

1 **SECTION 85e.** 238.16 (5) (e) of the statutes is amended to read:

2 238.16 (5) (e) The corporation shall annually verify, under s. 238.03 (2) (e), the
3 information submitted to the corporation by the person for the purpose of claiming
4 tax benefits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q).

5 **SECTION 85k.** 238.306 (1) (a) of the statutes is amended to read:

6 238.306 (1) (a) ~~Annually verify~~ Verify, under s. 238.03 (2) (e), the information
7 submitted to the department of revenue under ss. ~~71.07 (2dy), 71.28 (1dy), 71.47~~
8 ~~(1dy), and 76.637 by persons certified under s. 238.301 (2) and eligible to receive tax~~
9 ~~benefits under s. 238.303~~ corporation by the person for the purpose of claiming tax
10 benefits.

11 **SECTION 85m.** 238.308 (5) (b) of the statutes is amended to read:

12 238.308 (5) (b) The corporation shall annually verify, under s. 238.03 (2) (e), the
13 information submitted to it the corporation by the person for the purpose of claiming
14 tax benefits under ss. ~~71.07 (3y), 71.28 (3y), and 71.47 (3y).~~

15 **SECTION 85o.** 238.395 (3) (d) of the statutes is amended to read:

16 238.395 (3) (d) The corporation annually shall verify, under s. 238.03 (2) (e), the
17 information submitted to the corporation under s. ~~71.07 (2dm) or (2dx), 71.28 (1dm)~~
18 ~~or (1dx), 71.47 (1dm) or (1dx), or 76.636 by the person for the purpose of claiming tax~~
19 benefits.

20 **SECTION 85r.** 238.396 (4) (d) of the statutes is amended to read:

21 238.396 (4) (d) The corporation shall annually verify, under s. 238.03 (2) (e), the
22 information submitted to the corporation under ss. ~~71.07 (3wm) and 71.28 (3wm) by~~
23 the person for the purpose of claiming tax benefits.

24 **SECTION 86.** 238.399 (3) (a) of the statutes is amended to read:

1 238.399 (3) (a) The corporation may designate ~~not more than 30~~ any number
2 of enterprise zones in this state.

3 **SECTION 87.** 238.399 (3) (am) of the statutes is created to read:

4 238.399 (3) (am) The corporation may not designate a new enterprise zone
5 under par. (a) except as follows:

6 1. Before the corporation designates a new enterprise zone, the corporation
7 shall notify the joint committee on finance in writing of the corporation's intention
8 to designate a new enterprise zone. The notice shall describe the new zone and the
9 purposes for which the corporation proposes to designate the new zone.

10 2. If, within 14 working days after the date of the corporation's notice under
11 subd. 1., the cochairpersons of the joint committee on finance do not notify the
12 corporation that the committee has scheduled a meeting to review the corporation's
13 proposal, the corporation may designate the new enterprise zone as proposed in the
14 corporation's notice. If, within 14 working days after the date of the corporation's
15 notice under subd. 1., the cochairpersons of the committee notify the corporation that
16 the committee has scheduled a meeting to review the corporation's proposal, the
17 corporation may designate the new enterprise zone only upon approval of the
18 committee.

19 **SECTION 88.** 238.399 (3) (e) of the statutes is repealed.

20 **SECTION 88f.** 238.399 (6) (f) of the statutes is amended to read:

21 238.399 (6) (f) The corporation shall annually verify, under s. 238.03 (2) (e), the
22 information submitted to the corporation under ss. 71.07 (3w), 71.28 (3w), or 71.47
23 (3w) by the person for the purpose of claiming tax benefits.

24 **SECTION 89.** 281.665 (5) (d) of the statutes is amended to read:

1 281.665 (5) (d) Notwithstanding pars. (a) to (c), during the 2017-19 and
2 2019-21 fiscal biennium bienniums, the department shall consider an applicant to
3 be eligible for a cost-sharing grant for a project under this section if the project is
4 funded or executed in whole or in part by the U.S. army corps of engineers under 33
5 USC 701s.

6 **SECTION 90.** 301.03 (16) of the statutes is created to read:

7 301.03 (16) At the request of the legislature, submit to the legislature under
8 s. 13.172 (2) a report that includes the following information and post the report on
9 the department's website:

10 (a) If, since the previous report was submitted or during a date range specified
11 in the request, an individual was pardoned for a crime or was released from a term
12 of imprisonment without completing his or her sentence, the name of the individual,
13 the pertinent crime, and the name of the person who authorized the action.

14 (b) If an individual who appears on a report submitted under this subsection
15 is convicted of a crime, the name of that individual and the crime for which he or she
16 was convicted.

17 **SECTION 91.** 343.165 (8) of the statutes is created to read:

18 343.165 (8) Notwithstanding subs. (1) to (4), for an applicant requesting that
19 an identification card be provided without charge for purposes of voting, all of the
20 following apply:

21 (a) Except as provided in par. (b), if a person is unable to provide proof of name
22 and date of birth, and the documents are unavailable to the person, the person may
23 make a written petition to the department for an exception to the requirements of
24 sub. (1) (a) or (b). The application shall include proof of identity and all of the
25 following:

1 1. A certification of the person's name, date of birth, and current residence
2 street address on the department's form.

3 2. An explanation of the circumstances by which the person is unable to provide
4 proof of name and date of birth.

5 3. Whatever documentation is available that states the person's name and date
6 of birth.

7 (b) 1. If a person applies for and requests an identification card without charge
8 for the purposes of voting and the person's proof of name and date of birth or of proof
9 of citizenship, legal permanent resident status, conditional resident status, or legal
10 presence is unavailable, the person may make a written petition to the department
11 for an exception to the requirement for which proof is unavailable. The department
12 shall provide appropriate translation for any person who is unable to read or
13 understand the petition process instructions and related communications under this
14 subsection or s. 343.50 (1) (c) 2. The petition shall include the person's statement
15 under oath or affirmation of all of the following:

16 a. That the person is unable to provide proof of name and date of birth or proof
17 of citizenship, legal permanent resident status, conditional resident status, or legal
18 presence.

19 b. That the documents are unavailable to the person.

20 c. His or her name, date of birth, place of birth, and such other birth record
21 information requested by the department, or the person's alien or U.S. citizenship
22 and immigration service number or U.S. citizenship certificate number.

23 2. Upon receiving a petition that meets the requirements under subd. 1., the
24 department of transportation shall forward the petition to the central office of its
25 division of motor vehicles for processing. The department of transportation shall

1 provide the person's birth record information to the department of health services,
2 for the sole purpose of verification by the department of health services of the
3 person's birth certificate information or the equivalent document from another
4 jurisdiction, other than a province of the Dominion of Canada, or to a federal agency
5 for the sole purpose of verifying the person's certificate of birth abroad issued by the
6 federal department of state, or of verifying the person's alien or U.S. citizenship and
7 immigration service number or U.S. citizenship certificate number. The department
8 of transportation shall open a file containing the petition and shall create therein a
9 report with a dated record of events, including all communication to or with the
10 applicant. The department of transportation may not complete processing of the
11 application prior to receiving verification under this subdivision, except as provided
12 in subd. 3.

13 3. If the department does not receive verification under subd. 2. within 30 days
14 or receives notice under subd. 2. that the birth information provided in the
15 application does not match that of the birth record custodian, the department shall
16 promptly notify the person in writing of that failure to verify and request the person
17 contact the department within 10 days. If the person does not respond within 10
18 days, the department shall send the person a 2nd letter with substantially similar
19 contents. If the person does not respond to the 2nd letter within 10 days and the
20 department knows the person's telephone number, the department shall call the
21 person on the telephone and notify the person that the birth information was not
22 verified and request the person provide additional information within 10 days. If 30
23 days have elapsed since the date of the first letter sent under this subdivision without
24 contact from the person, the department shall suspend the investigation and send
25 written notice that the person has not responded, that the department has no further

1 leads for it to locate or obtain secondary documentation or verification of birth
2 information, that the department has suspended its investigation or research until
3 such time as the person contacts the department, and that if within 180 days after
4 the date of the written notice the person fails to contact the department the petition
5 will be denied and no further identification card receipts will be issued under s.
6 343.50 (1) (c) 2. If the person fails to contact the department within 180 days after
7 the department suspends the investigation, the department shall deny the petition
8 in writing and shall inform the person that the department will resume the
9 investigation if the person contacts the department to discuss the petition.
10 Whenever the applicant contacts the department to discuss the petition, the
11 investigation under this subdivision shall begin anew, notwithstanding any prior
12 denial due to the person's failure to timely respond. The applicant shall act in good
13 faith and use reasonable efforts to provide additional information that could
14 reasonably lead the department to discover correct birth information or secondary
15 documentation as described in subd. 3g., to assist the department in processing the
16 application. The department shall investigate the petition and any additional
17 information provided under this subdivision with prompt and due diligence and shall
18 use reasonable efforts to locate and obtain the secondary documentation by pursuing
19 leads provided by the person. Investigations may only be completed within the
20 division of motor vehicles' central office by employees whose regular job duties
21 include investigation and fraud detection and prevention. If the investigation
22 discovers new or corrected birth information, the department of transportation shall
23 resubmit the new or corrected birth information to the department of health services
24 for verification under subd. 2. The department of transportation shall pay any

1 actual, necessary fees required by the record custodian to obtain the secondary
2 documentation.

3 3g. If the department of health services does not verify the birth record
4 information within 30 days, the department of transportation may issue an
5 identification card to the person only if the department of transportation receives
6 verification under subd. 2., if the person provides proof of name and date of birth or
7 proof of citizenship, legal permanent resident status, conditional resident status or
8 legal presence, or if the department of transportation receives other secondary
9 documentation acceptable to the department of transportation and deemed
10 sufficient under subd. 3., which may include the following:

- 11 a. Baptismal certificate.
- 12 b. Hospital birth certificate.
- 13 c. Delayed birth certificate.
- 14 d. Census record.
- 15 e. Early school record.
- 16 f. Family Bible record.
- 17 g. Doctor's record of post-natal care.
- 18 h. Other documentation deemed acceptable to the department of
19 transportation, within the department's reasonable discretion.

20 4. In this paragraph, "proof of citizenship, legal permanent resident status,
21 conditional resident status or legal presence" means any of the following:

- 22 a. A U.S. state or local government issued certificate of birth.
- 23 b. Valid U.S. passport.
- 24 c. Valid foreign passport with appropriate immigration documents, which shall
25 include or be accompanied by federal form I-94, arrival and departure record.

1 d. Certificate of U.S. citizenship.

2 e. A U.S. Certificate of naturalization.

3 f. Valid department of homeland security/U.S. citizenship and immigration
4 services federal form I-551, resident alien registration receipt card, issued since
5 1997.

6 g. Valid department of homeland security/U.S. citizenship and immigration
7 services federal form I-688, temporary resident identification card.

8 h. Valid department of homeland security/U.S. citizenship and immigration
9 services federal form I-688B or I-766, employment authorization document.

10 i. Valid department of homeland security/U.S. citizenship and immigration
11 services federal form I-571, refugee travel document.

12 j. Department of homeland security/U.S. citizenship and immigration services
13 federal form I-797, notice of action.

14 k. Department of homeland security/transportation security administration
15 transportation worker identification credential.

16 L. A U.S. department of state reception and placement program assurance
17 form (refugee version), which shall include or be accompanied by federal form I-94,
18 arrival and departure record.

19 m. Documentary proof specified in s. 343.14 (2) (es), that is approved by the
20 appropriate federal authority.

21 5. In this paragraph, "proof of identity" means a supporting document
22 identifying the person by name and bearing the person's signature, a reproduction
23 of the person's signature, or a photograph of the person. Acceptable supporting
24 documents include:

1 a. A valid operator's license, including a license from another jurisdiction,
2 except a province of the Dominion of Canada, bearing a photograph of the person.

3 b. Military discharge papers.

4 c. A U.S. government and military dependent identification card.

5 d. A valid photo identification card issued by Wisconsin or another jurisdiction,
6 except a province of the Dominion of Canada, bearing a photograph of the person.

7 e. A marriage certificate or certified copy of judgment of divorce.

8 f. A social security card issued by the social security administration.

9 g. Any document described under subd. 6., if it bears a photograph of the person
10 and was not used as proof of name and date of birth.

11 h. Department of homeland security/transportation security administration
12 transportation worker identification credential.

13 6. In this paragraph, "proof of name and date of birth" means any of the
14 following:

15 a. For a person born in Wisconsin, a copy of the person's Wisconsin birth
16 certificate issued and certified in accordance with s. 69.21.

17 b. For a person born in another jurisdiction, other than a province of the
18 Dominion of Canada, a certified copy of his or her birth certificate or the equivalent
19 document from that other jurisdiction or a certificate of birth abroad issued by the
20 federal department of state.

21 c. A U.S. passport.

22 d. A valid, unexpired passport issued by a foreign country with federal I-551
23 resident alien registration receipt card or federal I-94 arrival and departure record
24 that bears a photograph of the person and identifies the person's first and last names,
25 and the person's day, month, and year of birth.

1 e. A Wisconsin operator's license bearing a photograph of the person.

2 f. A Wisconsin identification card issued under s. 343.50, bearing a photograph
3 of the person, other than an identification card issued under s. 343.50 (1) (c) 2.

4 g. A federal I-551 "permanent resident alien registration receipt card."

5 h. A federal I-94 "parole edition" or "refugees version" arrival-departure
6 record, together with a certification, on the department's form, by the person, of the
7 person's name and date of birth, a copy of a federal department of state refugee data
8 center reception and placement program assurance form and a letter from the
9 person's sponsoring agency on its letterhead, supporting the person's application for
10 a Wisconsin identification card or operator's license and confirming the person's
11 identification. Applicants who are unable to provide a reception and placement
12 program assurance form may be issued a Wisconsin identification card or operator's
13 license, but only after their identification has been confirmed by the U.S. citizenship
14 and immigration services.

15 i. A U.S. certificate of naturalization.

16 j. A certificate of U.S. citizenship.

17 k. A federal temporary resident card or employment authorization card, I-688,
18 I-688A, I-688B, and I-766.

19 L. A Native American identification card that is issued by a federally
20 recognized tribe or a band of a federally recognized tribe, is issued in Wisconsin,
21 includes a photograph and signature or reproduction of a signature of the person, and
22 has been approved by the secretary for use as identification.

23 m. A court order under seal related to the adoption or divorce of the individual
24 or to a name or gender change that includes the person's current full legal name, date
25 of birth, and, in the case of a name change or divorce order, the person's prior name.

1 n. An armed forces of the U.S. common access card or DD Form 2 identification
2 card issued to military personnel.

3 o. Department of homeland security/transportation security administration
4 transportation worker identification credential.

5 7. In this paragraph, “unavailable” means that the applicant does not have the
6 document and would be required to pay a government agency to obtain it.

7 (c) The administrator may delegate to the deputy administrator or to a bureau
8 director, as described in s. 15.02 (3) (c) 2., whose regular responsibilities include
9 driver licensing and identification card issuance, the authority to accept or reject
10 such extraordinary proof of name, date of birth, or U.S. citizenship under this
11 subsection.

12 (e) The denial of a petition under par. (b) is subject to judicial review in the
13 manner provided in ch. 227 for the review of administrative decisions.

14 (f) If the administrator, or delegate described in par. (c), determines that an
15 applicant has knowingly made a false statement or knowingly concealed a material
16 fact or otherwise committed a fraud in an application, petition, or additional
17 information, the department shall immediately suspend the investigation, shall
18 notify the person in writing of the suspension and the reason for the suspension, and
19 refer any suspected fraud to law enforcement.

20 (g) A person whose petition is suspended or denied due to a failure to respond
21 timely may revive the petition at any time by contacting the department to discuss
22 the petition application. If a person revives a petition, the department shall
23 immediately issue, and shall continue to reissue, an identification card receipt to the
24 person as provided in s. 343.50 (1) (c) 2., except that the department shall first
25 require the person to take a photograph if required under s. 343.50 (1) (c) 2.

1 (h) The department shall grant a petition if the department concludes, on the
2 basis of secondary documentation or other corroborating information, that it is more
3 likely than not that the name, date of birth, and U.S. citizenship provided in the
4 application is correct.

5 **SECTION 92.** 343.50 (1) (c) of the statutes is renumbered 343.50 (1) (c) 1. and
6 amended to read:

7 343.50 (1) (c) 1. The department may issue a receipt to any applicant for an
8 identification card, and shall issue a receipt to an applicant requesting an
9 identification card under sub. (5) (a) 3., which receipt shall constitute a temporary
10 identification card while the application is being processed and shall be valid for a
11 period not to exceed 60 days. If the application for an identification card is processed
12 under the exception specified in s. 343.165 (7) or (8), the receipt shall include the
13 marking specified in sub. (3) (b).

14 **SECTION 93.** 343.50 (1) (c) 2. of the statutes is created to read:

15 343.50 (1) (c) 2. If the department issues a receipt to an applicant petitioning
16 the department under s. 343.165 (8), all of the following apply:

17 a. The department shall issue the receipt not later than the 6th working day
18 after the person made the petition and shall deliver the receipt by 1st class mail,
19 except that if a petition is filed or revived within 7 days before or 2 days after a
20 statewide election the department shall issue a receipt not later than 24 hours after
21 the petition is filed or revived and shall deliver the receipt by overnight or next-day
22 mail. The department shall issue a new receipt to the person not later than 10 days
23 before the expiration date of the prior receipt, and having a date of issuance that is
24 the same as the expiration date of the prior receipt. The department shall issue no
25 receipt to a person after the denial of a petition under s. 343.165 (8), unless the person

1 revives an investigation. The department shall continue to reissue identification
2 card receipts to a person unless the department cancels the identification card
3 receipt upon the circumstances specified in sub. (10), upon the issuance of an
4 operator's license or identification card to the person, upon the person's request,
5 upon the denial of the application, upon return to the department of a receipt as
6 nondeliverable, upon the person's failure to contact the department to discuss the
7 petition for a period of 180 days or more, or whenever the department receives
8 information that prohibits issuance of an identification card under sub. (1) (c). The
9 department shall require the person to take a photograph prior to reissuing an
10 identification card receipt if the photograph of the person on file with the department
11 is 8 or more years old.

12 b. An identification card receipt issued under this subdivision shall constitute
13 a temporary identification card while the application is being processed under s.
14 343.165 (8) and shall be valid for a period not to exceed the period specified in sub.
15 (1) (c). The department shall clearly mark the receipt "FOR VOTING PURPOSES
16 ONLY" as validated for use for voting as provided in ss. 5.02 (6m) (d) and 6.79 (2) (a).
17 A receipt issued under this subsection shall contain the information specified under
18 s. 343.17 (3), including the date of issuance, the expiration date, the name and
19 signature of the person to whom it was issued, and, except as authorized in sub. (4g),
20 a photograph of the individual to whom it was issued, and may contain such further
21 information as the department deems necessary.

22 c. The department shall issue a replacement identification card receipt under
23 subd 1. a. upon request of the person to whom it is issued if the receipt is lost or
24 destroyed.

1 d. Notwithstanding subd. 2. a., the department shall cancel or refuse to issue
2 an identification card receipt under this subsection upon the circumstances specified
3 in sub. (10), upon the issuance of an operator's license or identification card to the
4 person, upon the person's request, upon the denial of the application, upon return to
5 the department of a receipt as nondeliverable, or whenever the department receives
6 information that prohibits issuance of an identification card under subd. 1.

7 e. Whenever any person, after receiving an identification card receipt under
8 this subdivision, moves from the address named in the application or in the receipt
9 issued to him or her or is notified by the local authorities or by the postal authorities
10 that the address so named has been changed, the person shall, within 30 days, notify
11 the department of his or her change of address. Upon receiving a notice of change of
12 address, the department shall promptly issue a new receipt under subd. 2. a. showing
13 the correct address and having the expiration date of the prior receipt.

14 **SECTION 94.** 343.50 (3) (b) of the statutes is amended to read:

15 343.50 (3) (b) If an identification card is issued based upon the exception
16 specified in s. 343.165 (7) or (8), the card shall, in addition to any other required
17 legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a
18 marking similar or identical to the marking described in s. 343.03 (3r).

19 **SECTION 95.** 343.50 (3) (c) of the statutes is created to read:

20 343.50 (3) (c) 1. Notwithstanding par. (a), the department may issue an
21 identification card bearing a name other than the name that appears on a supporting
22 document if the person provides evidence acceptable to the department that the
23 person has used the name in a manner that qualifies the name as being legally
24 changed under the common law of Wisconsin, including evidence of the person's prior
25 name, changed name, the length of time the person has consistently and

1 continuously used the changed name, an affirmation that the person no longer uses
2 the prior name, and an affirmation that the person did not change his or her name
3 for a dishonest or fraudulent purpose or to the injury of any other person. The
4 department shall mark an identification card issued under this subdivision in the
5 manner described in s. 343.03 (3r).

6 2. Notwithstanding par. (a), the department shall approve a name change
7 requested by a person who cannot provide supporting documentation of a lawful
8 change of name but who does one of the following:

9 a. Provides proof of identity in the new name, and the department receives from
10 the federal social security administration evidence or confirmation of the name
11 change.

12 b. Applies for an identification card and provides an affidavit declaring all facts
13 required under subd. 1. to prove a name change under the common law of Wisconsin.

14 **SECTION 96.** 801.50 (3) (b) of the statutes is amended to read:

15 801.50 (3) (b) All actions relating to the validity or invalidly of a rule or
16 guidance document shall be venued as provided in s. 227.40 (1).

17 **SECTION 97.** 803.09 (2m) of the statutes is created to read:

18 803.09 (2m) When a party to an action challenges in state or federal court the
19 constitutionality of a statute, facially or as applied, challenges a statute as violating
20 or preempted by federal law, or otherwise challenges the construction or validity of
21 a statute, as part of a claim or affirmative defense, the assembly, the senate, and the
22 legislature may intervene as set forth under s. 13.365 at any time in the action as a
23 matter of right by serving a motion upon the parties as provided in s. 801.14.

24 **SECTION 98.** 806.04 (11) of the statutes is amended to read:

1 806.04 (11) PARTIES. When declaratory relief is sought, all persons shall be
2 made parties who have or claim any interest which would be affected by the
3 declaration, and no declaration may prejudice the right of persons not parties to the
4 proceeding. In any proceeding which involves the validity of a municipal ordinance
5 or franchise, the municipality shall be made a party, and shall be entitled to be heard.
6 If a statute, ordinance or franchise is alleged to be unconstitutional, or to be in
7 violation of or preempted by federal law, or if the construction or validity of a statute
8 is otherwise challenged, the attorney general shall also be served with a copy of the
9 proceeding and be entitled to be heard. If a statute is alleged to be unconstitutional,
10 or to be in violation of or preempted by federal law, or if the construction or validity
11 of a statute is otherwise challenged, the speaker of the assembly, the president of the
12 senate, and the senate majority leader shall also be served with a copy of the
13 proceeding, and the assembly, the senate, and the state legislature are entitled to be
14 heard. If the assembly, the senate, or the joint committee on legislative organization
15 intervenes as provided under s. 803.09 (2m), the assembly shall represent the
16 assembly, the senate shall represent the senate, and the joint committee on
17 legislative organization shall represent the legislature. In any proceeding under this
18 section in which the constitutionality, construction or application of any provision of
19 ch. 227, or of any statute allowing a legislative committee to suspend, or to delay or
20 prevent the adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the
21 parties, the joint committee for review of administrative rules shall be served with
22 a copy of the petition and, with the approval of the joint committee on legislative
23 organization, shall be made a party and be entitled to be heard. ~~In any proceeding~~
24 ~~under this section in which the constitutionality, construction or application of any~~
25 ~~provision of ch. 13, 20, 111, 227 or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or~~

1 of any statute allowing a legislative committee to suspend, or to delay or prevent the
2 adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the parties, the
3 joint committee on legislative organization shall be served with a copy of the petition
4 and the joint committee on legislative organization, the senate committee on
5 organization or the assembly committee on organization may intervene as a party
6 to the proceedings and be heard.

7 SECTION 99. 809.13 of the statutes is amended to read:

8 **809.13 Rule (Intervention).** A person who is not a party to an appeal may
9 file in the court of appeals a petition to intervene in the appeal. A party may file a
10 response to the petition within 11 days after service of the petition. The court may
11 grant the petition upon a showing that the petitioner's interest meets the
12 requirements of s. 803.09 (1) or, (2), or (2m).

13 SECTION 100. Subchapter VIII (title) of chapter 893 [precedes 893.80] of the
14 statutes is amended to read:

15 **CHAPTER 893**

16 **SUBCHAPTER VIII**

17 **CLAIMS AGAINST GOVERNMENTAL**

18 **BODIES, OFFICERS AND EMPLOYEES;**

19 **STATUTORY CHALLENGES**

20 SECTION 101. 893.825 of the statutes is created to read:

21 **893.825 Statutory challenges. (1)** In an action in which a statute is alleged
22 to be unconstitutional, or to be in violation of or preempted by federal law, or if the
23 construction or validity of a statute is otherwise challenged, the attorney general
24 shall be served with a copy of the proceeding and is entitled to be heard.

1 (2) In an action in which a statute is alleged to be unconstitutional, or to be in
2 violation of or preempted by federal law, or if the construction or validity of a statute
3 is otherwise challenged, the speaker of the assembly, the president of the senate, and
4 the senate majority leader shall also be served with a copy of the proceeding and the
5 assembly, the senate, and the joint committee on legislative organization are entitled
6 to be heard.

7 **SECTION 102. Nonstatutory provisions.**

8 (1) INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE
9 ORGANIZATION. The assembly, senate, and joint committee on legislative organization
10 may intervene as permitted under s. 803.09 (2m) in any litigation pending in state
11 or federal court on the effective date of this subsection.

12 (2m) WEDC; STAGGERING OF INITIAL TERMS. Notwithstanding the length of terms
13 specified for the members of the board of directors of the Wisconsin Economic
14 Development Corporation under s. 238.02 (1), the initial members appointed by the
15 speaker and minority leader of the assembly and the majority leader and minority
16 leader of the senate beginning on the effective date of this subsection shall be
17 appointed for terms expiring as follows:

18 (a) The terms of 2 members appointed by the speaker of the assembly and 2
19 members appointed by the senate majority leader shall expire on October 1, 2020.

20 (b) The terms of 2 members appointed by the speaker of the assembly, the
21 member appointed by the assembly minority leader, 2 members appointed by the
22 senate majority leader, and the member appointed by the senate minority leader,
23 shall expire on October 1, 2022.

24 (2s) WEDC; CURRENT BOARD MEMBERS. The members of the board of directors
25 of the Wisconsin Economic Development Corporation serving at the pleasure of the

1 speaker of the assembly and senate majority leader on the day before the effective
2 date of this subsection shall continue to serve at pleasure pending the appointment
3 of members under sub. (2m), but may not serve after January 6, 2019, unless
4 appointed under sub. (2m).

5 (2t) WEDC; ADDITIONAL BOARD MEMBERS. Notwithstanding s. 238.02 (1), the
6 board of directors of the Wisconsin Economic Development Corporation shall include
7 one additional member appointed by the speaker of the assembly and one additional
8 member appointed by the senate majority leader, to serve terms expiring on
9 September 1, 2019.

10 (2v) WEDC; CEO. Notwithstanding s. 238.02 (3), the chief executive officer of
11 the Wisconsin Economic Development Corporation shall be appointed by the board
12 of directors of the Wisconsin Economic Development Corporation. This subsection
13 does not apply after September 1, 2019.

14 **SECTION 103. Fiscal changes.**

15 (1) SETTLEMENT FUNDS. Notwithstanding s. 20.001 (3) (c), from the
16 appropriation account under s. 20.455 (3) (g), on the effective date of this subsection,
17 there is lapsed to the general fund the unencumbered balance of any settlement
18 funds in that appropriation account, as determined by the attorney general.

19 (2) OFFICE OF SOLICITOR GENERAL POSITIONS. In the schedule under s. 20.005 (3)
20 for the appropriation to the department of justice under s. 20.455 (1) (gh), the dollar
21 amount for fiscal year 2018-19 is decreased by \$320,000 to decrease the authorized
22 FTE positions for the department by 1.0 PR solicitor general position and 3.0 PR
23 deputy solicitor general positions on January 1, 2019.

24 (3) DEPARTMENT OF JUSTICE GIFTS AND GRANTS. Notwithstanding s. 20.001 (2) (b),
25 any moneys encumbered under the appropriation accounts under s. 20.455 (2) (gb)

1 and (3) (g) before the effective date of this subsection may be expended pursuant to
2 the terms of the encumbrance.

3 **SECTION 104. Initial applicability.**

4 (1) AGENCY PUBLICATIONS. The treatment of s. 227.05 with respect to printed
5 publications first applies to guidance documents, forms, pamphlets, or other
6 informational materials that are printed 60 days after the effective date of this
7 subsection.

8 **SECTION 105. Effective date.**

9 (1) AGENCY PUBLICATIONS. The treatment of s. 227.05 and SECTION 104 (1) takes
10 effect on the first day of the 7th month beginning after publication.

11 (END)

24-20

1 of counsel by special counsel appointed by the committee to represent the state and
2 may not participate in the action, proceeding, or case. Unless the joint committee on
3 legislative organization intervenes as permitted under s. 803.09 (2m), nothing in this
4 subsection deprives or relieves the attorney general or the department of justice of
5 any authority or duty under this chapter in any other matter.

6 **SECTION 29.** 165.25 (1m) of the statutes is amended to read:

7 **165.25 (1m) REPRESENT STATE IN OTHER MATTERS.** If the joint committee on
8 legislative organization does not intervene as permitted under s. 803.09 (2m), if
9 requested by the governor or either house of the legislature, appear for and represent
10 the state, any state department, agency, official, employee or agent, whether
11 required to appear as a party or witness in any civil or criminal matter, and prosecute
12 or defend in any court or before any officer, any cause or matter, civil or criminal, in
13 which the state or the people of this state may be interested. The joint committee on
14 legislative organization may intervene as permitted under s. 803.09 (2m) at any
15 time, and if the committee intervenes, the attorney general shall notify the court of
16 the substitution of counsel by special counsel appointed by the committee to
17 represent the state and may not participate in the cause or matter. The public service
18 commission may request under s. 196.497 (7) that the attorney general intervene in
19 federal proceedings. All expenses of the proceedings shall be paid from the
20 appropriation under s. 20.455 (1) (d).

21 **SECTION 30.** 165.25 (6) (a) of the statutes is renumbered 165.25 (6) (a) 1. and
22 amended to read:

23 165.25 (6) (a) 1. ^{SECRET} Except as provided in ss. 806.04 (11) and 893.825 (2), at the
24 request of the head of any department of state government, the attorney general may
25 appear for and defend any state department, or any state officer, employee, or agent

*the approval of an intervenor
under s. 803.09(2m) - ~~the~~ or*

if there is no intervenor, without

1 of the department in any civil action or other matter brought before a court or an
 2 administrative agency which is brought against the state department, or officer,
 3 employee, or agent for or on account of any act growing out of or committed in the
 4 lawful course of an officer's, employee's, or agent's duties. Witness fees or other
 5 expenses determined by the attorney general to be reasonable and necessary to the
 6 defense in the action or proceeding shall be paid as provided for in s. 885.07. The
 7 attorney general may compromise and settle the action as the attorney general
 8 determines to be in the best interest of the state except that, if the action is for
 9 injunctive relief or there is a proposed consent decree, the attorney general may not
 10 compromise or settle the action without first submitting a proposed plan to the joint
 11 committee on finance. If, within 14 working days after the plan is submitted, the
 12 cochairpersons of the committee notify the attorney general that the committee has
 13 scheduled a meeting for the purpose of reviewing the proposed plan, the attorney
 14 general may compromise or settle the action only with the approval of the committee.
 15 The attorney general may not submit a proposed plan to the joint committee on
 16 finance under this subdivision in which the plan concedes the unconstitutionality or
 17 other invalidity of a statute, facially or as applied, or concedes that a statute violates
 18 or is preempted by federal law, without the approval of the joint committee on
 19 legislative organization.

20 2. Members, officers, and employees of the Wisconsin state agencies building
 21 corporation and the Wisconsin state public building corporation are covered by this
 22 section. Members of the board of governors created under s. 619.04 (3), members of
 23 a committee or subcommittee of that board of governors, members of the injured
 24 patients and families compensation fund peer review council created under s.
 25 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are

1 covered by this section with respect to actions, claims, or other matters arising
2 before, on, or after April 25, 1990. The attorney general may compromise and settle
3 claims asserted before such actions or matters formally are brought or may delegate
4 such authority to the department of administration. This paragraph may not be
5 construed as a consent to sue the state or any department thereof or as a waiver of
6 state sovereign immunity.

7 **SECTION 31.** 227.01 (3m) of the statutes is created to read:

8 227.01 (3m) (a) "Guidance document" means, except as provided in par. (b), any
9 formal or official document or communication issued by an agency, including a
10 manual, handbook, directive, or informational bulletin, that does any of the
11 following:

12 1. Explains the agency's implementation of a statute or rule enforced or
13 administered by the agency, including the current or proposed operating procedure
14 of the agency.

15 2. Provides guidance or advice with respect to how the agency is likely to apply
16 a statute or rule enforced or administered by the agency, if that guidance or advice
17 is likely to apply to a class of persons similarly affected.

18 (b) "Guidance document" does not include any of the following:

19 1. A rule that has been promulgated and that is currently in effect or a proposed
20 rule that is in the process of being promulgated.

21 2. A standard adopted, or a statement of policy or interpretation made, whether
22 preliminary or final, in the decision of a contested case, in a private letter ruling
23 under s. 73.035, or in an agency decision upon or disposition of a particular matter
24 as applied to a specific set of facts.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBa2673/1
MED:kjf

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 884**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 32, line 14: after “(7)” insert “(a)”.

3 **2.** Page 32, line 18: after that line insert:

4 “(b) This section does not apply to guidance documents or proposed guidance
5 documents of the Board of Regents of the University of Wisconsin System, the
6 Technical College System Board, or the department of employee trust funds.”

7

(END)

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