



State of Wisconsin
2011 - 2012 LEGISLATURE

January 2011 Special Session



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**SENATE SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 6**

February 2, 2011 – Offered by Senators TAYLOR, LASSA, C. LARSON and S. COGGS.

1 **AN ACT to amend** 1.12 (1) (b), 13.172 (1), 13.48 (13) (a), 13.62 (2), 13.94 (1) (mm),
2 13.94 (4) (a) 1., 13.95 (intro.), 16.002 (2), 16.004 (4), 16.004 (5), 16.004 (12) (a),
3 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4), 16.417 (1) (a), 16.417 (1) (a), 16.417 (1)
4 (b), 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.765 (1), 16.765 (2),
5 16.765 (5), 16.765 (6), 16.765 (7) (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2),
6 16.865 (8), 40.02 (28), 40.02 (36), 71.26 (1) (be), 77.54 (9a) (a), 100.45 (1) (dm),
7 101.177 (1) (d), 230.03 (3), 281.75 (4) (b) 3. and 285.59 (1) (b); and **to create**
8 13.48 (10) (b) 6., 13.48 (12) (b) 5., 13.94 (1) (dr), 13.94 (1s) (c) 5., 19.42 (10) (sm),
9 19.42 (13) (om), 40.02 (54) (m), 70.11 (38r) and chapter 238 of the statutes;
10 **relating to:** creation of an authority, to be known as the Wisconsin Economic
11 Development Corporation.

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 is amended to read:

2 1.12 (1) (b) “State agency” means an office, department, agency, institution of
3 higher education, the legislature, a legislative service agency, the courts, a judicial
4 branch agency, an association, society, or other body in state government that is
5 created or authorized to be created by the constitution or by law, for which
6 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
7 Authority and the Wisconsin Economic Development Corporation.

8 **SECTION 2.** 13.172 (1) of the statutes is amended to read:

9 13.172 (1) In this section, “agency” means an office, department, agency,
10 institution of higher education, association, society, or other body in state
11 government created or authorized to be created by the constitution or any law, that
12 is entitled to expend moneys appropriated by law, including the legislature and the
13 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
14 ch. 52, 231, 233, 234, 238, or 279.

15 **SECTION 3.** 13.48 (10) (b) 6. of the statutes is created to read:

16 13.48 (10) (b) 6. Projects of the Wisconsin Economic Development Corporation.

17 **SECTION 4.** 13.48 (12) (b) 5. of the statutes is created to read:

18 13.48 (12) (b) 5. A facility constructed by or for the Wisconsin Economic
19 Development Corporation.

20 **SECTION 5.** 13.48 (13) (a) of the statutes is amended to read:

21 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
22 facility that is constructed for the benefit of or use of the state, any state agency,
23 board, commission or department, the University of Wisconsin Hospitals and Clinics
24 Authority, the Fox River Navigational System Authority, the Wisconsin Quality
25 Home Care Authority, the Wisconsin Economic Development Corporation, or any

1 local professional baseball park district created under subch. III of ch. 229 if the
2 construction is undertaken by the department of administration on behalf of the
3 district, shall be in compliance with all applicable state laws, rules, codes and
4 regulations but the construction is not subject to the ordinances or regulations of the
5 municipality in which the construction takes place except zoning, including without
6 limitation because of enumeration ordinances or regulations relating to materials
7 used, permits, supervision of construction or installation, payment of permit fees, or
8 other restrictions.

9 **SECTION 6.** 13.62 (2) of the statutes is amended to read:

10 13.62 (2) "Agency" means any board, commission, department, office, society,
11 institution of higher education, council, or committee in the state government, or any
12 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232,
13 233, 234, 237, 238, or 279, except that the term does not include a council or
14 committee of the legislature.

15 **SECTION 7.** 13.94 (1) (dr) of the statutes is created to read:

16 13.94 (1) (dr) Biennially, beginning in 2013, conduct a financial audit of the
17 Wisconsin Economic Development Corporation and a program evaluation audit of
18 the economic development programs administered by the Wisconsin Economic
19 Development Corporation under ch. 238. The legislative audit bureau shall file a
20 copy of each audit report under this paragraph with the distributees specified in par.
21 (b).

22 **SECTION 8.** 13.94 (1) (mm) of the statutes is amended to read:

23 13.94 (1) (mm) No later than July 1, 2012, prepare a financial and performance
24 evaluation audit of the economic development programs administered by the
25 department of commerce, the University of Wisconsin System, the department of

1 agriculture, trade and consumer protection, the department of natural resources, the
2 Wisconsin Housing and Economic Development Authority, the Wisconsin Economic
3 Development Corporation, the department of tourism, the technical college system,
4 and the department of transportation. In this paragraph, economic development
5 program has the meaning given in s. 560.001 (1m). The legislative audit bureau shall
6 file a copy of the report of the audit under this paragraph with the distributees
7 specified in par. (b).

8 **SECTION 9.** 13.94 (1s) (c) 5. of the statutes is created to read:

9 13.94 (1s) (c) 5. The Wisconsin Economic Development Corporation for the cost
10 of the audit required to be performed under sub. (1) (dr).

11 **SECTION 10.** 13.94 (4) (a) 1. of the statutes is amended to read:

12 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
13 credentialing board, commission, independent agency, council or office in the
14 executive branch of state government; all bodies created by the legislature in the
15 legislative or judicial branch of state government; any public body corporate and
16 politic created by the legislature including specifically the Wisconsin Quality Home
17 Care Authority, the Fox River Navigational System Authority, the Lower Fox River
18 Remediation Authority, and the Wisconsin Aerospace Authority, the Wisconsin
19 Economic Development Corporation, a professional baseball park district, a local
20 professional football stadium district, a local cultural arts district and a long-term
21 care district under s. 46.2895; every Wisconsin works agency under subch. III of ch.
22 49; every provider of medical assistance under subch. IV of ch. 49; technical college
23 district boards; every county department under s. 51.42 or 51.437; every nonprofit
24 corporation or cooperative or unincorporated cooperative association to which
25 moneys are specifically appropriated by state law; and every corporation, institution,

1 association or other organization which receives more than 50% of its annual budget
2 from appropriations made by state law, including subgrantee or subcontractor
3 recipients of such funds.

4 **SECTION 11.** 13.95 (intro.) of the statutes is amended to read:

5 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
6 known as the “Legislative Fiscal Bureau” headed by a director. The fiscal bureau
7 shall be strictly nonpartisan and shall at all times observe the confidential nature
8 of the research requests received by it; however, with the prior approval of the
9 requester in each instance, the bureau may duplicate the results of its research for
10 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director’s
11 designated employees shall at all times, with or without notice, have access to all
12 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
13 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
14 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
15 Authority, the Wisconsin Economic Development Corporation, and the Fox River
16 Navigational System Authority, and to any books, records, or other documents
17 maintained by such agencies or authorities and relating to their expenditures,
18 revenues, operations, and structure.

19 **SECTION 12.** 16.002 (2) of the statutes is amended to read:

20 16.002 (2) “Departments” means constitutional offices, departments, and
21 independent agencies and includes all societies, associations, and other agencies of
22 state government for which appropriations are made by law, but not including
23 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and or in chs. ch. 52,
24 231, 232, 233, 234, 235, 237, and 238, or 279.

25 **SECTION 13.** 16.004 (4) of the statutes is amended to read:

1 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
2 department as the secretary designates may enter into the offices of state agencies
3 and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under
4 chs. 52, 231, 233, 234, 237, 238, and 279, and may examine their books and accounts
5 and any other matter that in the secretary’s judgment should be examined and may
6 interrogate the agency’s employees publicly or privately relative thereto.

7 **SECTION 14.** 16.004 (5) of the statutes is amended to read:

8 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
9 authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs.
10 52, 231, 233, 234, 237, 238, and 279, and their officers and employees, shall cooperate
11 with the secretary and shall comply with every request of the secretary relating to
12 his or her functions.

13 **SECTION 15.** 16.004 (12) (a) of the statutes is amended to read:

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

23 **SECTION 16.** 16.045 (1) (a) of the statutes is amended to read:

24 16.045 (1) (a) “Agency” means an office, department, independent agency,
25 institution of higher education, association, society, or other body in state

1 government created or authorized to be created by the constitution or any law, that
2 is entitled to expend moneys appropriated by law, including the legislature and the
3 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
4 ch. 149 or in ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

5 **SECTION 17.** 16.15 (1) (ab) of the statutes is amended to read:

6 16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but
7 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
8 River Remediation Authority, the Wisconsin Quality Home Care Authority, the
9 Wisconsin Economic Development Corporation, and the Health Insurance
10 Risk-Sharing Plan Authority.

11 **SECTION 18.** 16.41 (4) of the statutes is amended to read:

12 16.41 (4) In this section, "authority" means a body created under subch. II of
13 ch. 114 or subch. III of ch. 149 or under ch. 52, 231, 233, 234, 237, 238, or 279.

14 **SECTION 19.** 16.417 (1) (a) of the statutes is amended to read:

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

21 **SECTION 20.** 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act

22 (this act), is amended to read:

23 16.417 (1) (a) "Agency" means an office, department, independent agency,
24 institution of higher education, association, society, or other body in state
25 government created or authorized to be created by the constitution or any law, that

1 is entitled to expend moneys appropriated by law, including the legislature and the
2 courts, but not including an authority or the body created under subch. III of ch. 149
3 or under ch. 238.

4 **SECTION 21.** 16.417 (1) (b) of the statutes is amended to read:

5 16.417 (1) (b) “Authority” means a body created under subch. II of ch. 114 or
6 ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

7 **SECTION 22.** 16.52 (7) of the statutes is amended to read:

8 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
9 that is authorized to maintain a contingent fund under s. 20.920 may establish a
10 petty cash account from its contingent fund. The procedure for operation and
11 maintenance of petty cash accounts and the character of expenditures therefrom
12 shall be prescribed by the secretary. In this subsection, “agency” means an office,
13 department, independent agency, institution of higher education, association,
14 society, or other body in state government created or authorized to be created by the
15 constitution or any law, that is entitled to expend moneys appropriated by law,
16 including the legislature and the courts, but not including an authority created in
17 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

18 **SECTION 23.** 16.528 (1) (a) of the statutes is amended to read:

19 16.528 (1) (a) “Agency” means an office, department, independent agency,
20 institution of higher education, association, society, or other body in state
21 government created or authorized to be created by the constitution or any law, that
22 is entitled to expend moneys appropriated by law, including the legislature and the
23 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
24 ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

25 **SECTION 24.** 16.53 (2) of the statutes is amended to read:

1 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
2 invoice, the agency shall notify the sender of the invoice within 10 working days after
3 it receives the invoice of the reason it is improperly completed. In this subsection,
4 “agency” means an office, department, independent agency, institution of higher
5 education, association, society, or other body in state government created or
6 authorized to be created by the constitution or any law, that is entitled to expend
7 moneys appropriated by law, including the legislature and the courts, but not
8 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
9 52, 231, 233, 234, 237, 238, or 279.

10 **SECTION 25.** 16.54 (9) (a) 1. of the statutes is amended to read:

11 16.54 (9) (a) 1. “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, which
14 is entitled to expend moneys appropriated by law, including the legislature and the
15 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
16 ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

17 **SECTION 26.** 16.765 (1) of the statutes is amended to read:

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

1 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as
2 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
3 orientation, obligating the contractor to take affirmative action to ensure equal
4 employment opportunities.

5 **SECTION 27.** 16.765 (2) of the statutes is amended to read:

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

24 **SECTION 28.** 16.765 (5) of the statutes is amended to read:

1 16.765 (5) The head of each contracting agency and the boards of directors of
2 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
3 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
4 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
5 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
6 Development Corporation, and the Bradley Center Sports and Entertainment
7 Corporation shall be primarily responsible for obtaining compliance by any
8 contractor with the nondiscrimination and affirmative action provisions prescribed
9 by this section, according to procedures recommended by the department. The
10 department shall make recommendations to the contracting agencies and the boards
11 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox
12 River Navigational System Authority, the Wisconsin Aerospace Authority, the
13 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
14 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
15 Development Corporation, and the Bradley Center Sports and Entertainment
16 Corporation for improving and making more effective the nondiscrimination and
17 affirmative action provisions of contracts. The department shall promulgate such
18 rules as may be necessary for the performance of its functions under this section.

19 **SECTION 29.** 16.765 (6) of the statutes is amended to read:

20 16.765 (6) The department may receive complaints of alleged violations of the
21 nondiscrimination provisions of such contracts. The department shall investigate
22 and determine whether a violation of this section has occurred. The department may
23 delegate this authority to the contracting agency, the University of Wisconsin
24 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
25 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,

1 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
2 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
3 Sports and Entertainment Corporation for processing in accordance with the
4 department's procedures.

5 **SECTION 30.** 16.765 (7) (intro.) of the statutes is amended to read:

6 16.765 (7) (intro.) When a violation of this section has been determined by the
7 department, the contracting agency, the University of Wisconsin Hospitals and
8 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
9 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
10 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
11 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
12 Entertainment Corporation, the contracting agency, the University of Wisconsin
13 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
14 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
15 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
16 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
17 Sports and Entertainment Corporation shall:

18 **SECTION 31.** 16.765 (7) (d) of the statutes is amended to read:

19 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
20 further violations of this section and to report its corrective action to the contracting
21 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
22 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
23 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
24 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic

1 Development Corporation, or the Bradley Center Sports and Entertainment
2 Corporation.

3 **SECTION 32.** 16.765 (8) of the statutes is amended to read:

4 16.765 (8) If further violations of this section are committed during the term
5 of the contract, the contracting agency, the Fox River Navigational System Authority,
6 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
7 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
8 Care Authority, the Wisconsin Economic Development Corporation, or the Bradley
9 Center Sports and Entertainment Corporation may permit the violating party to
10 complete the contract, after complying with this section, but thereafter the
11 contracting agency, the Fox River Navigational System Authority, the Wisconsin
12 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
13 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
14 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
15 Entertainment Corporation shall request the department to place the name of the
16 party on the ineligible list for state contracts, or the contracting agency, the Fox River
17 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
18 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
19 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
20 Development Corporation, or the Bradley Center Sports and Entertainment
21 Corporation may terminate the contract without liability for the uncompleted
22 portion or any materials or services purchased or paid for by the contracting party
23 for use in completing the contract.

24 **SECTION 33.** 16.85 (2) of the statutes is amended to read:

1 16.85 (2) To furnish engineering, architectural, project management, and other
2 building construction services whenever requisitions therefor are presented to the
3 department by any agency. The department may deposit moneys received from the
4 provision of these services in the account under s. 20.505 (1) (kc) or in the general
5 fund as general purpose revenue — earned. In this subsection, “agency” means an
6 office, department, independent agency, institution of higher education, association,
7 society, or other body in state government created or authorized to be created by the
8 constitution or any law, which is entitled to expend moneys appropriated by law,
9 including the legislature and the courts, but not including an authority created in
10 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

11 **SECTION 34.** 16.865 (8) of the statutes is amended to read:

12 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
13 proportionate share of the estimated costs attributable to programs administered by
14 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
15 may charge premiums to agencies to finance costs under this subsection and pay the
16 costs from the appropriation on an actual basis. The department shall deposit all
17 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
18 Costs assessed under this subsection may include judgments, investigative and
19 adjustment fees, data processing and staff support costs, program administration
20 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
21 subsection, “agency” means an office, department, independent agency, institution
22 of higher education, association, society, or other body in state government created
23 or authorized to be created by the constitution or any law, that is entitled to expend
24 moneys appropriated by law, including the legislature and the courts, but not

1 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
2 52, 231, 232, 233, 234, 235, 237, 238, or 279.

3 **SECTION 35.** 19.42 (10) (sm) of the statutes is created to read:

4 19.42 **(10)** (sm) The members of the board of directors of the Wisconsin
5 Economic Development Corporation employed in the private sector who are
6 appointed by the speaker of the assembly and the senate majority leader.

7 **SECTION 36.** 19.42 (13) (om) of the statutes is created to read:

8 19.42 **(13)** (om) The members of the board of directors of the Wisconsin
9 Economic Development Corporation employed in the private sector who are
10 appointed by the speaker of the assembly and the senate majority leader.

11 **SECTION 37.** 40.02 (28) of the statutes is amended to read:

12 40.02 **(28)** “Employer” means the state, including each state agency, any
13 county, city, village, town, school district, other governmental unit or
14 instrumentality of 2 or more units of government now existing or hereafter created
15 within the state, any federated public library system established under s. 43.19
16 whose territory lies within a single county with a population of 500,000 or more, a
17 local exposition district created under subch. II of ch. 229, the Wisconsin Economic
18 Development Corporation created under ch. 238, a transit authority created under
19 s. 66.1039, and a long-term care district created under s. 46.2895, except as provided
20 under ss. 40.51 (7) and 40.61 (3). “Employer” does not include a local cultural arts
21 district created under subch. V of ch. 229. Each employer shall be a separate legal
22 jurisdiction for OASDHI purposes.

23 **SECTION 38.** 40.02 (36) of the statutes is amended to read:

24 40.02 **(36)** “Governing body” means the legislature or the head of each state
25 agency with respect to employees of that agency for the state, the common council

1 in cities, the village board in villages, the town board in towns, the county board in
2 counties, the school board in school districts, or the board, commission, or other
3 governing body having the final authority for any other unit of government, for any
4 agency or instrumentality of 2 or more units of government, for any federated public
5 library system established under s. 43.19 whose territory lies within a single county
6 with a population of 500,000 or more, for a local exposition district created under
7 subch. II of ch. 229, for the Wisconsin Economic Development Corporation created
8 under ch. 238, or for a long-term care district created under s. 46.2895, but does not
9 include a local cultural arts district created under subch. V of ch. 229.

10 **SECTION 39.** 40.02 (54) (m) of the statutes is created to read:

11 40.02 (54) (m) The Wisconsin Economic Development Corporation, but only if
12 the corporation elects to become a participating employer under s. 40.21 (1).

13 **SECTION 40.** 70.11 (38r) of the statutes is created to read:

14 70.11 (38r) ECONOMIC DEVELOPMENT CORPORATION. All property owned by the
15 Wisconsin Economic Development Corporation, provided that use of the property is
16 primarily related to the purposes of the Wisconsin Economic Development
17 Corporation.

18 **SECTION 41.** 71.26 (1) (be) of the statutes is amended to read:

19 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
20 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
21 Authority, of the Wisconsin Quality Home Care Authority, of the Fox River
22 Navigational System Authority, of the Wisconsin Economic Development
23 Corporation, and of the Wisconsin Aerospace Authority.

24 **SECTION 42.** 77.54 (9a) (a) of the statutes is amended to read:

1 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
2 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
3 Insurance Risk-Sharing Plan Authority, the Wisconsin Quality Home Care
4 Authority, the Wisconsin Economic Development Corporation, and the Fox River
5 Navigational System Authority.

6 **SECTION 43.** 100.45 (1) (dm) of the statutes is amended to read:

7 100.45 (1) (dm) “State agency” means any office, department, agency,
8 institution of higher education, association, society, or other body in state
9 government created or authorized to be created by the constitution or any law which
10 is entitled to expend moneys appropriated by law, including the legislature and the
11 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
12 Center Sports and Entertainment Corporation, the University of Wisconsin
13 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
14 Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care
15 Authority, the Wisconsin Economic Development Corporation, and the Fox River
16 Navigational System Authority.

17 **SECTION 44.** 101.177 (1) (d) of the statutes is amended to read:

18 101.177 (1) (d) “State agency” means any office, department, agency,
19 institution of higher education, association, society, or other body in state
20 government created or authorized to be created by the constitution or any law, that
21 is entitled to expend moneys appropriated by law, including the legislature and the
22 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
23 Center Sports and Entertainment Corporation, the University of Wisconsin
24 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
25 Quality Home Care Authority, the Wisconsin Economic Development Corporation,

1 and the Wisconsin Health and Educational Facilities Authority, but excluding the
2 Health Insurance Risk-Sharing Plan Authority and the Lower Fox River
3 Remediation Authority.

4 **SECTION 45.** 230.03 (3) of the statutes is amended to read:

5 230.03 (3) "Agency" means any board, commission, committee, council, or
6 department in state government or a unit thereof created by the constitution or
7 statutes if such board, commission, committee, council, department, unit, or the
8 head thereof, is authorized to appoint subordinate staff by the constitution or
9 statute, except a legislative or judicial board, commission, committee, council,
10 department, or unit thereof or an authority created under subch. II of ch. 114 or
11 subch. III of ch. 149 or under ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.
12 "Agency" does not mean any local unit of government or body within one or more local
13 units of government that is created by law or by action of one or more local units of
14 government.

15 **SECTION 46.** Chapter 238 of the statutes is created to read:

16 **CHAPTER 238**

17 **WISCONSIN ECONOMIC DEVELOPMENT**

18 **CORPORATION**

19 **238.01 Definitions.** In this chapter, except as otherwise provided:

20 (1) "Board" means the board of directors of the corporation.

21 (2) "Corporation" means the Wisconsin Economic Development Corporation.

22 (3) "Economic development program" means a program or activity having the
23 primary purpose of encouraging the establishment and growth of business in this
24 state, including the creation and retention of jobs.

1 **238.02 Creation and organization of corporation.** (1) There is created
2 an authority, which is a public body corporate and politic, to be known as the
3 “Wisconsin Economic Development Corporation.” The members of the board shall
4 consist of the governor, who shall serve as chairperson of the board, and 6 members
5 nominated by the governor, and with the advice and consent of the senate appointed,
6 to serve at the pleasure of the governor; 3 members appointed by the speaker of the
7 assembly, consisting of one majority and one minority party representative to the
8 assembly, appointed as are the members of standing committees in the assembly, and
9 one person employed in the private sector, to serve at the speaker’s pleasure; and 3
10 members appointed by the senate majority leader, consisting of one majority and one
11 minority party senator, appointed as are members of standing committees in the
12 senate, and one person employed in the private sector, to serve at the majority
13 leader’s pleasure. The secretary of administration and the secretary of revenue shall
14 also serve on the board as nonvoting members.

15 (2) A majority of the voting members of the board constitutes a quorum for the
16 purpose of conducting its business and exercising its powers and for all other
17 purposes, notwithstanding the existence of any vacancies. Action may be taken by
18 the board upon a vote of a majority of the voting members present.

19 (3) A chief executive officer shall be nominated by the governor, and with the
20 advice and consent of the senate appointed, to serve at the pleasure of the governor.
21 The board may delegate to the chief executive officer any powers and duties the board
22 considers proper. The chief executive officer shall receive such compensation as may
23 be determined by the board.

24 **238.03 Duties of board.** (1) The board shall develop and implement economic
25 programs to provide business support and expertise and financial assistance to

1 companies that are investing and creating jobs in Wisconsin and to support new
2 business start-ups and business expansion and growth in Wisconsin. The board may
3 also develop and implement any other programs related to economic development in
4 Wisconsin.

5 (2) For each program developed and implemented by the board, the board shall
6 do all of the following:

7 (a) Establish clear and measurable goals for the program that are tied to
8 statutory or programmatic policy objectives.

9 (b) Establish at least one quantifiable benchmark for each program goal
10 described in par. (a).

11 (c) Require that each recipient of a grant or loan under the program submit a
12 report to the corporation. Each contract with a recipient of a grant or loan under the
13 program must specify the frequency and format of the report to be submitted to the
14 corporation and the performance measures to be included in the report.

15 (d) Establish a method for evaluating the projected results of the program with
16 actual outcomes as determined by evaluating the information described in pars. (a)
17 and (b).

18 (e) Annually and independently verify, from a sample of grants and loans, the
19 accuracy of the information required to be reported under par. (c).

20 (3) The board shall require for each program developed and implemented by
21 the board all of the following:

22 (a) That each recipient of a grant or loan under the program of at least \$100,000
23 submit to the corporation a verified statement describing the recipient's expenditure
24 of the grant or loan funds, signed by both an independent certified public accountant
25 and the director or principal officer of the recipient to attest to the accuracy of the

1 verified statement. The board shall also require the recipient of such a grant or loan
2 to make available for inspection the documents supporting the verified statement.
3 The board must include the requirement in the contract with grant or loan recipients.

4 (b) That the board, if a recipient of a grant or loan under the program submits
5 false or misleading information to the corporation or fails to comply with the terms
6 of a contract entered into with the corporation, without providing satisfactory
7 explanation for the noncompliance, do all of the following:

- 8 1. Recoup payments made to the recipient.
- 9 2. Withhold future payments to be made to the recipient.
- 10 3. Impose a financial penalty on the recipient.

11 **238.04 Powers of board.** The board shall have all the powers necessary or
12 convenient to carry out the purposes and provisions of this chapter. In addition to
13 all other powers granted the board under this chapter, the board may specifically:

14 (1) Adopt, amend, and repeal any bylaws, policies, and procedures for the
15 regulation of its affairs and the conduct of its business.

16 (2) Have a seal and alter the seal at pleasure.

17 (3) Maintain an office.

18 (4) Sue and be sued.

19 (5) Accept gifts, grants, loans, or other contributions from private or public
20 sources.

21 (6) Establish the corporation's annual budget and monitor the fiscal
22 management of the corporation.

23 (7) Execute contracts and other instruments required for the operation of the
24 corporation.

1 (8) Employ any officers, agents, and employees that it may require and
2 determine their qualifications, duties, and compensation.

3 (9) Issue notes, bonds, and any other obligations.

4 (10) Make loans and provide grants.

5 (11) Incur debt.

6 (12) Procure liability insurance.

7 (13) Elect to become a participating employer in the Wisconsin Retirement
8 System under s. 40.21 (1).

9 **238.05 Department of commerce assistance and coordination.** (1) If
10 requested by the board, the department of commerce shall provide staff or other
11 resources to assist the board in carrying out the purposes and provisions of this
12 chapter.

13 (2) To the greatest extent practicable, the department of commerce and the
14 board shall seek to coordinate their economic development programs.

15 **238.06 Liability limited.** Neither the state nor any political subdivision of
16 the state, nor any officer, employee, or agent of the state or a political subdivision of
17 the state who is acting within the scope of employment or agency, is liable for any
18 debt, obligation, act, or omission of the corporation.

19 **238.07 Submission of annual reports to legislature.** (1) Annually, by
20 January 1, the board shall submit to the chief clerk of each house of the legislature,
21 for distribution to the legislature under s. 13.172 (2), a report identifying the
22 economic development projects that the board intends to develop and implement
23 during the current calendar year.

24 (2) Annually, no later than October 1, the board shall submit to the joint
25 legislative audit committee and the chief clerk of each house of the legislature, for

1 distribution to the legislature under s. 13.172 (2), a report for the previous fiscal year
2 on each of the economic development programs of the corporation that contains all
3 of the following:

4 (a) A description of each program.

5 (b) A comparison of expected and actual program outcomes.

6 (c) The number of grants made under the program.

7 (d) The number of loans made under the program.

8 (e) The amount of each grant and loan made under the program.

9 (f) The recipient of each grant or loan made under the program.

10 (g) The sum total of all grants and loans awarded to and received by each
11 recipient under the program.

12 (h) Any recommended changes to the program.

13 **(3)** The board shall make readily accessible to the public on an Internet-based
14 system the information required under sub. (2).

15 **SECTION 47.** 281.75 (4) (b) 3. of the statutes is amended to read:

16 281.75 **(4)** (b) 3. An authority created under subch. II of ch. 114 or ch. 52, 231,
17 233, 234, ~~or 237,~~ or 238.

18 **SECTION 48.** 285.59 (1) (b) of the statutes is amended to read:

19 285.59 **(1)** (b) "State agency" means any office, department, agency, institution
20 of higher education, association, society, or other body in state government created
21 or authorized to be created by the constitution or any law which is entitled to expend
22 moneys appropriated by law, including the legislature and the courts, the Wisconsin
23 Housing and Economic Development Authority, the Bradley Center Sports and
24 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
25 Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace

1 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
2 Development Corporation, and the Wisconsin Health and Educational Facilities
3 Authority.

4 **SECTION 9455. Effective dates; Other.**

5 (1) DUAL EMPLOYMENT. The treatment of section 16.417 (1) (a) (by SECTION 20)
6 and (b) of the statutes takes effect on January 1, 2012.

7 (END)