1981 Assembly Bill 555

Date published: November 25, 1981

CHAPTER 62, Laws of 1981

AN ACT to amend 8.25 (4) (b), 15.07 (1) (c) and 165.25 (1); and to create 15.101 (13), 15.105 (11), 15.107 (7) and (8), 16.08 and 20.505 (7) of the statutes, relating to the long-term disposal of high-level radioactive waste and transuranic waste, creating a radioactive waste review board, creating a radioactive waste policy council, creating a radioactive waste technical council and making appropriations.

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

SECTION 1. Legislative findings and declaration. (1) FINDINGS. The legislature finds that the state is not assured that the federal department of energy will consider the unique features of the state and the needs of the people of the state when assessing the state as a potentially suitable location for the long-term disposal of high-level radioactive waste or transuranic waste. Neither is the state assured that the federal department of energy will ensure adequate opportunity for public participation in the assessment process.

(2) DECLARATION. The legislature declares that it is in the best interests of the state to establish a radioactive waste review board to serve as an advocate for the people of the state before the federal government and to ensure a maximum of public participation in the assessment process.

(3) INTERPRETATION. Nothing in this act shall be interpreted by the federal government or the federal department of energy as an expression by the people of this state to accept the establishment of a site for the long-term disposal of high-level radioactive waste or transuranic waste.

SECTION 2. 8.25 (4) (b) of the statutes is amended to read:

8.25 (4) (b) <u>1</u>. The regular full term of office of the state superintendent commences on the first Monday of July, and the.

<u>2. The</u> regular full term of each other officer enumerated in par. (a) commences on the first Monday of January, next succeeding his the officer's election.

SECTION 3. 15.07 (1) (c) of the statutes is amended to read:

15.07 (1) (c) Fixed terms of members of boards, except the personnel board and the state employes merit award board where terms shall expire on July 1, and Milwaukee teachers retirement board where terms shall begin after the regular annual meeting on the last Saturday in September, shall expire on May 1 and shall, if the term is for an even number of years, expire in an odd-numbered year. In the case of the ethics board, the term of one member shall expire on each May 1. In the case of the radioactive waste review board, the terms of the members shall expire on the dates specified under s. 15.105 (11) (c).

SECTION 4. 15.101 (13) of the statutes is created to read:

15.101 (13) RADIOACTIVE WASTE REVIEW BOARD. The radioactive waste review board has the program responsibilities specified for the board under s. 16.08.

SECTION 5. 15.105 (11) of the statutes is created to read:

15.105 (11) RADIOACTIVE WASTE REVIEW BOARD. (a) *Creation*. There is created a radioactive waste review board which is attached to the department of administration under s. 15.03.

(b) *Membership.* The radioactive waste review board consists of the following members:

1. One member who is a representative to the assembly and who is designated in the same manner that members of the standing committees of the assembly are appointed.

2. One public member who is designated in the same manner that members of the standing committees of the assembly are appointed. This member may be a resident of the territory north of a line running east and west through the southern limit of the city of Stevens Point.

3. One member who is a senator and who is designated in the same manner that members of the standing committees of the senate are appointed.

4. One public member who is designated in the same manner that members of the standing committees of the senate are appointed. This member shall be a resident of the territory north of a line running east and west through the southern limit of the city of Stevens Point.

5. Four members selected by the governor, of which at least one is a representative of the governor and at least 2 are public members. At least one of the public members shall be a resident of the territory north of a line running east and west through the southern limit of the city of Stevens Point.

6. One member who is the chairperson of the radioactive waste policy council created under s. 15.107(7).

7. One member who is the chairperson of the radioactive waste technical council created under s. 15.107 (8). This member is a nonvoting member.

(c) *Terms.* Each member of the radioactive waste review board designated under par. (b) 1 to 4 shall serve a 2-year term expiring on the date specified under s. 13.02 (1) or until a successor is appointed. Each member of the radioactive waste review board selected under par. (b) 5 shall serve a 4-year term expiring on the date specified under s. 8.25 (4) (b) 2 or until a successor is appointed.

(d) *Public members*. Public members of the radioactive waste review board may not be employes of the state or federal government.

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(e) Sunset. This subsection is effective until January 1, 1987.

SECTION 6. 15.107 (7) and (8) of the statutes are created to read:

15.107 (7) RADIOACTIVE WASTE POLICY COUNCIL. There is created in the department of administration a radioactive waste policy council. The radioactive waste policy council consists of not more than 11 members appointed for 3-year terms by the radioactive waste review board to serve at the pleasure of the board. At least 6 of the members shall be residents of the territory north of a line running east and west through the southern limit of the city of Stevens Point. The chairperson of the radioactive waste policy council may not vote on the appointment of members to the radioactive waste policy council. The members shall include public members, representatives of local units of government and representatives of American Indian tribes. The board shall appoint public members to represent a broad diversity of opinion regarding the long-term disposal of high-level radioactive waste and transuranic waste. The board shall appoint representatives of local units of government from different parts of the state. This subsection is effective until January 1, 1987.

(8) RADIOACTIVE WASTE TECHNICAL COUNCIL. There is created in the department of administration a radioactive waste technical council consisting of the secretary of the department of health and social services, the secretary of the department of natural resources, the secretary of the department of transportation, the attorney general, the administrator of the division of emergency government in the department of administration, the head of the subunit responsible for state planning and energy in the department of administration, the state geologist, the chairperson of the public service commission and the president of the university of Wisconsin system or their designees. In addition, the radioactive waste review board may appoint 2 additional members with technical expertise in fields related to the long-term disposal of high-level radioactive waste and transuranic waste. This subsection is effective until January 1, 1987.

SECTION 7. 16.08 of the statutes is created to read:

16.08 State policy regarding the long-term disposal of high-level radioactive waste and transuranic waste. (1) DEFINITIONS. As used in this section unless the context requires otherwise:

(a) "Board" means the radioactive waste review board.

(b) "Federal department of energy" means the federal department of energy or any successor agency assigned responsibility for the long-term disposal of high-level radioactive waste and transuranic waste.

(c) "High-level radioactive waste" means:

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1. Fuel that is withdrawn from a nuclear reactor after irradiation and which is packaged and prepared for disposal; or

2. Highly radioactive waste resulting from reprocessing irradiated nuclear fuel including both the liquid waste which is produced directly in reprocessing and any solid material into which the liquid waste is transformed.

(d) "Transuranic waste" means waste material containing alpha-emitting radioactive elements having an atomic number greater than 92 in concentrations greater than 10 nanocuries per gram.

(2) COORDINATION. (a) Initial agency to be contacted. The board shall serve as the initial agency in this state to be contacted by the federal department of energy or any other federal agency on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

(b) *Receipt of information.* The board shall serve as the initial agency in this state to receive any report, study, document, information or notification of proposed plans from the federal department of energy or any other federal agency on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste. Notification of

proposed plans include notification of proposals to conduct field work, on-site evaluation, on-site testing or similar activities.

(c) Dissemination of information. The board shall disseminate or arrange with the federal department of energy or other federal agency to disseminate information received under par. (b) to appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public, interested citizen groups and persons who have requested in writing to receive this information.

(d) Response. The board shall respond to contacts under par. (a) and information received under par. (b) if a response is appropriate. The board shall consult with the radioactive waste policy council and the radioactive waste technical council and with appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups in preparing this response. The radioactive waste policy council and the radioactive waste technical council shall prepare written comments for use in this response if requested to do so by the board.

(3) ADVOCATE. The board shall serve as an advocate on behalf of the citizens of this state before the federal department of energy and other federal agencies on matters related to the long-term disposal of radioactive waste and transuranic waste.

(4) EDUCATIONAL PROGRAMS. The board shall promote and coordinate educational programs which provide information on the nature of high-level radioactive waste and transuranic waste, the long-term disposal of these wastes, the activities of the board, the activities of the federal department of energy and other federal agencies related to the long-term disposal of high-level radioactive waste and transuranic waste and the opportunities of the public to participate in procedures and decisions related to the long-term disposal of high-level radioactive waste and transuranic waste.

(5) REVIEW OF APPLICATIONS FOR FEDERAL FUNDS. The board shall review any application to the federal department of energy or other federal agency by a state agency, local unit of government or regional planning commission for funds for any program related to the long-term disposal of high-level radioactive waste or transuranic waste. If the board finds that the application is not consistent with the board's policy related to the long-term disposal of high-level radioactive waste or transuranic waste or that the application is not in the best interest of the state, the board shall forward its findings to the governor, the joint committee on finance and the federal agency to which the application for funds is being made. If the board finds that the application of a state agency is not consistent with the board's policy related to the long-term disposal of high-level radioactive waste or transuranic waste or that the application of a state agency is not in the best interest of the state, the findings forwarded to the governor shall include a recommendation that the governor act under s. 16.54 (1) and stipulate conditions for the acceptance of the funds which are necessary to safeguard the interests of the state.

(6) MONITOR FEDERAL ACTIVITY. The board shall monitor activity in congress and the federal government related to the long-term disposal of high-level radioactive waste and transuranic waste. The board may advise the congressional delegation from this state of action which is needed to protect the interests of the state.

(7) REQUEST ATTORNEY GENERAL TO INTERVENE. If appropriate the board shall request the attorney general to intervene in federal proceedings to protect the state's interests and present the state's point of view on matters related to the long-term disposal of high-level radioactive waste or transuranic waste.

(8) NEGOTIATION OF AGREEMENTS. (a) Negotiations with the federal department of energy. The board shall serve as the agency in this state to negotiate written agreements and modifications to these agreements, with the federal department of energy on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

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(b) Negotiations with other federal agencies. The board shall serve as the agency in this state to negotiate written agreements and modifications to these agreements, with any federal agency other than the federal department of energy on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

(c) Consultation. The board shall consult with the radioactive waste policy council and the radioactive waste technical council during the negotiation of any agreement or modification to an agreement under par. (a) or (b). The radioactive waste policy council and the radioactive waste technical council shall prepare written comments on any agreement or draft agreement being negotiated by the board if requested to do so by the board.

(d) *Hearings*. The board shall conduct more than one public hearing on any proposed agreement or modification to an agreement negotiated under par. (a) or (b). The board shall provide 30 day's notice of the date and location of hearings conducted under this paragraph. The board shall prepare a written summary of testimony presented at hearings conducted under this paragraph and shall consider the need for modifications to the negotiated agreement as a result of the hearings.

(e) Approval of agreements and modifications by the board. No agreement or modification to an agreement negotiated under par. (a) or (b) may take effect unless it is approved by a majority of the members of the full board.

(f) Approval of agreements and modifications by the legislature and governor. No agreement or modification to an agreement negotiated under par. (a) or (b) may take effect unless it is approved under sub. (10).

(g) Technical revisions. The board may negotiate what in the board's judgment are technical revisions to any agreement approved under sub. (10).

(h) Approval of technical revisions by the board. No technical revision to an agreement negotiated under par. (g) may take effect unless it is approved by a majority of the members of the full board.

(i) Review of technical revisions by the legislature and governor. No technical revision to an agreement negotiated under par. (g) may take effect unless it is considered approved under sub. (11).

(9) AGREEMENTS WITH THE FEDERAL DEPARTMENT OF ENERGY. (a) Separate agreements. The board may negotiate separate agreements with the federal department of energy concerning different stages of the process of evaluating and selecting a site for the long-term disposal of high-level radioactive waste or transuranic waste. The board shall negotiate a separate agreement with the federal department of energy for the final stages of the selection of any site for the long-term disposal of high-level radioactive waste or transuranic waste.

(b) Contents. Any agreement negotiated by the board with the federal department of energy under sub. (8) (a) shall include:

1. A general description of the roles of the state and the federal department of energy.

2. A compliance schedule which includes a list of significant events and stages which are expected to be reached as the federal department of energy assesses the suitability of the state for the long-term disposal of high-level radioactive waste or transuranic waste and a description of the actions to be taken by the federal department of energy and the state at each event and stage.

3. The criteria that the department of energy shall use in evaluating the suitability of any site in the state for the long-term disposal of high-level radioactive waste or transuranic waste.

4. A requirement that the federal department of energy shall comply with all federal laws, American Indian laws, state laws and local ordinances and shall respect state sovereignty consistent with the 10th amendment to the U.S. constitution and the U.S. constitution, regardless of the ownership of the land on which the activity takes place.

5. A requirement that the federal department of energy and any of its contractors or subcontractors shall provide the board with all reports and documents the board requests and any other relevant reports and documents in a timely manner and in accordance with any applicable law, regulation or rule. The requirement shall specify that the federal department of energy may not charge a fee for searching for or for supplying reports and documents requested by the board. The requirement shall specify that the federal department of energy shall provide the board with all reports and documents the board requests and any other relevant reports and documents from contractors and subcontractors after the reports and documents are submitted to the federal department of energy regardless of whether the reports and documents have received the department of energy's final approval.

6. A requirement that, upon request by the board, the federal department of energy shall provide the data, methods and underlying assumptions used in the preparation of reports and documents in accordance with any applicable law, regulation or rule.

7. A requirement that the federal department of energy shall notify the board of any grants related to the long-term disposal of high-level radioactive waste and transuranic waste from the federal department of energy to any person in this state.

8. A requirement that the federal department of energy shall notify the board in a timely manner of any proposed field work, on-site evaluation, on-site testing or similar activities it or any contractor or subcontractor intends to conduct and a requirement that the federal department of energy shall allow the board to monitor these activities by designating a reasonable number of persons to observe the activities or by any other appropriate means.

9. A requirement that the federal department of energy shall provide the board in a timely manner with a copy of any requests for proposals and final contracts issued by the federal department of energy relating to the evaluation, selection or construction of a site for the long-term disposal of high-level radioactive waste or transuranic waste in this state.

10. A provision that the federal department of energy shall agree to provide funds to be used to provide educational programs under sub. (4) and to review the activities of the federal department of energy and its contractors and subcontractors which relate to assessing the suitability of the state for the long-term disposal of high-level radioactive waste or transuranic waste.

11. A process for resolving disputes between the board and the federal department of energy including disputes concerning alleged violations of the written agreement and disputes concerning technical assessments made by the federal department of energy. The process for resolving disputes concerning technical assessments made by the federal department of energy may involve a process of scientific review and mediation.

12. A requirement that if the federal department of energy selects a site in the state for construction of a repository for the long-term disposal of high-level radioactive waste or transuranic waste, the federal department of energy shall prepare, prior to submission of an application to license or construct the repository, a repository plan which shall include descriptions of the federal department of energy's plans for construction of the repository, transportation of wastes to the repository, operation of the repository, closing of the repository and monitoring the repository after closure.

(c) Objection to site selection. Any agreement negotiated by the board with the federal department of energy under sub. (8) (a) shall include a list of reasons for which the board may object to the selection of a site within this state for the long-term disposal of high-level radioactive waste and transuranic waste. These reasons shall include the following:

1. The site or the transportation of waste to the site poses a danger to public health and safety or to the environment.

2. The federal department of energy fails to address to the satisfaction of the board the potential socioeconomic effects of the site or of the transportation of waste to the site.

3. The federal department of energy violates any written agreement or revision approved under sub. (10) or (11).

4. If, in the judgment of the board, the federal department of energy fails to comply with criteria, regulations or standards of other federal agencies concerning the long-term disposal of high-level radioactive waste or transuranic waste including criteria which excludes a proposed site from consideration because of previous mining or drilling of any type within the area which could be affected by the construction of the site or by the heat resulting from the disposal of high-level radioactive waste or transuranic waste at the site.

5. If, in the judgment of the board, the federal department of energy fails to use generally accepted scientific and technical practices in evaluating the suitability of a site for the long-term disposal of high-level radioactive waste or transuranic waste.

(10) APPROVAL OF AGREEMENTS. (a) Submission. The board shall submit any written agreement or modification to an agreement negotiated under sub. (8) (a) or (b), approved by the board and approved by the federal department of energy or other federal agency to the speaker of the assembly and the president of the senate. The board shall submit with the agreement or modification a written summary of the hearings held under sub. (8) (d).

(b) Introduction of bill. Upon request of the board, the speaker of the assembly or the president of the senate shall introduce a bill to approve the agreement or modification to an agreement. The bill is not subject to s. 16.47 (2).

(c) Legislative action required. Within 120 days after the bill is introduced the appropriate committees in each house of the legislature shall authorize an extraordinary session of the legislature to commence within the 120 days and to extend until the legislature passes the bill or passes a joint resolution which disapproves of the agreement or modification and returns the agreement or modification to the board for renegotiation. If the 120 day period extends beyond the date specified in s. 13.02 (1), the 120-day period is deemed to commence on the first day the succeeding legislature convenes, unless a bill or joint resolution is passed prior to that time.

(d) Veto review. Within 10 days after the bill passes the legislature, the chief clerk of the house of origin shall refer the bill to the governor for executive action. If the governor vetoes the bill, the appropriate committees in each house of the legislature shall schedule a veto review session.

(e) Approval. If the bill is enacted into law, the agreement or modification to the agreement is approved and shall take effect.

(11) REVIEW OF TECHNICAL REVISIONS. (a) Submission. The board shall submit any technical revision to a written agreement negotiated under sub. (8) (g), approved by the board and approved by the federal department of energy or other federal agency, to the presiding officer of each house of the legislature and to the governor.

(b) Referral to standing committees. Each presiding officer shall refer the technical revision to one standing committee within 7 working days after the day on which the revision is received unless the revision is received on or after November 1 of an evennumbered year. If a revision is received on or after November 1 of an evennumbered year, each presiding officer shall refer the revision to one standing committee within 7 days after the first day of the next regular session of the legislature. Each presiding officer shall cause a statement to appear in the journal of the appropriate house that a technical revision to an agreement approved under sub. (6) is submitted for review.

(c) Standing committee review. Either standing committee may object to the technical revision by taking action in executive session within 30 days after the revision is referred to the committee. If a standing committee objects to the revision, it shall submit a written notice of the objection to the presiding officer of that house of the legislature and the presiding officer shall cause the written notice of the objection to appear in the journal of the house.

(d) Review by the governor. The governor may object to the technical revision by taking action within 30 days after the revision is received unless the revision is received on or after November 1 of an even-numbered year. If the revision is received on or after November 1 of an even-numbered year, the governor may object to the revision by taking action within 30 days after the first day of the next regular session of the legislature. If the governor objects to the revision, the governor shall submit a written notice of the objection to the presiding officer of each house of the legislature and each presiding officer shall cause the written notice of the objection to appear in the journal of each house.

(e) Objection. A standing committee to which a revision is referred or the governor may object to a technical revision for any reason including a belief that the revision is so substantial that the revised agreement should be approved under sub. (10) rather than this subsection. If either standing committee to which a revision is referred or the governor objects to a technical revision within the 30-day review period, the revision may not take effect.

(f) No objection. If neither standing committee nor the governor objects to a technical revision within the 30-day review period, the revision is considered approved and shall take effect.

(11m) REVIEW OF FINAL SITE SELECTION AND SITE PLAN. (a) Review by the board. If the federal department of energy selects a site in the state for construction of a repository for the long-term disposal of high-level radioactive or transuranic waste, the board shall review the adequacy of the selected site and of the site plan prepared by the federal department of energy under sub. (9) (b) 12. The review shall include a full scientific review of the adequacy of the selected site and of the site plan. The board shall solicit written comments on the selected site and the site plan from the radioactive waste policy council and the radioactive waste technical council. The board shall utilize recognized experts in conducting its scientific review. The board shall conduct more than one public hearing on the site plan and shall make available to the public arguments and evidence for and against the site plan. The board shall provide 30 day's notice of the date and location of the public hearings. The board shall solicit comments from appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups on the adequacy of the selected site and the site plan. The board shall make these comments available to the public.

(b) Recommendation to the legislature and the governor. After completing this review, the board shall submit a recommendation to the speaker of the assembly, the president of the senate and the governor on whether the state should accept the site selected by the federal department of energy and the site plan. The reasons for which the board may recommend that the legislature and the governor object to the site selection or the site plan, or both, include those specified in sub. (9) (c). The recommendation to the speaker of the assembly and the president of the senate shall be accompanied by a request for the introduction of a bill to disapprove the site or the site plan or both.

(c) Introduction of legislation. Upon request of the board, the speaker of the assembly or the president of the senate shall introduce a bill reflecting the recommendation of the board on whether to approve or disapprove the site selected by the federal department of energy and the site plan. The bill is not subject to s. 16.47 (2).

(d) Legislative action required. Within 120 days after the legislation is introduced under par. (c), the appropriate committees in each house of the legislature shall authorize an extraordinary session of the legislature to commence within the 120 days and to extend

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until the legislature passes a bill which approves the site selected by the federal department of energy and the site plan or the legislature passes a bill which disapproves the site or the site plan or both. If the 120-day period extends beyond the date specified under s. 13.02 (1), the 120-day period is deemed to commence on the first day the succeeding legislature convenes, unless a bill is passed prior to that time.

(e) Veto review. Within 10 days after the bill passes the legislature, the chief clerk of the house of origin shall refer the bill to the governor for executive action. If the governor vetoes the bill, the appropriate committees in each house of the legislature shall schedule a veto review session.

(f) Transmittal of action by the legislature and the governor. After the legislature takes action under par. (d) and after the governor takes any action under par. (e), the chief clerk of the house of origin shall notify the board of the action taken and the board shall send a report to the president of the United States, the members of the U.S. senate, the members of the U.S. house of representatives, the federal department of energy and other appropriate federal agencies. The report shall contain a summary of the review undertaken by the board in accordance with par. (a), the recommendation made by the board under par. (b), the action of the legislature under par. (d) and any action of the governor under par. (e).

(12) IMPLEMENTATION. The board shall implement agreements, modifications and technical revisions approved under subs. (10) and (11). In implementing these agreements, modifications and revisions, the board may solicit the views of appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups.

(13) FUNDING. The board shall attempt to finance all of its expenses from moneys received from the federal department of energy and other federal agencies and from gifts and grants received from other persons.

(14) STATE AGENCIES TO COOPERATE. The board shall rely on the expertise of staff in other state agencies to assist the board in its duties whenever possible. Other state agencies shall assist the board in fulfilling its duties to the fullest extent possible.

(15) SUNSET. This section is effective until January 1, 1987.

SECTION 8. 20.005 (2) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

20.505	Administration, department of	1981-82	1982-83
(7)	RADIOACTIVE WASTE REVIEW		
(a)	BOARD General program operations GPR A	39,400	39,400

SECTION 9. 20.505 (7) of the statutes is created to read:

20.505 (7) RADIOACTIVE WASTE REVIEW BOARD. (a) General program operations. The amounts in the schedule for the general program operations of the radioactive waste review board under s. 16.08. No money may be appropriated under this paragraph after January 1, 1987.

(g) Gifts and grants. All moneys received as gifts and grants by the radioactive waste review board to be used for the purpose for which made. No money may be appropriated under this paragraph after January 1, 1987.

(m) *Federal aid.* All moneys received from the federal government by the radioactive waste review board as authorized by the governor under s. 16.54. No money may be appropriated under this paragraph after January 1, 1987.

SECTION 10. 165.25 (1) of the statutes is amended to read:

165.25 (1) REPRESENT STATE. Except as provided in s. 59.47 (7), appear for the state and prosecute or defend all actions and proceedings, civil or criminal, in the court of appeals and the supreme court, in which the state is interested or a party, and attend to and prosecute or defend all civil cases sent or remanded to any circuit court in which the state is a party; and, if requested by the governor Θr , either branch of the legislature or the <u>radioactive waste review board under s. 16.08 (7)</u>, appear for the state and prosecute or defend in any court or before any officer, any cause or matter, civil or criminal, in which the state or the people thereof of this state may be interested. All expenses of the proceedings shall be paid from the appropriation under s. 20.455 (1) (d).

SECTION 11. Nonstatutory provisions; position authorization. The authorized FTE positions for the department of administration are increased by 2 GPR one-year project positions to include one professional position and one clerical position to be funded from the appropriation under section 20.505 (7) (a) of the statutes for the purpose of providing staff support for the radioactive waste review board.

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