



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBs0396/1  
ARG:kjf&cjs:jm

**ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2011 ASSEMBLY BILL 522**

March 6, 2012 – Offered by Representatives MOLEPSKE JR, VRUWINK and JORGENSEN.

1 **AN ACT to amend** 84.01 (13); and **to create** 16.771, 16.871 and 84.01 (13m) of  
2 the statutes; **relating to:** false claims made by state contractors, requiring the  
3 Department of Transportation to report on the engagement of engineering  
4 services, and providing penalties.

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***Analysis by the Legislative Reference Bureau***

This substitute amendment provides that whoever knowingly presents or causes to be presented a false claim under any contract or order for materials, supplies, equipment, contractual services, construction work, limited trades work, or engineering or architectural services to be provided to a state agency is subject to a forfeiture (civil penalty) of not less than \$5,000 nor more than \$10,000, plus three times the amount of the damages that were sustained by the state or would have been sustained by the state, whichever is greater, as a result of the false claim. The substitute amendment permits the attorney general to bring an action to recover any forfeiture for which a contractor or vendor is liable as a result of a false claim submitted to a state agency.

The substitute amendment also requires the Department of Transportation (DOT) to annually submit a report to the legislature, and publish it on DOT's Web site, that is limited to identifying, for the preceding fiscal year: 1) the total cost of engineering services provided on projects performed predominantly by DOT

employees; 2) the total cost of engineering services provided on projects performed predominantly through an engagement of engineering services; and 3) the total cost of engineering services provided on projects performed jointly by DOT employees and through an engagement of engineering services. The substitute amendment also includes requirements for DOT to follow in computing the total cost of engineering services.

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

1           **SECTION 1.** 16.771 of the statutes is created to read:

2           **16.771 False claims.** Whoever knowingly presents or causes to be presented  
3 a false claim for payment under any contract or order for materials, supplies,  
4 equipment, or contractual services to be provided to an agency shall forfeit not less  
5 than \$5,000 nor more than \$10,000, plus 3 times the amount of the damages that  
6 were sustained by the state or would have been sustained by the state, whichever is  
7 greater, as a result of the false claim. The attorney general may bring an action on  
8 behalf of the state to recover any forfeiture incurred under this section.

9           **SECTION 2.** 16.871 of the statutes is created to read:

10          **16.871 False claims. (1)** In this section:

11           (a) “Agency” has the meaning given in s. 16.70 (1e).

12           (b) “Construction work” has the meaning given in s. 16.87 (1) (a).

13           (c) “Limited trades work” has the meaning given in s. 16.70 (7).

14          **(2)** Whoever knowingly presents or causes to be presented a false claim under  
15 any contract for construction work or limited trades work, or for engineering or  
16 architectural services, to be provided to any agency shall forfeit not less than \$5,000  
17 nor more than \$10,000, plus 3 times the amount of the damages that were sustained  
18 by the state or would have been sustained by the state, whichever is greater, as a

1 result of the false claim. The attorney general may bring an action on behalf of the  
2 state to recover any forfeiture incurred under this subsection.

3 **SECTION 3.** 84.01 (13) of the statutes is amended to read:

4 84.01 (13) ENGINEERING SERVICES. The department may engage such  
5 engineering, consulting, surveying, or other specialized services as it deems  
6 advisable. Any engagement of services under this subsection is exempt from ss.  
7 16.70 to 16.75, 16.755 to 16.77, 16.78 to 16.82, and 16.85 to 16.87, 16.875 to 16.89,  
8 but ss. 16.528, 16.752, 16.753, and 16.754, 16.771, and 16.871 apply to such  
9 engagement. Any engagement involving an expenditure of \$3,000 or more shall be  
10 by formal contract approved by the governor. The department shall conduct a  
11 uniform cost-benefit analysis, as defined in s. 16.70 (3g), of each proposed  
12 engagement under this subsection that involves an estimated expenditure of more  
13 than \$25,000 in accordance with standards prescribed by rule of the department.  
14 The department shall review periodically, and before any renewal, the continued  
15 appropriateness of contracting pursuant to each engagement under this subsection  
16 that involves an estimated expenditure of more than \$25,000.

17 **SECTION 4.** 84.01 (13m) of the statutes is created to read:

18 84.01 (13m) ENGAGEMENT OF ENGINEERING SERVICES REPORTS. (a) Not later than  
19 December 1, 2013, and annually by December 1 of each year thereafter, the  
20 department shall submit to the chief clerk of each house of the legislature for  
21 distribution to all members of the legislature, and shall publish on the department's  
22 Internet Web site, a report limited to identifying all of the following:

23 1. The total cost of engineering services provided during the preceding fiscal  
24 year on projects performed predominantly by employees of the department.

