/13

Legislator, agency, or other person requesting this draft Sen. Vinehout

Person submitting request (name and phone number) Joel Nilsestuen, 6-8546

Persons to contact for questions about this draft (names and phone numbers) Same

Describe the problem, including any helpful examples. How do you want to solve the problem?

Plz redraft 2011-12 SB 273, Badger Health Authority for the 2013 session.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2005 LRB-2345/1 or 2003 AB-67).

2011 SB 273

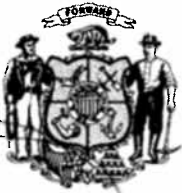
Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
 Any legislator? YES NO

Only the following persons _____

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?
YES NO



In: 1/29/13 (Due 2/1/13)

State of Wisconsin
2011-2012 LEGISLATURE

2013-2014



12621

LRB-076044

TJD&PJK:cjs&kjf:rs

r must run kjf

PWF

2013 ←

2011 SENATE BILL 273

sec affid ✓

PWF ✓

November 1, 2011 – Introduced by Senators VINEHOUT, HOLPERIN, C. LARSON, TAYLOR and S. COGGS, cosponsored by Representatives MILROY, STASKUNAS, BERCEAU, SINICKI, CLARK and ZEPNICK. Referred to Committee on Health.

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), 49.45 (2) (a) 3., 71.26
7 (1) (be), 77.54 (9a) (a), 101.055 (2) (a), 101.177 (1) (d), 230.03 (3), 230.80 (4),
8 230.90 (1) (c) and 635.18 (1); **to repeal and recreate** 16.417 (1) (a); and **to**
9 **create** 13.94 (1) (dj), 13.94 (1s) (c) 6., 40.02 (54) (n), 70.11 (41c) and chapter 636
10 of the statutes; **relating to:** the Badger Health Benefit Authority, health

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1 benefit exchange operation, granting rule-making authority, and providing a
2 penalty.

Analysis by the Legislative Reference Bureau***Badger Health Benefit Authority***

This bill creates the Badger Health Benefit 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. The board 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.

Health benefit exchange

Under the bill, the authority must establish and operate a Wisconsin Health Benefit Exchange in this state, must make qualified health plans, with effective dates on or before January 1, 2014, available to qualified individuals and qualified employers, and must seek federal grants and other funding for the purpose of the

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exchange. 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 at 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 things, is in good standing, charges the same premium for the plan regardless of whether it is offered directly by the insurer or through an insurance intermediary, 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

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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 employees 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 or flat dollar amount per enrollee collected through the exchange.

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 to enroll in MA; select, and award grants to, entities to serve 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.

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

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.

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

3 1.12 (1) (b) "State agency" means an office, department, agency, institution of
4 higher education, the legislature, a legislative service agency, the courts, a judicial
5 branch agency, an association, society, or other body in state government that is
6 created or authorized to be created by the constitution or by law, for which
7 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
8 Authority, the Badger Health Benefit Authority, and the Wisconsin Economic
9 Development Corporation.

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

12 13.172 (1) In this section, "agency" means an office, department, agency,
13 institution of higher education, association, society, or other body in state
14 government created or authorized to be created by the constitution or any law, that
15 is entitled to expend moneys appropriated by law, including the legislature and the
16 courts, and any authority created in subch. II of ch. 114 or, subch. III of ch. 149, or
17 subch. III of ch. 636 or in ch. 231, 233, 234, 238, or 279.

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

20 13.62 (2) "Agency" means any board, commission, department, office, society,
21 institution of higher education, council, or committee in the state government, or any

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1 authority created in subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch.
 2 636 or in ch. 231, 232, 233, 234, 237, 238, or 279, except that the term does not include
 3 a council or committee of the legislature.

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

5 13.94 (1) (dj) At least once every 2 years, perform a financial audit and
 6 performance evaluation audit of any health benefit plan exchange under subch. II
 7 of ch. 636 and an audit of the Badger Health Benefit Authority's policies and
 8 management practices and file copies of each audit report under this paragraph with
 9 the distributees specified in par. (b).

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

11 13.94 (1s) (c) 6 The Badger Health Benefit Authority for the cost of the audit
 12 under sub. (1) (dj).

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

15 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
 16 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau
 17 shall be strictly nonpartisan and shall at all times observe the confidential nature
 18 of the research requests received by it; however, with the prior approval of the
 19 requester in each instance, the bureau may duplicate the results of its research for
 20 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
 21 designated employees shall at all times, with or without notice, have access to all
 22 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
 23 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
 24 the Badger Health Benefit Authority, the Lower Fox River Remediation Authority,
 25 the Wisconsin Economic Development Corporation, and the Fox River Navigational

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7

1 System Authority, and to any books, records, or other documents maintained by such
2 agencies or authorities and relating to their expenditures, revenues, operations, and
3 structure.

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

6 16.002 (2) "Departments" means constitutional offices, departments, and
7 independent agencies and includes all societies, associations, and other agencies of
8 state government for which appropriations are made by law, but not including
9 ^{plan} authorities an authority created in subch. II of ch. 114 ^{or} subch. III of ch. 149 ^{or}
10 subch. III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

11 SECTION 8. 16.004 (4) of the statutes, as affected by 2011 Wisconsin Act 10, is
12 amended to read:

13 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
14 department as the secretary designates may enter into the offices of state agencies
15 and authorities created under subch. II of ch. 114 ^{and} subch. III of ch. 149 ^{and} subch.
16 III of ch. 636 and under chs. 231, 233, 234, 237, 238, and 279, and may examine their
17 books and accounts and any other matter that in the secretary's judgment should be
18 examined and may interrogate the agency's employees publicly or privately relative
19 thereto.

20 SECTION 9. 16.004 (5) of the statutes, as affected by 2011 Wisconsin Act 10, is
21 amended to read:

22 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
23 authorities created under subch. II of ch. 114 ^{and} subch. III of ch. 149 ^{and} subch. III
24 of ch. 636 and under chs. 231, 233, 234, 237, 238, and 279, and their officers and

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

3 **SECTION 10.** 16.004 (12) (a) of the statutes, as affected by 2011 Wisconsin Act

4 10, is amended to read:

5 16.004 (12) (a) In this subsection, "state agency" means an association,
6 authority, board, department, commission, independent agency, institution, office,
7 society, or other body in state government created or authorized to be created by the
8 constitution or any law, including the legislature, the office of the governor, and the
9 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
10 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
11 Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic
12 Development Corporation, the Badger Health Benefit Authority, and the Fox River
13 Navigational System Authority.

14 **SECTION 11.** 16.045 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 10,

15 is amended to read:

16 16.045 (1) (a) "Agency" means an office, department, independent agency,
17 institution of higher education, association, society, or other body in state
18 government created or authorized to be created by the constitution or any law, that
19 is entitled to expend moneys appropriated by law, including the legislature and the
20 courts, but not including an authority created in subch. II of ch. 114 or, subch. III of
21 ch. 149, or subch. III of ch. 636 or in ch. 231, 232, 233, 234, 235, 237, 238, or 279.

22 **SECTION 12.** 16.15 (1) (ab) of the statutes, as affected by 2011 Wisconsin Act 10,

23 is amended to read:

24 16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but
25 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox

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1 River Remediation Authority, the Wisconsin Economic Development Corporation,
2 the Badger Health Benefit Authority, and the Health Insurance Risk-Sharing Plan
3 Authority.

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

6 16.41 (4) In this section, "authority" means a body created under subch. II of
7 ch. 114 or, subch. III of ch. 149, or subch. III of ch. 636 or under ch. 231, 233, 234, 237,
8 238, or 279.

9 SECTION 14. 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 7,
10 section 19, is amended to read:

11 16.417 (1) (a) "Agency" means an office, department, independent agency,
12 institution of higher education, association, society, or other body in state
13 government created or authorized to be created by the constitution or any law, that
14 is entitled to expend moneys appropriated by law, including the legislature and the
15 courts, but not including an authority or the body created under subch. III of ch. 149
16 or subch. III of ch. 636 or under ch. 238.

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

20 16.417 (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 or the body created under subch. III of ch. 149
25 or subch. III of ch. 636.

underline

Change Component is amended

SENATE BILL 273**SECTION 16**

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

3 16.52 (7) **PETTY CASH ACCOUNT.** With the approval of the secretary, each agency
4 that is authorized to maintain a contingent fund under s. 20.920 may establish a
5 petty cash account from its contingent fund. The procedure for operation and
6 maintenance of petty cash accounts and the character of expenditures therefrom
7 shall be prescribed by the secretary. In this subsection, "agency" means an office,
8 department, independent agency, institution of higher education, association,
9 society, or other body in state government created or authorized to be created by the
10 constitution or any law, that is entitled to expend moneys appropriated by law,
11 including the legislature and the courts, but not including an authority created in
12 subch. II of ch. 114 ~~or~~, subch. III of ch. 149, or subch. III of ch. 636 or in ch. 231, 233,
13 234, 237, 238, or 279.

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

16 16.528 (1) (a) "Agency" means an office, department, independent agency,
17 institution of higher education, association, society, or other body in state
18 government created or authorized to be created by the constitution or any law, that
19 is entitled to expend moneys appropriated by law, including the legislature and the
20 courts, but not including an authority created in subch. II of ch. 114 ~~or~~, subch. III of
21 ch. 149, or subch. III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

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

24 16.53 (2) **IMPROPER INVOICES.** If an agency receives an improperly completed
25 invoice, the agency shall notify the sender of the invoice within 10 working days after

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1 it receives the invoice of the reason it is improperly completed. In this subsection,
2 “agency” means an office, department, independent agency, institution of higher
3 education, association, society, or other body in state government created or
4 authorized to be created by the constitution or any law, that is entitled to expend
5 moneys appropriated by law, including the legislature and the courts, but not
6 including an authority created in subch. II of ch. 114 or, subch. III of ch. 149, or subch.
7 III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

8 **SECTION 19.** 16.54 (9) (a) 1. of the statutes, as affected by 2011 Wisconsin Act

9 10, is amended to read:

10 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
11 institution of higher education, association, society or other body in state
12 government created or authorized to be created by the constitution or any law, which
13 is entitled to expend moneys appropriated by law, including the legislature and the
14 courts, but not including an authority created in subch. II of ch. 114 or, subch. III of
15 ch. 149, or subch. III of ch. 636 or in ch. 231, 233, 234, 237, 238, or 279.

16 **SECTION 20.** 16.70 (2) of the statutes, as affected by 2011 Wisconsin Act 10, is

17 amended to read:

18 16.70 (2) “Authority” means a body created under subch. II of ch. 114 or, subch.
19 III of ch. 149, or subch. III of ch. 636 or under ch. 231, 232, 233, 234, 235, 237, or 279.

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

21 16.72 (2) (e) (intro.) In writing the specifications under this subsection, the
22 department and any other designated purchasing agent under s. 16.71 (1) shall
23 incorporate requirements for the purchase of products made from recycled materials
24 and recovered materials if their use is technically and economically feasible. Each
25 authority other than the University of Wisconsin Hospitals and Clinics Authority,

SENATE BILL 273**SECTION 21**

1 the Lower Fox River Remediation Authority, the Badger Health Benefit Authority,
2 and the Health Insurance Risk-Sharing Plan Authority, in writing specifications for
3 purchasing by the authority, shall incorporate requirements for the purchase of
4 products made from recycled materials and recovered materials if their use is
5 technically and economically feasible. The specifications shall include requirements
6 for the purchase of the following materials:

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

8 16.72 (2) (f) In writing specifications under this subsection, the department,
9 any other designated purchasing agent under s. 16.71 (1), and each authority other
10 than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
11 River Remediation Authority, the Badger Health Benefit Authority, and the Health
12 Insurance Risk-Sharing Plan Authority shall incorporate requirements relating to
13 the recyclability and ultimate disposition of products and, wherever possible, shall
14 write the specifications so as to minimize the amount of solid waste generated by the
15 state, consistent with the priorities established under s. 287.05 (12). All
16 specifications under this subsection shall discourage the purchase of single-use,
17 disposable products and require, whenever practical, the purchase of multiple-use,
18 durable products.

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

20 16.75 (1m) The department shall award each order or contract for materials,
21 supplies or equipment on the basis of life cycle cost estimates, whenever such action
22 is appropriate. Each authority other than the University of Wisconsin Hospitals and
23 Clinics Authority, the Lower Fox River Remediation Authority, the Wisconsin
24 Aerospace Authority, the Badger Health Benefit Authority, and the Health
25 Insurance Risk-Sharing Plan Authority shall award each order or contract for

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1 materials, supplies or equipment on the basis of life cycle cost estimates, whenever
2 such action is appropriate. The terms, conditions and evaluation criteria to be
3 applied shall be incorporated in the solicitation of bids or proposals. The life cycle
4 cost formula may include, but is not limited to, the applicable costs of energy
5 efficiency, acquisition and conversion, money, transportation, warehousing and
6 distribution, training, operation and maintenance and disposition or resale. The
7 department shall prepare documents containing technical guidance for the
8 development and use of life cycle cost estimates, and shall make the documents
9 available to local governmental units.

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

11 16.75 (8) (a) 1. The department, any other designated purchasing agent under
12 s. 16.71 (1), any agency making purchases under s. 16.74, and each authority other
13 than the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
14 River Remediation Authority, the Badger Health Benefit Authority, and the Health
15 Insurance Risk-Sharing Plan Authority shall, to the extent practicable, make
16 purchasing selections using specifications developed under s. 16.72 (2) (e) to
17 maximize the purchase of materials utilizing recycled materials and recovered
18 materials.

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

20 16.75 (8) (a) 2. Each agency and authority other than the University of
21 Wisconsin Hospitals and Clinics Authority, the Lower Fox River Remediation
22 Authority, the Badger Health Benefit Authority, and the Health Insurance
23 Risk-Sharing Plan Authority shall ensure that the average recycled or recovered
24 content of all paper purchased by the agency or authority measured as a proportion,

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1 by weight, of the fiber content of paper products purchased in a fiscal year, is not less
2 than 40% of all purchased paper.

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

4 16.75 (9) The department, any other designated purchasing agent under s.
5 16.71 (1), any agency making purchases under s. 16.74, and any authority other than
6 the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox River
7 Remediation Authority, the Badger Health Benefit Authority, and the Health
8 Insurance Risk-Sharing Plan Authority shall, to the extent practicable, make
9 purchasing selections using specifications prepared under s. 16.72 (2) (f).

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

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

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

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

19 **SECTION 29.** 16.765 (4) of the statutes, as affected by 2011 Wisconsin Act 10,

20 is amended to read:

21 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
22 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
23 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
24 Badger Health Benefit Authority, the Lower Fox River Remediation Authority, and

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SECTION 29

1 the Bradley Center Sports and Entertainment Corporation shall take appropriate
2 action to revise the standard government contract forms under this section.

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

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

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

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1 16.765 (6) The department may receive complaints of alleged violations of the
2 nondiscrimination provisions of such contracts. The department shall investigate
3 and determine whether a violation of this section has occurred. The department may
4 delegate this authority to the contracting agency, the University of Wisconsin
5 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
6 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
7 the Badger Health Benefit Authority, the Lower Fox River Remediation Authority,
8 the Wisconsin Economic Development Corporation, or the Bradley Center Sports
9 and Entertainment Corporation for processing in accordance with the department's
10 procedures.

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

13 16.765 (7) (intro.) When a violation of this section has been determined by the
14 department, the contracting agency, the University of Wisconsin Hospitals and
15 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
16 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the
17 Badger Health Benefit Authority, the Lower Fox River Remediation Authority, the
18 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
19 Entertainment Corporation, the contracting agency, the University of Wisconsin
20 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
21 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
22 the Badger Health Benefit Authority, the Lower Fox River Remediation Authority,
23 the Wisconsin Economic Development Corporation, or the Bradley Center Sports
24 and Entertainment Corporation shall:

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SECTION 33. 16.765 (7) (d) of the statutes, as affected by 2011 Wisconsin Act 10,

is amended to read:

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

SECTION 34. 16.765 (8) of the statutes, as affected by 2011 Wisconsin Act 10,

is amended to read:

16.765 (8) If further violations of this section are committed during the term of the contract, the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Badger Health Benefit Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation may permit the violating party to complete the contract, after complying with this section, but thereafter the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Badger Health Benefit Authority, the Lower Fox River Remediation Authority, the Wisconsin Economic Development Corporation, or the Bradley Center Sports and Entertainment Corporation shall request the department to place the name of the party on the ineligible list for state contracts, or the contracting agency, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health

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1 Insurance Risk-Sharing Plan Authority, the Badger Health Benefit Authority, the
2 Lower Fox River Remediation Authority, the Wisconsin Economic Development
3 Corporation, or the Bradley Center Sports and Entertainment Corporation may
4 terminate the contract without liability for the uncompleted portion or any materials
5 or services purchased or paid for by the contracting party for use in completing the
6 contract.

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

9 16.85 (2) To furnish engineering, architectural, project management, and other
10 building construction services whenever requisitions therefor are presented to the
11 department by any agency. The department may deposit moneys received from the
12 provision of these services in the account under s. 20.505 (1) (kc) or in the general
13 fund as general purpose revenue — earned. In this subsection, “agency” means an
14 office, department, independent agency, institution of higher education, association,
15 society, or other body in state government created or authorized to be created by the
16 constitution or any law, which is entitled to expend moneys appropriated by law,
17 including the legislature and the courts, but not including an authority created in
18 subch. II of ch. 114 or, subch. III of ch. 149, or subch. III of ch. 636 or in ch. 231, 233,
19 234, 237, 238, or 279.

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

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

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

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

13 25.50 (1) (d) “Local government” means any county, town, village, city, power
14 district, sewerage district, drainage district, town sanitary district, public inland
15 lake protection and rehabilitation district, local professional baseball park district
16 created under subch. III of ch. 229, long-term care district under s. 46.2895, local
17 professional football stadium district created under subch. IV of ch. 229, local
18 cultural arts district created under subch. V of ch. 229, public library system, school
19 district or technical college district in this state, any commission, committee, board
20 or officer of any governmental subdivision of this state, any court of this state, other
21 than the court of appeals or the supreme court, or any authority created under s.
22 114.61, 149.41, 231.02, 233.02 ~~or~~, 234.02, or 636.70.

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

24 40.02 (54) (n) The Badger Health Benefit Authority.

25 **SECTION 39.** 49.45 (2) (a) 3. of the statutes is amended to read:

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1 49.45 (2) (a) 3. ~~Determine~~ [✓] Subject to s. 636.30 (1) (o), determine the eligibility
2 of persons for medical assistance, rehabilitative, and social services under ss. 49.46,
3 49.468, 49.47, and 49.471 and rules and policies adopted by the department and may,
4 under a contract under s. 49.78 (2), delegate all, or any portion, of this function to the
5 county department under s. 46.215, 46.22, or 46.23 or a tribal governing body.

6 **SECTION 40.** 70.11 (41c) of the statutes is created to read:

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

10 **SECTION 41.** 71.26 (1) (be) of the statutes, as affected by 2011 Wisconsin Act 10,

11 is amended to read:

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

17 **SECTION 42.** 77.54 (9a) (a) of the statutes, as affected by 2011 Wisconsin Act 10,

18 is amended to read:

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

24 **SECTION 43.** 101.055 (2) (a) of the statutes is amended to read:

SENATE BILL 273**SECTION 43**

1 101.055 (2) (a) “Agency” means an office, department, independent agency,
2 authority, institution, association, society, or other body in state government created
3 or authorized to be created by the constitution or any law, and includes the
4 legislature and the courts, but excludes the Health Insurance Risk-Sharing Plan
5 Authority and the Badger Health Benefit Authority.

6 **SECTION 44.** 101.177 (1) (d) of the statutes, as affected by 2011 Wisconsin Act
7 10, is amended to read:

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

19 **SECTION 45.** 230.03 (3) of the statutes, as affected by 2011 Wisconsin Act 10,
20 is amended to read:

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

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1 department, or unit thereof or an authority created under subch. II of ch. 114 or,
2 subch. III of ch. 149, or subch. III of ch. 636 or under ch. 231, 232, 233, 234, 235, 237,
3 238, or 279. "Agency" does not mean any local unit of government or body within one
4 or more local units of government that is created by law or by action of one or more
5 local units of government.

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6 **SECTION 46.** 230.80 (4) of the statutes is amended to read:

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

15 **SECTION 47.** 230.90 (1) (c) of the statutes is amended to read:

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

25 **SECTION 48.** 635.18 (1) of the statutes is amended to read: