

## CHAPTER 16

## DEPARTMENT OF ADMINISTRATION

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SUBCHAPTER I  
GENERAL ADMINISTRATION

**16.001 Organization of department.** (1) **PURPOSES.** The purposes of this chapter are to conserve the state's resources by coordinating management services and providing effective aid to agencies of the state government; to present clearly defined alternatives and objectives of state programs and policies so that the state's agencies, the governor and the legislature may plan cooperatively and finance the services which the state will provide for its citizens; to help the state's agencies furnish the agreed upon services as efficiently and effectively as possible, avoiding any duplication of effort or waste of money; to assure the legislature and the governor that the services are being provided to the public at the agreed upon quantity, quality and cost; and to anticipate and resolve administrative and financial problems faced by the agencies, governor and legislature of the state.

(2) **LIBERAL CONSTRUCTION OF STATUTES.** Statutes applicable to the department of administration shall be construed liberally in aid of the purposes declared in sub. (1).

**16.002 Definitions.** In this chapter:

(1) "Department" means the department of administration.

(2) "Departments" means constitutional offices, departments and independent agencies and includes all societies, associations and other agencies of state government for which appropriations are made by law.

(3) "Position" means a group of duties and responsibilities in either the classified or the unclassified divisions of the civil service, which require the services of an employe on a part-time or full-time basis.

(4) "Secretary" means the secretary of administration.

*History:* 1977 c. 196; 1983 a. 27, 189.

**16.003 Department of administration.** (1) **PURPOSE.** The department shall carry out the purposes of this chapter by improving the techniques used for such management specialties, not limited by enumeration, as budgeting, accounting, engineering, purchasing, records management and fleet management; by coordinating and providing services which are used by more than one agency, and by reviewing agencies' programs and management to identify problems and suggest improvements.

(2) **STAFF.** Except as provided in ss. 16.548, 16.57, 978.03 (1), (1m) and (2), 978.04 and 978.05 (8) (b), the secretary shall appoint the staff necessary for performing the duties of the department. All staff shall be appointed under the classified service except as otherwise provided by law.

*History:* 1971 c. 270; 1977 c. 196; 1979 c. 34; 1983 a. 27; 1989 a. 31, 117; 1991 a. 39

**16.004 Secretary, powers and duties.** (1) **RULES.** The secretary shall promulgate rules for administering the department and performing the duties assigned to it.

(2) **INFORMATION; REPORTS; RECOMMENDATIONS.** The secretary shall furnish all information requested by the governor or by any member of the legislature.

(3) **INVESTIGATIONS AND HEARINGS.** (a) The department, when directed by the governor, shall investigate any irregularities, and all phases of operating cost and functions, of executive or administrative agencies so as to determine the feasibility of consolidating, creating or rearranging agencies for the purpose of effecting the elimination of unnecessary state functions, avoiding duplication, reducing the cost of administration and increasing efficiency.

(b) The secretary may hold either public or private hearings to inform the secretary of any matters relating to the secretary's functions and for that purpose shall be clothed with the powers relating to witnesses given by s. 885.01 (4) and s. 885.12 shall apply.

(4) **FREEDOM OF ACCESS.** The secretary and such employes of the department as the secretary designates may enter into the offices of state agencies, including authorities created under chs. 231 and 234, and may examine their books and accounts and any other matter which in the secretary's judgment should be examined and may interrogate the agency's employes publicly or privately relative thereto.

(5) **AGENCIES AND EMPLOYEES TO COOPERATE.** All state agencies, including authorities created under chs. 231 and 234, and their officers and employes, shall cooperate with the secretary and shall comply with every request of the secretary relating to his or her functions.

(6) **MANAGEMENT AUDITS.** The secretary shall periodically make management audits of agencies, utilizing teams of specialists in the fields of purchasing, personnel, accounting, budgeting, space utilization, forms design and control, records management, and any other specialties necessary to effectively appraise all management practices, operating procedures and organizational structures.

(7) **PERSONNEL MANAGEMENT INFORMATION SYSTEM.** (a) The secretary shall establish and maintain a personnel management information system which shall be used to furnish the governor, the legislature and the department of employment relations with current information pertaining to authorized positions, payroll and related items for all civil service employes, except employes of the office of the governor, the courts and judicial branch agencies, and the legislature and legislative service agencies. It is the intent of the legislature that the university of Wisconsin system provide position and other information to the department and the legislature, which includes appropriate data on each position, facilitates accountability for each authorized position and traces each position over time. Nothing in this paragraph may be interpreted as limiting the authority of the board of regents of the university of Wisconsin system to allocate and reallocate positions by funding source within the legally authorized levels.

(b) When requested by the joint committee on finance, the secretary shall report to the committee on the compliance of each agency in the executive branch in providing the data necessary for operation of the personnel management information system.

(8) **STATE-OWNED HOUSING RENTALS.** (a) In this subsection, "agency" has the meaning given in s. 16.52 (7).

(am) The secretary shall maintain a system of rental policies for state-owned housing administered by all agencies and shall periodically review the system for possible changes. Whenever the secretary proposes to change rental policies other than rental rates, the secretary shall submit a report relating to the system to the joint committee on finance. The report shall include any changes in rental policies recommended by the secretary.

(b) The joint committee on finance, following its review, may approve or disapprove rental policies submitted under par. (am). Any changes in rental policies shall be effective upon approval or at such time following approval as may be specified in the secretary's submittal.

(c) Notwithstanding par. (b), if the cochairpersons of the joint committee on finance do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the recommended changes in rental policies contained in

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the report submitted under par. (am) within 14 working days after the date of the secretary's submittal, the secretary may implement any recommended changes in rental policies contained in the report. If, within 14 working days after the date of the secretary's submittal, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the recommended changes in rental policies contained in the report, the secretary may implement the recommended changes only with the approval of the committee.

(d) The system established under par. (am) shall include a procedure for review of the need to retain state-owned housing units and possible disposition of such units. The secretary shall submit recommendations regarding the disposition of any housing units to the building commission.

(e) 1. In this paragraph, "consumer price index" means the average of the consumer price index over each 12-month period, all items, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor.

2. No later than July 1 of the 2nd year following each federal decennial census, the secretary shall obtain appraisals of the fair market value of all state-owned housing rental units administered by agencies. The secretary shall determine and fix rental rates for such units based on the appraisals, which shall take effect on the following August 15.

3. If the secretary determines that a state-owned housing rental unit has been affected by a major renovation, the secretary may order a reappraisal of the fair market value of the unit. Whenever a reappraisal of the fair market value of a unit is obtained, the secretary shall determine and fix a new rental rate for that unit based on the reappraisal. If the reappraisal is obtained prior to July 1 of any year, the rate shall take effect on August 15 of that year; otherwise it shall take effect on August 15 of the following year.

4. If no appraisal of a state-owned housing rental unit is made during the 24-month period ending on July 1 of any even-numbered year, the current rental rate for the unit shall be subject to a biennial cost-of-living adjustment. To determine the adjustment, the secretary shall calculate the percentage difference between the consumer price index for the 12-month period ending on December 31 of the preceding year and the consumer price index for the base period, calendar year 1991. The secretary shall increase the rental rate by that percentage, rounded to the nearest whole dollar, which amount shall take effect on August 15.

5. The secretary shall charge the cost of the appraisal of each state-owned housing rental unit to the appropriation specified in s. 16.40 (19) or, if there is no such appropriation, to the appropriation or appropriations which fund the program in connection with which the housing is utilized.

(9) **AGREEMENTS TO MAINTAIN AN ACCOUNTING FOR OPERATING NOTES.** The secretary may enter into agreements to maintain an accounting of, forecast and administer those moneys that are in the process of collection by the state and that are pledged for the repayment of operating notes issued under subch. III of ch. 18, in accordance with resolutions of the building commission authorizing the issuance of the operating notes.

(10) **RECYCLING PROPOSAL.** The secretary shall develop a proposal for funding recycling in this state. That proposal shall distribute the burden of funding so that the portion paid by business, industry and citizens reflects their contribution to the waste stream. The secretary shall submit its proposal to the joint committee on finance on or before January 31, 1991.

(11) **RISK MANAGEMENT PROGRAM SUPPLEMENTATION.** Prior to transferring moneys from the appropriation under s. 20.505 (2) (a) to the appropriation under s. 20.505 (2) (k), the

secretary shall notify in writing the cochairpersons of the joint committee on finance of his or her proposed action.

**History:** 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316.

**16.005 Bradley center sports and entertainment corporation.** This chapter does not apply to the Bradley center sports and entertainment corporation except where expressly otherwise provided.

**History:** 1985 a. 26; 1991 a. 39

**16.007 Claims board. (1) PURPOSE.** The claims board shall receive, investigate and make recommendations on all claims of \$10 or more presented against the state which are referred to the board by the department. No claim or bill relating to such a claim shall be considered by the legislature until a recommendation thereon has been made by the claims board.

(2) **RULES.** Except as provided in s. 901.05, the board shall not be bound by common law or statutory rules of evidence, but shall admit all testimony having reasonable probative value, excluding that which is immaterial, irrelevant or unduly repetitious. The board may take official notice of any generally recognized fact or established technical or scientific fact, but parties shall be notified either before or during hearing or by full reference in preliminary reports, or otherwise, of the facts so noticed, and the parties shall be afforded an opportunity to contest the validity of the official notice.

(3) **PROCEDURE.** When a claim has been referred to the claims board, the board may upon its own motion and shall upon request of the claimant, schedule such claim for hearing, giving the claimant at least 10 days' written notice of the date, time and place thereof. Those claims described under sub. (6) (b) shall not be heard or decided by the claims board. The board shall keep a record of its proceedings, but such proceedings may be recorded by a permanent recording device without transcription. It may require sworn testimony and may summon and compel attendance of witnesses and the production of documents and records. Any member of the board may sign and issue a subpoena.

(4) **AGENCIES TO COOPERATE.** The several agencies shall cooperate with the board and shall make their personnel and records available upon request when such request is not inconsistent with other statutes.

(5) **FINDINGS.** The board shall report its findings and recommendations, on all claims referred to it, to the legislature. Except as provided in sub. (6), if from its findings of fact the board concludes that any such claim is one on which the state is legally liable, or one which involves the causal negligence of any officer, agent or employe of the state, or one which on equitable principles the state should in good conscience assume and pay, it shall cause a bill to be drafted covering its recommendations and shall report its findings and conclusions and submit the drafted bill to the joint committee on finance at the earliest available time. If the claims board determines to pay or recommends that a claim be paid from a specific appropriation or appropriations, it shall include that determination or recommendation in its conclusions. A copy of its findings and conclusions shall be submitted to the claimant within 20 days after the board makes its determination. Findings and conclusions are not required for claims processed under sub. (6) (b).

(6) **SETTLEMENT.** (a) Except as provided in par. (b), whenever the claims board by unanimous vote finds that payment to a claimant of not more than the amount specified in s. 799.01 (1) is justified, it may order the amount that it finds justified to be paid on its own motion without submission of the claim in bill form to the legislature. The claim shall be

paid on a voucher upon the certification of the chairperson and secretary of the board, and shall be charged as provided in sub. (6m).

(b) Whenever the representative of the department designated by the secretary pursuant to s. 15.105 (2) finds that payment of a claim described in this paragraph to a claimant is justified, the representative of the department may order the amount so found to be justified paid without approval of the claims board and without submission of the claim in the form of a bill to the legislature. Such claims shall be paid on vouchers upon the certification of the representative of the department, and shall be charged as provided in sub. (6m). The representative of the department shall annually report to the board all claims paid under this paragraph. Claims which may be paid directly by the department are:

1. Payment of the amount owed by the state under any check, share draft or other draft issued by it which has been voided for failure to present the check, share draft or other draft for payment within the prescribed period from the date of issuance.

3. Payment of a refund due as the result of an overpayment made by mistake of the applicant in filing articles of incorporation or amendments thereto, or a certificate of authority for a foreign corporation to transact business in this state pursuant to s. 180.0122.

4. Payment of any claim of less than \$10.

(6m) **PAYMENT CHARGES.** The claims board, for claims authorized to be paid under sub. (6) (a), or the representative of the department, for claims authorized to be paid under sub. (6) (b), may specify that a claim shall be paid from a specific appropriation or appropriations. If a claim requires legislative action, the board may recommend that the claim be paid from a specific appropriation or appropriations. If no determination is made as to the appropriation or appropriations from which a claim shall be paid, the claim shall be paid from the appropriation under s. 20.505 (4) (d).

(7) **EXCEPTION.** This section shall not be construed as relieving any 3rd party liability or releasing any joint tortfeasor.

(8) **EXPENSES.** The board may pay the actual and necessary expenses of employes of the department of justice or the department of administration authorized by the board to secure material information necessary to the disposition of a claim.

**History:** 1975 c. 397; 1977 c. 196 s. 130 (3); 1979 c. 34 s. 2102 (1) (c); 1981 c. 20; 1983 a. 368; 1985 a. 29; 1987 a. 27, 142; 1989 a. 31, 303; 1991 a. 269.

**16.008 Payment of special charges for extraordinary police service to state facilities.** (1) In this section "extraordinary police services" means those police services which are in addition to those being maintained for normal police service functions by a municipality or county and are required because of an assemblage or activity which is or threatens to become a riot, civil disturbance or other similar circumstance, or in which mob violence occurs or is threatened.

(2) The state shall pay for extraordinary police services provided directly to state facilities, as defined in s. 70.119 (3) (e), in response to a request of a state officer or agency responsible for the operation and preservation of such facilities. Municipalities or counties which provide extraordinary police services may submit claims to the claims board for actual additional costs related to wage and disability payments, pensions and worker's compensation payments, damage to equipment and clothing, replacement of expendable supplies, medical and transportation expense and other necessary expenses. The clerk of the municipality or county submitting a claim shall also transmit an itemized statement of charges and a statement which identifies the facility served

and the person who requested the services. The board shall obtain a review of the claim and recommendations from the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and (6).

**History:** 1977 c. 418

**16.009 Board on aging and long-term care.** (1) In this section:

(a) "Beneficiary" means an individual who is eligible for coverage.

(b) "Homestead credit program" means the program under ss. 71.51 to 71.55.

(c) "Household" has the meaning given in s. 71.52 (4).

(d) "Household income" has the meaning given in s. 71.52 (5).

(e) "Income" has the meaning given in s. 71.52 (6).

(f) "Long-term care insurance" means insurance that provides coverage both for an extended stay in a nursing home and home health services for a person with a chronic condition. The insurance may also provide coverage for other services that assist the insured person in living outside a nursing home, including but not limited to adult day care and continuing care retirement communities.

(g) "Medicare Part B" means the federal supplementary medical insurance program under 42 USC 1395j to 1395w-2.

(h) "Physician" has the meaning given in s. 448.01 (5).

(2) The board on aging and long-term care shall:

(a) Appoint an executive director and staff within the classified service.

(b) Implement a long-term care ombudsman program, to do all of the following:

1. Investigate complaints from any person concerning improper conditions or treatment of aged or disabled persons who receive long-term care or concerning noncompliance with or improper administration of federal statutes or regulations or state statutes or rules related to long-term care for the aged or disabled.

2. Serve as mediator or advocate to resolve any problem or dispute relating to long-term care for the aged or disabled.

(d) Promote public education, planning and voluntary acts to resolve problems and improve conditions involving long-term care for the aged or disabled.

(e) Monitor the development and implementation of federal, state and local laws, regulations, rules, ordinances and policies that relate to long-term care facilities for the aged or disabled.

(em) Monitor, evaluate and make recommendations concerning long-term care services received by clients of the long-term support community options program under s. 46.27.

(f) As a result of information received while investigating complaints and resolving problems or disputes, publish material that assesses existing inadequacies in federal and state laws, regulations and rules concerning long-term care for the aged or disabled. The board shall initiate legislation as a means of correcting these inadequacies.

(g) Stimulate resident, client and provider participation in the development of programs and procedures involving resident rights and facility responsibilities, by establishing resident councils and by other means.

(h) Conduct statewide hearings on issues of concern to aged or disabled persons who are receiving or who may receive long-term care.

(i) Report annually to the governor and the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3). The report shall set forth the scope of the programs for providing long-term care for the aged or disabled developed in the state, findings regarding the state's activities in the field of long-term care

for the aged and disabled, recommendations for a more effective and efficient total program and the actions taken by the agencies of the state to carry out the board's recommendations.

(j) Provide information and counseling to consumers regarding insurance policies available to supplement federal medicare insurance coverage, including long-term care insurance, and the eligibility requirements for medical assistance under s. 49.46 (1), 49.468 or 49.47 (4). To implement this responsibility, the board shall provide training, educational materials and technical assistance to volunteer organizations and private businesses willing and able to provide insurance and medical assistance eligibility information and counseling, in order that these organizations and businesses may provide the information and counseling to consumers.

(k) After consulting with the department of regulation and licensing and obtaining from that department a listing of all practicing physicians in this state, by January 1, 1991, and annually thereafter, send an inquiry to each of those physicians as to whether he or she is a full-time physician who practices in this state and who treats beneficiaries of medicare Part B in this state. If the answer is affirmative, the inquiry shall be whether he or she voluntarily accepts, from each of his or her patients in this state who is a beneficiary and who had household income in the beneficiary's taxable year prior to the year in which treatment is received that did not exceed the maximum income allowed for claiming the homestead credit, as calculated under s. 71.54 (1) (d), assignment of the beneficiary's benefits for reimbursement for the provision of medical or other health service authorized under medicare Part B. The inquiry shall also be whether the physician does not require payment of any amount that is in excess of the reasonable charge, as determined by the federal health care financing administration through the insurance carrier for medicare Part B in this state, for the medicare Part B authorized medical or other health service that the physician renders to the beneficiaries in this state.

(L) From the information obtained in answer to the inquiry under par. (k), provide to beneficiaries of medicare Part B in this state information with respect to those practicing physicians who voluntarily accept assignment of beneficiaries' benefits for reimbursement and do not require additional payment, as specified in par. (k).

(m) Inquire of and obtain from the carrier for medicare Part B in this state, by January 1, 1991, and annually thereafter, information concerning the percentage of the claims in this state for payment of services covered by medicare Part B, for which full-time physicians who practice in this state voluntarily accept, from each of their patients in this state who is a medicare Part B beneficiary and who had household income in the beneficiary's taxable year prior to the year in which treatment is received that did not exceed the maximum income allowed for claiming the homestead credit, as calculated under s. 71.54 (1) (d), assignment of the beneficiary's benefits for reimbursement for the provision of medical or other health service authorized under medicare Part B.

(n) From the information obtained in answer to the inquiries under pars. (k) and (m), determine all of the following and, beginning July 1, 1991, and annually thereafter, submit a report to the chief clerk of each house of the legislature for distribution under s. 13.172 (2) concerning:

1. Whether at least 80% of the full-time physicians who practice in this state and who treat beneficiaries of medicare Part B in this state voluntarily accept, from each of their patients in this state who is a beneficiary of medicare Part B and who had household income in the beneficiary's taxable year prior to the year in which treatment is received that did

not exceed the maximum income allowed for claiming the homestead credit, as calculated under s. 71.54 (1) (d), assignment of the beneficiaries' benefits and do not require payment of any amount in excess of the reasonable charge. If the percentage determined under this subdivision is less than 80%, the board on aging and long-term care shall determine the applicable percentage.

2. Whether, for at least 80% of the claims specified in par. (m) and at least 80% of the claims in this state for payment of services covered by medicare Part B, full-time physicians who practice in this state voluntarily accept assignment of the benefits of beneficiaries in this state and do not require payment of any amount in excess of the reasonable charge. If the percentage determined under this subdivision is less than 80%, the board on aging and long-term care shall determine the applicable percentage.

(3) The board on aging and long-term care may:

(a) Contract with any state agency to carry out the board's activities.

(b) Examine the clinical records of a resident of a nursing facility, if permitted by the resident or the resident's legal counsel under s. 49.498 (5) (e).

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232

**16.01 Women's council.** (1) In this section, "agency" means any office, department, agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law which is entitled to expend moneys appropriated by law, including the legislature and the courts, and any authority created under ch. 231 or 234.

(2) The women's council shall:

(a) Identify the barriers that prevent women in this state from participating fully and equally in all aspects of life.

(b) Conduct statewide hearings on issues of concern to women.

(c) Review, monitor and advise all state agencies regarding the impact upon women of current and emerging state policies, procedures, practices, laws and administrative rules.

(d) Work closely with all state agencies, including the university of Wisconsin system and the vocational, technical, and adult education system, with the private sector and with groups concerned with women's issues to develop long-term solutions to women's economic and social inequality in this state.

(e) Recommend changes to the public and private sectors and initiate legislation to further women's economic and social equality and improve this state's tax base and economy.

(f) Disseminate information on the status of women in this state.

(g) Submit a biennial report on the women's council's activities to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3).

(3) All state agencies, including the university of Wisconsin system and the vocational, technical and adult education system, shall fully cooperate with and assist the women's council. To that end, a representative of a state agency shall, upon request by the women's council:

(a) Provide information on program policies, procedures, practices and services affecting women.

(b) Present recommendations to the women's council.

(c) Attend meetings and provide staff assistance needed by the women's council.

(d) Inform the agency's appointing authority of issues concerning the women's council.

History: 1983 a. 27; 1987 a. 27, 186, 399; 1989 a. 31.

**16.02 Acid deposition research council. (1)** The acid deposition research council shall perform all of the following functions:

(a) Recommend objectives for acid deposition research in this state.

(b) Recommend the types of and priorities for acid deposition research.

(c) Evaluate mechanisms for funding and recommend funding levels for acid deposition research.

(d) Review all research reports relating to acid deposition requested by or submitted to the council.

**(2)** The acid deposition research council shall, by July 1 of each even-numbered year, submit a report of its work summarizing its recommendations under sub. (1) (a) to (c) and the results of the research reviewed under sub. (1) (d) and shall file the report with the governor, the secretary, the chairperson of the natural resources board and the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (2).

History: 1985 a. 296; 1987 a. 403 s. 256.

**16.025 Council on state-local relations. (1)** In this section, "agency" has the meaning given in s. 16.52 (7).

**(2)** The council on state-local relations shall do all of the following:

(a) Review and comment on proposed legislation and agency proposals that affect local governments.

(b) Develop policy recommendations on other issues of importance to local governments and state and local relations.

History: 1991 a. 39

**16.03 Board on the U.S.S. Wisconsin.** The board on the U.S.S. Wisconsin may:

**(1)** Maintain the bond between the residents of this state and the battleship which bears this state's name.

**(2)** Maintain communication with the battleship's home port officials.

**(3)** Maintain communication between the battleship's home port officials and residents of this state.

**(4)** Develop and evaluate programs for the benefit of the crew of the battleship.

**(5)** Cooperate with the historical society for purposes of maintaining a permanent exhibit in the state relating to the history of the 2 battleships named "Wisconsin".

**(6)** Coordinate with the U.S. navy and the commanding officer of the battleship to ensure that the spirit of Wisconsin, as evidenced by the strength of its people, its diverse commerce, agriculture and industry, the contribution of its veterans, its recreational advantages, and its employment and business opportunities, is carried around the world as the battleship carries out its duties.

**(7)** Disseminate public information concerning the history and operations of the battleship.

**(8)** Accept gifts, grants or bequests for support of the board's mission under this section without approval of the joint committee on finance under s. 20.907 (1).

NOTE: This section is repealed eff. 7-1-94 by 1991 Wis. Act 269.

History: 1989 a. 31; 1991 a., 269

**16.04 Fleet management and maintenance. (1)** The department shall ensure optimum efficiency and economy in the fleet management and maintenance activities of all agencies as defined in s. 16.52 (7). The department may:

(a) Develop uniform state policies and guidelines for vehicle and aircraft acquisition, use, maintenance, recording of operational and other costs, performance evaluation and replacement of vehicles and aircraft.

(am) Establish guidelines for the use by agencies of charter air travel or travel by private aircraft.

(b) Screen all requests for additional or replacement vehicle or aircraft acquisitions prior to forwarding the requests to the governor in accordance with s. 20.915 (1).

(c) Maintain a current inventory of all state-owned or leased motor vehicles and aircraft.

**(1m)** When requested by the governor or the joint committee on finance, the department shall submit a report to the governor and the joint committee on finance on the details of all costs associated with fleet operations, based upon a statewide uniform cost accounting system.

**(2)** Each agency which is authorized by the department may operate a vehicle or aircraft fleet. Each such agency shall assign a fleet manager who shall operate the agency's fleet in accordance with policies, guidelines and rules adopted by the department to implement this section.

**(3)** Each fleet manager shall review the use of state-owned or leased vehicles or aircraft within his or her agency at least semiannually to determine whether usage criteria are being met. The department shall periodically audit the agencies' records relating to fleet operations and the use of state-owned or leased vehicles or aircraft.

**(4)** The department shall provide central scheduling and dispatching of all air transportation on state-owned aircraft.

**(5)** The department shall develop operational policies for all state employes who act as pilots-in-command of any state-owned aircraft, including, but not limited to, crew rest requirements, current flight training, flight checks and flight physical examinations.

History: 1979 c. 34; 1983 a. 524; 1987 a. 27.

**16.05 Interstate agreements.** Each administrator, official or chairperson of the state delegation appointed to represent this state in the administration of any interstate agreement shall file with the law revision committee of the legislative council a copy of all minutes, reports, publications and other papers prepared in the administration of the agreement.

History: 1983 a. 308

**16.06 American Indian assistance.** The department shall provide information and assistance to American Indians in this state with respect to problems or issues of concern to the American Indian community.

History: 1989 a. 336.

**16.10 Ratification of the midwest interstate low-level radioactive waste compact.** The midwest interstate low-level radioactive waste compact contained in s. 16.11, by and between this state and any other state which ratifies or joins this compact, is ratified and approved.

History: 1983 a. 393.

**16.11 Midwest interstate low-level radioactive waste compact. (1) ARTICLE I - POLICY AND PURPOSE (a)** There is created the midwest interstate low-level radioactive waste compact. The states party to this compact recognize that the congress of the United States, by enacting the low-level radioactive waste policy act, 42 USC 2021, has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for

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waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis and that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided. It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

1. Providing the instrument and framework for a cooperative effort;
2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;
3. Protecting the health and safety of the citizens of the region;
4. Limiting the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region;
5. Encouraging the reduction of the amounts of low-level radioactive waste generated in the region;
6. Distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste; and
7. Ensuring the ecological and economical management of low-level radioactive wastes.

(b) Implicit in the congressional consent to this compact is the expectation by the congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations and laws;
2. Imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and
3. Timely inspection of their licensees to determine the compliance with these rules, regulations and laws.

(2) **ARTICLE II - DEFINITIONS.** As used in this compact, unless the context clearly requires a different construction:

(a) "Care" means the continued observation of a facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety and determining compliance with applicable licensure and regulatory requirements and includes the correction of problems which are detected as a result of that observation.

(b) "Commission" means the midwest interstate low-level radioactive waste commission.

(c) "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

(d) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

(e) "Eligible state" means a state qualified to be a party state to this compact as provided in sub. (8).

(f) "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

(g) "Generator" means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. nuclear regulatory commission or a party

state, to produce or possess such waste. "Generator" does not include a person who provides a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region.

(h) "Host state" means any state which is designated by the commission to host a regional facility.

(i) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in section 11e. (2) of the atomic energy act of 1954.

(j) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment and disposal of waste within the region.

(k) "Party state" means any eligible state which enacts the compact into law.

(L) "Person" means any individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise or legal entity.

(m) "Region" means the area of the party states.

(n) "Regional facility" means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the commission.

(o) "Site" means the geographic location of a facility.

(p) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

(q) "Storage" means the temporary holding of waste for treatment or disposal.

(r) "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

(s) "Waste management" means the storage, transportation, treatment or disposal of waste.

(3) **ARTICLE III - THE COMMISSION.** (a) There is created the midwest interstate low-level radioactive waste commission. The commission consists of one voting member from each party state. The governor of each party state shall notify the commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each commission member shall be the responsibility of the member's respective state.

(b) Each commission member is entitled to one vote. No action of the commission is binding unless a majority of the total membership cast their vote in the affirmative.

(c) The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of the federal administrative procedure act, 5 USC 500 to 559, in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

(d) The commission shall meet at least once annually and shall also meet upon the call of the chairperson or a commission member.

(e) All meetings of the commission shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose

of considering sensitive personnel or legal strategy matters. However, all commission actions and decisions shall be made in open meetings and appropriately recorded.

(f) The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to waste management.

(g) The office of the commission shall be in a party state. The commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

(h) The commission may:

1. Enter into an agreement with any person, state or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the commission including the affirmative vote of the member of the host state in which any affected regional facility is located;

2. Approve the disposal of waste generated within the region at a facility other than a regional facility.

3. Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence or other participation.

4. Review the emergency closure of a regional facility, determine the appropriateness of that closure and take whatever actions are necessary to ensure that the interests of the region are protected.

5. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with sub. (8).

(i) The commission shall:

1. Receive and act on the petition of a nonparty state to become an eligible state.

2. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the commission.

3. Hear, negotiate and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

4. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to sub. (4), a regional management plan which designates host states for the establishment of needed regional facilities.

5. Adopt an annual budget.

(j) Funding of the budget of the commission shall be provided as follows:

1. Each state, upon becoming a party state, shall pay \$50,000 or \$1,000 per cubic meter shipped from that state in 1980, whichever is lower, to the commission which shall be used for the administrative costs of the commission;

2. Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its

portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

a. Be sufficient to cover the annual budget of the commission; and

b. Represent the financial commitments of all party states to the commission; and

c. Be paid to the commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection and that the remainder be sufficient only to cover the approved annual budget of the commission.

(k) The commission shall keep accurate accounts of all receipts and disbursements. The commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of commission funds and to submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by this subsection.

(L) The commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States, or any subdivision or agency thereof, or interstate agency or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the commission.

(m) The commission is not liable for any costs associated with any of the following:

1. The licensing and construction of any facility.

2. The operation of any facility.

3. The stabilization and closure of any facility.

4. The care of any facility.

5. The extended institutional control, after care of any facility.

6. The transportation of waste to any facility.

(n) 1. The commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the commission are not liabilities of the party states. Members of the commission are not personally liable for actions taken by them in their official capacity.

2. Except as provided under par. (m) and subd. 1, nothing in this compact alters liability for any act, omission, course of conduct or liability resulting from any causal or other relationships.

(o) Any person aggrieved by a final decision of the commission may obtain judicial review of such decision in any court of jurisdiction by filing in such court a petition for review within 60 days after the commission's final decision.

**(4) ARTICLE IV - REGIONAL MANAGEMENT PLAN.** The commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the commission shall:

(a) Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region;

(b) Develop and consider policies promoting source reduction of waste generated within the region;

(c) Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In



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developing these criteria, the commission shall consider all the following:

1. The health, safety and welfare of the citizens of the party states.
2. The existence of regional facilities within each party state.
3. The minimization of waste transportation.
4. The volumes and types of wastes generated within each party state.
5. The environmental, economic and ecological impacts on the air, land and water resources of the party states.

(d) Conduct such hearings and obtain such reports, studies, evidence and testimony required by its approved procedures prior to identifying a party state as a host state for a needed regional facility;

(e) Prepare a draft management plan, including procedures, criteria and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the commission shall conduct a public hearing in that state prior to the adoption of the management plan. The management plan shall include the commission's response to public and party state comment.

**(5) ARTICLE V - RIGHTS AND OBLIGATIONS OF PARTY STATES.** (a) Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

(b) Each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in sub. (9) (c). All party states have an equal right of access to any facility made available to the region by any agreement entered into by the commission pursuant to sub. (3).

(c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to commission approval under sub. (3).

(d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this paragraph shall be construed to require a party state to enter into any agreement with the U.S. nuclear regulatory commission.

(e) Each party state shall provide to the commission any data and information the commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the commission.

**(6) ARTICLE VI - DEVELOPMENT AND OPERATION OF FACILITIES.** (a) Any party state may volunteer to become a host state and the commission may designate that state as a host state upon a two-thirds vote of its members.

(b) If all regional facilities required by the regional management plan are not developed pursuant to par. (a) or upon notification that an existing regional facility will be closed, the commission may designate a host state.

(c) Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental and economic viability of possible facility locations.

(d) Any party state designated as a host state may request the commission to relieve that state of the responsibility to serve as a host state. The commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

(e) After a state is designated a host state by the commission, it is responsible for the timely development and operation of a regional facility.

(f) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

(g) The commission may designate a party state as a host state while a regional facility is in operation if the commission determines that an additional regional facility is or may be required to meet the needs of the region. The commission shall make this designation following the procedures established under sub. (4).

(h) Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the commission may modify the period of its designation.

(i) A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to, the planning, siting, licensure, operation, decommissioning, extended care and long-term liability associated with such facilities. This fee system may also include reasonable revenue beyond the costs incurred for the host state subject to approval by the commission. A host state shall submit an annual financial audit of the operation of the regional facility to the commission. The fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

(j) A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.

(k) A host state intending to close a regional facility located within its borders shall notify the commission in writing of its intention and the reasons. Notification shall be given to the commission at least 5 years prior to the intended date of closure. This paragraph shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the commission in writing within 3 working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

(L) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the commission until a regional facility is operational.

(m) A party state which is designated as a host state by the commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the commission.

**(7) ARTICLE VII - OTHER LAWS AND REGULATIONS.** (a) Nothing in this compact:

1. Abrogates or limits the applicability of any act of congress or diminishes or otherwise impairs the jurisdiction

of any federal agency expressly conferred thereon by the congress;

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3. Prohibits any storage or treatment of waste by the generator on its own premises;

4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

6. Affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the secretary of the U.S. department of energy or successor agencies or federal research and development activities as defined in 42 USC 2021; or

7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

8. Requires a party state to enter into any agreement with the U.S. nuclear regulatory commission.

9. Alters or limits liability of transporters of waste, owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

(b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

(c) No law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

**(8) ARTICLE VIII - ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION.** (a) Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia and Wisconsin. Eligibility terminates on July 1, 1984.

(b) Any state not eligible for membership in the compact may petition the commission for eligibility. The commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.

(c) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in sub. (3) (j) 1.

(d) The commission is formed upon the appointment of commission members and the tender of the membership fee payable to the commission by 3 party states. The governor of the first state to enact this compact shall convene the initial meeting of the commission. The commission shall cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the commission and implement the provision of this compact.

(e) Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may

take effect until 5 years after the governor of the withdrawing state gives notice in writing of the withdrawal to the commission and to the governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

(f) Any party state which fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges suspended or its membership in the compact revoked by the commission in accordance with sub. (3) (h) 6. Revocation takes effect one year from the date the affected party state receives written notice from the commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote of the commission to the governor of the affected party state, all other governors of the party states and the congress of the United States.

(g) This compact becomes effective July 1, 1983, or at any date subsequent to July 1, 1983, upon enactment by at least 3 eligible states. However, sub. (9) (b) shall not take effect until the congress has by law consented to this compact. The congress shall have an opportunity to withdraw such consent every 5 years. Failure of the congress to affirmatively withdraw its consent has the effect of renewing consent for an additional 5-year period. The consent given to this compact by the congress shall extend to any future admittance of new party states under pars. (b) and (c) and to the power of the region to ban the shipment of waste from the region pursuant to sub. (3).

(h) The withdrawal of a party state from this compact under par. (e) or the revocation of a state's membership in this compact under par. (f) does not affect the applicability of this compact to the remaining party states.

(i) A state which has been designated by the commission to be a host state has 90 days from receipt by the governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact and without any further payment. Withdrawal becomes effective immediately upon notice as provided in par. (e). A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the commission determines to be necessary to cover the costs borne by the commission and remaining party states as a result of that withdrawal.

**(9) ARTICLE IX - PENALTIES.** (a) Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

(b) Unless otherwise authorized by the commission pursuant to sub. (3) (h) after January 1, 1986, it is a violation of this compact:

1. For any person to deposit at a regional facility waste not generated within the region;

2. For any regional facility to accept waste not generated within the region;

3. For any person to export from the region waste which is generated within the region; or

4. For any person to dispose of waste at a facility other than a regional facility.

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(c) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

(d) Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

**(10) ARTICLE X - SEVERABILITY AND CONSTRUCTION.** The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

History: 1983 a. 393.

**16.115 Fees. (1)** The department shall establish by rule a schedule of annual fees to be paid by nuclear power plant operators and shall collect the fees until a regional facility operated under s. 16.11 begins accepting waste for disposal. The fees shall be based on the number of nuclear reactors at each plant and shall cover 75% of the state's costs enumerated in sub. (3) incurred prior to the acceptance of waste at the facility.

**(2)** The department shall establish by rule a schedule of annual fees to be paid by generators, as defined under s. 16.11 (2) (g), who use a regional facility operated under s. 16.11 for disposal, and, beginning with the operation of the facility, the department shall collect the fees. The fees shall be based on the volume and hazard of waste generated and shall cover the costs enumerated under sub. (3) which are incurred before and after the acceptance of waste for disposal at the facility. Any nuclear power plant operator who has paid a fee under sub. (1) shall receive credit on the fees required of the operator under this subsection at a rate determined by the department so that, over the first 5 years of the collection of fees under this subsection, the power plant operator receives total credits equal to the fees paid under sub. (1). In addition to covering the costs enumerated under sub. (3), the fees established under this subsection for the first 5 years after the acceptance of waste for disposal at the facility shall be sufficient to repay the loan from the general fund made under s. 20.505 (1) (b), and the secretary shall lapse moneys from the appropriation under s. 20.505 (1) (g) to the general fund for that purpose over the 5-year period.

**(3)** The fees established under subs. (1) and (2) shall cover all of the following costs:

(a) The costs of state agencies in assisting the midwest interstate low-level radioactive waste commission member representing this state.

(b) The actual and necessary expenses of the commissioner in the performance of his or her duties.

(c) The actual and necessary expenses of the low-level radioactive waste advisory council created under s. 15.107 (9).

(d) The costs of membership in and costs associated with the midwest interstate low-level radioactive waste compact.

History: 1983 a. 393, 543.

**16.12 Violation of midwest interstate low-level radioactive waste compact. (1)** Except as provided in sub. (2), any person, other than an official of another state, who violates any provision of the midwest interstate low-level radioactive waste compact under ss. 16.11 to 16.13 shall forfeit not more than \$1,000.

**(2)** The sole remedy against the state, other than in its capacity as a generator, for a violation of any provision of the midwest interstate low-level radioactive waste compact under s. 16.11 is the remedy provided in s. 16.11 (3) (h) 6 and (8) (f).

History: 1983 a. 393.

**16.13 Data collection.** Upon the request of the midwest interstate low-level radioactive waste commission member representing the state, the department may require a generator, as defined under s. 16.11 (2) (g), to provide information necessary for the member to discharge his or her duties under s. 16.11.

History: 1983 a. 393.

**16.135 Low-level radioactive waste council. (1)** The low-level radioactive waste council shall do all of the following:

(a) Advise the midwest interstate low-level radioactive waste commissioner representing this state under s. 16.11.

(b) Be convened by the commissioner as necessary, but at least twice yearly, to review activities of the midwest interstate low-level radioactive waste commission.

(c) Make studies and recommend solutions and policy alternatives relating to matters before the commission.

(d) Present recommendations in writing to the governor and the legislature as requested or as necessary to ensure adequate exchange of information on activities and programs of the commission.

**(2)** This section does not apply after July 1, 1996.

History: 1989 a. 31.

**16.15 Resource recovery and recycling program. (1) DEFINITIONS.** In this section:

(a) "Agency" has the meaning given under s. 16.52 (7).

(ab) "Authority" has the meaning given under s. 16.70 (2).

(ae) "Cost of disposing of processed material" has the meaning given in s. 159.11 (2m) (a) 1.

(ah) "Cost of selling processed material" has the meaning given in s. 159.11 (2m) (a) 2.

(aj) "Major appliance" has the meaning given in s. 159.01 (3).

(am) "Office wastepaper" means any wastepaper or waste-paper product generated by an agency.

(ar) "Processed material" has the meaning given in s. 159.11 (2m) (a) 3.

(b) "Recovered material" has the meaning under s. 16.70 (11).

(c) "Recyclable material" means material that is suitable for recycling.

(d) "Recycled material" has the meaning under s. 16.70 (12).

(e) "Recycling" has the meaning under s. 144.44 (7).

(f) "Yard waste" has the meaning given in s. 159.01 (17).

**(2) PROGRAM ESTABLISHMENT.** The department shall establish a resource recovery and recycling program to promote the reduction of solid waste by agencies and authorities, the separation, recovery and disposition of recyclable materials and the procurement of recycled materials and recovered materials. The department shall require each agency and authority to participate in the resource recovery and recycling program. The department shall also investigate opportunities for the inclusion of local governmental units in the resource recovery and recycling program and shall permit participa-

tion of local governmental units in the program when feasible.

(3) **SOURCE SEPARATION.** (a) *Requirements.* Except as provided in par. (b), the department shall require each agency and authority to do all of the following:

1. Separate for recycling all lead acid batteries, waste oil and major appliances that are generated as solid waste by the agency or authority beginning on January 1, 1991.

2. Except as provided in this subdivision, separate for recycling at least 50% of yard waste that is generated by the agency or authority beginning on January 1, 1992, and all yard waste that is generated by the agency or authority beginning on January 1, 1993. An agency or authority may allow yard waste to be left where it falls or dispose of yard waste on the same property on which it is generated, in lieu of separation for recycling.

3. Separate for recycling at least 50% of each of the materials listed in s. 159.07 (3) or (4) that is generated as solid waste by the agency or authority beginning on January 1, 1993, and such greater amount of such materials as the department determines is reasonably feasible beginning on January 1, 1995.

(b) *Variance.* 1. The department of natural resources shall, at the request of an agency or authority, grant a variance to a requirement under par. (a) 3 for up to one year for a material that is generated by the agency or authority in one or more locations if the department of natural resources determines that the cost of selling processed material exceeds any of the following:

a. Forty dollars per ton of processed material, as annually adjusted by the department of natural resources to reflect changes in price levels due to inflation since 1989.

b. The cost of disposing of processed material.

2. The department of natural resources may on its own initiative grant a variance to a requirement under par. (a) 3 for up to one year for a material that is generated by one or more state agencies or authorities in one or more locations if the department of natural resources determines that the cost of selling processed material exceeds the amount under subd. 1. a. or b.

3. The department of natural resources may grant a variance to a requirement under par. (a) for up to one year in the event of an unexpected emergency condition.

(4) **REPORTS.** (a) By January 1 of each year, the department shall submit a report to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), that summarizes all of the following subjects concerning the resource recovery and recycling program under sub. (2):

1. Past activities of the program.

2. Accomplishments of the program.

3. Proposed goals of the program for all of the following:

a. The department.

b. Agencies and authorities.

c. Local governmental units.

(b) By July 1 of each even-numbered year, each agency and authority and participating local governmental unit shall submit recommendations to the department regarding the operation of the resource recovery and recycling program under sub. (2).

**History:** 1987 a. 292; 1989 a. 335.

**16.20 Wisconsin conservation corps program. (1) DEFINITIONS.** Unless the context requires otherwise, as used in this section:

(a) "Board" means the Wisconsin conservation corps board.

(b) "Conservation activity" means an activity which has a long-term beneficial impact on the land and waters of this state and enhances, promotes or preserves wildlife, fisheries, forest, agricultural, recreational, historical, cultural and commercial resources. This term also includes but is not limited to energy conservation projects, reclamation of lands and disaster assistance.

(c) "Corps enrollee" means a person enrolled in the Wisconsin conservation corps program.

(cg) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" includes any physical disability or developmental disability, as defined in s. 51.01 (5) (a). "Disability" does not include the current illegal use of a controlled substance, as defined in s. 161.01 (4), unless the individual is participating in a supervised drug rehabilitation program.

(cm) "Human services activity" means an activity which promotes the social well-being of children, the elderly, persons with disabilities or persons with low incomes.

(d) "In-kind services and materials" includes services such as training, supervision, administration, transportation, insurance liability coverage and similar services and materials such as supplies, fuel, tools, equipment, safety equipment and other materials for a project.

(e) "Local unit of government" means the governing body of any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewerage district or school district, the Fox-Winnebago regional management commission or the elected tribal governing body of a federally recognized American Indian tribe or band.

(f) "Nonprofit organization" has the meaning specified under s. 108.02 (19).

(fm) "Public assistance" means general relief under s. 49.02, relief of needy Indian persons under s. 49.046, aid to families with dependent children under s. 49.19, medical assistance under ss. 49.45 to 49.47, low-income energy assistance under s. 49.80, weatherization assistance under s. 16.39 and the food stamp program under 7 USC 2011 to 2029.

(g) "State agency" has the meaning specified under s. 227.01 (1) but also includes the office of district attorney.

(2) **OBJECTIVES.** The board shall develop guidelines for the Wisconsin conservation corps program designed to promote the objectives of:

(a) *Employment of young adults.* Providing employment for young men and women in all regions of the state.

(b) *Conservation.* Conserving, developing, enhancing or maintaining the natural resources of this state through the implementation of projects which have a long-term beneficial impact on the environment.

(c) *Personal development.* Encouraging and developing work skills, discipline, cooperation, meaningful work experiences and training and educational opportunities for corps enrollees.

(d) *Human services.* Promoting the social well-being of children, the elderly, persons with disabilities and persons with low incomes through the implementation of projects that include human services activities.

(3) **PROGRAM RESPONSIBILITY AND COORDINATION.** The board is the policy-making body responsible for the Wisconsin conservation corps program and shall establish guidelines for this program. The board may delegate responsibility for administration, implementation of projects, corps enrollee employment and supervision, project coordination and other details of the program to the executive secretary or other staff.

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of the board. The department shall assist the board in payroll, accounting and related management functions.

(3m) **REPORTING REQUIREMENT FOR DONATIONS.** The board shall submit an annual report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) that identifies, for each gift, grant or bequest credited under s. 20.399 (3) (g), the name of the individual or organization making it and the amount of and the manner in which it is utilized.

(4) **STAFF AND EMPLOYEES.** (a) *Executive secretary.* The board shall appoint an executive secretary outside the classified service to serve at its pleasure.

(b) *Staff.* The board shall employ staff within the classified service which is necessary to administer the Wisconsin conservation corps program, including staff to coordinate, supervise and implement projects, to recruit and train corps enrollees and to provide administrative, typing and clerical services. The department shall provide staff within the classified service which is necessary to provide for payroll, accounting and related management functions associated with the Wisconsin conservation corps program.

(5) **APPLICATION FOR PROJECT APPROVAL.** (a) *Eligible sponsors.* The federal government, a state agency, local unit of government or nonprofit organization may apply to the board for approval of a project.

(b) *Eligible projects.* In order to qualify as an approved project, the project is required to provide employment opportunities and to consist of conservation activities or human services activities or both. If the sponsor is a nonprofit organization, the project is required to serve a valid public purpose in order to qualify as an approved project.

(c) *Sponsor's application.* In order to qualify as an approved project, the sponsor is required to submit in the application:

1. A summary of the extent and value of all in-kind services and materials it will provide for the project as well as any other costs associated with the project which it agrees to pay.

2. A preliminary cost estimate including a summary of all anticipated costs resulting from implementation of the project.

3. A preliminary work plan specifying the nature, scope and duration of the project.

(d) *Local government sponsors.* The board and department shall encourage local units of government to apply for the approval of projects and shall provide assistance and information to facilitate these applications.

(e) *Not to involve labor dispute or displace other employes.* No project may be approved by the board if corps enrollees will be used in any manner in connection with a work or labor dispute or if approval of the project would impair existing contracts or collective bargaining agreements with existing employes of the sponsor. No project may be approved by the board if corps enrollees will be used to displace existing permanent employes of the sponsor, including any employes who have been temporarily laid-off by the sponsor.

(6) **GUIDELINES FOR PROJECT APPROVAL.** The board shall establish guidelines to be used in selecting projects for approval. These guidelines shall include:

(a) *Employment opportunities.* The extent to which the project will provide employment in meaningful labor intensive work activities for corps enrollees.

(b) *Conservation.* The extent to which the project will promote the long-term beneficial conservation of resources. The guidelines shall assign a high priority to projects required under a shoreland management ordinance under s. 92.17.

(bm) *Human services.* The extent to which the project will promote the social well-being of children, the elderly, persons

with disabilities and persons with low incomes. The guidelines shall give priority to projects providing services to children and the elderly.

(c) *Implementation.* The degree of difficulty in implementing the project and its compatibility with other projects in the area.

(d) *Extent of sponsor's responsibility.* The share of the total cost of the project, including the value of in-kind services and materials, to be paid or provided by the sponsor.

(e) *Public purpose and benefit.* The extent to which the project will serve a valid public purpose and benefit a large segment of the public.

(7) **PROJECT FUNDING.** (a) *Conservation activities; appropriations.* Moneys appropriated under s. 20.399 (1) (j), (m) and (q) may be utilized for conservation activities as authorized under those appropriations.

(am) *Human services activities; appropriations.* Moneys appropriated under s. 20.399 (1) (a), (j) and (m) may be utilized for human services activities as authorized under those appropriations.

(b) *Other state agency appropriations.* A state agency may utilize moneys from any appropriation for that agency to sponsor a project if implementation of the project is consistent with any purpose for which the moneys are appropriated.

(8) **ADMINISTRATION; PROJECT APPROVAL; WORK PLANS; IMPLEMENTATION; ENROLLEE SUPERVISION.** (a) *Guidelines for administration.* The board shall provide guidelines for administration of the Wisconsin conservation corps program.

(b) *Administration.* The Wisconsin conservation corps program shall be administered according to guidelines provided by the board.

(c) *Administrative expenses; appropriations; reallocation.* Moneys appropriated under s. 20.399 (2) (j), (m) or (q) may be utilized for the payment of administrative expenses related to the Wisconsin conservation corps program as authorized under those appropriations. If the board determines that these appropriations are not sufficient, it may request the joint committee on finance to take action under s. 13.101 (4) to transfer moneys from the appropriation under s. 20.399 (1) (j), (m) or (q) to the appropriation under s. 20.399 (2) (j), (m) or (q).

(d) *Approval.* Projects shall be selected and approved by the board based on guidelines established under sub. (6).

(e) *Complete project cost estimate.* Prior to approval of a project, the executive secretary shall prepare and submit to the board a complete project cost estimate. This estimate shall include a summary of all anticipated costs resulting from the implementation of the project.

(f) *Detailed work plan.* Prior to approval of a project, the executive secretary shall prepare and submit to the board a detailed work plan specifying the nature, scope and duration of the project; the number of corps enrollees; training, supervisory, administrative and other service requirements; supply, fuel, tool, equipment, safety equipment and other material requirements; time schedules; and other details relating to the implementation of the project.

(g) *Responsibility agreement.* Prior to approval of a project, the executive secretary shall prepare and submit to the board a responsibility agreement which incorporates the complete project cost estimate and detailed work plan and specifies in detail the responsibilities of the sponsor and the board with respect to the project.

(i) *Signing of responsibility agreement.* A project is not authorized and may not be implemented until the sponsor and the board sign the responsibility agreement.

(j) *Implementation.* Except as provided in a responsibility agreement, the board is responsible for the implementation of

an authorized project. The board may delegate to a sponsor responsibility for implementing various aspects of a project in the responsibility agreement.

(k) *Enrollee supervision.* The board is responsible for the overall supervision and control of corps enrollees. The board may delegate to a sponsor responsibility for enrollee recruitment, training and supervision and for administrative services to be provided for a project in the responsibility agreement.

(L) *Project coordination.* The board is responsible for the coordination of work activities related to various projects in the same area.

(9) **WORK CAMPS; TRAINING.** (a) *Work camps.* If necessary for the implementation of a conservation project, the board may establish or utilize residential facilities but the board may not use moneys appropriated under s. 20.399 (1) (q) or (2) (q) for the establishment of new residential facilities.

(b) *Education and training.* The board shall facilitate arrangements with local schools and institutions of higher education for academic study by corps enrollees during nonworking hours to upgrade literacy skills, obtain equivalency diplomas or college degrees or enhance employment skills. The board shall encourage the development of training programs for corps enrollees for use during time periods when circumstances do not permit work on a project.

(10) **CORPS ENROLLEES.** (a) *Authorization; classification.* The board may employ corps enrollees. The board shall classify these enrollees as corps members, assistant crew leaders or crew leaders.

(b) *Outside civil service.* All corps enrollees shall be employed outside the civil service.

(c) *Wages.* Corps members shall be paid at the prevailing federal minimum wage or the applicable state minimum wage established under ch. 104, whichever is greater. Assistant crew leaders and crew leaders may be paid more than the prevailing federal minimum wage or applicable state minimum wage. Corps enrollees shall receive their pay for the previous pay period on the last working day of the current pay period.

(d) *Unemployment compensation.* A corps enrollee is not eligible for unemployment compensation benefits by virtue of his or her employment in the Wisconsin conservation corps program. To the extent permitted by federal law, the Wisconsin conservation corps program shall be considered a work-relief and working-training program for the purpose of determining eligibility for benefits under s. 108.02 (15) (g) 1.

(e) *Worker's compensation.* A corps enrollee is eligible for worker's compensation benefits as provided under ch. 102.

(f) *Health care and other benefits.* Except as provided in par. (fm), a corps enrollee is not an eligible employe for health care benefits or other benefits under ch. 40.

(fm) *Group health care coverage.* The board may provide group health care coverage offered by the state under s. 40.51 to any of the following:

1. Corps enrollees who have been crew leaders for at least 2 years.

2. Crew leaders who are discharging special responsibilities, as determined by the board.

(g) *Incentive payment or voucher.* 1. A person who is employed as a corps enrollee for a one-year period of continuous employment, as determined by standards adopted by the board, and who receives a satisfactory employment evaluation upon termination of employment is entitled to an incentive payment of \$500 or an education

voucher that is worth at least \$1,000 but not more than \$1,950.

2. The board may authorize a partial incentive payment or education voucher to a person who is employed as a corps enrollee and who receives a satisfactory employment evaluation upon termination of employment if the person is employed as a corps enrollee for less than a one-year period of continuous employment and the board determines that employment was terminated because of special circumstances beyond the control of the corps enrollee or if the person is employed as a corps enrollee for at least 10 months but less than a one-year period of continuous employment and the board determines that employment was terminated in order to enable the person to attend an institution of higher education, vocational institution or other training program or to enable the person to obtain other employment.

3. The education voucher is valid for 3 years after the date of issuance for the payment of tuition and required program activity fees at any institution of higher education, as defined under s. 39.32 (1) (a), which accepts the voucher and the board shall authorize payment to the institution of face value of the voucher upon presentment.

(h) *Helmets; footwear; safety equipment.* The board shall provide each corps enrollee working on a conservation activity with a safety helmet displaying a Wisconsin conservation corps emblem. The board shall require each corps enrollee to have adequate protective footwear, if needed for the project, and may partially reimburse corps enrollees for the cost of obtaining this footwear. The board shall ensure that all other necessary safety equipment is provided for each corps enrollee.

(11) **QUALIFICATIONS AND REQUIREMENTS FOR CORPS ENROLLEES.** (a) *Age.* In order to qualify for employment as a corps member or an assistant crew leader, a person is required to have attained the age of 18 years but may not have attained the age of 26 years at the time he or she accepts employment. In order to qualify for employment as a crew leader, a person is required to have attained the age of 18 years at the time he or she accepts employment.

(b) *Unemployed.* In order to qualify for employment as a corps member, a person is required to be unemployed at the time he or she applies for employment. In order to qualify for employment as an assistant crew leader, a person is required to be either unemployed at the time he or she applies for employment or is required to be employed as a corps member. In order to establish that a person is unemployed at the time of application for employment, the board may require the person to be certified as unemployed by a local job service office.

(c) *Enrollment period.* In order to qualify for employment as a corps enrollee, a person is required to sign a statement of intention to serve in the Wisconsin conservation corps program for a one-year period. This statement does not obligate the board to provide employment for the enrollee for that period.

(d) *Training and skills.* No training or skills are required in order to qualify for employment as a corps member. The board shall establish minimum levels of performance, training and skills required to qualify for employment as or promotion to assistant crew leader or crew leader.

(e) *Physical examination.* No physical examination is required in order to apply for employment as a corps enrollee but the board may require a physical examination prior to employment. The board may accept evidence of a physical examination conducted within one year prior to employment if the examining physician signs a form containing the information required by the board.

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**(12) SELECTION OF CORPS ENROLLEES.** (a) *Standards.* The board shall establish standards for the selection of corps enrollees from among those persons who are qualified and seek employment.

(am) *Employment of certain persons.* On and after January 1, 1988, the board shall attempt to hire at least 50% of its corps members from among those persons who are receiving public assistance at the time of application for employment, who have received public assistance within one year of the time of application for employment or who are likely to be eligible for public assistance if they do not obtain employment.

(b) *Affirmative action plan.* The board shall adopt a statewide affirmative action plan and shall comply with the requirements under s. 230.06 (1) (g) to (k). The standards established under par. (a) shall be consistent with this plan.

(c) *Hiring procedure.* The board shall develop procedures for the hiring of corps enrollees in cooperation with the department of industry, labor and human relations. The board shall utilize any appropriate local job service office in the area of a project to distribute applications, conduct interviews and evaluate applicants and make recommendations concerning the hiring of corps enrollees. The board may utilize project sponsors who are sponsoring long-term projects to conduct interviews, evaluate applicants and make recommendations concerning the hiring of corps enrollees.

**(13) ENROLLMENT PERIOD; EVALUATION; PROMOTION; DISCIPLINE.** (a) *Enrollment period.* The normal enrollment period for a corps member who is not promoted to assistant crew leader is one year. The board may authorize the employment of a corps member who is not promoted to assistant crew leader beyond the normal enrollment period for a limited time, not to exceed one year, if the corps member has a disability. The normal enrollment period for a corps member who is promoted to assistant crew leader or for a person who is hired as assistant crew leader is 2 years. The board may authorize the employment of a corps member or assistant crew leader beyond the normal enrollment period for a limited time, not to exceed 3 months, under special circumstances where continued employment is required in order to complete a project in progress. The normal enrollment period for a crew leader is 2 years. The board may extend the employment of a crew leader beyond the normal enrollment period if the crew leader possesses special experience, training or skills valuable to the program.

(b) *Evaluation; promotion; discipline.* The board shall establish standards and procedures to evaluate the performance, to determine promotions, for discipline and for termination of employment of corps enrollees.

*History:* 1983 a. 27, 181; 1985 a. 29 ss. 103m, 104m, 619 to 623x, 3202 (39); Stats. 1985 s. 16.20; 1987 a. 27, 255; 1989 a. 28, 31, 329, 359; 1991 a. 32, 39, 269, 309.

**SUBCHAPTER II****HOUSING ASSISTANCE**

**16.30 Definitions.** In this subchapter:

(1) "Community-based organization" means an organization operating in a specific geographic area that is organized primarily to provide housing opportunities for persons or families of low or moderate income, and that is one of the following:

(a) A nonstock, nonprofit corporation organized under ch. 181.

(b) A nonprofit cooperative organized under ch. 185.

(c) A federally recognized American Indian tribe or band in this state or an entity established by a federally recognized American Indian tribe or band.

(2) "Housing authority" means any of the following:

(a) A housing authority organized under s. 59.075, 61.73, 66.395 or 66.40 or ch. 234.

(b) A redevelopment authority or housing and community development authority exercising the powers of a housing authority under s. 66.431 (5) (a) 9 or 66.4325 (4).

(c) A housing authority organized by the elected governing body of a federally recognized American Indian tribe or band in this state.

(3) "Housing costs" means whichever of the following applies:

(a) For housing occupied by the owner, any of the following:

1. The principal and interest on a mortgage loan that finances the purchase of the housing.

2. Closing costs and other costs associated with a mortgage loan.

3. Mortgage insurance.

4. Property insurance.

5. Utility-related costs.

6. Property taxes.

7. If the housing is owned and occupied by members of a cooperative, fees paid to a person for managing the housing.

(b) For rented housing, any of the following:

1. Rent.

2. Utility-related costs, if not included in the rent.

(6) "Utility-related costs" means costs related to power, heat, gas, light, water and sewerage.

*History:* 1989 a. 31; 1991 a. 39.

**16.31 State housing strategy plan.** (1) (a) The department shall prepare a comprehensive 5-year state housing strategy plan. The department shall submit the plan to the federal department of housing and urban development.

(b) The department shall develop the plan in consultation with the housing advisory council. In preparing the plan, the department may obtain input from housing authorities, community-based organizations, the private housing industry and others interested in housing assistance and development.

(2) The state housing strategy plan shall include all of the following:

(a) A statement of housing policies and recommendations.

(b) An evaluation and summary of housing conditions and trends in this state, including housing stock and housing cost analyses, general population and household composition demographic analyses and housing and demographic forecasts.

(c) An evaluation of housing assistance needs, based in part on the evaluation under par. (b).

(d) A discussion of major housing issues, including housing production, housing and neighborhood conservation, housing for persons with special needs, fair housing and accessibility and housing affordability.

(e) Housing policies that set the general framework for this state's housing efforts.

(f) Strategies for utilizing federal funding and for coordinating federal and state housing efforts.

(g) Specific recommendations for public and private action that contribute to the attainment of housing policies under the plan.

(3) The department shall annually update the state housing strategy plan.

(4) Before October 1 of each year, the department shall submit the state housing strategy plan to the governor and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

History: 1991 a. 39

**16.32 Homesite demonstration grant program.** (1) The division of housing in the department shall provide a grant of not more than \$350,000 in fiscal year 1991-92 to a community-based organization, as defined in s. 16.30 (1), to be used, in a joint venture with a private developer or builder, to reduce the purchase price of newly constructed, single-family detached homes.

(2) The division of housing shall use moneys from the appropriation under s. 20.505 (7) (b) for the grant under this section after first using any available federal funds and any moneys available from the Wisconsin housing and economic development authority surplus fund under s. 234.165.

(3) The community-based organization receiving a grant under this section may use the grant moneys to purchase land, make infrastructure and site improvements, obtain utility laterals, provide landscaping and other finishing work, make forgivable 2nd-mortgage loans, buy down the interest rates on mortgage loans and reduce the principal or downpayment on mortgage loans or mortgage underwriting costs.

(4) The division of housing may make a grant under this section to a community-based organization that submits an application that includes all of the following:

(a) A development plan calling for a minimum of 25 homes that are energy efficient, based on the one- and 2-family dwelling code, have floorplans of at least 1,000 square feet with a minimum of 2 bedrooms and are sold for not more than \$70,000 each.

(b) The identity of the site or sites of the proposed development.

(c) A joint venture agreement between the community-based organization and a private developer or builder.

(5) The community-based organization may not use more than \$20,000 of the grant under this section to reduce the selling price of an individual home.

(6) The gross annual income of a purchaser of an individual home reduced in price under this section may not exceed 80% of the county median income.

History: 1991 a. 39

**16.33 Housing cost grants and loans.** (1) The department shall do all of the following:

(a) Subject to sub. (2), make grants or loans, directly or through agents designated under s. 16.334, from the appropriation under s. 20.505 (7) (b) to persons or families of low or moderate income to defray housing costs of the person or family.

(b) Determine the rate of interest, repayment terms or any other term of a loan made under this section.

(c) Set minimum standards for housing that is occupied by a person or family of low or moderate income who receives a grant or loan under this section.

(2) In connection with grants and loans under sub. (1), the department shall do all of the following:

(a) Base the amount of the grant or loan on the ratio between the recipient's housing costs and income.

(c) Ensure that the funds for the grants and loans are reasonably balanced among geographic areas of this state.

(d) Ensure that the funds for the grants and loans are reasonably balanced among the varying housing needs of persons or families of low or moderate income.

(e) Give priority for grants and loans to all of the following:

1. Homeless individuals and families.

2. Elderly persons.

3. Physically disabled persons.

5. Families in which at least one minor child but only one parent live together.

6. Families with 4 or more minor children living together.

7. Other persons or families that the department determines have particularly severe housing problems.

(3) (a) The department may make grants or loans under sub. (1) (a) directly or through agents designated under s. 16.334.

(b) The department may administer and disburse funds from a grant or loan under sub. (1) (a) on behalf of the recipient of the grant or loan.

History: 1989 a. 31; 1991 a. 39

**16.334 Designated agents.** (1) The department may enter into an agreement with an agent designated under sub. (2) to allow the designated agent to do any of the following:

(a) Award grants and loans under s. 16.33 (1) and (2) subject to the approval of the department.

(b) Disburse the funds for grants and loans to persons or families of low or moderate income on terms approved by the department.

(c) On terms approved by the department, administer and disburse funds from a grant or loan under s. 16.33 on behalf of the recipient of the grant or loan.

(2) The department may designate any of the following as agents:

(a) The governing body of a county, city, village or town.

(b) The elected governing body of a federally recognized American Indian tribe or band in this state.

(c) A housing authority.

(d) A nonstock, nonprofit corporation organized under ch. 181.

(e) A cooperative organized under ch. 185, if the articles of incorporation or bylaws of the cooperative limit the rate of dividend that may be paid on all classes of stock.

(f) A religious society organized under ch. 187.

History: 1989 a. 31; 1991 a. 39 ss. 120, 121; Stats 1991 s. 16.334

**16.336 Grants to local housing organizations.** (1) The department may make grants to a community-based organization or housing authority to improve the ability of the community-based organization or housing authority to provide housing opportunities, including housing-related counseling services, for persons or families of low or moderate income. The grants may be used to partially defray any of the following:

(a) Salaries, fringe benefits and other expenses associated with personnel of the housing authority or community-based organization.

(b) Administrative or operating costs, not described in par. (a).

(2) The department may not make a grant under sub. (1) unless all of the following apply:

(a) The housing authority or community-based organization submitted an application for a grant.

(b) The housing authority or community-based organization equally matches the grant, by cash or by other assets in kind.

(c) The department determines that the grant to the particular community-based organization or housing authority is appropriate because of any of the following:

1. The quality of the management of the community-based organization or housing authority.



2. The amount of other resources for providing housing opportunities that are available to the community-based organization or housing authority.

3. The potential impact of the planned activities of the community-based organization or housing authority on housing opportunities for persons of low and moderate income in the area.

4. The financial need of the community-based organization or housing authority.

(3) A community-based organization or housing authority may receive grants under both sub (1) (a) and (b).

(4) To ensure the development of housing opportunities, the department shall coordinate the use of grants provided under this section with projects undertaken by housing authorities and community-based organizations.

History: 1989 a 31; 1991 a 39 s. 124; Stats. 1991 s. 16.336.

**16.339 Transitional housing grants. (1) DEFINITIONS.** In this section:

(a) "Eligible applicant" means any of the following:

1. A county or municipal governing body.
2. A county or municipal governmental agency.
3. A community action agency under s. 46.30.
4. A private, nonprofit organization.

(b) "Transitional housing" means housing and supportive services for homeless persons that is designed to facilitate the movement of homeless persons to independent living.

(2) **GRANTS.** (a) From the appropriation under s. 20.505 (7) (dm), the department may award a grant that does not exceed \$50,000 to an eligible applicant for the purpose of providing transitional housing and associated supportive services to homeless individuals and families if the conditions under par. (b) are satisfied.

(b) A recipient of a grant under par. (a) shall agree to use the grant to support a transitional housing program that does all of the following:

1. Utilizes only existing buildings.
2. Utilizes buildings at scattered sites.
3. Facilitates the utilization, by residents, of appropriate social services available in the community.
4. Provides, or facilitates the provision of, training in self-sufficiency to residents.
5. Requires that at least 25% of the income of residents be spent for rent.
6. Permits persons to reside in transitional housing facilities for a period not to exceed 24 months.

(3) **REPORTING.** Each recipient of a grant under this section shall annually provide all of the following information to the department:

(a) The total number of persons served.

(b) The length of stay in transitional housing of each person served.

(c) The housing and employment status of each person served, at the time that the person leaves the transitional housing program.

(d) Any other information that the department determines to be necessary to evaluate the effectiveness of the transitional housing program operated by the recipient.

(4) **STUDY.** Before July 1, 1993, the department shall submit a report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2). The report shall evaluate the effectiveness of the transitional housing programs that are funded by grants under this section in facilitating the movement of homeless persons to independent living and shall include a recommendation on the continuation of funding to those programs.

History: 1991 a 39, 269.

**16.35 Federal housing assistance programs.** Notwithstanding s. 16.54 (2) (a), the department shall administer federal funds made available to this state under the Stewart B. McKinney homeless assistance act housing assistance programs, 42 USC 11361 to 11402.

History: 1991 a 39.

**16.352 Grants for the provision of shelter for homeless individuals and families. (1) DEFINITIONS.** In this section:

(a) "Current operating budget" means the budget for the calendar or fiscal year during which an application is submitted, including all sources and amounts of revenue and all actual and planned expenditures.

(b) "Eligible applicant" means any of the following:

1. A county or municipal governing body.
2. A county or municipal governmental agency.
3. A community action agency.
4. A private nonprofit organization, as defined under s. 108.02 (19).

(c) "Proposed operating budget" means the budget proposed for the calendar or fiscal year following the year in which an application is submitted, including all anticipated revenue other than the amount sought in the grant application and all planned expenditures.

(d) "Shelter facility" means a temporary place of lodging for homeless individuals or families.

(2) **PURPOSE; ALLOCATION.** (a) From the appropriation under s. 20.505 (7) (fm), the department shall award grants to eligible applicants for the purpose of supplementing the operating budgets of agencies and shelter facilities that have or anticipate a need for additional funding because of the renovation or expansion of an existing shelter facility, the development of an existing building into a shelter facility, the expansion of shelter services for homeless persons or an inability to obtain adequate funding to continue the provision of an existing level of services.

(b) The department shall allocate funds from the appropriation under s. 20.505 (7) (fm) for temporary shelter for homeless individuals and families as follows:

1. At least \$400,000 in each year to eligible applicants located in Milwaukee county.
2. At least \$66,500 in each year to eligible applicants located in Dane county.
3. At least \$100,000 in each year to eligible applicants not located in Milwaukee county or Dane county.
4. In addition to the amounts under subds. 1 to 3, no more than \$183,500 in each year to eligible applicants without restriction as to the location of the applicants.

(3) **APPLICATION.** (a) An eligible applicant which is not located in Dane county or Milwaukee county may submit an application for one of the following:

1. A grant of not more than 50% of the current or proposed operating budget of a shelter facility operated by the applicant.
2. A grant of not more than 50% of the portion of the applicant's current or proposed operating budget allocated for providing homeless individuals with vouchers that may be exchanged for temporary shelter.

(am) An eligible applicant located in Dane county or Milwaukee county may submit an application for one of the following:

3. A grant of not more than 50% of the total current or proposed operating budgets of one or more shelter facilities from which the applicant purchases shelter for homeless persons and to which the applicant will distribute the money it receives under conditions described in the application.

4. A grant of not more than 50% of the total current or proposed operating budgets of 2 or more shelter facilities which the applicant represents and to which the applicant will distribute the money received under conditions described in the application.

(b) Applications shall be submitted in the form required by the department and shall be accompanied by the current or proposed operating budget or both, as required by the department, of each shelter facility or agency which will, directly or indirectly, receive any of the grant money, and an explanation of why the shelter facility or agency has or anticipates a need for additional funding.

**(3m) GRANT ELIGIBILITY.** In awarding grants under this section, the department shall consider whether the community in which an eligible applicant provides services has a coordinated system of services for homeless individuals and families.

**(4) RULE MAKING REQUIRED.** The department shall promulgate by rule both of the following:

(a) Criteria for awarding grants.

(b) Criteria for determining whether an agency that operates a shelter facility or program is eligible for a grant.

**(5) PROHIBITED USES.** (a) The department may not provide a grant for any of the following purposes:

1. The construction of a new shelter facility.

2. The operation of a shelter care facility licensed under ch. 48.

3. The operation of a facility or private home providing shelter for victims of domestic abuse.

4. The operation of an agency that provides only information, referral or relocation services.

(b) No county or municipality may use any money received under this section to reduce the shelter benefits it is obligated to provide under s. 49.02 to recipients of general relief.

History: 1985 a. 29, 276; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39 s. 1378; Stats. 1991 s. 16.352.

**16.354 Transitional housing.** From the appropriation under s. 20.505 (7) (fm), the department may fund operating costs of transitional housing, as defined in 42 USC 11382 (12) (A). The department shall allocate the funds under this section to applicants who are recipients of assistance under 42 USC 11383 (a) (3). The amount allocated to an applicant may not exceed 50% of the amount of operating costs not paid under 42 USC 11383 (a) (3).

History: 1991 a. 39 s. 1382; Stats. 1991 s. 16.354.

**16.358 Community development block grant housing programs.** (1) The department may administer housing programs, including the housing improvement grant program and the initial rehabilitation grant program, that are funded by a community development block grant, 42 USC 5301 to 5320, under a contract entered into with the department of development under s. 560.045.

(2) The department may promulgate rules to administer this section.

History: 1991 a. 39.

**16.366 Mobile home park regulation.** (1) The department shall license and regulate mobile home parks. The department may investigate mobile home parks and, with notice, may enter and inspect private property.

(2) (a) The department or a village, city or county granted agent status under par. (e) shall issue permits to and regulate mobile home parks. No person, state or local government who has not been issued a permit under this subsection may conduct, maintain, manage or operate a mobile home park.

(b) The department may, after a hearing under ch. 227, refuse to issue a permit or suspend or revoke a permit for

violation of this section or any regulation or order that the department issues to implement this section.

(c) 1. Permits issued under this subsection expire on June 30. The annual nonreturnable and nonprorated permit fee is as follows:

a. For a mobile home park with 1 to 25 sites, \$70.

b. For a mobile home park with 26 to 50 sites, \$90.

c. For a mobile home park with 51 to 100 sites, \$110.

d. For a mobile home park with more than 100 sites, \$125.

2. An additional penalty fee of \$10 is required for each permit if the annual renewal fee is not paid before the permit expires.

(d) A permit may not be issued under this subsection until all applicable fees have been paid. If the payment is by check or other draft drawn upon an account containing insufficient funds, the permit applicant shall, within 15 days after receipt of notice from the department of the insufficiency, pay by cashier's check or other certified draft, money order or cash the fees from the department, late fees and processing charges that are specified by rules promulgated by the department. If the permit applicant fails to pay all applicable fees, late fees and the processing charges within 15 days after the applicant receives notice of the insufficiency, the permit is void. In an appeal concerning voiding of a permit under this paragraph, the burden is on the permit applicant to show that the entire applicable fees, late fees and processing charges have been paid. During any appeal process concerning a payment dispute, operation of the mobile home park in question is considered to be operation without a permit.

(e) Section 50.535 (2), as it applies to an agent for the department of health and social services in the administration of s. 140.05 (17), applies to an agent for the department of administration in the administration of this section.

(3) The department may promulgate rules and issue orders to administer and enforce this section. A person who violates this section or a regulation or order under this section may be required to forfeit not less than \$10 nor more than \$250 for each offense. Each day of continued violation constitutes a separate offense.

History: 1991 a. 39.

**16.375 Use of surplus state-owned real property.** (1) **DEFINITIONS.** In this section "state agency" means an office, commission, department, or independent agency in the executive branch of state government.

(2) **TRANSFER OF REAL PROPERTY TO THE DEPARTMENT.** (a) The department shall petition the head of any state agency having jurisdiction over real property that the department determines to be suitable for surplus.

(b) The head of the state agency having jurisdiction over the real property shall notify the department in writing whether or not the state agency considers the real property to be surplus.

(c) If the state agency considers the real property to be surplus, if the department determines that the real property is suitable by, the state agency shall transfer the real property, without payment, to the department for purposes of transfer to an applicant under sub. (3).

(3) **TRANSFER OF REAL PROPERTY.** The department may transfer real property obtained under sub. (2) to an applicant pursuant to a written agreement that includes the following:

(d) The applicant agrees to pay the department an amount to utilize the real property in conformance with the agreement.

(4) **RECORDING.** The department shall record the agreement under sub. (3) in the office of the register of deeds for the

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county in which the real property subject to the agreement is located.

History: 1991 a 39.

**16.38 Housing advisory council.** The housing advisory council shall advise the department on all of the following:

(1) Ways to maximize the receipt in this state of federal funds for housing.

(2) Ways to maximize efforts on the local level to improve housing available to persons or families with low or moderate incomes.

(3) The implementation of the programs under ss. 16.33 and 16.336 and other programs related to housing.

(4) The state housing strategy plan under s. 16.31.

History: 1989 a 31; 1991 a 39.

**16.39 Weatherization assistance. (1) DEFINITIONS.** In this section:

(a) "County department" means a county department under s. 46.215 or 46.22.

(b) "Household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(c) "Utility allowance" means the amount of utility costs paid by those individuals in subsidized housing who pay their own utility bills, as averaged from total utility costs for the housing unit by the housing authority.

(d) "Weatherization" means an improvement of housing primarily designed to minimize the loss of an energy resource and includes the provision or installation of caulking, weather stripping or insulation.

(2) **ADMINISTRATION.** Notwithstanding s. 16.54 (2) (a), the department shall administer the weatherization assistance program.

(3) **APPLICATION PROCEDURE.** A household may apply after September 30 and before May 16 of any year for weatherization assistance from the county department under s. 46.215 (1) (n) or 46.22 (1) (b) 10 and shall have the opportunity to do so on a form prescribed by the department for that purpose.

(4) **ELIGIBILITY.** The following may receive weatherization assistance under this section:

(a) A household with income which is not more than 150% of the income poverty guidelines for the nonfarm population of the United States as prescribed by the federal office of management and budget under 42 USC 9902 (2).

(b) A household entirely composed of persons receiving aid to families with dependent children under s. 49.19, food stamps under 7 USC 2011 to 2029, or supplemental security income or state supplemental payments under 42 USC 1381 to 1383c or s. 49.177.

(c) A household with income within the limits specified under par. (a) that resides in housing that is subsidized or administered by a municipality, a county, the state or the federal government in which a utility allowance is applied to determine the amount of rent or the amount of the subsidy.

(5) **WEATHERIZATION PROGRAM.** A household eligible under sub. (4) may receive weatherization from an entity with which the department contracts for provision of weatherization.

History: 1991 a 39.

**SUBCHAPTER III****FINANCE**

**16.40 Department of administration, duties, powers.** The department of administration shall:

(1) **PREPARE BUDGET.** Discharge all duties in connection with the compilation of the biennial state budget report imposed by ss. 16.42 to 16.46.

(2) **ATTEND FINANCE COMMITTEE.** Attend all public hearings of the joint committee on finance and such executive meetings as the committee may desire, answer questions and give information called for by the committee relative to the financial operations of the state and its several agencies.

(3) **PREPARE ANNUAL FINANCIAL STATEMENT.** Prepare at the end of each fiscal year not later than October 15, a condensed, and popular account of the finances of the state, showing the sources of the state's revenue and the purposes of its expenditures, including a comparison with the prior year; prepare at the end of each fiscal year not later than October 15, a statement of the condition of the general fund showing the cash balance, the accounts receivable, the accounts payable and the continuing unexpended and unencumbered appropriation balances; and prepare not earlier than January 1 nor later than February 1 in each year a tentative statement of the estimated receipts and disbursements of the general fund for the biennium in progress, showing also the estimated condition of the general fund at the end of the current biennium. A copy of each of such statements shall be filed in the legislative reference bureau and shall be sent to each member of the legislature.

(4) **FURNISH INFORMATION.** Furnish such other information regarding the finances of the state and the financial operations of agencies as may be called for by the governor, the governor-elect, the legislature or either house thereof, or any member thereof.

(5) **BOOKKEEPING FORMS.** Prescribe the forms of accounts and other financial records to be used by all agencies. Such accounts shall be as nearly uniform as is practical, and as simple as is consistent with an accurate and detailed record of all receipts and disbursements and of all other transactions affecting the acquisition, custodianship and disposition of value. The secretary may call upon the state auditor for advice and suggestions in prescribing such forms.

(6) **TAKE TESTIMONY.** In the discharge of any duty imposed by law, administer oaths and take testimony and cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit courts.

(7) **COLLECT REVENUE INFORMATION.** Collect from any available source and correlate information concerning any and all anticipated state revenues, including program revenues and segregated revenues from program receipts.

(8) **COLLECT INFORMATION ON DISBURSEMENTS.** Collect and correlate information from all agencies concerning any agency disbursements and the proper time thereof.

(9) **FORECAST REVENUES AND EXPENDITURES.** Forecast all revenues and expenditures of the state.

(10) **DETERMINE MINIMUM CASH BALANCES.** Determine the minimum cash balances needed in public depositories in which operating accounts are maintained at all times to meet the operating requirements of all agencies.

(11) **ADVISE INVESTMENT BOARD DIRECTOR ON SURPLUS MONEYS.** Advise the executive director of the investment board daily concerning surplus moneys available for investment from each of the various state funds.

(12) **ADVISE INVESTMENT BOARD DIRECTOR ON CASH NEEDS.** Advise the executive director of the investment board concerning the date when invested funds will be required in the form of cash. Said director shall furnish such reports of investments as may be required by the department of administration.

(13) **COOPERATE IN IMPROVEMENTS OF STATE FUND MANAGEMENT.** Cooperate with the executive director of the invest-

ment board, the state treasurer, the department of revenue and other revenue agencies for the purpose of effecting improvements in the management and investment of state funds.

**(14) COMMITTEES.** Perform administrative services required to properly account for the finances of committees created by law or executive order. The governor may authorize each committee to make expenditures from the appropriation under s. 20.505 (3) (a) not exceeding \$2,000 per fiscal year. The governor shall report such authorized expenditures to the joint committee on finance at the next quarterly meeting of the committee. If the governor desires to authorize expenditures of more than \$2,000 per fiscal year by a committee, the governor shall submit to the joint committee on finance for its approval a complete budget for all expenditures made or to be made by the committee. The budget may cover a period encompassing more than one fiscal year or biennium during the governor's term of office. If the joint committee on finance approves a budget authorizing expenditures of more than \$2,000 per fiscal year by a committee, the governor may authorize the expenditures to be made within the limits of the appropriation under s. 20.505 (3) (a) in accordance with the approved budget during the period covered by the budget. If after the joint committee on finance approves a budget for a committee the governor desires to authorize expenditures in excess of the authorized expenditures under the approved budget, the governor shall submit a modified budget for the committee to the joint committee on finance. If the joint committee on finance approves a modified budget, the governor may authorize additional expenditures to be made within the limits of the appropriation under s. 20.505 (3) (a) in accordance with the modified budget during the period covered by the modified budget.

**(16) MAINTAIN AN ACCOUNTING FOR OPERATING NOTES.** Maintain an accounting of, forecast and administer those moneys pledged for the repayment of operating notes issued under subch. III of ch. 18, in accordance with agreements entered into by the secretary under s. 16.004 (9).

**(17) INTERSTATE BODIES.** Perform administrative services required to properly account for dues and related expenses for state participation in national or regional interstate governmental bodies specified in s. 20.505 (3) (a) or determined by the governor.

**(18) REQUIRE AGENCIES TO PROVIDE COPIES.** Require each state agency, at the time that the agency submits a request to the department for an increased appropriation to be provided in an executive budget bill which is necessitated by the compensation plan under s. 230.12 or a collective bargaining agreement approved under s. 111.92, to provide a copy of the request to the secretary of employment relations and the joint committee on employment relations.

**(19) STATE-OWNED RENTAL HOUSING.** Require each agency as defined in s. 16.52 (7) which has a program revenue or segregated revenue appropriation for deposit of housing receipts to deposit all revenues received from rentals established under s. 16.004 (8) for state-owned housing in that appropriation account, or if the appropriation is for more than one purpose, in a separate subaccount within that appropriation, and to pay all expenses for maintenance of the housing from that account or subaccount.

**(20) SUPPLEMENTAL STATE AID.** Pay to each school district the amount determined under s. 121.085 from the appropriation under s. 20.835 (7) (a).

**History:** 1971 c. 125; 1977 c. 196 s. 130 (3); 1977 c. 272; 1979 c. 1, 34, 221; 1981 c. 20, 27, 317; 1981 c. 390 s. 252; 1983 a. 27, 368, 524; 1985 a. 29; 1987 a. 4, 27; 1989 a. 31, 359; 1991 a. 39.

**16.405 Requests for issuance of operating notes. (1)** At any time the department determines that a deficiency will occur in the funds of the state which will not permit the state to meet its operating obligations in a timely manner, it may prepare a request for the issuance of operating notes under subch. III of ch. 18 and, subject to sub. (2), may submit the request to the building commission.

**(2)** The department may not submit a request to the building commission under sub. (1) unless the request is signed by the secretary and the governor, and approved by the joint committee on finance.

**History:** 1983 a. 3; 1985 a. 29

**16.41 Agency and authority accounting; information; aid.**

**(1)** All agencies shall keep their accounts and other financial records as prescribed by the secretary under s. 16.40 (5), except as otherwise specifically directed by law. All agencies and authorities shall furnish to the secretary all information relating to their financial transactions which the secretary requests pursuant to this subchapter for such periods as the secretary requests, and shall render such assistance in connection with the preparation of the state budget report and the budget bill and in auditing accounts, as the secretary or the governor may require.

**(2)** The secretary and his or her duly authorized employees shall have free access to all financial accounts of every agency and authority, and each agency and authority shall assist the secretary in preparing estimates of receipts and expenditures for inclusion in the state budget report.

**(3)** Upon request of the secretary all agencies and authorities shall furnish such information concerning anticipated revenues and expenditures as the secretary requires for effective control of state finances.

**(4)** In this section, "authority" means a body created under ch. 231 or 234.

**History:** 1977 c. 196 s. 130 (3); 1977 c. 272, 273; 1983 a. 27; 1987 a. 399.

**16.412 Agency payments.** At the request of any agency the secretary, with the approval of the state treasurer, may authorize the processing of specified regular periodic payments through the use of money transfer techniques including, without limitation because of enumeration, direct deposit, electronic funds transfer and automated clearinghouse procedures.

**History:** 1981 c. 20.

**16.415 Certification of payrolls. (1)** Neither the secretary nor any other fiscal officer of this state may draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the treasurer or other disbursing officer of the state to pay any compensation to any person in the classified service of the state unless an estimate, payroll or account for such compensation, containing the names of every person to be paid, bears the certificate of the appointing authority that each person named in the estimate, payroll or account has been appointed, employed or subject to any other personnel transaction in accordance with, and that the pay for the person has been established in accordance with, the law, compensation plan or applicable collective bargaining agreement, and rules of the secretary of employment relations and the administrator of the division of merit recruitment and selection in the department of employment relations then in effect.

**(2)** Any person entitled to be certified as described in sub. (1), as having been appointed or employed in pursuance of law and of the rules pursuant thereto, and refused such certificate, may maintain an action of mandamus to compel the appointing authority to issue such certificate.

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(3) Any sums paid contrary to this section may be recovered from any appointing authority making such appointments in contravention of law or of the rules promulgated pursuant thereto, or from any appointing authority signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of the same, or from the sureties on the official bond of any such appointing authority, in an action in the circuit court for any county within the state, maintained by the secretary of employment relations, or by a citizen resident therein, who is assessed for, and liable to pay, or within one year before the commencement of the action has paid, a state, city or county tax within this state. All moneys recovered in any action brought under this section when collected, shall be paid into the state treasury except that if a citizen taxpayer is plaintiff in any such action he or she shall be entitled to receive for personal use the taxable cost of such action and 5% of the amount recovered as attorney fees.

**History:** 1971 c. 270 ss. 67, 68; 1973 c. 12; 1977 c. 196 ss. 63, 65, 130 (5), 131; 1977 c. 272 s. 98; 1977 c. 273; 1983 a. 27; 1985 a. 332 s. 251 (1); 1989 a. 31.

**16.417 Limitation on dual employment or retention. (1)** In this section:

(a) "Agency" has the meaning given under s. 16.52 (7).

(b) "Authority" means a body created under ch. 231, 232 or 234.

(2) No individual who is employed or retained in a full-time position or capacity with an agency or authority may hold any other position or be retained in any other capacity with an agency or authority from which the individual receives, directly or indirectly, more than \$5,000 from the agency or authority as compensation for the individual's services during the same year. No agency or authority may employ any individual or enter into any contract in violation of this subsection. The department shall annually check to assure that no individual violates this subsection. The department shall order any individual whom it finds to be in violation of this subsection to forfeit that portion of the economic gain that the individual realized in violation of this subsection. The attorney general, when requested by the department, shall institute proceedings to recover any forfeiture incurred under this subsection which is not paid by the individual against whom it is assessed. This subsection does not apply to an individual who has a full-time appointment for less than 12 months, during any period of time that is not included in the appointment.

**History:** 1987 a. 365 ss. 1, 4m; 1987 a. 399; 1989 a. 56 s. 259.

Discussion of restrictions which (2) imposes on dual state employment of state employees. 77 Atty. Gen. 245

**16.42 Agency requests. (1)** All agencies, other than the legislature and the courts, prior to each budget period on the date and in the form and content prescribed by the department shall prepare and forward to the department and to the legislative fiscal bureau the following program and financial information:

(a) A clear statement of the purpose or goal for each program or subprogram;

(b) Clear statements of specific objectives to be accomplished and, as appropriate, the performance measures used by the agency to assess progress toward achievement of these objectives;

(c) Proposed plans to implement the objectives and the estimated resources needed to carry out the proposed plans;

(d) A statement of legislation required to implement proposed programmatic and financial plans; and

(e) All fiscal or other information relating to such agencies that the secretary or the governor requires on forms prescribed by the secretary.

(2) The secretary may make budget estimates for all such agencies which fail to furnish by the specified date the information required under sub. (1).

**History:** 1971 c. 125, 215; 1973 c. 12, 333; 1975 c. 388; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272; 1979 c. 34, 221; 1981 c. 20; 1987 a. 4

**16.425 Summary of tax exemption devices. (1) DECLARATION OF POLICY.** Because state policy objectives are sought and achieved by both governmental expenditures and tax exemption, and because both have an impact on the government's capacity to lower tax rates or raise expenditures, both should receive regular comprehensive review by the governor and the legislature in the budgetary process. This section seeks to facilitate such comprehensive review by providing for the generation of information concerning tax exemptions and other similar devices comparable to expenditure information.

(2) **DEFINITION.** For the purposes of this section "tax exemption device" means any tax provision which exempts, in whole or in part, certain persons, income, goods, services, or property from the impact of established taxes, including, but not limited because of failure of enumeration, to those devices known as tax deductions, tax allowances, tax exclusions, tax credits and tax exemptions.

(3) **REPORT ON TAX EXEMPTION DEVICES.** The department of revenue shall, in each even-numbered year on the date prescribed for it by the secretary, furnish to the secretary a report detailing the approximate costs in lost revenue, the policy purposes and to the extent possible, indicators of effectiveness in achieving such purposes, for all state tax exemption devices, including those based on the federal internal revenue code, in effect at the time of the report. The report need relate only to chs. 71, 76 and 77 tax exemption devices and to property tax exemptions for which reports are required under s. 70.337. The report shall be prepared in such a manner as to facilitate the making of comparisons with the information reported in s. 16.46 (1) to (6).

**History:** 1973 c. 90; 1981 c. 20; 1983 a. 27; 1991 a. 39

**16.43 Budget compiled.** The secretary shall compile and submit to the governor or the governor-elect and to each person elected to serve in the legislature during the next biennium, not later than November 20 of each even-numbered year, a compilation giving all of the data required by s. 16.46 to be included in the state budget report, except the recommendations of the governor and the explanation thereof.

**History:** 1977 c. 29; 1981 c. 20.

**16.44 Budget hearings.** After the filing of the compilation required under s. 16.43, the governor or governor-elect shall consider all requests and all other information which may be of value in understanding the issues and problems to be dealt with in the executive budget. The governor or governor-elect may hold public hearings determined to be necessary to gather further information from agencies, interested citizens and others. The department of administration and all other agencies shall cooperate fully with the governor or governor-elect in providing information and analyses as requested.

**History:** 1973 c. 333; 1977 c. 196 s. 130 (3); 1977 c. 273.

**16.45 Budget message to legislature.** In each regular session of the legislature, the governor shall deliver the budget message to the 2 houses in joint session assembled. Unless a later date is requested by the governor and approved by the legislature in the form of a joint resolution, the budget message shall be delivered on or before the last Tuesday in January. With the message the governor shall transmit to the legislature, as provided in ss. 16.46 and 16.47, the biennial

state budget report and the executive budget bills together with suggestions for the best methods for raising the needed revenues.

**History:** 1971 c. 2; 1973 c. 333; 1987 a. 4, 186.

**16.46 Biennial budget, contents.** The biennial state budget report shall be prepared by the secretary, under the direction of the governor, and a copy of a budget-in-brief thereof shall be furnished to each member of the legislature on the day of the delivery of the budget message. The biennial state budget report shall be furnished to each member of the legislature on or about February 15 of each odd-numbered year and shall contain the following information:

(1) A summary of the actual and estimated receipts of the state government in all operating funds under existing laws during the current and the succeeding bienniums, classified so as to show the receipts by funds, organization units and sources of income;

(2) A summary of the actual and estimated disbursements of the state government from all operating funds during the current biennium and of the requests of agencies and the recommendations of the governor for the succeeding biennium;

(3) A statement showing the condition of all operating funds of the treasury at the close of the preceding fiscal year and the estimated condition at the close of the current year;

(4) A statement showing how the total estimated disbursements during each year of the succeeding biennium compare with the estimated receipts, and the additional revenues, if any, needed to defray the estimated expenses of the state;

(5) A statement of the actual and estimated receipts and disbursements of each department and of all state aids and activities during the current biennium, the departmental estimates and requests, and the recommendations of the governor for the succeeding biennium. Estimates of expenditures shall be classified to set forth such expenditures by funds, organization units, appropriation, object and activities at the discretion of the secretary;

(6) Any explanatory matter which in the judgment of the governor or the secretary will facilitate the understanding by the members of the legislature of the state financial condition and of the budget requests and recommendations.

(7) The report of the department of revenue prepared under s. 16.425, together with the purposes and approximate costs in lost revenue of each new or changed tax exemption device provided in the proposed budget. This information shall be integrated with the rest of the information in this section in such a manner as to facilitate to the fullest extent possible, direct comparisons between expenditure information and tax exemption device information, as defined in s. 16.425.

(8) The estimate of the department of revenue under s. 73.03 (36).

**History:** 1971 c. 125; 1973 c. 90; 1977 c. 196 s. 130 (3); 1979 c. 34; 1981 c. 20; 1983 a. 27; 1989 a. 335.

**16.461 Biennial budget, summary of funds.** After the governor has submitted all budget recommendations, the secretary shall prepare a summary of the recommendations of all funds, to be distributed to the members of the legislature.

**16.465 Budget stabilization fund reallocations.** The secretary may reallocate moneys in the budget stabilization fund to other funds in the manner provided in s. 20.002 (11). No interest may be assessed to the general fund on account of such a reallocation.

**History:** 1985 a. 120

**16.47 Budget bill.** (1) The executive budget bill or bills shall incorporate the governor's recommendations for appropriations for the succeeding biennium. The appropriation method shown in the bill or bills shall in no way affect the amount of detail or manner of presentation which may be requested by the joint committee on finance. Appropriation requests may be divided into 3 allotments: personal services, other operating expenses and capital outlay or such other meaningful classifications as may be approved by the joint committee on finance.

(1m) Immediately after the delivery of the budget message, the budget bill or bills shall be introduced without change into either house by the joint finance committee and when introduced shall be referred to that committee.

(2) No bill containing an appropriation or increasing the cost of state government or decreasing state revenues in an annual amount exceeding \$10,000 shall be passed by either house until the budget bill has passed both houses; except that the governor or the joint committee on finance may recommend such bills to the presiding officer of either house, in writing, for passage and the legislature may enact them, and except that the senate or assembly committee on organization may recommend to the presiding officer of its respective house any such bill not affecting state finances by more than \$100,000 biennially. Such bills shall be accompanied by a statement to the effect that they are emergency bills recommended by the governor, the joint committee on finance, or the senate or assembly committee on organization. Such statement by the governor or joint committee on finance shall be sufficient to permit passage prior to the budget bill. Such statement by the senate or assembly committee on organization shall be effective only to permit passage by its respective house.

**History:** 1971 c. 125; 1979 c. 34, 221; 1981 c. 20; 1983 a. 27; 1987 a. 4

**16.48 Unemployment reserve financial statement.** (1) On or about January 15 of each odd-numbered year, the secretary of industry, labor and human relations shall prepare and furnish to the governor, the speaker of the assembly, the minority leader of the assembly, and the majority and minority leaders of the senate:

(a) A statement of unemployment compensation financial outlook, which shall contain the following, together with the secretary's recommendations and an explanation for such recommendations:

1. Projections of unemployment compensation operations under current law through at least the 2nd year following the close of the biennium, including benefit payments, tax collections, borrowing or debt repayments and amounts of interest charges, if any.

2. Specific proposed changes in the laws relating to unemployment compensation financing, benefits and administration.

3. Projections specified in subd. 1 under the proposed laws.

4. The economic and public policy assumptions upon which the projections are based, and the impact upon the projections of variations from those assumptions.

5. If significant cash reserves in the unemployment reserve fund are projected throughout the forecast period, a statement giving the reasons why the reserves should be retained in the fund.

6. If unemployment compensation program debt is projected at the end of the forecast period, the reasons why it is not proposed to liquidate the debt.

(b) A report summarizing the deliberations of the council on unemployment compensation and the position of the council, if any, concerning each proposed change in the unemployment compensation laws submitted under par. (a).

(2) Upon receipt of the statement and report under sub. (1), the governor may convene a special committee consisting of the secretary of industry, labor and human relations and the legislative leaders specified in sub. (1) to review the statement and report. Upon request of 2 or more of the legislative leaders specified in sub. (1), the governor shall convene such a committee. The committee shall attempt to reach a consensus concerning proposed changes to the unemployment compensation laws and shall submit its recommendations to the governor and legislature concurrently with the statement furnished under sub. (3).

(3) On or about February 15 of each odd-numbered year, the secretary of industry, labor and human relations, under the direction of the governor, shall submit to each member of the legislature an updated statement of unemployment compensation financial outlook which shall contain the information specified in sub. (1) (a), together with the governor's recommendations and an explanation for such recommendations, and a copy of the report required under sub. (1) (b).

History: 1983 a. 388.

**16.50 Departmental estimates.** (1) EXPENDITURES. (a) Each department except the legislature and the courts shall prepare and submit to the secretary an estimate of the amount of money which it proposes to expend, encumber or distribute under any appropriation in ch. 20. The department of administration shall prepare and submit estimates for expenditures from appropriations under ss. 20.855, 20.865, 20.866 and 20.867. The secretary may waive the submission of estimates of other than administrative expenditures from such funds as he or she determines, but the secretary shall not waive submission of estimates for the appropriations under s. 20.285 (1) (im) and (n). Estimates shall be prepared in such form, at such times and for such time periods as the secretary requires. Revised and supplemental estimates may be presented at any time under rules promulgated by the secretary.

(b) This subsection does not apply to appropriations under ss. 20.255 (2) (ac), 20.835 and 20.865 (4).

(2) ACTION THEREON BY SECRETARY. The secretary shall examine each such estimate to determine whether appropriations are available therefor and expenditures under the appropriations can be made without incurring danger of exhausting the appropriations before the end of the appropriation period and whether there will be sufficient revenue to meet such contemplated expenditures except as provided in sub. (7). The secretary also shall examine each estimate to assure as nearly as possible that the proposed plan of program execution reflects the intentions of the joint committee on finance, legislature and governor, as expressed by them in the budget determinations. If satisfied that such estimate meets these tests, the secretary shall approve the estimate; otherwise he or she shall disapprove the estimate, in whole or in part, as the facts require. If the secretary is satisfied that an estimate for any period is more than sufficient for the execution of the normal functions of a department, he or she may modify or withhold approval of the estimate. This section shall be strictly construed by the secretary to the end that such budget determinations and policy decisions reflected by such determinations be implemented to the fullest extent possible within the concepts of proper management.

(3) LIMITATION ON INCREASE OF FORCE AND SALARIES. No department, except the legislature or the courts, may increase the pay of any employe, expend money or incur any obligation except in accordance with the estimate that is submitted to the secretary as provided in sub. (1) and approved by the

secretary or the governor. No change in the number of full-time equivalent positions authorized through the biennial budget process or other legislative act may be made without the approval of the joint committee on finance, except for position changes made by the governor under s. 16.505 (1) (c) or (2) or by the board of regents of the university of Wisconsin system under s. 16.505 (2m). The secretary may withhold, in total or in part, the funding for any position, as defined in s. 230.03 (11), as well as the funding for part-time or limited term employes until such time as the secretary determines that the filling of the position or the expending of funds is consistent with the intent of the legislature as established by law or in budget determinations, or the intent of the joint committee on finance creating or abolishing positions under s. 13.10, the intent of the governor creating or abolishing positions under s. 16.505 (1) (c) or (2) or the intent of the board of regents of the university of Wisconsin system in creating or abolishing positions under s. 16.505 (2m). Until the release of funding occurs, recruitment or certification for the position may not be undertaken. The secretary shall submit a quarterly report to the joint committee on finance of any position changes made by the governor under s. 16.505 (1) (c). No pay increase may be approved unless it is at the rate or within the pay ranges prescribed in the compensation plan or as provided in a collective bargaining agreement under subch. V of ch. 111. At the request of the secretary of employment relations, the secretary of administration may authorize the temporary creation of pool or surplus positions under any source of funds if the secretary of employment relations determines that temporary positions are necessary to maintain adequate staffing levels for high turnover classifications, in anticipation of attrition, to fill positions for which recruitment is difficult. Surplus or pool positions authorized by the secretary shall be reported quarterly to the joint committee on finance in conjunction with the report required under s. 16.54 (8).

(4) APPEALS TO GOVERNOR. Any department feeling itself aggrieved by the refusal of the secretary to approve any estimate, or any item therein, may appeal from the secretary's decision to the governor, who, after a hearing and such investigation as the governor deems necessary, may set aside or modify such decision.

(5) DISBURSEMENTS. The secretary may not draw a warrant for payment of any expenditures incurred by any department nor may any department make any expenditure for which the approval of the secretary or the governor is necessary under this section, including any expenditure under s. 20.867, unless the expenditure was made in accordance with an estimate submitted to and approved by the secretary or by the governor. In the event that the secretary determines that previously authorized expenditures will exceed revenues in the current or forthcoming fiscal year by more than 0.5% of the estimated general purpose revenue appropriations for that fiscal year, he or she may not decline to approve an estimate or to draw a warrant under this subsection, but shall instead proceed under sub. (7).

(5m) UNIVERSITY INDIRECT COST REIMBURSEMENTS. Subsections (2) to (5) do not apply to expenditures authorized under s. 20.285 (2) (i) 2.

(6) PROPORTIONAL SPENDING. If the secretary determines that expenditures of general purpose or segregated fund revenues are utilized to match revenues received under s. 16.54 or 20.001 (2) (b) for the purposes of combined program expenditure, the secretary may require that disbursements of the general purpose revenue and corresponding segregated revenue be in direct proportion to the amount of program revenue or corresponding segregated revenue which is avail-

able or appropriated in ch. 20 or as condition of a grant or contract. If the secretary makes such a determination, the agency shall incorporate the necessary adjustments into the expenditure plans provided for in sub. (1).

**(7) REVENUE SHORTFALL.** (a) If following the enactment of the biennial budget act in any biennium the secretary determines that previously authorized expenditures will exceed revenues in the current or forthcoming fiscal year by more than one-half of one percent of the estimated general purpose revenue appropriations for that fiscal year, he or she may not take any action under sub. (2) and shall immediately notify the governor, the presiding officers of each house of the legislature and the joint committee on finance.

(b) Following such notification, the governor shall submit a bill containing his or her recommendations for correcting the imbalance between projected revenues and authorized expenditures. If the legislature is not in a floorperiod at the time of the secretary's notification, the governor shall call a special session of the legislature to take up the matter of the projected revenue shortfall and the governor shall submit his or her bill for consideration at that session.

**History:** 1971 c. 270; 1973 c. 333; 1975 c. 39; 1977 c. 29, 196, 418; 1979 c. 32, 34; 1981 c. 20, 27, 30, 314; 1983 a. 27 ss. 70, 71a, 2202 (42); 1985 a. 332 s. 251 (6); 1987 a. 4, 27; 1989 a. 31, 336; 1991 a. 316.

Secretary is not authorized by 16.50 (2), 1979 stats., to reduce payments to municipalities under 79.03 and 79.16 (3), 1979 stats. Milwaukee v. Lindner, 98 W (2d) 624, 297 NW (2d) 828 (1980).

Secretary is not authorized by 16.50 (2), 1979 stats., to reduce payments under school aids program. School Dist. of LaFarge v. Lindner, 100 W (2d) 111, 301 NW (2d) 196 (1981).

**16.501 Forward Wisconsin, inc.; funds.** (1) No funds appropriated under s. 20.143 (1) (bm) may be expended until the department of development submits to the secretary a report setting forth the amount of private contributions received by Forward Wisconsin, inc., since the date the department of development last submitted a report under this subsection. After receiving the report, the secretary may approve the expenditure of funds up to the amount set forth in the report. Total funds expended in any fiscal year may not exceed the amounts in the schedule under s. 20.143 (1) (bm).

(2) Forward Wisconsin, inc., shall expend funds appropriated under s. 20.143 (1) (bm) in adherence with the uniform travel schedule amounts approved under s. 20.916 (8). Forward Wisconsin, inc., may not expend funds appropriated under s. 20.143 (1) (bm) on entertainment, foreign travel, payments to persons not providing goods or services to Forward Wisconsin, inc., or for other purposes prohibited by contract between Forward Wisconsin, inc., and the department.

**History:** 1985 a. 29; 1987 a. 399

**16.505 Position authorization.** (1) Except as provided in subs. (2) and (2m), no position, as defined in s. 230.03 (11), regardless of funding source or type, may be created or abolished unless authorized by one of the following:

- (a) The legislature by law or in budget determinations.
- (b) The joint committee on finance under s. 13.10.
- (c) The governor creating or abolishing positions funded from revenues specified in s. 20.001 (2) (e).

(2) (a) An agency may request the governor to create or abolish a full-time equivalent position or portion thereof funded from revenues specified in s. 20.001 (2) (b) or (c) in the agency. Upon receiving such a request, the governor may change the authorized level of full-time equivalent positions funded from such revenues in the agency in accordance with this subsection. The governor may approve a different authorized level of positions than is requested by the agency. If the governor proposes to change the number of full-time equivalent positions in an agency funded from revenues

specified in s. 20.001 (2) (b) or (c), the governor shall notify the joint committee on finance in writing of his or her proposed action. If the cochairpersons of the committee do not notify the governor that the committee has scheduled a meeting for the purpose of reviewing the proposed action within 14 working days after the date of the governor's notification, the position changes may be made as proposed by the governor. If, within 14 working days after the date of the governor's notification, the cochairpersons of the committee notify the governor that the committee has scheduled a meeting for the purpose of reviewing the proposed action, the position changes may be made under this subsection only upon approval of the committee.

(b) This subsection does not apply to full-time equivalent positions funded from the appropriations under s. 20.370 (2) (bg) or (8) (mg) or 20.855 (8).

**(2m)** The board of regents of the university of Wisconsin system may create or abolish a full-time equivalent position or portion thereof from revenues appropriated under s. 20.285 (1) (j) or (m). No later than the last day of the month following completion of each calendar quarter, the board of regents shall report to the department and the cochairpersons of the joint committee on finance concerning the number of full-time equivalent positions created or abolished by the board under this subsection during the preceding calendar quarter and the source of funding for each such position.

(3) If the secretary determines that the expenditure estimate established under s. 16.50 (1) for any agency so warrants, the secretary may require an agency to seek prior approval to expend funds for any position, including limited term employment. The secretary may also require any agency except a judicial branch agency or legislative service agency to comply with the procedures for entering position information for its employees, including limited term employees, into the information system established under s. 16.004 (7).

(4) (a) In this subsection, "agency" has the meaning given under s. 16.52 (7).

(b) No agency may change the funding source for a position authorized under this section unless the position is authorized to be created under a different funding source in accordance with this section.

**NOTE:** Par. (b) is amended eff. 7-1-93 by 1991 Wis. Act 39 to read:

(b) Except as provided in par. (c), no agency may change the funding source for a position authorized under this section unless the position is authorized to be created under a different funding source in accordance with this section.

(c) The department shall fund from general purpose revenue under s. 20.865 (1) (cj) positions in the university of Wisconsin system that are otherwise funded from revenues specified in s. 20.001 (2) (e), to the extent authorized under s. 20.865 (1) (cj).

**NOTE:** Par. (c) is created eff. 7-1-93 by 1991 Wis. Act 39.

**History:** 1977 c. 196, 418; 1979 c. 34; 1981 c. 20; 1983 a. 27; 1987 a. 27; 1989 a. 31, 127; 1991 a. 39, 269

**16.51 Department of administration; preauditing and accounting; additional duties and powers.** The department of administration in the discharge of preauditing and accounting functions shall:

(1) **SUGGEST IMPROVEMENTS.** Suggest plans for the improvement and management of the public revenues and expenditures.

(4) **DIRECT COLLECTION OF MONEYS.** Except as otherwise provided by law, direct and superintend the collection of all moneys due the state.

(5) **KEEP AND STATE ACCOUNTS.** Keep and state all accounts in which the state is interested as provided in s. 16.52.

(6) **AUDIT CLAIMS.** Examine, determine and audit, according to law, the claims of all persons against the state as provided in s. 16.53.



**16.51 DEPARTMENT OF ADMINISTRATION**

91-92 Wis. Stats. 314

(7) **AUDIT CLAIMS FOR EXPENSES IN CONNECTION WITH PRISONERS.** Receive, examine, determine and audit claims, duly certified and approved by the department of corrections, from the county clerk of any county in behalf of the county, which are presented for payment to reimburse the county for certain expenses incurred or paid by it in reference to all matters growing out of actions and proceedings involving prisoners in state prisons, as defined in s. 302.01, including prisoners transferred to a mental health institute for observation or treatment, when the proceedings are commenced in counties in which the prisons are located by a district attorney or by the prisoner as a postconviction remedy or a matter involving the prisoner's status as a prisoner. Expenses shall only include the amounts as were necessarily incurred and actually paid and shall be no more than the legitimate cost would be to any other county had the offense or crime occurred therein.

History: 1971 c. 125; 1977 c. 418; 1979 c. 221; 1985 a. 29; 1989 a. 31.

**16.513 Program and segregated revenue sufficiency. (1)** Each agency which has a program revenue appropriation or appropriation of segregated revenues from program receipts shall, at such times as required by the secretary, make quarterly reports to the department projecting the revenues and expenditures for the ensuing quarterly period under each such appropriation to the agency.

(2) Upon reviewing the reports submitted under sub. (1), the department shall report to the joint committee on finance concerning any projected insufficiency of program revenues or segregated revenues from program receipts to meet expenditures contemplated by agencies. The report shall contain information concerning any encumbrances made by agencies attributable to a program revenue appropriation or appropriation of segregated revenues from program receipts that are in excess of the moneys, assets or accounts receivable under s. 20.903 (2) required to remove the liabilities created by the encumbrances.

(3) If there are insufficient moneys, assets or accounts receivable, as determined under s. 20.903 (2), that are projected by an agency or projected by the department under s. 16.40 (7) to cover anticipated expenditures under a program revenue appropriation or appropriation of segregated revenues from program receipts, the agency shall propose and submit to the department a plan to assure that there are sufficient moneys, assets or accounts receivable to meet projected expenditures under the appropriation. The department may approve, disapprove or approve with modifications each plan submitted by an agency. If the department approves a plan, or approves a plan with modifications, the department shall forward the plan to the joint committee on finance. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed plan within 14 working days after the date of the secretary's submittal, any portion of the plan which does not require the action of the legislature or the action of the committee under another law may be implemented. If, within 14 working days after the date of the secretary's submittal, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, no part of the plan may be implemented without the approval of the committee in accordance with applicable law, or without the approval of the legislature if legislative approval is required.

(4) The department shall monitor the performance of agencies in carrying out plans approved under sub. (3) and

shall periodically report its findings regarding such performance to the joint committee on finance.

(5) Any officer of an agency which is responsible for the submission of a report required by sub. (1) or a plan required by sub. (3) who fails to submit the report or plan within the time required by the department may be required to forfeit not less than \$200 nor more than \$1,000.

History: 1983 a. 27.

**16.515 Supplementation of program revenue and program revenue-service appropriations. (1)** The secretary may supplement any sum certain program revenue or program revenue-service appropriation which the secretary determines is insufficient because of unforeseen emergencies or insufficient to accomplish the purpose for which made, if the secretary finds that an emergency exists, no funds are available for such purposes and the purposes for which a supplemental appropriation is requested have been authorized or directed by the legislature. If the secretary proposes to supplement such an appropriation, the secretary shall notify the joint committee on finance in writing of the proposed action. The secretary may proceed with the proposed action if within 14 working days of the notification the committee does not schedule a meeting for the purpose of reviewing the secretary's proposed action. If the committee schedules a meeting for the purpose of reviewing the proposed action, the action shall not take effect unless the committee approves the action.

(2) All supplements proposed under this section which are not acted upon by the committee shall be paid from the appropriation under s. 20.865 (8) (g).

(3) This section does not apply to supplementation of appropriations under s. 20.370 (2) (bg) or (8) (mg) or 20.855 (8).

History: 1981 c. 20; 1989 a. 31; 1991 a. 269.

**16.517 Adjustments of program revenue positions and funding levels.** No later than 30 days after the effective date of each biennial budget act, the department shall provide to the joint committee on finance a report indicating any initial modifications that are necessary to the appropriation levels established under that act for program revenue and program revenue-service appropriations as defined in s. 20.001 (2) (b) and (c) or to the number of full-time equivalent positions funded from program revenue and program revenue-service appropriations authorized by that act to account for any additional funding or positions authorized under ss. 16.505 (2) or (2m) and 16.515 in the fiscal year immediately preceding the fiscal biennium of the budget that have not been included in authorizations under the biennial budget act but which should be included as continued budget authorizations in the fiscal biennium of the budget. Such modifications shall be limited to adjustment of the appropriation or position levels to the extent required to account for higher base levels for the fiscal year immediately preceding the fiscal biennium of the budget due to appropriation or position increases authorized under ss. 16.505 (2) or (2m) and 16.515 during the fiscal year immediately preceding the fiscal biennium of the budget. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed modifications within 14 working days after the date of the department's report, the modifications may be made. If, within 14 working days after the date of the department's report, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed

modifications, the department may not make the modifications until the committee approves the report.

History: 1985 a. 29; 1987 a. 4, 27; 1991 a. 39.

**16.52 Accounting.** The department of administration shall:

(1) **KEEP SEPARATE ACCOUNTS.** Keep in its office separate accounts of the revenues and funds of the state, and of all moneys and funds received or held by the state, and also of all encumbrances, expenditures, disbursements and investments thereof, showing the particulars of every encumbrance, expenditure, disbursement and investment.

(2) **REVENUE ACCOUNTS.** Place revenue estimates on the books of accounts and credit actual receipts against them as of the last day of each quarter. Except as provided in s. 20.002 (2), any receipts applying to a prior fiscal year received between the day after the date for closing of books specified by the secretary under sub. (5) (a) and the next succeeding such date specified by the secretary shall be credited by the secretary to the fiscal year following the year to which the receipts apply. Except in the case of program revenue and continuing appropriations, any refund of a disbursement to a general purpose revenue appropriation, applicable to any prior fiscal year, received between these dates may not be credited to any appropriation but shall be considered as a nonappropriated receipt. General purpose revenue (GPR) earned, as defined in s. 20.001 (4) is not available for expenditure, whether or not applied to the fiscal year in which received.

(3) **KEEP APPROPRIATION ACCOUNTS.** Keep separate accounts of all appropriations authorizing expenditures from the state treasury, which accounts shall show the amounts appropriated, the amounts allotted, the amounts encumbered, the amounts expended, the allotments unencumbered and the unallotted balance of each appropriation.

(5) **ENCUMBRANCES AND CHARGES FOR PRIOR FISCAL YEAR.** (a) On a date specified by the secretary within 7 days of July 31 of each fiscal year, all outstanding encumbrances against an appropriation entered for the previous fiscal year shall be transferred by the secretary as encumbrances against the appropriation for the current fiscal year, and an equivalent prior year appropriation balance shall also be forwarded to the current year by the secretary. Payments made on previous year encumbrances forwarded shall be charged to the current fiscal year. All other charges incurred during any previous fiscal year, and not evidenced by encumbrances, which are presented for payment between the day after the date specified by the secretary under this paragraph in any fiscal year and the date specified by the secretary under this paragraph in the next succeeding fiscal year shall be entered as charges in the fiscal year following the year in which the charges are incurred. The requirements of this paragraph may be waived in whole or in part by the secretary with the advice of the state auditor on appropriations other than general purpose revenue appropriations and corresponding segregated revenue appropriations.

(b) After the date specified by the secretary under par. (a), agencies shall be allowed not to exceed one month for reconciling prior year balances, correcting errors and certifying necessary adjustments to the department. No prior year corrections shall be permitted after that date, it being incumbent upon all agencies to completely reconcile their records with the department by that date. Each agency shall delegate to some individual the responsibility of reconciling its accounts as herein provided and shall certify the individual's name to the secretary. As soon as a reconciliation has been effected, the agency shall advise the secretary in writing of such fact and shall forward to the secretary a copy of such

reconciliation. If any agency fails to reconcile its accounts as provided in this subsection, the person responsible for such reconciliation shall not be entitled to any further compensation for salary until such reconciliation is effected. With the approval of the state auditor any agency which relies extensively on central accounting records may be permitted by the secretary to file a statement of agreement in lieu of a reconciliation on all or part of its accounts.

(c) In addition to the annual reconciliation of accounts required by par. (b), the secretary may request any state agency to reconcile its accounts with those of the department at such other times as the secretary deems necessary. The manner and form of the reconciliation shall be determined by the secretary.

(6) **PRIOR APPROVAL OF PURCHASE ORDERS, ETC.** (a) Except as authorized in s. 16.74, all purchase orders, contracts, or printing orders shall, before any liability is incurred thereon, be submitted to the secretary for his or her approval as to legality of purpose and sufficiency of appropriated and allotted funds therefor. In all cases the date of the contract or order governs the fiscal year to which the contract or order is chargeable, unless the secretary determines that the purpose of the contract or order is to prevent lapsing of appropriations or to otherwise circumvent budgetary intent. Upon such approval, the secretary shall immediately encumber all contracts or orders, and indicate the fiscal year to which they are chargeable.

(b) Pursuant to s. 16.72 and subject to ss. 16.53 and 20.903 local purchases may be made or miscellaneous expenses incurred by any state department.

(c) Any department feeling itself aggrieved by the refusal of the secretary to approve any proposed encumbrance or payment under this section or s. 16.53 may appeal from the secretary's decision to the governor, who, after a hearing and such investigation as the governor deems necessary, may set aside or modify such decision.

(7) **PETTY CASH ACCOUNT.** With the approval of the secretary, each agency which is authorized to maintain a contingent fund under s. 20.920 may establish a petty cash account from its contingent fund. The procedure for operation and maintenance of petty cash accounts and the character of expenditures therefrom shall be prescribed by the secretary. In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231 or 234.

(8) **REFUND ACCOUNTS.** The secretary shall promulgate rules permitting agencies, authorized to do so by the governor, to issue checks, share drafts or other drafts to refund amounts not to exceed \$5 each. The secretary may establish petty cash funds for such agencies for the purpose of paying refunds.

(9) **SECRETARY TO REQUIRE ACCOUNTS OF STATE MONEY, ETC.** The secretary shall require all persons receiving money or securities or having the disposition or management of any property of the state, of which an account is kept in the secretary's office, to render statements thereof to the secretary; and all such persons shall render such statements at such time and in such form as the secretary shall require.

(10) **DEPARTMENT OF PUBLIC INSTRUCTION.** The provisions of sub. (2) with respect to refunds and sub. (5) (a) with respect to reimbursements for the prior fiscal year shall not apply to the appropriation under s. 20.255 (2) (ac).

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91-92 Wis. Stats. 316

**(11) SECRETARY TO ALLOCATE DEPARTMENTAL CENTRAL SERVICES COSTS.** The secretary may allocate and charge, and may prescribe the procedures for departments to allocate and charge, the central services costs of the department of administration or of individual departments to selected federal grants or contracts. The charges to departments for the central services costs incurred by the department of administration and the indirect costs incurred by the departments in the administration of federally-aided programs under grants or contracts shall be made in accordance with the procedures adopted by the secretary.

**(12) DATE FOR INTERFUND TRANSFERS.** Whenever it is provided by law for a transfer of moneys to be made from one fund to another fund and no date is specified for the transfer to be made, determine a date on which the transfer shall be made or provide for partial transfers to be made on different dates, and transfer the moneys in accordance with its determination.

**History:** 1971 c. 125, 261; 1973 c. 243; 1975 c. 41 s. 52; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272, 273, 418; 1979 c. 34 ss. 65 to 67, 2102 (43) (a); 1981 c. 14; 1983 a. 27 ss. 73, 74, 2202 (42); 1983 a. 368; 1985 a. 29; 1987 a. 399; 1989 a. 31, 336, 359; 1991 a. 39, 316.

**16.525 State aid recipients' accounting.** Every association, society, institute or other organization that receives aid in any form through appropriations from the state shall report to the department in August of each year. Such annual report shall contain a detailed statement of all receipts and expenditures of such association, society, institute or organization for the fiscal year concluded on the preceding June 30, and such portions as are of special importance may be published in the biennial report of the department under s. 15.04 (1) (d).

**History:** 1977 c. 196 s. 131; 1987 a. 186.

**16.528 Interest on late payments. (1) DEFINITIONS.** In this section:

(a) "Agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231 or 234.

(b) "Subcontractor" has the meaning given in s. 66.29 (1) (d).

**(2) INTEREST PAYABLE.** (a) Except as provided in sub. (3) or as otherwise specifically provided, an agency which does not pay timely the amount due on an order or contract shall pay interest on the balance due from the 31st day after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, or, if the agency does not comply with s. 16.53 (2), from the 31st day after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(b) For the purposes of par. (a), a payment is timely if the payment is mailed, delivered or transferred by the later of the following:

1. The date specified on a properly completed invoice for the amount specified in the order or contract.
2. Except as provided in subd. 3, within 45 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, or, if the agency does not comply with s. 16.53 (2), within 45 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

3. For orders or contracts entered into on and after the first day of the 3rd 12-month period beginning after February 1, 1987, within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, or, if the agency does not comply with s. 16.53 (2), within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

**(2m) INTEREST PAYABLE TO SUBCONTRACTORS.** (a) Except as provided in sub. (3) (e) or as otherwise specifically provided, principal contractors that engage subcontractors to perform part of the work on an order or contract from an agency shall pay subcontractors for satisfactory work in a timely fashion. A payment is timely if it is mailed, delivered or transferred to the subcontractor no later than 7 days after the principal contractor's receipt of any payment from the agency.

(b) If a subcontractor is not paid in a timely fashion, the principal contractor shall pay interest on the balance due from the 8th day after the principal contractor's receipt of any payment from the agency, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(c) Subcontractors receiving payment under this subsection shall pay lower-tier subcontractors, and be liable for interest on late payments, in the same manner as principal contractors are required to pay subcontractors in pars. (a) and (b).

**(3) EXCEPTIONS.** Subsection (2) does not apply to the following:

(a) Any portion of an order or contract under which the payment is made from federal moneys.

(b) An order or contract that is subject to late payment interest or another late payment charge required by another law or rule specifically authorized by law.

(c) An order or contract between 2 or more agencies.

(d) An order or contract for services which provides for the time of payment and the consequences of nontimely payment.

(e) An order or contract under which the amount due is subject to a good faith dispute if, before the date payment is not timely, notice of the dispute is sent by 1st class mail, personally delivered or sent in accordance with the procedure specified in the order or contract. In this paragraph, "good faith dispute" means a contention by an agency that goods delivered or services rendered were of a lesser quantity or quality than ordered or specified by contract, were faulty or were installed improperly; or any other reason giving cause for the withholding of payment by the agency until the dispute is settled.

**(4) APPROPRIATION FROM WHICH PAID.** An agency which pays interest under this section shall pay the interest from the appropriation for administration of the program under which the order or contract was made or entered into unless payment from that appropriation is prohibited. Notwithstanding ss. 20.115 to 20.765, if payment from the appropriation for administration of the program is prohibited, the interest payment shall be made from a general program operations appropriation of the agency determined by the agency. If the program is administered from more than one appropriation, the interest payment shall be made from the appropriation or appropriations for program administration determined by the agency.

**(5) REPORTS OF INTEREST PAID.** Annually before October 1, each agency shall report to the department the number of times in the previous fiscal year the agency paid interest under this section, the total amount of interest paid and the reasons why interest payments were not avoided by making timely payment.

(6) **ATTORNEY FEES.** Notwithstanding s. 814.04 (1), in an action to recover interest due under this section, the court shall award the prevailing party reasonable attorney fees.

History: 1985 a. 300; 1987 s. 312 s. 17; 1987 a. 399; 1989 a. 233; 1991 a. 39.

**16.53 Preaudit procedure.** The department of administration shall preaudit claims in accordance with the following procedures:

(1) **CLAIMS AGAINST STATE.** (a) *Audit.* The secretary is responsible for auditing claims against the state, when payment thereof out of the state treasury is authorized by law, except as provided in ss. 16.77 (1) and 20.920. The audit may be on a sample basis in accordance with generally accepted auditing standards. The secretary may delegate in writing the audit function to the head of any agency under terms and standards established by the secretary. The delegation shall be by mutual agreement and notice of the agreement shall be reported to the state auditor. If the secretary finds, through sample auditing, review of procedures, controls and any other audit techniques the secretary deems necessary, that the delegated function is not being performed according to the established auditing standards, the secretary shall in writing withdraw the delegated authority. In this subsection, "agency" has the meaning given under s. 16.52 (7).

(b) *Payrolls.* Payrolls, to be entitled to audit, shall be certified by the proper officers who shall set forth the nature of the services rendered by each person named therein.

(c) *Other claims.* Unless otherwise provided by law, all other claims to be entitled to audit shall:

1. Specify the nature and particulars thereof on an official or original invoice.

2. Conform with statutory provisions and be necessarily incurred in the performance of duties required by the state service.

4. Include the claimant's affidavit, or statement under the penalties of perjury, setting forth that all items of traveling expenses were incurred in the performance of duties required by the public service, and that the amount charged for transportation or for other expenses incident to travel was actually paid out and that no part of such transportation was had upon a free pass or otherwise free of charge. The blank form of such travel voucher shall be prescribed by the secretary.

6. Exclude items of expenditure incurred while traveling outside the state by any officer or employe of any state department or institution thereof unless in the discharge of duties required by the public service.

7. Exclude out-of-state expenses of an officer or employe of any state department or institution except upon the order of the head of that department or institution. The department or institution head may determine whether such requests shall be made individually or periodically. The governor may require periodic reports on out-of-state travel made by the personnel of each state agency with such detail as the governor may desire. The governor, by executive order, may require the governor's prior approval for out-of-state travel by members of any state department or institution of the executive branch.

9. Be approved by the proper state officer.

10. Exclude items of expenditure incurred by an employe of any state department while permanently located outside the state unless prior approval of the department of administration has been obtained.

(ca) *Supervision of expenditures.* All departments shall diligently review and supervise the travel expenditures of their employes and may promulgate reasonable rules governing such expenditures. Such rules shall be consistent with the uniform guidelines established under s. 20.916 (8). Each

claim shall be approved by the employe's appointing authority, as defined in s. 230.03 (4), or the appointing authority's authorized representative. The approval shall represent the concurrence with the accuracy, necessity and reasonableness of each expense. Claims so approved shall be audited by the department of administration in accordance with par. (a).

(cm) *Advancement of travel expenses.* The head of a state agency may, by presenting proper vouchers to the department of administration, advance money for travel expenses to employes. Travel expenses shall be advanced only when the estimated expense is expected to exceed \$50 and the advance shall not exceed 80% of the estimated expense.

(d) *Salaries and benefits, when payable.* 1. The secretary, with the approval of the joint committee on employment relations, shall fix the time, except as provided in s. 16.20 (10) (c) and 101.38 (9) (c), and frequency for payment of salaries due elective and appointive officers and employes of the state. As determined under this subdivision, the salaries shall be paid either monthly, semimonthly or for each 2-week period.

2. Costs for benefits under ch. 108 which are paid on an actual basis may be charged to and collected from agencies by the secretary on an estimated or premium basis, credited to appropriate appropriations, and paid from the appropriations on an actual basis. If a billing submitted by the department of industry, labor and human relations for payment of a specific claim for benefits under s. 108.15 (7) remains unpaid by the agency to whom the billing is submitted for more than 60 days after the billing is transmitted to the agency by the secretary, the secretary may charge the cost of payment of the billing to the proper appropriation of the agency to whom the billing is submitted without authorization of the agency and notwithstanding any pending dispute concerning agency liability. If it is finally determined that an agency is not liable in whole or in part for payment of a billing previously submitted and paid, the secretary shall credit any refund received to the appropriation from which the billing was paid, if it is available for expenditure, or otherwise to the fund from which the billing was paid. Any credit to a sum sufficient appropriation shall be made only to the fund from which the appropriation is made. In addition, the secretary may charge agencies for the department's costs of estimation, collection and payment of benefits under ch. 108 on a prorated basis in accordance with the percentage of costs attributable to each agency. Service charges shall be paid into the appropriation made under s. 20.505 (1) (ka).

3. In order to utilize modern accounting methods in processing payrolls, the department may convert and adjust salaries of all state officers and employes so that they are payable in equal payments throughout the year. To this end the secretary may promulgate rules necessary to administer this subdivision.

4. The secretary may promulgate rules pertaining to the administration of garnishment actions under s. 812.23, including rules superseding s. 812.18 (1) (b) whenever the state is the garnishee in such actions. In any garnishment action where the judgment debtor is employed by the university of Wisconsin system, the secretary may require the appropriate payroll processing center for the university of Wisconsin system to directly process necessary forms, papers, deductions and checks, share drafts or other drafts in connection with such action.

(2) **IMPROPER INVOICES.** If an agency receives an improperly completed invoice, the agency shall notify the sender of the invoice within 10 working days after it receives the invoice of the reason it is improperly completed. In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society or other

body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231 or 234.

(3) **EXAMINATION OF CLAIMANTS.** The secretary may examine under oath the claimant or any other person relative to any claim presented against the state, and may require oral or written answers as to any facts relating to the justness of the claim, or as to the liability of the state.

(4) **AUDIT ORDER INDORSED ON CLAIM; RECORD.** The order of the secretary auditing any claim shall be indorsed on or annexed to such claim, shall specify the amount allowed, the fund from which the same is payable, and the law that authorizes payment of such claim out of the treasury; and said order with the claim and all evidence relative thereto shall be filed and preserved in the secretary's office.

(5) **WARRANTS; WHAT TO SPECIFY.** The secretary shall draw a warrant on the state treasurer payable to the claimant for the amount allowed by the secretary upon every claim audited under sub. (1), except as authorized in s. 16.52 (7), 20.920 or 20.929, specifying from what fund to be paid, the particular law which authorizes the claim to be paid out of the state treasury, and at the secretary's discretion the post-office address of the payee. The secretary shall not credit the treasurer for any sum of money paid out by the treasurer otherwise than upon such warrants.

(6) **WARRANTS; SIGNATURES.** Whenever it is impracticable for the secretary to personally sign warrants issued on the state treasury, the secretary's name may be signed thereto by one or more persons in the secretary's department designated by the secretary or by the use of a mechanical device adopted by the secretary for affixing a facsimile signature; and the state treasurer, when written authority and reasons therefor are filed in the office of the state treasurer, shall honor warrants so signed, the same as if signed in person by the secretary, until such authority is revoked in writing.

(7) **CERTIFICATION OF BOARDS, EVIDENCE OF CORRECTNESS OF ACCOUNT.** The certificate of the proper officers of the board of regents of the university of Wisconsin system, the department of health and social services, or the proper officers of any other board or commission organized or established by the state, shall in all cases be evidence of the correctness of any account which may be certified by them.

(9) **TRANSFER OF FUNDS APPROPRIATED.** Whenever an appropriation has been made from the general fund in the state treasury to any other fund therein, the secretary may withhold the transfer of such appropriation or any part thereof from the general fund until the moneys required to pay outstanding claims are duly audited and disbursed. Such authority is not limited to the fiscal year of the appropriation if the liability is properly recognized and recorded.

(10) **PRIORITY OF CLAIMS.** (a) If an emergency arises which requires the department to draw vouchers for payments which will be in excess of available moneys in any state fund, the secretary, in consultation with the state treasurer, and after notifying the joint committee on finance under par. (b), may prorate and establish priority schedules for all payments within each fund, including those payments for which a specific payment date is provided by statute, except as otherwise provided in this paragraph. The secretary shall draw all vouchers according to the preference provided in this paragraph. All direct or indirect payments of principal or interest on state bonds and notes issued under subch. I of ch. 18 have first priority. All direct or indirect payments of principal or interest on state notes issued under subch. III of

ch. 18 have 2nd priority. No payment having a 1st or 2nd priority may be prorated or reduced under this subsection. All state employe payrolls have 3rd priority. The secretary shall draw all remaining vouchers according to a priority determined by the secretary. The secretary shall maintain records of all claims prorated under this subsection and shall provide written notice to the state treasurer when a potential cash flow emergency is anticipated.

(b) Before exercising authority under par. (a) the secretary shall, after consultation with the state treasurer, notify the joint committee on finance as to the need for and the procedures under which proration or priority schedules under par. (a) shall occur. If the joint committee on finance has not, within 2 working days after the notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If, within 2 working days after the notification, the committee schedules a meeting, the secretary may not proceed with the proposed action until after the meeting is held.

(c) If the secretary prorates or establishes priority schedules for payments which are to be made to local units of government, he or she shall establish a procedure whereby any local unit of government which can demonstrate that it would be adversely affected by such action of the secretary may appeal to the secretary for a waiver from having its payment prorated or delayed. In establishing this procedure, the secretary shall consider a local unit of government adversely affected if it can demonstrate that the proration or delay would cause a financial hardship because the scheduled payment had been budgeted as a revenue to be available at the scheduled time of payment and the local unit of government would otherwise have insufficient revenues to meet its immediate expenditure obligations.

(e) The authority granted by this subsection may be exercised only after all other possible procedures have been used and are found to be insufficient, including the temporary reallocation of surplus moneys as provided in s. 20.002 (11).

(11) **INTEREST ON DELAYED PAYMENTS.** Payments, other than payments subject to s. 16.528, prorated or delayed under sub. (10) which are payable to local units of government shall accrue interest on the payment delay at a rate equal to the state investment fund earnings rate during the period of the payment delay. Payments subject to s. 16.528 prorated or delayed under sub. (10) past the due date shall not accrue interest. In this subsection, "local unit of government" means a county, city, village, town, school district, vocational, technical and adult education district or any other governmental entity which is entitled to receive aid payments from this state.

(12) **TRAVEL EXPENSES.** (a) In this subsection:

1. "Agency" has the meaning given under sub. (2).
2. "Employee" means any officer or employe of the state who is entitled to reimbursement for actual, reasonable and necessary expenses.

(b) Each voucher claim for travel expenses shall be approved by the head of the employe's agency or that person's designee. Such approval represents concurrence with the necessity and reasonableness of each expense. Such approval shall accompany the travel voucher. The expense voucher shall be audited by the agency financial office and then submitted to the department for final audit before payment.

(c) The department may not approve for payment any travel vouchers which exceed the maximum travel schedule amounts which are established under s. 20.916 (8), except in unusual circumstances when accompanied by a receipt and full explanation of the reasonableness of such expense.

(d) The department may not approve for payment any travel vouchers which exceed the auto mileage rates set under s. 20.916 (4) (a) and (e).

**(13) FINANCIAL SERVICES.** (a) In this subsection, "agency" has the meaning given in s. 16.70 (1).

(b) The department may charge any agency for accounting, auditing, payroll and other financial services provided to the agency, whether the services are required by law or performed at the agency's request.

**History:** 1971 c. 100 s. 23; 1971 c. 215, 261; Sup. Ct. Order, 67 W (2d) 773; 1975 c. 39, 164, 198, 397, 422; 1977 c. 29, 196, 418; 1979 c. 34, 221; 1981 c. 1, 20; 1983 a. 3, 27, 192, 368; 1985 a. 29, 300; 1985 a. 332 ss. 15, 251 (1); 1987 a. 399; 1989 a. 31; 1989 a. 125 ss. 1, 10; 1991 a. 39, 316.

**16.531 Cash flow plan; report.** (1) At least 15 days prior to the beginning of any calendar quarter in which the secretary anticipates that it may be necessary to exercise the authority conferred in s. 16.53 (10) (a) or 20.002 (11) (a) or to incur financial obligations and issue operating notes under subch. III of ch. 18, the secretary shall submit a plan to the joint committee on finance describing the specific nature of any proposed action that may be required.

(2) If the secretary determines during any calendar quarter that action under s. 16.53 (10) (a) or 20.002 (11) or subch. III of ch. 18 should be taken that is different from the action specified in the plan submitted under sub. (1), the secretary shall provide notice to the joint committee on finance of the specific nature of any such action that may be required. If the joint committee on finance has not, within 2 working days after such notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If, within 2 working days after such notification, the committee schedules a meeting, the secretary may not proceed with the proposed action until after the meeting is held.

(3) Within 30 days after the end of each calendar quarter during which the secretary exercises the authority conferred in s. 16.53 (10) (a), during which there is any outstanding reallocation of moneys under s. 20.002 (11) (a) or during which there are any outstanding operating notes issued under subch. III of ch. 18, the secretary shall submit to the joint committee on finance a report on the status of all such matters, together with an assessment of the degree to which the secretary anticipates that state funds and accounts will have sufficient revenues to meet anticipated obligations during the 6-month period following the calendar quarter for which the report is issued.

**History:** 1983 a. 3.

**16.54 Acceptance of federal funds.** (1) Whenever the United States government shall make available funds for the education, the promotion of health, the relief of indigency, the promotion of agriculture or for any other purpose other than the administration of the tribal or any individual funds of Wisconsin Indians, the governor on behalf of the state is authorized to accept the funds so made available. In exercising the authority herein conferred, the governor may stipulate as a condition of the acceptance of the act of congress by this state such conditions as in the governor's discretion may be necessary to safeguard the interests of this state.

(2) (a) Whenever funds shall be made available to this state through an act of congress and the funds are accepted as provided in sub. (1), the governor shall designate the state board, commission or department to administer any of such funds, and the board, commission or department so designated by the governor is authorized and directed to administer such funds for the purpose designated by the act of congress making an appropriation of such funds, or by the department of the United States government making such

funds available to this state. Whenever a block grant is made to this state, no funds may be transferred from use as a part of one such grant to use as a part of another such grant, regardless of whether a transfer between appropriations is required, unless the joint committee on finance approves the transfer under s. 13.10. In this subsection, "block grant" means a multipurpose federal grant so designated under federal law.

(b) Upon presentation by the department of health and social services to the joint committee on finance of alternatives to the provisions under s. 49.80, the joint committee on finance may revise the eligibility criteria under s. 49.80 (5), benefit payments under s. 49.80 (6) or the amount allocated for crises under s. 49.80 (3) (e) 2 and the department shall implement those revisions. Benefits or eligibility criteria so revised shall take into account and be consistent with the requirements of federal regulations promulgated under 42 USC 8621 to 8629. If funds received under 42 USC 8621 to 8629 in a federal fiscal year total less than 90% of the amount received in the previous federal fiscal year, the department of health and social services shall submit to the joint committee on finance a plan for expenditure of the funds. The department of health and social services may not use the funds unless the committee approves the plan.

(c) Notwithstanding s. 20.435, before using any of the funds disbursed by the federal government to the governor under 42 USC 1397 to 1397f, commencing with funds disbursed for federal fiscal year 1986, the department of health and social services shall submit to the joint committee on finance and to the chief clerk of each house of the legislature, for distribution to the appropriate legislative standing committees under s. 13.172 (3), the proposed state report required under 42 USC 1397c. The appropriate legislative standing committees shall review the reports, conduct public hearings on the reports and submit recommendations to the department of health and social services regarding the reports. The department of health and social services may not use the federal funds unless the joint committee on finance approves the report.

(4) Any board, commission or department of the state government designated to administer any such fund, shall, in the administration of such fund, comply with the requirements of the act of congress making such appropriation and with the rules and regulations which may be prescribed by the United States government or by the department of the federal government making such funds available.

(5) Whenever any agency of the federal government shall require that as a condition to obtaining federal aid the state agency entrusted with the administration of such aid shall submit a budget, plan, application, or other project proposal, then the budget, plan, application or proposal shall, before it is submitted to the federal authorities for approval, first be approved by the governor and reported to the joint committee on finance.

(6) The governor may accept for the state the provisions of any act of congress whereby funds or other benefits are made available to the state, its political subdivisions, or its citizens, so far as the governor deems such provisions to be in the public interest; and to this end the governor may take or cause to be taken all necessary acts including (without limitation because of enumeration) the making of leases or other contracts with the federal government; the preparation, adoption and execution of plans, methods, and agreements, and the designation of state, municipal or other agencies to perform specific duties.

(7) The governor may accept for the state at all times the provisions of any act of congress whereby funds are made

available to the state for any purpose whatsoever, including the school health program under the social security act, and perform all other acts necessary to comply with and otherwise obtain, facilitate, expedite, and carry out the required provisions of such acts of congress.

(8) An agency may request the governor to create or abolish a full-time equivalent position or portion thereof funded from revenues specified in s. 20.001 (2) (e) in the agency. Upon receiving such a request, the governor may change the authorized level of full-time equivalent positions funded from such revenues in the agency. The governor may approve a different authorized level of positions than is requested by the agency. The governor, through the secretary, shall notify the joint committee on finance at least quarterly of any federal funds received in excess of those approved in the biennial budget process and of any positions created or abolished under this section.

(8g) Subsections (1) to (8) do not apply to federal moneys made available to the board of regents of the university of Wisconsin system for instruction, extension, special projects or emergency employment opportunities.

(8r) (a) Whenever the federal government makes available moneys for instruction, extension, special projects or emergency employment opportunities, the board of regents of the university of Wisconsin system may accept the moneys on behalf of the state. The board of regents shall, in the administration of the expenditure of such moneys, comply with the requirements of the act of congress making the moneys available and with the regulations prescribed by the federal government or the federal agency administering the act, insofar as the act or regulations are consistent with state law. The board of regents may submit any plan, budget, application or proposal required by the federal agency as a precondition to receipt of the moneys. The board of regents may, consistent with state law, perform any act required by the act of congress or the federal agency to carry out the purpose of the act of congress. The board of regents shall deposit all moneys received under this paragraph in the appropriation account under s. 20.285 (1) (m).

(b) The board of regents shall report to the governor and the cochairpersons of the joint committee on finance no later than the 15th day following completion of each calendar quarter concerning the date, amount and purpose of any federal moneys accepted by the board under par. (a) during the preceding quarter.

(9) (a) In this subsection:

1. "Agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231 or 234.

2. "Indirect cost reimbursement" means moneys received by an agency from the federal government as reimbursement for indirect costs of administration of a federal grant or contract for which no specific use is mandated by the federal government.

(b) An indirect cost reimbursement may be utilized for administrative purposes, program purposes, funding of positions, payment of federal aid disallowances, or other purposes authorized by law. If an indirect cost reimbursement is not utilized for such a purpose, the head of the agency receiving the reimbursement shall request the department to transfer the reimbursement to the general fund as general purpose revenue — earned. All transfers and other expendi-

tures are subject to approval of the secretary under s. 16.50 (2) and the governor under this section.

(c) All moneys received as indirect cost reimbursements shall be deposited in the account for the proper appropriation under ss. 20.115 to 20.855 for receipt of indirect cost reimbursements.

(d) The department shall coordinate the development of a statewide indirect cost allocation plan to be used by all agencies as part of their indirect cost allocation plans prepared for federal grant applications. Upon request of the department, all agencies shall prepare individual, specific, indirect cost allocation plans in accordance with federal regulations and submit the plans to the department. Upon request of the department, all agencies shall prepare and submit to the department updated indirect cost allocation plans. The secretary may modify any plan to bring it into compliance with applicable state laws or procedures established under s. 16.52 or this section, and to maintain consistency between the plans of agencies.

(10) Before acceptance of any federal grant on behalf of the state which will or may involve the provision of auditing services by the legislative audit bureau, all departments shall provide written notification to the state auditor. Each such federal grant shall, to the maximum extent permitted by federal law and regulation, include an allocation for the cost of such auditing services within the grant budget, plan, application or project proposal.

(11) The state board, commission or department designated by the governor under sub. (2) to administer federal payments in lieu of taxes on national forest lands shall distribute those payments to towns, cities and villages, but not to counties, that provide general governmental services and contain national forest lands. That distribution shall reflect the level of services provided by, and the number of acres of national forest land within, the town, city or village in accordance with 31 USC 6907.

**History:** 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316.

Wisconsin may enter into an agreement with the federal government for the development, administration and enforcement, at state level, of occupational safety and health laws meeting federal standards 61 Atty. Gen. 353

See note to 38.08, citing 63 Atty. Gen. 453, as to (6).

Governor may authorize counties to channel CETA funds through private nonprofit agencies 66 Atty. Gen. 15.

**16.544 Federal aid disallowances.** (1) Each agency that is informed by a federal agency that any liability of \$10,000 or more incurred by the agency that has been or was anticipated to be assumed by the federal government from federal moneys received by the agency will not be an allowable use of the federal moneys shall notify the department and the joint committee on finance in writing of the disallowance. The notice shall include a statement of the method proposed by the agency to settle the disallowance.

(2) Each agency having given notice under sub. (1) shall make a quarterly report to the department, or at such other times as the secretary may require, concerning the status of efforts to resolve the audit disallowance. The format of the report shall be determined by the secretary.

(3) Prior to taking final action to remove any liability related to a disallowance of the use of federal moneys, an agency shall submit to the department a statement of the action proposed to remove the liability. The department may approve, disapprove or approve with modifications each such proposed action. The secretary shall forward a copy of each statement of proposed action approved by the department to the joint committee on finance. This subsection does not apply to an action taken by the board of regents of the

university of Wisconsin system, within the statutory authority of the board, to remove a liability of less than \$5,000.

(4) In this section, "agency" has the meaning given under s. 16.52 (7).

History: 1983 a. 27; 1987 a. 27.

**16.545 Federal aid management service.** A federal aids management service shall be established in the department of administration:

(1) To fully inform the governor, the legislature, state agencies and the public of available federal aid programs.

(2) To fully inform the governor and the legislature of pending federal aid legislation.

(3) To advise the governor and the legislature of alternative and recommended methods of administering federal aid programs.

(4) To study and interpret the effect of federal aid programs on the administration of state government and the pattern of state government finances.

(5) To assist in the coordination of broad federal aid programs which are administered by more than one state agency.

(6) To maintain an information center on federal aid programs.

(7) To analyze and advise on proposed federal aid budgets submitted to the governor and the joint committee on finance under s. 16.54 (5).

(8) To serve as the state central information reception center for the receipt and dissemination of such federal grant-in-aid information as provided by federal agencies pursuant to section 201 of the federal intergovernmental cooperation act of 1968. The department shall report all such information to the governor and to the joint committee on finance.

History: 1975 c. 39; 1983 a. 192 s. 303 (3); 1983 a. 308, 538

**16.548 Federal-state relations office; report.** (1) The department may maintain a federal-state relations office in Washington, D.C., for the purpose of promoting federal-state cooperation, headed by a director. The director and a staff assistant for the office shall be appointed by the governor outside the classified service, subject to the concurrence of the joint committee on legislative organization. The director and staff assistant shall serve at the pleasure of the governor.

(2) If the department maintains a federal-state relations office, it shall submit a report from the office to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), within 30 days after the close of each calendar quarter detailing the activities of the office during the quarter and reporting the status of federal legislation of concern to the legislature and other state agencies.

(3) The department may arrange for the federal-state relations office to share office facilities with a similar office serving another state.

History: 1979 c. 34; 1983 a. 27, 192; 1987 a. 186.

**16.55 Frauds and uncollectible shortages.** The head of each agency shall immediately provide to the secretary any information within his or her knowledge or evidence in his or her possession concerning any suspected fraudulent use of appropriations or embezzlement of moneys in the custody of the agency or any officer or employe thereof. The attorney general shall investigate and, on or before March 1 of each odd-numbered year, notify the department of the sums of money embezzled from the several state accounts during the prior 2 years indicating the amounts uncollected and uncollectible. The department shall cause a bill to be prepared appropriating from the several state funds the amounts

necessary to liquidate the uncollectible shortages in state accounts caused by such embezzlement, and submit such bill to the joint committee on finance for introduction.

History: 1981 c. 20

**16.57 Board of regents; staff.** (1) The department shall provide a staff of 2 full-time equivalent positions, outside the classified service, for the board of regents of the university of Wisconsin system. The staff shall perform only the duties assigned by the board of regents.

(2) The board of regents shall act as appointing authority for the staff under s. 230.06. The board of regents may not appoint a person to the staff if the person held any position in the university of Wisconsin system in the 12-month period immediately preceding the appointment.

(3) The staff shall at all times observe the confidential nature of the research requests received from the board of regents.

(4) At the request of the board of regents, the department shall assist the board of regents in the recruitment and selection of the staff under this section.

History: 1989 a. 31

**16.58 Services to units of local government.** (1) The department shall provide management and personnel consultative and technical assistance to units of government other than the state and may charge for those services.

(2) The department may request technical and staff assistance from other state agencies in providing management and personnel consultative services to those units of government.

History: 1979 c. 361.

**16.60 Services to nonprofit corporations.** (1) The department of administration may provide, on a reimbursable basis, financial and management services for nonprofit corporations with which the state or its agencies has entered into leases and subleases for the construction and leasing of projects. Services provided under this section shall be in accordance with the request of the building commission as to the type and scope of service requested, the civil service range of the employe or employes assigned to them and the total reimbursement to be charged by the department of administration to the nonprofit corporations.

(2) The department or the legislature or any person delegated by the legislature may inspect and examine or cause an inspection and examination of all records relating to the construction of projects that are, or are to be, financed by a nonprofit corporation and leased or subleased by any state agency.

(3) The secretary or the secretary's designated representative shall serve in an advisory capacity to and be a nonvoting member of any nonprofit corporation with which the state or its agencies has entered into leases and subleases for the construction and leasing of projects.

History: 1983 a. 36 s. 96 (4); 1991 a. 316.

**16.61 Records and forms of state offices and other public records.** (1) PUBLIC RECORDS AND FORMS BOARD. The public records and forms board shall preserve for permanent use important state records, provide an orderly method for the disposition of other state records and rationalize and make more cost-effective the management of forms and records by state agencies.

(2) DEFINITIONS. As used in this section:

(a) "Board" means the public records and forms board.

(ad) "Form" means any written material, by whatever means printed, generated or reproduced, with blank spaces left for the entry of additional information to be used for the



purpose of providing information, collecting information or requiring action in any transaction involving this state.

(ah) "Forms management" means the system of providing forms to accomplish necessary operations efficiently and economically, including analysis and design of forms, improvement of methods of procurement, distribution and disposition of forms and improvement of methods to keep to a reasonable level the public's duty to report. "Forms management" includes the elimination of unnecessary forms and of unnecessary data collection and standardizing, consolidating and simplifying forms and related procedures.

(am) "Microfilm reproduction" means any manner by which an image is reduced in size and reproduced on fine-grain, high resolution film.

(an) "Personally identifiable information" has the meaning specified in s. 19.62 (5).

(ao) "Privacy advocate" means the person designated under s. 19.625 (1).

(ap) "Public contact form" means a form generated and used by any state agency in transactions between the state agency and a member of the public.

(b) "Public records" means all books, papers, maps, photographs, films, recordings, optical disks or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employes in connection with the transaction of public business, and documents of any insurer that is liquidated or in the process of liquidation under ch. 645. "Public records" does not include:

1. Records and correspondence of any member of the legislature.

1m. Any state document received by a state document depository library.

2. Duplicate copies of materials the original copies of which are in the custody of the same state agency and which are maintained only for convenience or reference and for no other substantive purpose.

3. Materials in the possession of a library or museum made or acquired solely for reference or exhibition purposes.

4. Notices or invitations received by a state agency that were not solicited by the agency and that are not related to any official action taken, proposed or considered by the agency.

5. Drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working.

6. Routing slips and envelopes.

(bm) "Records and forms officer" means a person designated by a state agency to design, review, analyze, consolidate, simplify and file all public records and forms under s. 15.04 (1) (j) and to act as a liaison between that state agency and the board.

(c) "Records series" means public records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity, or have a particular form.

(cm) "Retention schedule" means instructions as to the length of time, the location and the form in which records series are to be kept and the method of filing records series.

(d) "State agency" means any officer, commission, board, department or bureau of state government.

**(3) POWERS AND DUTIES OF THE BOARD.** The board:

(a) Shall safeguard the legal, financial and historical interests of the state in public records.

(b) Upon the request of any state agency, county, town, city, village or school district, may order upon such terms as the board finds necessary to safeguard the legal, financial and historical interests of the state in public records, the destruction, reproduction by microfilm or other process, temporary or permanent retention or other disposition of public records.

(c) Shall promulgate rules to carry out the purposes of this section.

(d) Shall establish a system for the protection and preservation of essential public records as directed by s. 166.10.

(e) May establish the minimum period of time for retention before destruction of any county, city, town, village, metropolitan sewerage district or school district record.

(f) Shall cooperate with and advise records and forms officers.

(h) Shall have access to all blank forms in the possession of any state agency.

(i) Shall review and approve or disapprove all public contact forms, except as provided in sub. (3m).

(j) Shall establish a records and forms management program for this state.

(k) Shall make as cost effective as possible the procurement and use of forms by state agencies.

(L) Shall receive and investigate complaints about forms, except as provided in sub. (3m).

(o) May delegate any of the duties under this subsection to other state agencies.

(p) Shall appoint an official in the classified service to oversee the day-to-day execution of the board's duties, to serve as the executive secretary of the board, to coordinate the statewide records and forms management program and to have statewide responsibility for limiting paperwork. Except as provided in sub. (3m), the executive secretary shall review and approve, modify or reject all forms approved by a records and forms officer for jurisdiction, authority, standardization of design and nonduplication of existing forms and shall report to the board quarterly on the progress of records and forms management within state agencies. Unless the executive secretary rejects for cause or modifies the form within 20 working days after receipt, it is considered approved. The executive secretary's rejection of any form is appealable to the public records and forms board. If the head of a state agency certifies to the executive secretary that the form is needed on a temporary, emergency basis, approval of the executive secretary is not required.

(q) Shall serve as a clearinghouse for all public contact forms.

(r) Shall consider recommendations and advice offered by records and forms officers.

(s) Shall recommend to the department procedures for the transfer of public records to optical disk format, including procedures to ensure the authenticity, accuracy and reliability of public records so transferred and procedures to ensure that such public records are protected from unauthorized destruction. The board shall also recommend to the department qualitative standards for optical disks and copies of documents generated from optical disks used to store public records.

(t) Shall recommend to the department qualitative standards for optical disks and for copies of documents generated from optical disks used to store materials filed with counties.

(u) 1. Shall create a registry, in a format that may be accessed by computer terminal, describing the records series maintained by state agencies that contain personally identifiable information by using, to the maximum extent feasible, information submitted to the board in retention schedules under sub. (4) (b). The board may require state agencies to

provide additional information necessary to create the registry. The board may not require a state agency to modify any records series described in the registry.

2. The registry shall not include any of the following:

a. Any records series that contains the results of a matching program, as defined in s. 19.62 (3), if the state agency using the records series destroys the records series within one year after the records series was created.

b. Mailing lists.

c. Telephone directories.

d. Records series pertaining exclusively to employees of a state agency.

e. Records series specified by the board that contain personally identifiable information incidental to the primary purpose for which the records series was created, such as the name of a salesperson or a vendor in a records series of purchase orders.

f. Records series relating to procurement or budgeting by a state agency.

3. The registry shall be designed to:

a. Ensure that state agencies are not maintaining any secret records series containing personally identifiable information.

b. Be comprehensible to an individual using the registry so that identification of records series maintained by state agencies that may contain personally identifiable information about the individual is facilitated.

c. Identify who may be contacted for further information on a records series.

(v) Shall provide the privacy advocate direct access via a computer terminal to the registry created under par. (u).

**(3m) EXEMPT FORMS.** The following forms are not subject to review, approval or complaint investigation by the board or executive secretary:

(a) Forms that must be completed by applicants for admission to an institution of the university of Wisconsin system or by students of such an institution who are applying for financial aid, including loans, or for a special course of study or who are adding or dropping courses, registering or withdrawing, establishing their residence or being identified or classified.

(b) Forms the use of which is required by federal law.

(c) Forms used by teachers to evaluate a student's academic performance.

(d) Forms used by hospitals and health care providers to bill or collect from patients and 3rd parties.

(e) Forms used by medical personnel in the treatment of patients.

(f) Forms used to collect data from research subjects in the course of research projects administered by the board of regents of the university of Wisconsin system.

(g) Forms used by the department of corrections in the investigation or processing of persons either under the control or custody of the department or under investigation by a court.

(gm) Forms relating to youth corrections used by the department of health and social services in the investigation or processing of persons either under the control or custody of the department or under investigation by a court.

(h) Forms that are not public contact forms.

**(4) APPROVAL FOR DISPOSITION OF RECORDS.** (a) All public records made or received by or in the custody of a state agency shall be and remain the property of the state. Those public records may not be disposed of without the written approval of the board.

(b) State agencies shall submit records retention schedules for all public records series in their custody to the board for its approval within one year after each record series has been

received or created unless a shorter period of retention is authorized by law, in which case a retention schedule shall be submitted within that period. The board may alter retention periods for any records series; but if retention for a certain period is specifically required by law, the board may not decrease the length of that period. The board may not authorize the destruction of any public records during the period specified in s. 19.35 (5).

(c) A records retention schedule approved by the board on or after March 17, 1988, is effective for 10 years, unless otherwise specified by the board. At the end of the effective period, an agency shall resubmit a retention schedule for approval by the board. During the effective period, if approved by the board and the board has assigned a disposal authorization number to the public record or record series, a state agency may dispose of a public record or record series according to the disposition requirements of the schedule without further approval by the board.

**(5) TRANSFER OF PUBLIC RECORDS TO OPTICAL DISK FORMAT.**

(a) Subject to rules promulgated by the department under s. 16.611, any state agency may transfer any public record in its custody to optical disk format and retain the public record in that format only.

(b) Subject to rules promulgated by the department under s. 16.611, state agencies shall maintain procedures to ensure the authenticity, accuracy, reliability and accessibility of public records transferred to optical disk format under par. (a).

(c) Subject to rules promulgated by the department under s. 16.611, state agencies that transfer public records in their custody to optical disk format shall ensure that the public records stored in that format are protected from unauthorized destruction.

**(6) PROCEDURE FOR MICROFILM REPRODUCTION OF PUBLIC RECORDS.** Any state agency desiring to microfilm public records shall submit a request to the board for the microfilm reproduction of each records series to be reproduced together with any information the board requires. In granting or denying approval, the board shall consider factors such as the long-term value of the public records, the cost-effectiveness of microfilm reproduction compared with other records management techniques and the technology appropriate for the specific application. Upon receiving written approval from the board, any state agency may cause any public record to be microfilmed in compliance with this section and rules adopted pursuant thereto.

**(7) WHEN COPY DEEMED ORIGINAL RECORD.** (a) Any microfilm reproduction of an original record, or, in the case of a record of a state agency, a copy generated from an original record stored in optical disk format, is deemed an original public record if all of the following conditions are met:

1. Any device used to reproduce the record on film or to transfer the record to optical disk format and generate a copy of the record from optical disk format accurately reproduces the content of the original.

2. The reproduction is on film which complies with the minimum standards of quality for microfilm reproductions, as established by rule of the board, or the optical disk copy and the copy generated from optical disk format comply with the minimum standards of quality for such copies, as established by rule of the department under s. 16.611.

3. The film is processed and developed in accordance with the minimum standards established by the board.

4. The record is arranged, identified and indexed so that any individual document or component of the record can be located with the use of proper equipment.

**16.61 DEPARTMENT OF ADMINISTRATION**

5. The state agency records and forms officer or other person designated by the head of the state agency or the custodian of any other record executes a statement of intent and purpose describing the record to be reproduced or transferred to optical disk format, the disposition of the original record, the disposal authorization number assigned by the board for public records of state agencies, the enabling ordinance or resolution for cities, towns, villages or school districts, or the resolution which authorizes the reproduction for counties when required, and executes a certificate verifying that the record was received or created and microfilmed or transferred to optical disk format in the normal course of business and that the statement of intent and purpose is properly recorded as directed by the board.

(b) The statement of intent and purpose executed under par. (a) 5 is presumptive evidence of compliance with all conditions and standards prescribed by this subsection.

(c) Any microfilm reproduction of an original record which was made prior to April 18, 1986, in accordance with the standards in effect under the applicable laws and rules for authenticating the record at the time the reproduction was made is deemed an original record.

(8) (a) Any microfilm reproduction of a public record meeting the requirements of sub. (7) or copy of a public record of a state agency generated from an original record stored in optical disk format in compliance with this section shall be taken as, stand in lieu of and have all the effect of the original document and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible.

(b) Any enlarged copy of a microfilm reproduction of a public record made as provided by this section or any enlarged copy of a public record of a state agency generated from an original record stored in optical disk format in compliance with this section that is certified by the custodian as provided in s. 889.08 shall have the same force as an actual-size copy.

(9) **PRESERVATION OF REPRODUCTIONS.** Provision shall be made for the preservation of any microfilm reproductions of public records and of any public records stored in optical disk format in conveniently accessible files in the agency of origin or its successor or in the state archives.

(10) **CONTRACTS FOR COPYING.** Contracts for microfilm reproduction or optical imaging of public records to be performed as provided in this section shall be made by the secretary as provided in ss. 16.70 to 16.77 and the cost of making such reproductions or optical disks shall be paid out of the appropriation of the state agency having the reproduction made.

(11) **AUTHORITY TO REPRODUCE RECORDS.** Nothing in this section shall be construed to prohibit the responsible officer of any state agency from reproducing any document by any method when it is necessary to do so in the course of carrying out duties or functions in any case other than where the original document is to be destroyed; but no original public record may be destroyed after microfilming or optical imaging without the approval of the board unless authorized under sub. (4) or (5).

(12) **ACCESS TO REPRODUCTIONS AND COPIES.** All persons may examine and use the microfilm reproductions of public records and copies of public records generated from optical disk storage subject to such reasonable rules as may be made by the responsible officer of the state agency having custody of the same.

(13) **HISTORICAL SOCIETY AND UNIVERSITY ARCHIVES AS DEPOSITORIES.** (a) The historical society, as trustee for the

state, shall be the ultimate depository of the archives of the state, and the board may transfer to the society such original records and reproductions as it deems proper and worthy of permanent preservation, including records and reproductions which the custodian thereof has been specifically directed by statute to preserve or keep in the custodian's office. The permanent preservation of records of the university of Wisconsin system may be accomplished under par. (b). The society may deposit in the regional depositories established under s. 44.10, title remaining with the society, the records of state agencies or their district or regional offices which are primarily created in the geographic area serviced by the depository, but the records of all central departments, offices, establishments and agencies shall remain in the main archives in the capital city under the society's immediate jurisdiction, except that the society may place the records temporarily at a regional depository for periods of time to be determined by the society. Nothing in this subsection nor in ch. 44 prevents the society's taking the steps for the safety of articles and materials entrusted to its care in library, museum or archives, including temporary removal to safer locations, dictated by emergency conditions arising from a state of war, civil rebellion or other catastrophe.

(b) The board may designate an archival depository at each university as defined in s. 36.05 (13) which shall meet standards for university archival depositories established by the board with the advice of the board of regents and the historical society or their respective designated representatives. The board may transfer to the appropriate university archival depository all original records and reproductions the board deems worthy of permanent preservation.

(c) The historical society shall, in cooperation with the staff of the board, as soon as practicable, adequately and conveniently classify and arrange the state records or other official materials transferred to its care, for permanent preservation under this section and keep the records and other official materials accessible to all persons interested, under proper and reasonable rules promulgated by the historical society, consistent with s. 19.35. Copies of the records and other official materials shall, on application of any citizen of this state interested therein, be made and certified by the director of the historical society, or an authorized representative in charge, which certificate shall have the same force as if made by the official originally in charge of them.

(d) 1. Except as provided in subd. 2, records which have a confidential character while in the possession of the original custodian shall retain their confidential character after transfer to the historical society unless the board of curators of the historical society, with the concurrence of the original custodian or the custodian's legal successor, determines that the records shall be made accessible to the public under such proper and reasonable rules as the historical society promulgates. If the original custodian or the custodian's legal successor is no longer in existence, confidential records formerly in that person's possession may not be released by the board of curators unless the release is first approved by the public records and forms board. For public records and other official materials transferred to the care of the university archival depository under par. (b), the chancellor of the university preserving the records shall have the power and duties assigned to the historical society under this section.

2. Notwithstanding subd. 1, a record which is transferred to an archival depository under this subsection and which has a confidential character shall be open to inspection and available for copying 75 years after creation of the record unless the custodian, pursuant to ss. 19.34 and 19.35, determines that the record shall be kept confidential.

## SUBCHAPTER IV

## PURCHASING

(e) This subsection does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of the department of health and social services.

**History:** 1975 c. 41 ss. 15, 52; 1975 c. 198 s. 65; 1975 c. 199; Stats. 1975 s. 16.61; 1977 c. 418; 1979 c. 32, 79, 93; 1979 c. 361 s. 113; 1981 c. 335; 1981 c. 350 ss. 9 to 12, 13; 1981 c. 391; 1983 a. 27, 524; 1985 a. 180 ss. 5 to 17, 30m; 1985 a. 332 s. 251 (1); 1987 a. 147 ss. 1 to 16, 25; 1987 a. 186; 1989 a. 31, 107, 248, 359; 1991 a. 39, 185, 269, 285, 315

See note to 19.21, citing 63 Atty. Gen. 400, concerning governor's records  
See note to 19.21, citing 67 Atty. Gen. 214

**16.611 State public records; optical disk storage. (1)** In this section, "public records" has the meaning given under s. 16.61 (2) (b).

(2) (a) The department shall prescribe, by rule, procedures for the transfer of public records to optical disk format, including procedures to ensure the authenticity, accuracy, reliability and accessibility of public records so transferred and procedures to ensure that such public records are protected from unauthorized destruction.

(b) The department shall prescribe, by rule, procedures governing the operation of its optical disk storage facility under s. 16.62 (1) (bm).

(c) The department shall prescribe, by rule, qualitative standards for optical disks and for copies of documents generated from optical disks used to store public records.

(3) Prior to submitting any proposed rule prescribed under sub. (2) to the legislative council staff under s. 227.15 (1), the department shall refer the proposed rule to the public records and forms board for its recommendations.

**History:** 1991 a. 39.

**16.612 County records; optical disk standards.** The department shall prescribe, by rule, qualitative standards for optical disks and for copies of documents generated from optical disks used to store materials filed with counties. Prior to submitting any such rule to the legislative council staff under s. 227.15 (1), the department shall refer the rule to the public records and forms board for its recommendations.

**History:** 1991 a. 39.

**16.62 Records management service. (1)** The department shall establish and maintain a records management service:

(a) To advise and assist state agencies in the establishment and operation of records management programs through the issuance of standards and procedures and provision of technical and management consulting services.

(b) To operate a state records center and a central microfilm facility for state agencies and to develop rules as necessary for efficient operation of the facilities.

(bm) To operate an optical disk storage facility for state agencies in accordance with rules, promulgated by the department under s. 16.611, governing operation of the facility.

(c) To periodically audit state agencies' records management programs and recommend improvements in records management practices.

(2) The department may establish user charges for records storage and retrieval services, with any moneys collected to be credited to the appropriation under s. 20.505 (1) (im) or (kg). Such charges shall be structured to encourage efficient utilization of the services.

(3) The department may establish user fees for the services of the public records and forms board. Any moneys collected shall be credited to the appropriation under s. 20.505 (1) (kg).

**History:** 1975 c. 41, 224; Stats. 1975 s. 16.62; 1977 c. 29, 418; 1979 c. 34 s. 2102 (1) (b), (c); 1979 c. 175; 1981 c. 350; 1983 a. 27 ss. 87, 88, 1804 to 1806; 1985 a. 180 s. 30m; 1987 a. 27; 1987 a. 147 s. 25; 1991 a. 39

**16.70 Purchasing; definitions.** In ss. 16.70 to 16.78:

(1) "Agency" means an office, department, agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority.

(2) "Authority" means a body created under ch. 231, 232 or 234.

(2m) "Computer services" means any services in which a computer is utilized other than for personal computing purposes.

(3) "Contractual services" includes all services, materials to be furnished by a service provider in connection with services, and any limited trades work involving less than \$20,000 to be done for or furnished to the state or any agency.

(4) "Executive branch agency" means an agency in the executive branch but does not include the building commission.

(5) "Judicial branch agency" means an agency created under ch. 757 or 758 or an agency created by order of the supreme court.

(6) "Legislative service agency" means an agency created under ch. 13 which is authorized, or the head of which is authorized, to appoint subordinate staff, except the building commission.

(7) "Limited trades work" means the repair or replacement of existing equipment or building components with equipment or components of the same kind, if the work is not dependent upon the design services of an architect or engineer, and does not alter or affect the performance of any building system, structure, exterior walls, roof or exits, or the fire protection or sanitation of the building. "Limited trades work" includes decorative and surface material changes within a building and minor preventive maintenance to ancillary facilities such as drives, sidewalks and fences.

(8) "Municipality" means a county, city, village, town, school district, board of school directors, sewer district, drainage district, vocational, technical and adult education district or any other public or quasi-public corporation, officer, board or other body having the authority to award public contracts.

(9) "Officer" includes the person or persons at the head of each agency, by whatever title the person or persons may be elsewhere designated.

(10) "Permanent personal property" means any and all property which in the opinion of the secretary will have a life of more than 2 years.

(10m) "Personal computing" means utilizing a computer that is located at the work station where the input or output of data is conducted.

(11) "Recovered material" means a product which is recovered from solid waste in a form identical to the original form for a use that is the same as or similar to the original use.

(11m) "Recyclable material" means material in waste for which there exists a commercially demonstrated processing or manufacturing technology which uses the material as a raw material.

(12) "Recycled material" means a product which is manufactured from solid waste or paper mill sludge.

(13) "Recycled or recovered content" means the proportion of an item, by weight or other measure, which is recycled material or recovered material.

**History:** 1971 c. 164; 1975 c. 41 s. 52; 1977 c. 29; 1979 c. 34, 221; 1983 a. 27, 106; 1985 a. 29 ss. 122a to 122f, 3200 (1); 1987 a. 292, 399; 1989 a. 335; 1991 a. 39, 189

"Contractual services" include technical and professional services. 65 Atty. Gen. 251

**16.705 Contractual services. (1)** The department or its agents may contract for services which can be performed more economically or efficiently by such contract.

(2) The department shall promulgate rules for the procurement of contractual services, including but not limited to the approval and monitoring processes for contractual service contracts. Each officer requesting approval to engage any person to perform contractual services shall submit to the department written justification for such contracting which shall include a description of the contractual services to be procured, justification of need, justification for not contracting with other agencies, a specific description of the scope of contractual services to be performed, and justification for the procurement process if a process other than competitive bidding is to be used. The department may not approve any contract for contractual services unless it is satisfied that the justification for contracting conforms to the requirements of this section and ss. 16.71 to 16.77.

(3) Contracts for contractual services shall be submitted by the department for the review and approval of the secretary of employment relations prior to award, under conditions established by rule of the department. The secretary of employment relations shall review such contracts in order to ensure that agencies:

(a) Properly utilize the services of state employees;

(b) Evaluate the feasibility of using limited term appointments prior to entering into a contract for contractual services; and

(c) Do not enter into any contract for contractual services in conflict with any collective bargaining agreement under subch. V of ch. 111.

(5) The department shall promulgate rules to assure that the process used for selection of persons to perform contractual services includes a review of the independence and relationship, if any, of the contractor to employees of the agency, disclosure of any former employment of the contractor or employees of the contractor with the agency and a procedure to minimize the likelihood of selection of a contractor who provides or is likely to provide services to industries, client groups or individuals who are the object of state regulation or the recipients of state funding to a degree that the contractor's independence would be compromised.

(6) If the agency for which contractual services are performed under a contractual services agreement concludes that the performance was unsatisfactory, the agency shall file with the department an evaluation of the contractor's performance within 60 days after the fulfillment of the agreement. The evaluation shall be in such form as the secretary may require.

(7) The department shall review evaluations submitted under sub. (6) and promulgate rules prescribing procedures to assure that future contracts for contractual services are not awarded to contractors whose past performance is found to be unsatisfactory, to the extent feasible.

(8) The department shall, annually on or before October 15, submit to the governor, the joint committee on finance, the joint legislative audit committee and the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3), a report concerning the number, value and nature of contractual service

procurements authorized for each agency during the preceding fiscal year.

**History:** 1977 c. 196 s. 31; Stats. 1977 s. 16 705; 1981 c. 20; 1983 a. 27; 1985 a. 29 s. 3200 (1); 1985 a. 332 s. 251 (1); 1987 a. 186; 1989 a. 125.

It is possible for the state to lease one of its parking facilities to an independent contractor upon a finding that an independent contractor can perform the service of operating and maintaining the parking facility more economically or more efficiently than the civil service system. 62 Atty. Gen. 183

**16.71 Purchasing; powers. (1)** Except as authorized in s. 16.74, the department shall purchase and may delegate to special designated agents the authority to purchase all necessary materials, supplies, equipment, all other permanent personal property and miscellaneous capital, and contractual services and all other expense of a consumable nature for all agencies. In making any delegation, the department shall require the agent to adhere to all requirements imposed upon the department in making purchases under this subchapter. All materials, services and other things and expense furnished to any agency and interest paid under s. 16.528 shall be charged to the proper appropriation of the agency to which furnished.

(2) The department of administration shall delegate authority to make all purchases for prison industries to the department of corrections. This delegation may be withdrawn by the department of administration only with the consent of, and in accordance with the terms specified by, the joint committee on finance, for failure to comply with applicable purchasing rules, procedures or statutory requirements.

(3) If the department makes or delegates to the gaming commission or to any other designated purchasing agent under sub. (1) the authority to make a major procurement, as defined in s. 565.01 (4), for the gaming commission, the department, gaming commission or designated purchasing agent shall comply with the requirements under s. 565.25.

**History:** 1977 c. 418; 1983 a. 333; 1985 a. 29, 300; 1987 a. 119; 1989 a. 31; 1991 a. 39, 269.

Applicability of subch. IV is determined by the purpose for the purchase, not the source of funds. 64 Atty. Gen. 4

**16.72 Purchasing, duties. (1)** The department of administration shall check or have checked, as to quantity and quality, the delivery to agencies of all purchases made under s. 16.71.

(2) (a) The department of administration shall prepare standard specifications, as far as possible, for all state purchases. By "standard specifications" is meant a specification, either chemical or physical or both, prepared to describe in detail the article which the state desires to purchase, and trade names shall not be used. On the formulation, adoption and modification of any standard specifications, the department of administration shall also seek and be accorded without cost, the assistance, advice and cooperation of other agencies and officers. Each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of any and all agencies which use it in common.

(b) Except as provided in s. 565.25 (2) (a) 4, the department shall prepare or review specifications for all materials, supplies, equipment, other permanent personal property and contractual services not purchased under standard specifications. Such "nonstandard specifications" may be generic or performance specifications, or both, prepared to describe in detail the article which the state desires to purchase either by its physical properties or programmatic utility. When appropriate for such nonstandard items or services, trade names may be used to identify what the state requires, but wherever possible 2 or more trade names shall be designated and the trade name of any Wisconsin producer, distributor or supplier shall appear first.

(c) To the extent possible, the department shall write specifications so as to permit the purchase of materials manufactured in the United States, as defined in s. 16.754 (1).

(d) To the extent possible, the department and any other designated purchasing agent under s. 16.71 (1) shall write specifications for the purchase of materials, supplies, commodities, equipment and contractual services so as to permit their purchase from prison industries, as created under s. 303.01 (1).

(e) In writing the specifications under this subsection, the department and any other designated purchasing agent under s. 16.71 (1) shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. Each authority, in writing specifications for purchasing by the authority, shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. The specifications shall include requirements for the purchase of the following materials:

1. Paper and paper products.
2. Plastic and plastic products.
3. Glass and glass products.
4. Motor oil and lubricants.
5. Construction materials, including insulating materials.
6. Furnishings, including rugs, carpets and furniture.
7. Highway equipment, including signs, signposts, reflectors, guardrails, lane dividers and barricades.

(f) In writing specifications under this subsection, the department, any other designated purchasing agent under s. 16.71 (1) and each authority shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state, consistent with the priorities established under s. 159.05 (12). All specifications under this subsection shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.

(4) (a) Except as provided in s. 16.74 or as otherwise provided in this subchapter and the rules promulgated under s. 16.74 and this subchapter, all supplies, materials, equipment and contractual services shall be purchased for and furnished to any agency only upon requisition to the department. The department shall prescribe the form, contents, number and disposition of requisitions and shall promulgate rules as to time and manner of submitting such requisitions for processing. No agency or officer may engage any person to perform contractual services without the specific prior approval of the department for each such engagement. Purchases of supplies, materials, equipment or contractual services by the legislature, the courts or legislative service or judicial branch agencies do not require approval under this paragraph.

(b) The department shall promulgate rules for the declaration as surplus of supplies, materials and equipment in any agency and for the transfer to other agencies or for the disposal by private or public sale of supplies, materials and equipment. In either case due credit shall be given to the agency releasing the same.

(4m) The department shall provide the gaming commission with a copy of each contract for a major procurement, as defined in s. 565.01 (4), for the gaming commission.

(5) (a) In this subsection, "materials" has the meaning given in s. 16.754 (1) (c).

(b) The department and the historical society jointly shall promulgate rules identifying types of historically significant materials.

(c) Before an agency may dispose of surplus materials that are of a type identified in rules promulgated under par. (b), the agency shall provide an opportunity for the historical society to inspect and obtain historically significant surplus materials for its collections. The historical society may not be required to compensate an agency for releasing historically significant surplus materials to the historical society under this paragraph.

(6) The department shall maintain a clearinghouse of information regarding products made from recycled material and recovered material for purchase by governmental agencies and authorities. The clearinghouse shall include information concerning the availability, price and quality of products made from recycled materials and recovered materials. The clearinghouse shall also include information concerning vendors and other persons willing to purchase recyclable material from agencies, authorities and local governmental units. The department shall develop a mechanism to make this information available to all designated agents under s. 16.71 (1), agencies making purchases under s. 16.74 and authorities to assist them in complying with s. 16.75 (8) and (9) and to all local governmental purchasing agents to assist them in complying with s. 66.299 (3) and (4).

(7) Annually, by March 1, the department shall submit to the council on recycling a report regarding the department's resource recovery and recycling activities of the preceding year. The report shall include information concerning the level of compliance by the department and other agencies and authorities with all of the following and reasons for any failure to fully comply with all of the following:

(a) The requirements under s. 16.75 (8) (a) and (9) that the department and other purchasing agents and authorities make purchasing selections using specifications prescribed under sub. (2) (e) and (f) and specifically that each agency and authority ensure that a minimum proportion of its aggregate paper purchases be recycled fiber.

(b) The requirement of s. 16.855 (10p) that specifications for each state construction project provide for the use of recovered materials and recycled materials to the extent that such use is technically and economically feasible.

(c) The requirement of s. 16.15 (3) that agencies and authorities separate for recycling the materials specified in that subsection.

**History:** 1975 c. 41; 1977 c. 418; 1981 c. 20, 350; 1983 a. 92; 1983 a. 333 ss. 3c, 3g, 3n; 3w; 1985 a. 29 ss. 122g, 3200 (1); 1985 a. 332; 1987 a. 119, 292; 1989 a. 31, 335; 1991 a. 39, 269

Computer programs may be sold as surplus provided the programs were not created for resale purposes. 59 Atty. Gen. 144.

**16.73 Cooperative purchasing.** (1) The department may enter into an agreement with a municipality or group of municipalities, and municipalities may enter into agreements with each other, under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing transactions under a joint contract for the purchase of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services. This subsection does not apply to construction contracts that are subject to s. 16.855 or 66.29.

(2) The department may purchase and store in warehouses articles that may be needed by agencies and municipalities. The department may sell stored articles to municipalities at cost.

(3) The department may, upon request, make available to municipalities technical purchasing information including, but not limited to, standard forms, manuals, product speci-

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cations and standards and contracts or published summaries of contracts, including price and delivery information.

(4) (a) When it is in the best interest of the state and consistent with competitive purchasing practices, the department may enter into agreements with purchasing agents of any other state or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services. The state may purchase from any vendor selected as a result of such purchasing agreements. This paragraph does not apply to construction contracts that are subject to s. 16.855 or 66.29.

(b) The department may cooperate with purchasing agents and other interested parties of any other state or the federal government to develop uniform purchasing specifications under s. 16.72 (2) on a regional or national level to facilitate cooperative interstate purchasing transactions.

History: 1983 a. 27; 1985 a. 29 s. 3200 (1); 1989 a. 335

**16.74 Legislative and judicial branch purchasing.** (1) All supplies, materials, equipment, permanent personal property and contractual services required within the legislative branch shall be purchased by the joint committee on legislative organization or by the house or legislative service agency utilizing the supplies, materials, equipment, property or services. All supplies, materials, equipment, permanent personal property and contractual services required within the judicial branch shall be purchased by the director of state courts or the judicial branch agency utilizing the supplies, materials, equipment, property or services.

(2) (a) Requisitions for legislative branch purchases shall be signed by the cochairpersons of the joint committee on legislative organization or their designees for the legislature, by an individual designated by either house of the legislature for the house, or by the head of any legislative service agency, or the designee of that individual, for the legislative service agency. Requisitions for judicial branch purchases shall be signed by the director of state courts or by an individual designated by the director for the courts, or by the head of any judicial branch agency, or the designee of that individual, for the judicial branch agency.

(b) Contracts for purchases by the senate or assembly shall be signed by an individual designated by the organization committee of the house making the purchase. Contracts for other legislative branch purchases shall be signed by an individual designated by the joint committee on legislative organization. Contracts for purchases by the judicial commission or judicial council shall be signed by an individual designated by the commission or council, respectively. Contracts for other judicial branch purchases shall be signed by an individual designated by the director of state courts.

(3) Each legislative and judicial officer who is authorized to make purchases or engage services under this section may prescribe the form of requisitions or contracts for the purchases and engagements. Requisitions and contracts shall be maintained by the officer and shall be subject to inspection and copying under subch. II of ch. 19. No such requisition or contract need be filed with the department.

(4) Each legislative and judicial officer shall file all bills and statements for purchases and engagements made by the officer under this section with the secretary, who shall audit and authorize payment of all lawful bills and statements. No bill or statement for any purchase or engagement for the legislature, the courts or any legislative service or judicial branch agency may be paid until the bill or statement is

approved by the requisitioning or contracting officer under sub. (2).

(5) The department, upon request, shall make recommendations and furnish assistance to the courts, to either house of the legislature or to any legislative service or judicial branch agency regarding purchasing procedure. The department, upon request, shall process requisitions for purchases submitted by the courts, the legislature or any legislative service or judicial branch agency and shall procure materials, supplies, equipment, property and services for the courts, the legislature and legislative service and judicial branch agencies in accordance with the purchasing procedure prescribed for executive branch agencies under this subchapter.

(6) All stationery and printing purchased under this section shall be procured from the lowest responsible bidder.

History: 1985 a. 29

**16.75 Buy on low bid, exceptions.** (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment and contractual services, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t), (6), (7), (8) and (9) and ss. 16.73 (4) (a), 16.754, 46.265, 50.05 (7) (f) and 159.15 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

2. If a vendor is not a Wisconsin producer, distributor, supplier or retailer and the department determines that the state, foreign nation or subdivision thereof in which the vendor is domiciled grants a preference to vendors domiciled in that state, nation or subdivision in making governmental purchases, the department and any agency making purchases under s. 16.74 shall give a preference over that vendor to Wisconsin producers, distributors, suppliers and retailers, if any, when awarding the order or contract. The department may enter into agreements with states, foreign nations and subdivisions thereof for the purpose of implementing this subdivision.

3. Bids may be received only in accordance with such specifications as are adopted by the department as provided in this subsection. Any or all bids may be rejected. Each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated shall, after the award or letting of the contract, be opened to public inspection. Where a low bid is rejected, a complete written record shall be compiled and filed, giving the reason in full for such action. Any waiver of sealed, advertised bids as provided in sub. (2m) or (6) shall be entered on a record kept by the department and open to public inspection.

(b) When the estimated cost exceeds \$10,000, due notice inviting bids shall be published as a class 2 notice, under ch. 985, and the bids shall not be opened until at least 7 days from the last day of publication. The official advertisement shall give a clear description of the materials, supplies, equipment or service to be purchased, the amount of the bond, share draft, check or other draft to be submitted as surety with the bid and the date of public opening.

(c) Except as provided in sub. (7), when the estimated cost is \$10,000 or less, the award may be made in accordance with simplified procedures established by the department for such transactions.

(1m) The department shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates, whenever such action is appropriate. Each authority shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates,

whenever such action is appropriate. The terms, conditions and evaluation criteria to be applied shall be incorporated in the solicitation of bids or proposals. The life cycle cost formula may include, but is not limited to, the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance and disposition or resale.

(2) (a) When the department of administration believes that it is to the best interests of the state to purchase certain patented or proprietary articles, other than printing and stationery, it may purchase said articles without the usual statutory procedure. All equipment shall be purchased from the lowest and best bidder as determined by the bids and a comparison of the detailed specifications submitted with the bids, and after due advertisement as hereinbefore provided. Where the low bid or bids are rejected, a complete written record shall be compiled and filed, giving the reasons in full for such action.

(b) When the department determines that utility services are available only from a sole source as a result of regulation or of a natural monopoly, these services may be obtained without compliance with the usual procedure under this section.

(2g) (a) The purchasing authority under s. 16.71 (2) may make purchases for products of and goods for resale by prison industries, other than purchases of printing or stationery, without inviting bids and without accepting the lowest responsible bid.

(b) The purchasing authority shall notify the governor prior to any purchase under par. (a) which exceeds \$15,000. The governor has 72 hours, excluding Saturday, Sunday or a legal holiday, in which to veto any such purchase.

(c) No notice is required for purchases by prison industries under this subsection. All other purchasing rules and procedures apply to prison industries purchases.

(2m) (a) If the secretary or his or her designee determines that the use of competitive sealed bidding is not practicable or not advantageous to this state, the department may solicit competitive sealed proposals. Each request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.

(b) When the estimated cost exceeds \$10,000, the department shall publish a class 2 notice under ch. 985 inviting competitive sealed proposals. The advertisement shall describe the materials, supplies, equipment or service to be purchased, the intent to solicit proposals rather than bids, any requirement for surety and the date the proposals will be opened, which shall be at least 7 days after the date of the last insertion of the notice.

(c) When the estimated cost is \$10,000 or less, the department may award the order or contract in accordance with simplified procedures established by the department for such transactions.

(d) For purposes of clarification, the department may discuss the requirements of the proposed order or contract with any person who submits a proposal and shall permit any offerer to revise his or her proposal to ensure its responsiveness to those requirements.

(e) The department shall determine which proposals are reasonably apt to be awarded the order or contract and shall provide each offerer of such a proposal a fair and equal opportunity to discuss the proposal. The department may negotiate with each offerer in order to obtain terms that are advantageous to this state. Prior to the award of the order or contract, any offerer may revise his or her proposal. The department shall keep a written record of all meetings,

conferences, oral presentations, discussions, negotiations and evaluations of proposals under this section.

(f) In opening, discussing and negotiating proposals, the department may not disclose any information that would reveal the terms of a competing proposal.

(g) After receiving each offerer's best and final offer, the department shall determine which proposal is most advantageous and shall award the order or contract to the person who offered it. The department's determination shall be based only on price and the other evaluation factors specified in the request for proposals. The department shall state in writing the reason for the award and shall place the statement in the contract file.

(h) Following the award of the order or contract, the department shall prepare a register of all proposals.

(i) This subsection does not apply to the purchase of printing or stationery.

(3) The department may let contracts in excess of funds available. Except in the cases to which s. 18.10 (1) applies, any such contract shall state in substance that its continuance beyond the limits of funds already available is contingent upon appropriation of the necessary funds. Contracts may be for any term deemed to be in the best interests of the state but the terms and provisions for renewal or extension, if any, shall be incorporated in the bid specifications and the contract document.

(3m) (a) In this subsection, "minority business" means a business certified by the department of development under s. 560.036 (2).

(b) The department and any agency making purchases under s. 16.74 shall attempt to ensure that 5% of the total amount expended under this subchapter in each fiscal year is paid to minority businesses. Except as provided under sub. (7), the department may purchase materials, supplies, equipment and contractual services from any minority business submitting a qualified responsible competitive bid that is no more than 5% higher than the apparent low bid or competitive proposal that is no more than 5% higher than the most advantageous offer. In administering the preference for minority businesses established in this paragraph, the department and any agency making purchases under s. 16.74 shall maximize the use of minority businesses which are incorporated under ch. 180 or which have their principal place of business in this state.

(c) 1. After completing any contract under this subchapter, the contractor shall report to the agency that awarded the contract any amount of the contract that was subcontracted to minority businesses.

2. Each agency shall report to the department at least semiannually, or more often if required by the department, the total amount of money it has expended for contracts and orders awarded to minority businesses and the number of contacts with minority businesses in connection with proposed purchases.

3. The department shall maintain and annually publish data on state purchases from minority businesses, including amounts expended and the percentage of total expenditures awarded to minority businesses.

4. The department shall annually prepare and submit a report to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), on the total amount of money paid to and of indebtedness or other obligations underwritten by minority businesses, minority financial advisers and minority investment firms under the requirements of this subsection and ss. 16.855 (10m), 16.87 (2), 25.185, 84.075 and 565.25 (2) (a) 3 and on this state's progress toward achieving



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compliance with par. (b) and ss. 16.855 (10m) (a), 16.87 (2), 25.185 and 84.075 (1).

5. In determining whether a purchase, contract or subcontract complies with the goal established under par. (b) or s. 16.855 (10m), 16.87 (2) or 25.185 the department shall include only amounts paid to minority businesses, minority financial advisers and minority investment firms certified by the department of development under s. 560.036 (2).

(3t) (a) In this subsection, "form" has the meaning given under s. 16.61 (2) (ad).

(b) All commodities required to be furnished by the department which are produced at the institutions of the state shall be purchased from the institutions if the commodities conform to the specifications prepared by the department.

(c) The department of corrections shall periodically provide to the department of administration a current list of all materials, supplies, equipment or contractual services, excluding commodities, that are supplied by prison industries, as created under s. 303.01. The department of administration shall distribute the list to all designated purchasing agents under s. 16.71 (1). Prior to seeking bids or competitive sealed proposals with respect to the purchase of any materials, supplies, equipment or contractual services enumerated in the list, the department of administration or any other designated purchasing agent under s. 16.71 (1) shall offer prison industries the opportunity to supply the materials, supplies, equipment or contractual services if the department of corrections is able to provide them at a price comparable to one which may be obtained through competitive bidding or competitive sealed proposals and is able to conform to the specifications, provided the specifications are written in accordance with s. 16.72 (2) (d). If the department of administration or other purchasing agent is unable to determine whether the price of prison industries is comparable, it may solicit bids or competitive proposals before awarding the order or contract. This paragraph does not apply to the printing of the following forms:

1. Forms that must be completed by applicants for admission to an institution of the university of Wisconsin system or by students of such an institution who are applying for financial aid, including loans, or for a special course of study or who are adding or dropping courses, registering or withdrawing, establishing their residence or being identified or classified.

2. Forms the use of which is required by federal law.

3. Forms used by teachers to evaluate a student's academic performance.

4. Forms used by hospitals and health care providers to bill or collect from patients and 3rd parties.

5. Forms used by medical personnel in the treatment of patients.

6. Forms used to collect data from research subjects in the course of research projects administered by the board of regents of the university of Wisconsin system.

7. Forms that are not public contact forms.

(4) (a) The department shall encourage the participation of small businesses and veteran-owned businesses in the state-wide purchasing program by ensuring that there are no undue impediments to such participation and by actively encouraging small businesses and veteran-owned businesses to play an active role in the solicitation of public purchasing business. To that end the department shall:

1. Maintain comprehensive lists of small businesses and of veteran-owned businesses located in this state which have indicated a willingness to provide materials, supplies, equipment or contractual services to the state.

2. Develop ways of simplifying specifications and terms so that they will not impose unnecessary administrative burdens on small businesses and veteran-owned businesses located in this state which submit bids or proposals to the state.

3. Assist small businesses and veteran-owned businesses located in this state in complying with the state's competitive bidding and competitive proposal procedures.

4. Notify businesses on the lists maintained under subd. 1 of agency purchasing requests for which the businesses may wish to submit a bid or proposal.

5. By October 1 of each year, submit a report to the council on small business, veteran-owned business and minority business opportunities which evaluates the performance of small businesses located in this state in submitting bids or proposals to the state and makes recommendations for increased involvement of such businesses in submitting competitive bids and proposals under this section.

(b) The department shall seek the cooperation and assistance of the department of development in the performance of its duties under par. (a).

(c) In this section and s. 16.755, "small business" means a business which has had less than \$1.5 million in gross annual sales in the most recent calendar or fiscal year.

(d) In this subsection and s. 16.755, "veteran-owned business" means a small business, as defined in par. (c), that is certified by the department of veterans affairs as being at least 51% owned by one or more veterans, as defined in s. 45.35 (5).

(5) The department may require of bidders, persons making proposals under sub. (2m) or contractors such sureties as, in its judgment, are deemed advisable and may decide as to their responsibility and competency. The department may require a contractor to provide a bond furnished by a surety company authorized to do business in this state, for the proper performance of each contract.

(6) (a) Except with respect to purchases of printing and stationery, subs. (1) to (5) do not apply to the purchase of supplies, materials, equipment or contractual services from the federal government.

(am) 1. In this paragraph, "major procurement" means a procurement by the department for the use of the division of information technology services that is related to the functions of the division.

2. Subsections (1) and (3t) do not apply to major procurements.

(b) If the secretary determines that it is in the best interest of this state to do so, he or she may waive the requirements of subs. (1) to (5) and may purchase supplies, materials, equipment or contractual services, other than printing and stationery, from another state or from any county, city, village, town or other governmental body in this state.

(c) If the secretary determines that it is in the best interest of this state to do so, he or she may, with the approval of the governor, waive the requirements of subs. (1) to (5) and may purchase supplies, material, equipment or contractual services, other than printing and stationery, from a private source. Except as provided in sub. (2g) (c), if the cost of the purchase is expected to exceed \$10,000, the department shall publish a class 2 notice under ch. 985 describing the materials, supplies, equipment or contractual services to be purchased, stating the intent to make the purchase from a private source without soliciting bids and stating the date on which the contract or purchase order will be awarded. The date shall be at least 7 days after the date of the last insertion.

(d) If the governor determines that it is in the best interest of this state to do so, he or she may issue a general waiver of the requirements of subs. (1) to (5) permitting the purchase of specified materials, supplies, equipment or contractual ser-

vices, except printing and stationery, from a private source. A general waiver may be issued for any period up to one year. The governor may impose any necessary or appropriate condition or restriction on the waiver.

(e) The governor or his or her designee may waive any requirement of this subchapter if the governor or his or her designee finds that there exists an emergency which threatens the public health, safety or welfare and the waiver is necessary to meet the emergency. The governor or his or her designee shall require the award of each contract under this paragraph to be made with such competition as is practicable under the circumstances. The governor or his or her designee shall file with the department a statement of facts constituting the emergency for each waiver issued under this paragraph, and a statement of the basis for selection of each contractor under the emergency procedure. This paragraph does not apply to the requirement specified in sub. (7).

(f) The department shall keep a record of each individual or general waiver under pars. (b) to (e). The record shall be open to public inspection.

(7) Stationery and printing shall be purchased from the lowest responsible bidder without regard to the amount of the purchase, except when the department of administration exercises the discretion vested in it by s. 16.82 (4).

(8) (a) 1. The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74 and each authority shall, to the extent practicable, make purchasing selections using specifications developed under s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and recovered materials.

2. Each agency and authority shall ensure that the average recycled or recovered content of all paper purchased by the agency or authority measured as a proportion, by weight, of the fiber content of paper products purchased in a calendar year, is not less than the following:

- a. By 1991, 10% of all purchased paper.
- b. By 1993, 25% of all purchased paper.
- c. By 1995, 40% of all purchased paper.

(9) The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74 and any authority shall, to the extent practicable, make purchasing selections using specifications prepared under s. 16.72 (2) (f).

NOTE: 1991 Wis. Act 170, which amends this section, contains an extensive prefatory note concerning veteran-owned businesses.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170.

The state can ask for alternative bids; if abuse of discretion is claimed in accepting a bid, a flagrant abuse of discretion amounting to fraud must be shown. *Automatic Merchandising Corp. v. Nusbaum*, 60 W (2d) 362, 210 NW (2d) 745.

Preference for Wisconsin businesses under 16.75 (1) (a) and 16.855 (1) operates only in case of a tie bid. 74 Atty. Gen. 47.

### 16.752 Procurement from work centers for severely handicapped individuals. (1) DEFINITIONS. In this section:

- (a) "Board" means the state use board.
- (c) "Direct labor" means all labor or work involved in producing or supplying materials, supplies or equipment or performing contractual services including preparation, processing and packing, but excluding supervision, administration, inspection and shipping.
- (d) "Severely handicapped individual" means an individual who has a physical, mental or emotional disability, not including blindness but including a visual impairment, which is a substantial handicap to employment and prevents the individual from engaging in normal competitive employment.

(e) "Work center" means a charitable organization or nonprofit institution licensed under s. 104.07, incorporated in this state and operated for the purpose of carrying out a program of rehabilitation for severely handicapped individuals and for providing the individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature, and which is engaged in the production of materials, supplies or equipment or the performance of contractual services in connection with which not less than 75% of the total hours of direct labor are performed by severely handicapped individuals.

(2) DUTIES OF THE STATE USE BOARD. The board shall:

(a) Coordinate and monitor the implementation of this section.

(b) Aid in the identification of materials, supplies, equipment and contractual services to be procured by agencies from work centers.

(c) Establish eligibility criteria for work centers participating in the program established under this section.

(d) At least annually, establish and review fair market prices for materials, supplies, equipment and contractual services to be purchased from work centers.

(e) No later than October 1, prepare and submit to the secretary an annual report concerning its activities, including:

1. A summary of materials, supplies, equipment and contractual services purchased by agencies from work centers.

2. The names of work centers participating in the program established under this section.

3. The impact of the program established under this section upon production, work stabilization and program development of, and the number of severely handicapped individuals served by, participating work centers.

(f) At least annually, conduct a review of the prices paid by agencies for the materials, supplies, equipment and contractual services provided by work centers and make any adjustments necessary to establish fair market price.

(g) Promulgate rules regarding specifications, time of delivery and designation of materials, supplies, equipment and contractual services to be supplied by work centers. The board shall maintain a list of each material, supply, piece of equipment or contractual service to be supplied by work centers, and shall assign a number to each item on the list. Specifications of the board shall be consistent with specifications prescribed by agencies for which procurements are made.

(h) Review each order and contract for the impact that the requirements of sub. (7) have on each supplier or contractor, and assure that the requirements do not affect more than 15% of the supplier's or contractor's current yearly sales or production.

(i) Prescribe a surcharge to be paid by each agency, which shall be payable to the department within a time and in accordance with a procedure specified by the board.

(7) QUALIFICATION OF WORK CENTERS. To qualify for participation under the program established under this section, a work center shall submit to the board, the following documents, transmitted by a letter signed by an officer of the organization:

(a) A legible copy of the articles of incorporation of the organization showing the date of filing and the seal of the secretary of state.

(b) A copy of the bylaws of the organization certified by an officer.

(c) A copy of a letter from the federal internal revenue service indicating that the organization qualifies as a tax-exempt organization.

(d) A copy of the license issued to the organization under s. 104.07.

**(8) RESPONSIBILITIES OF WORK CENTERS.** Each work center participating in the program established under this section shall:

(a) Furnish materials, supplies, equipment and services in strict accordance with orders issued by agencies.

(b) Make its records available for public inspection at any reasonable time.

(c) Maintain records of direct labor hours performed in the work center by each worker.

(d) Annually submit to the board a certification that it is qualified to participate in the program established under this section.

(e) Comply with applicable occupational health and safety standards prescribed by the U.S. secretary of labor or the federal occupational health and safety administration.

(f) Maintain an ongoing placement program for severely handicapped individuals that includes staff which is assigned to perform personal evaluations and to maintain liaisons with appropriate community service organizations.

(g) Maintain a record for each severely handicapped individual employed by it which includes a written report prepared by a licensed physician or psychiatrist, or a qualified psychologist, reflecting the nature and extent of the disability that causes the individual to qualify as severely handicapped.

**(9) PURCHASE OF RAW MATERIALS.** Work centers shall seek broad competition in the purchase of raw materials and components used in the materials, supplies, equipment or services provided to agencies under this section. Work centers shall inform the board before entering into multiyear contracts for such raw materials and components.

**(10) PRODUCTION OF SUCH MATERIALS, SUPPLIES AND EQUIPMENT.** In the production of materials, supplies and equipment under this section, a work center shall make an appreciable contribution to the reforming of raw materials or the assembly of components thereof.

**(11) VIOLATIONS.** Any alleged violation of this section by a work center shall be investigated by the board. The board shall determine whether a violation has occurred. If the board determines that a violation has occurred, the board may terminate assignments to the work center or suspend assignments for such period as the board determines.

**(12) PROCUREMENT REQUIREMENTS AND PROCEDURES.** (a) Except as provided in pars. (c), (d), (h) and (i) and as authorized under sub. (13), agencies shall obtain materials, supplies, equipment and services on the list maintained by the board under sub. (2) (g).

(b) Purchase orders shall contain the following:

1. The name, material, supply or equipment number assigned by the board, most recent specification, quantity, unit price, and place and time of delivery.

2. The type of work and location of service required, most recent specification, work to be performed, estimated volume, and time for completion.

(c) Agencies shall issue purchase orders with sufficient time for the appropriate work center to produce the materials, supplies or equipment or provide the services required.

(d) If any commodity on the list maintained under sub. (2) (g) is also produced at an institution of the state and the commodity conforms to the specifications on the list, the ordering agency shall purchase the commodity from the institution.

(e) If a specific material, supply or piece of equipment on the list maintained under sub. (2) (g) also appears on the list of materials, supplies and equipment supplied by the prison industries under s. 16.75 (3t) (c), the ordering agency shall

notify and provide prison industries with the opportunity to fill the order prior to placing an order.

(h) Paragraph (a) does not apply to purchases of printing or stationery.

(i) Paragraph (a) does not apply to major procurements, as defined in s. 16.75 (6) (am).

**(13) CERTIFICATES OF EXCEPTION.** (a) Grant written authorization to an ordering agency to procure materials, supplies, equipment or services on the list maintained under sub. (2) (g) from commercial sources when all of the following conditions are met:

1. The work center to which the order is assigned cannot furnish a material, supply, piece of equipment or service within the period specified in the order.

2. The material, supply, equipment or service is available from commercial sources in the quantities and at an earlier time than it is available from the work center to which the order is assigned.

(b) Issue an authorization to an ordering agency to procure materials, supplies, equipment or services from commercial sources when the quantity involved is not sufficient for the economical production or provision by the work center to which the order is assigned.

(c) Issue authorizations under pars. (a) and (b) promptly upon request of an ordering agency. The authorization shall be in the form of a certificate which shall specify the quantities and delivery period covered by the authorization. The organization shall transmit a copy of each certificate to the board.

**(14) PRICES.** (a) All prices included in the list maintained under sub. (2) (g) shall be determined by the board on the basis of fair market prices for materials, supplies, equipment or services similar to those supplied by work centers.

(b) Prices for materials, supplies or equipment shall include delivery and packaging, packing and marketing costs.

(c) Price changes for materials, supplies or equipment shall apply to all orders placed on or after the effective date of the change.

(d) Delivery of an order is accomplished when a shipment is received and accepted by the purchasing agency.

**(15) ADJUSTMENT AND CANCELLATION OF ORDERS.** If a work center fails to comply with the terms of an order from an agency, the ordering agency shall make every effort to negotiate adjustments before canceling the order.

**(17) QUALITY CONTROL.** (a) Materials, supplies and equipment furnished by work centers under specifications issued by an agency shall be manufactured by work centers in strict accordance with the specifications.

(b) Services provided by work centers under specifications issued by an agency shall be performed by work centers in strict accordance with the specifications. If no specifications exist, the services shall be performed by work centers in accordance with good commercial practices.

(c) If the quality of a material, supply, piece of equipment or service received from a work center is not satisfactory to the contracting agency, the agency shall advise the board and, if the board determines that the quality of the material, supply, equipment or service is unsatisfactory, the board shall suspend the eligibility of the work center which provided the material, supply or equipment or which performed the service to participate in the program established under this section.

**(18) SPECIFICATION CHANGES.** (a) The board may change specifications contained in the list maintained under sub. (2) (g). Each list shall contain a basic specification and the date of the latest revision.

(b) If an agency makes substantial changes in a specification on the list maintained under sub. (2) (g) the board shall

assign a new item number. The agency shall notify the board of the changes prior to their effective date.

History: 1989 a. 345; 1991 a. 32, 39.

NOTE: See 1989 Wis. Act 345, which created this section, for a statement of legislative purpose, 39.

**16.754 Preference for American-made materials. (1) DEFINITIONS.** As used in this section:

(a) "Manufactured" means mined, produced, manufactured, fabricated or assembled.

(b) "Manufactured in the United States" means that materials are manufactured in whole or in substantial part within the United States or that the majority of the component parts thereof were manufactured in whole or in substantial part in the United States.

(c) "Materials" means any goods, supplies, equipment or any other tangible products or materials.

(d) "Purchase" means acquire by purchase or lease.

(e) "State" means the state of Wisconsin or any agency thereof, a contractor acting pursuant to a contract with the state, and any person acting on behalf of the state or any agent thereof.

(2) PURCHASE PREFERENCE. Notwithstanding s. 16.75 (1) (a) 2, (2), (2m) and (6), when all other factors are substantially equal the state shall purchase materials which are manufactured to the greatest extent in the United States.

(3) EXEMPTIONS. Subsection (2) does not apply if the materials are purchased for the purpose of commercial resale or for the purpose of use in the production of goods for commercial sale. Subsection (2) does not apply to the purchase of stationery and printing materials. Subsection (2) does not apply if the department determines, under s. 16.75 (1) (a) 2, that the foreign nation or subdivision thereof in which the vendor is domiciled does not give preference to vendors domiciled in that nation or subdivision in making governmental purchases. Subsection (2) does not apply if the department or other person having contracting authority in respect to the purchase determines that:

(a) The materials are not manufactured in the United States in sufficient or reasonably available quantities; or

(b) The quality of the materials is substantially less than the quality of similar available materials manufactured outside of the United States.

History: 1979 c. 314; 1983 a. 27 s. 2202 (1); 1987 a. 27

**16.755 Council on small business, veteran-owned business and minority business opportunities.** The council on small business, veteran-owned business and minority business opportunities shall:

(1) Review the extent of small business, veteran-owned business and minority business participation in purchasing by this state and its agencies.

(2) Advise the department's purchasing agent with respect to methods of increasing such participation.

(3) Advise the department's purchasing agent with respect to methods of simplifying or easing compliance with the forms and procedures used or to be used for obtaining contracts with the state for providing materials, supplies, equipment and contractual services.

(4) Advise the department concerning methods of improved compliance with any aspect of its duties under s. 16.75 (4) (a).

(5) Annually, submit a report containing any recommendations regarding the matters described in subs. (1) to (4) to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

History: 1977 c. 418 s. 929 (55); 1977 c. 419; 1983 a. 27, 524; 1985 a. 29 s. 3200 (1); 1987 a. 186; 1991 a. 170.

**16.76 Form of contracts; continuing contracts. (1)** All contracts for materials, supplies, equipment or contractual services shall run to the state of Wisconsin. Such contracts shall be signed by the secretary or an individual authorized by the secretary, except that contracts entered into directly by the legislature, the courts or a legislative service or judicial branch agency shall be signed by an individual authorized under s. 16.74 (2) (b).

(3) (a) Prices established in a continuing contract to provide materials, supplies, equipment or contractual services over a period of time may be lowered due to general market conditions, but prices shall not be subject to increase for 90 calendar days from the date of award. The contractor shall submit any proposed price increase under a continuing contract to the department at least 30 calendar days before the proposed effective date of the price increase. Any price increase shall be limited to fully documented cost increases to the contractor which the contractor demonstrates to be industrywide. The conditions under which price increases may be granted shall be expressed in bidding documents and contracts.

(b) The department may accept, negotiate or reject any proposed price increase. Upon rejection, the contractor may exercise any termination clause which has been incorporated into the contract.

(4) (a) In this subsection, "master lease" means an agreement entered into by the department on behalf of one or more agencies for the current or optional future lease of goods under which the department pays or agrees to pay to the lessor a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the department or one or more agencies will become, or for no other or nominal consideration has the option to become, the owner of the goods leased or to be leased upon full compliance with the terms of the agreement.

(b) The department may enter into a master lease whenever the department determines that it is advantageous to the state to do so. If the master lease provides for payments to be made by the state from moneys that have not been appropriated at the time that the master lease is entered into, the master lease shall contain the statement required under s. 16.75 (3).

(c) Payments under a master lease may include interest payable at a fixed or variable rate as the master lease may provide. The department may enter into agreements and ancillary arrangements to facilitate the use of a master lease, including liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, interest rate guaranty agreements, reimbursement agreements and indexing agreements.

(d) The department may delegate to other persons the authority and responsibility to take actions necessary and appropriate to implement agreements and ancillary arrangements under par. (c).

(e) The department shall grant the lessor a perfected security interest in the goods leased or to be leased under each master lease. The department shall record and preserve evidence of the security interest in its offices at all times during which the master lease is in effect.

(f) The department may appoint one or more fiscal agents for each master lease. Each fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to do business as a banking or trust company. Sections 16.705 and 16.75 do not apply to contracts for fiscal agent services. The department shall periodically require competitive proposals, under procedures established by the department, for fiscal agent services under this paragraph. There may be deposited

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with a fiscal agent, in a special account for such purpose only, a sum estimated to be sufficient to enable the fiscal agent to make all payments which will come due under the master lease not more than 15 days after the date of deposit. The department may make such other provisions respecting fiscal agents as it considers necessary or useful and may enter into a contract with any fiscal agent containing such terms, including compensation, and conditions in regard to the fiscal agent as it considers necessary or useful.

**History:** 1973 c. 333; 1977 c. 196 s. 130 (3); 1979 c. 34; 1983 a. 27; 1985 a. 29; 1987 a. 119, 142; 1989 a. 31; 1991 a. 39.

**16.765 Nondiscriminatory contracts.** (1) Contracting agencies and the Bradley center sports and entertainment corporation under ch. 232 shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m) or national origin and, except with respect to sexual orientation, obligating the contractor to take affirmative action to ensure equal employment opportunities.

(2) Contracting agencies and the Bradley center sports and entertainment corporation shall include the following provision in every contract executed by them:

(a) In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

(3) Subsections (1) and (2) shall not apply to contracts to meet special requirements or emergencies, if approved by the department.

(4) The contracting agencies and the Bradley center sports and entertainment corporation shall take appropriate action to revise the standard government contract forms under this section.

(5) The head of each contracting agency and the board of directors of the Bradley center sports and entertainment corporation shall be primarily responsible for obtaining compliance by any contractor with the nondiscrimination and affirmative action provisions prescribed by this section, according to procedures recommended by the department. The department shall make recommendations to the contracting agencies and the board of directors of the Bradley center sports and entertainment corporation for improving and making more effective the nondiscrimination and affirmative action provisions of contracts. The department shall promulgate such rules as may be necessary for the performance of its functions under this section.

(6) The department may receive complaints of alleged violations of the nondiscrimination provisions of such contracts. The department shall investigate and determine whether a violation of this section has occurred. The department may delegate this authority to the contracting agency or

the Bradley center sports and entertainment corporation for processing in accordance with the department's procedures.

(7) When a violation of this section has been determined by the department, the contracting agency or the Bradley center sports and entertainment corporation, the contracting agency or the Bradley center sports and entertainment corporation shall:

(a) Immediately inform the violating party of the violation.  
(b) Direct the violating party to take action necessary to halt the violation.

(c) Direct the violating party to take action necessary to correct, if possible, any injustice to any person adversely affected by the violation.

(d) Direct the violating party to take immediate steps to prevent further violations of this section and to report its corrective action to the contracting agency or the Bradley center sports and entertainment corporation.

(8) If further violations of this section are committed during the term of the contract, the contracting agency or the Bradley center sports and entertainment corporation may permit the violating party to complete the contract, after complying with this section, but thereafter the contracting agency or the Bradley center sports and entertainment corporation shall request the department to place the name of the party on the ineligible list for state contracts, or the contracting agency or the Bradley center sports and entertainment corporation may terminate the contract without liability for the uncompleted portion or any materials or services purchased or paid for by the contracting party for use in completing the contract.

(9) The names of parties who have had contracts terminated under this section shall be placed on an ineligible list for state contracts, maintained by the department. No state contract may be approved and let to any party on such list of ineligible contractors. The department may remove the name of any party from the ineligible list of contractors if the department determines that the contractor's employment practices comply with this section and provide adequate safeguards for its observance.

(10) The department shall refer any individual complaints of discrimination which are subject to investigation under subch. II of ch. 111 to the department of industry, labor and human relations.

(11) A violation by a prime contractor shall not impute to a subcontractor nor shall a violation by a subcontractor impute to a contractor.

**History:** 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1).

Cities, counties, and other local governmental entities are not "contracting agencies" under (1). 68 Atty. Gen. 306.

County may enact ordinance requiring its contractors to agree to policy of nondiscrimination in employment, even though ordinance provides broader protection than state and federal laws. 70 Atty. Gen. 64.

**16.767 Setoffs.** All amounts owed by this state under this subchapter are subject to being set off under s. 73.12.

**History:** 1985 a. 29.

**16.77 Audit of bills; illegal contracts; actions to recover.**

(1) No bill or statement for work or labor performed under purchase orders or contracts issued by the secretary or the secretary's designated agents, and no bill or statement for supplies, materials, equipment or contractual services purchased for and delivered to any agency may be paid until the bill or statement is approved through a preaudit or postaudit process determined by the secretary. This subsection does not apply to purchases made directly by the courts, the legislature or a legislative service or judicial branch agency under s. 16.74.

(2) Whenever any officer or any subordinate of an officer contracts for the purchase of supplies, material, equipment or contractual services contrary to ss. 16.705 to 16.82 or the rules promulgated pursuant thereto, the contract is void, and any such officer or subordinate is liable for the cost thereof, and if such supply, material, equipment or contractual services so unlawfully purchased have been paid for out of public moneys, the amount thereof may be recovered in the name of the state in an action filed by the attorney general against the officer or subordinate and his or her bonders. Such cause of action is deemed to have arisen in Dane county, and summons shall be served therein as in civil actions.

History: 1979 c. 221; 1981 c. 20 s. 2202 (1) (c); 1985 a. 29; 1985 a. 332 s. 251 (5); 1987 a. 119; 1991 a. 39

**16.78 Purchases from division of information technology services.** (1) Every agency other than the board of regents of the university of Wisconsin system or an agency making purchases under s. 16.74 shall purchase all computer services from the division of information technology services in the department of administration, unless the division grants written authorization to the agency to procure the services under s. 16.75 (1), to purchase the services from another agency or to provide the services to itself. The board of regents of the university of Wisconsin system may purchase computer services from the division of information technology services.

(2) Sections 16.705 to 16.767 and 16.77 (1) do not apply to the purchase of computer services by any agency from the division of information technology services.

History: 1991 a. 39.

**16.79 Duties of department of administration.** (1) The department shall distribute so many copies of the Wisconsin reports as may be required by the state law librarian to make the exchanges provided for by law with other states and territories.

(2) The department shall distribute in pamphlet form copies of the constitution and such laws as may be required to meet the public demand, including the election laws. The department shall distribute election manuals, forms and supplies specified by the elections board. The laws, manuals, forms and supplies shall be sold by the department at cost, including distribution cost as determined under s. 35.80. The elections board shall inform the department in writing as to which election manuals, forms and supplies shall be offered for distribution under this subsection.

History: 1971 c. 82; 1973 c. 334 s. 57; 1979 c. 34; 1983 a. 484; 1985 a. 29; 1989 a. 192

**16.82 Powers of department of administration.** In addition to other powers vested in the department of administration, it and its duly authorized representatives:

(1) Shall have access at all reasonable times to all state offices;

(2) May examine all books, records, papers and documents in any such office or institution as pertain directly or indirectly to the purchase of, control of, or distribution of supplies, materials and equipment;

(3) May require any officer to furnish any and all reasonable data, information or statement relating to the work of the officer's department.

(4) (a) May produce or contract to have produced, printing of classes 1, 3 and 4, and excerpts from the statutes under class 2, and all materials offered by state agencies for production.

(b) May determine the form, style, quantity and method of reproduction, when not specifically prescribed by law, of all

materials offered by state agencies for production. Any state agency which objects to the determination made under this paragraph may appeal the decision of the department to the governor.

(c) Agencies performing work under this section shall make reports as are required to the department which shall compile and prepare such summary reports as the joint committee on finance requests.

(d) May, during a period when a contract for any class or subclass of public printing has expired and a new contract for the following biennium has not been entered into under ch. 35, obtain public printing from private printers at prevailing commercial rates, or may produce public printing.

(e) In deciding whether to use the discretion under pars. (a) and (d) to produce graphic material, the department shall take into consideration the urgency of the work and the relative cost of production by the department as against the cost of outside work.

(f) The cost of work done under pars. (a) to (e) shall be charged to the agency ordering the work.

(g) This subsection and s. 35.015 shall be liberally construed so as to effectuate the legislature's intent to vest broad discretion in the department to determine what public printing in the classes covered and what materials offered by state agencies for production shall be done by the state itself, and what shall be contracted. Such liberal construction shall extend to the department's determination to use the power conferred, to the determination of what work is to be included in the classes covered, and to the determination of whether a given process is similar to those enumerated.

(h) To further legislative intent, the department shall impose all practical restraint on the capability for production by the state of the classes enumerated consistent with s. 16.001.

(5) Shall develop and implement a comprehensive group transportation program for state employes, in cooperation with all agencies, as defined in s. 16.52 (7), and shall promote and encourage participation in the group transportation program. The program may include car pooling and van pooling service. In addition, the department shall promote and encourage alternate means of transportation for state, municipal and federal employes and persons in the private sector including but not limited to mass transit and bicycle commuting. The department may provide contract group transportation of state employes from designated pickup points to work sites and return in the absence of convenient and public scheduled transportation. Any driver of a van that is utilized by the department for a van pool shall have completed a driver safety training course approved by the department. Nonstate employes may be permitted to participate in van pools as passengers when necessary in order to provide viable van pool service for state employes. Group transportation shall be provided for a fee which recovers the full cost of administration, maintenance, operation, insurance and depreciation of the group transportation program, plus interest for general purpose revenues utilized for the program, except as provided in s. 16.843 (2) (bm). The department shall calculate interest recoverable under this subsection by applying the average earnings rate of the state investment fund for each quarter to the average general purpose revenues utilized under s. 20.903 (2) (b) from the appropriation under s. 20.505 (1) (im) for group transportation purposes in the same quarter. No less often than annually, the department shall assess the interest payable under this subsection as of the most recently completed quarter and shall deposit the amounts collected into the general fund. No

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person is deemed to be in the course of employment while utilizing group transportation.

**History:** 1971 c. 125; 1975 c. 39 s. 732 (1); 1977 c. 29; 1979 c. 34, 221; 1981 c. 350; 1983 a. 333; 1985 a. 29; 1989 a. 31; 1991 a. 39, 316

**16.83 State capitol and executive residence board. (1)**

**PURPOSE.** The purpose of the state capitol and executive residence board is to direct the continuing and consistent maintenance of the property, decorative furniture and furnishings of the capitol and executive residence.

**(2) POWERS AND DUTIES.** No renovation, repairs except repairs of an emergency nature, installation of fixtures, decorative items or furnishings for the grounds and buildings of the capitol or executive residence may be performed by or become the property of the state by purchase wholly or in part from state funds, or by gift, loan or otherwise until approved by the board as to design, structure, composition and appropriateness. The board shall:

(a) Annually thoroughly investigate the state of repair of the capitol and executive residence.

(b) Project the necessary personnel, materials and supplies required annually to maintain the executive residence appropriately both for its public functions and as the residence of the governor, and make specific budget recommendations to the department of administration to accomplish this purpose.

(c) Ensure the architectural and decorative integrity of the buildings, fixtures, decorative items, furnishings and grounds of the capitol and executive residence by setting standards and criteria for subsequent repair, replacement and additions.

(d) Accept for the state donations or loans of furnishings, works of art or other decorative items and fixtures consistent with par. (c).

**(3) SWIMMING POOL PROHIBITED.** The board may not approve the construction or maintenance of a swimming pool on the grounds of or in the executive residence.

**History:** 1979 c. 34, 221.

**16.835 Offices in capitol.** The office of the governor shall be located in the capitol. The attorney general, lieutenant governor and supreme court shall each keep a room in the capitol.

**History:** 1977 c. 3, 447; 1983 a. 27; 1989 a. 31

**16.836 Temporary relocation of capitol offices. (1)** Notwithstanding ss. 16.835, 18.13 (2), 18.76 (2), 71.91 (5) (i), 801.11 (3), 809.80 (1) and 893.82 (5), the department, with the approval of the building commission, may temporarily relocate the governor, attorney general, lieutenant governor, supreme court and the clerks of the supreme court and court of appeals from the state capitol to another suitable building in the city of Madison for the purpose of performing air conditioning work or other renovation work in the state capitol. During the period of such relocation, any service authorized or required to be made at the offices of any of the officers specified in this subsection shall be made at the temporary locations of those offices.

**(2)** Notwithstanding ss. 13.09 (6) and 13.45 (4) (c), the joint committee on legislative organization may temporarily relocate the offices of any legislative committee from the state capitol to another suitable building in the city of Madison for the purpose of performing air conditioning work or other renovation work in the state capitol. During the period of such relocation, any service authorized or required to be made at the offices of the committee shall be made at the temporary location of the committee offices.

**History:** 1989 a. 31

**16.84 Real estate and physical plant management; protection of persons.** The department shall:

**(1)** Have charge of, operate, maintain and keep in repair the state capitol building, the executive residence, the light, heat and power plant, the state office buildings and their power plants, the grounds connected therewith, and such other state properties as are designated by law. All costs of such operation and maintenance shall be paid from the appropriations under s. 20.505 (5) (ka) and (kb), except for debt service costs paid under s. 20.866 (1) (u). The department shall transfer moneys from the appropriation under s. 20.505 (5) (ka) to the appropriation account under s. 20.505 (5) (kc) sufficient to make principal and interest payments on state facilities and payments to the United States under s. 13.488 (1) (m).

**(2)** Appoint such number of security officers as is necessary to safeguard all public property placed by law in the department's charge, and provide security services at the historical society headquarters building located at 816 State street and the historical society museum located at 30 N. Carroll street in the city of Madison upon reimbursement therefor by the society. When authorized by the governor, the department shall appoint such number of security officers as is necessary to safeguard state officers or other persons. All such security officers may arrest, with or without warrant, any person violating any law within or around any of said properties or in the presence or vicinity of said state officers or other persons being safeguarded by authorization of the governor. Nothing in this subsection limits or impairs the duty of the chief and each police officer of the police force of the municipality in which the property is located to arrest and take before the proper court or magistrate persons found in a state of intoxication or engaged in any disturbance of the peace or violating any state law, except s. 16.843 (2), in or around any of said properties located in the municipality in which the property is located, as required by s. 62.09 (13).

**(5)** Have responsibility, subject to approval of the governor, for all functions relating to the leasing, acquisition, allocation and utilization of all real property by the state, except where such responsibility is otherwise provided by the statutes. The department shall lease or acquire office space for legislative offices or legislative service agencies at the direction of the joint committee on legislative organization.

**(6)** Require of the several agencies of state government all information necessary for the planning and forecasting of the space needs of state government on a comprehensive long-range basis. To this end the department shall cooperate with the building commission in order that the projected program of new construction will conform with the state's long-range building plans.

**(7)** Approve administrative district boundaries of the several state agencies unifying them where possible in order to facilitate the acquisition and maintenance of suitable district headquarters in the several parts of the state.

**(8)** Let concessions for periods not exceeding 2 years in the capitol and state office buildings, under such terms and conditions as will in its judgment be most favorable to the state, and in accordance with s. 47.03 (4), (5), (7) and (11).

**(9)** Prepare a Wisconsin state capitol guide book containing information regarding the state capitol and grounds, to be sold as near cost as practicable.

**(10)** Approve the design, structure, composition, location and arrangements made for the care and maintenance of all public monuments, memorials, or works of art which shall be constructed by or become the property of the state by purchase wholly or in part from state funds, or by gift or otherwise. "Work of art" means any painting, portrait, mural decoration, stained glass, statue, bas-relief, ornament, tablets, fountain or any other article or structure of a permanent

character intended for decoration or commemoration. This subsection does not apply to public monuments, memorials or works of art which are or will become property of the university of Wisconsin system or the historical society.

(11) Prepare, publish and enforce or have enforced rules of conduct for the several buildings for which the department has managing authority. Any person found guilty of violating one of these rules shall, unless the rule violated prescribes a lesser penalty, be fined not more than \$100 or imprisoned not more than 30 days, or both.

(12) Provide for the establishment of procedures for the operation of the department's facility operations and maintenance appropriation under s. 20.505 (5) (ka) so that:

(a) There is a uniform revenue billing and expenditure allocation process for all state buildings whose operation and maintenance costs are financed from this appropriation;

(b) Expenditure projections are made at a uniform time for all buildings in setting revenue billing rates; and

(c) Whenever revenue billing rates need to be adjusted, the changes are made on a uniform basis for all buildings.

(13) Establish bicycle storage racks adjacent to the capitol and all state office buildings.

History: 1971 c. 183; 1975 c. 41 s. 52; 1977 c. 418; 1979 c. 34, 221; 1981 c. 314; 1983 a. 36 s. 96 (4); 1983 a. 435 s. 7; 1983 a. 524; 1985 a. 135 s. 83 (5); 1987 a. 27; 1989 a. 31; 1991 a. 39, 269.

**16.841 Madison child care facilities and services. (1)** In this section, "agency" has the meaning given in s. 16.70 (1).

(2) The department shall contract with one or more child care providers, as defined in s. 46.98 (1) (am), to supplement the cost of providing suitable space for child care services to be offered to the children of employes of agencies whose work stations are located in an area designated by the department comprising the central portion of the city of Madison.

(3) The department may lease space or provide space in any state-owned or state-leased building to be used by a child care provider under a contract specified in sub. (2) or may contribute to space costs incurred by a child care provider under such a contract for the purpose of providing child care services to children specified in sub. (2). Prior to leasing space or providing space to a child care provider in any state-owned facility that is not constructed specially for the use of a particular agency, the department shall obtain concurrence of the building commission under s. 13.48 (2) (b) 4.

(4) The department shall assess the costs of providing child care facilities to agencies whose employes are eligible to place their children in a facility operated by a child care provider who contracts with the department under sub. (2). The assessment shall be made on an equitable basis as determined by the department. The department shall deposit assessment receipts in the appropriation account under s. 20.505 (5) (ka).

(5) The department may permit children, other than children of employes specified in sub. (2), to receive child care services at a child care facility established under sub. (3) if all children who are eligible to receive services under sub. (2) are first provided an opportunity for services.

History: 1991 a. 39, 315

**16.842 State capitol view preservation. (1)** Except as authorized under this section, no portion of any building or structure located within one mile of the center of the state capitol building may exceed the elevation of 1,032.8 feet above sea level as established by the U.S. coast and geodetic survey.

(2) This section does not apply to any building or structure erected prior to April 28, 1990.

(3) The city of Madison may grant exceptions to the application of sub. (1) for flagpoles, communications towers,

church spires, elevator penthouses, screened air conditioning equipment or chimneys, subject to approval of any plan commission created under s. 62.23 (1).

History: 1989 a. 222

**16.843 Capitol and state office buildings parking regulations. (1)** (a) Except as provided in par. (b), the parking of motor vehicles at the curb on the capitol park side of the 4 streets surrounding the state capitol park shall be subject to any police regulation that may be enacted by the city of Madison designating the manner of such parking or limiting the length of time which motor vehicles may be so parked in such public streets in the city.

(b) Eight areas, for the parking of motor vehicles at the curb on the capitol park side of the 4 streets surrounding the state capitol park, each area as near as lawfully permissible to each near side of the intersections of the streets with the driveways leading to the capitol building, are reserved for the parking of motor vehicles by those persons designated in sub. (3) and only emergency police regulations or city ordinances of the city of Madison are applicable to such areas. The number of motor vehicles to be parked in each area shall be designated in a parking plan approved by the joint committee on legislative organization. The department of administration shall mark and post the areas and number the parking spaces therein. Parking of motor vehicles in these areas is permitted only by persons whose motor vehicles are identified as specified in sub. (4), and the parking therein of any other vehicle is prohibited and any violation of this prohibition shall be punished as in sub. (2).

(2) (a) Except as authorized in sub. (3), the parking of any motor vehicle in any of the 4 driveways of the capitol park leading to the capitol building is prohibited. Parking of any motor vehicle on the grounds of any of the state office buildings shall be in accordance with rules and orders established by the department.

(b) The department shall establish a schedule of fees for parking during the state office hours specified in s. 230.35 (4) (f) at every state-owned office building for which the department has managing authority and which is located in a municipality served by an urban mass transit system for which state operating assistance is provided under s. 85.20, if the mass transit system serves a street which passes within 500 feet of the building. In addition, the department shall establish a schedule of fees for parking located in the city of Madison. The department may establish a schedule of fees for parking during other hours at any state-owned office building located in a municipality served by an urban mass transit system for which state operating assistance is provided under s. 85.20. In addition, the department may establish a schedule of fees for parking at other state facilities located in such a municipality.

(bm) Fees established under this subsection for parking at every facility, except the parking specified in par. (cm), shall be established so that the total amount collected equals the total costs of:

1. Administration of the parking program;
2. Promotion of alternate transportation programs under s. 16.82 (5); and
3. Parking facility maintenance and operation.

(c) Notwithstanding par. (bm), except as provided in s. 13.488 (1) (L), fees need not be imposed by the department for parking in a facility at any state-owned office building in a fiscal year, except the parking specified in par. (cm), if the department determines that, for any fiscal year:

1. Operating expenditures, including administration, collection and maintenance costs, necessitated solely by the implementation of paid parking at the facility in the preced-



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ing fiscal year exceeded gross parking revenues for that year; or

2. Estimated operating expenditures, including administration, collection and maintenance costs, necessitated solely by the implementation of paid parking at the facility will exceed the estimated gross parking revenues for that year.

(cm) Fees established under this subsection for parking located in the city of Madison shall be set so that all costs of land acquisition and construction, financing, administration, maintenance and operation are recovered from fee revenue. The department shall review and establish fees under this paragraph on an annual basis such that the costs of administration, maintenance and operation are fully recovered on an annual basis and the costs of land acquisition, construction and financing are fully recovered at the earliest possible time.

(d) Any person violating this subsection or any rule or order adopted pursuant thereto may be required to forfeit not less than \$5 nor more than \$25.

(3) The following persons or their designees may park motor vehicles identified as provided by sub. (4) in assigned parking stalls and spaces in the parking areas designated in subs. (1) (b) and (2):

(a) Legislators and constitutional officers.

(b) Officers of the senate and assembly.

(c) Such state officers and employees as the governor directs, not to exceed 15.

(4) To facilitate the administration of sub. (3), the state protective service shall procure numbered identification tags which correspond with the numbered parking stalls and spaces, and shall issue such tags to applicants eligible under sub. (3) in accordance with the parking plan approved by the joint committee on legislative organization under sub. (1).

(5) Notwithstanding the limited allocation of parking areas for state purposes under sub. (1), the enforcement of parking regulations on the capitol park side of the 4 streets surrounding the state capitol park is vested exclusively in the designated employees of the state protective service.

**History:** 1975 c. 41, 267, 422; Stats. 1975 s. 16.843; 1979 c. 34, 221; 1981 c. 20; 1983 a. 174; 1985 a. 29; 1991 a. 269.

**16.844 Burning bituminous coal near capitol. (1)** It shall be unlawful to burn any bituminous coal for heating, power or any other purpose or purposes within any of the following blocks surrounding the capitol park in the city of Madison: Blocks 64, 65, 66, 67, 68, 71, 72, 73, 74, 75, 76, 77, 82, 83, 84, 85, 88, 89, 90, 91, 98, 99, 100, 101, 102, 103, 104, 105, 107, 108, 109 and 110 or in the streets or alleys adjoining said blocks, except in smoke preventing furnaces of such an efficiency that no smoke shall be visible emitting from the top or outlet of the stack or chimney.

(2) Any person who shall cause, allow, or permit bituminous coal to be burned in violation of this section shall forfeit the sum of \$25 for each day or part thereof during which such violation continues.

(3) The secretary of administration, with the assistance of the department of justice, shall institute proper proceedings to collect fines for and restrain violations of this section.

(4) The limitations contained in this section are imposed for the protection of the state capitol and its contents.

**History:** 1975 c. 41 s. 51; 1989 a. 222 s. 3; Stats. 1989 s. 16.844.

**16.845 Use of state facilities. (1) RULE; PENALTY.** Except as elsewhere expressly prohibited, the managing authority of any facility owned by the state may permit its use for free discussion of public questions, or for civic, social, recreational or athletic activities. No such use shall be permitted if it would unduly burden the managing authority or interfere with the prime use of such facility. The applicant for use shall

be liable to the state for any injury done to its property, for any expense arising out of any such use and for such sum as the managing authority may charge for such use. All such sums are to be paid into the general fund and to be credited to the appropriation for the operation of the facility used. The managing authority may permit such use notwithstanding the fact that a reasonable admission fee may be charged to the public. Whoever does or attempts to do an act for which a permit is required under this section without first obtaining the permit may be fined not more than \$100 or imprisoned not more than 30 days or both. This section applies only to those buildings, facilities and grounds for which a procedure for obtaining a permit has been established.

(2) **DEFINITIONS.** In this section:

(a) "Facility" includes buildings and surrounding and connecting grounds.

(b) "Managing authority" means the board, commission, department or officer responsible by law for the management of the particular facility.

**History:** 1971 c. 183.

Group of churches is entitled to permit under this section to use capitol grounds for civic or social activity even if content of program is partly religious in nature. 68 Atty. Gen. 217.

**16.847 Energy efficiency program. (1) DEFINITIONS.** In this section:

(a) "Agency" has the meaning given in s. 16.52 (7).

(b) "State facilities" means all property owned and operated by the state for the purpose of carrying out usual state functions, including each center and institution within the university of Wisconsin system.

(c) "Utility expenses" means expenses incurred to provide heating, cooling and electricity to a state facility.

(2) **UTILITY EXPENSE BUDGETING.** For all appropriations listed in sub. (4), an agency shall submit to the department documentation that shows the amounts budgeted and expended by the agency for utility expenses in fiscal year 1993-94 and in fiscal year 1994-95.

(4) **UTILITY EXPENSE APPROPRIATIONS.** Subsection (2) applies to all of the following appropriations:

(a) Section 20.225 (1) (b).

(b) Section 20.245 (2) (c), (4) (c) and (5) (c).

(c) Section 20.255 (1) (c).

(d) Section 20.285 (1) (c).

(e) Section 20.410 (1) (f).

(f) Section 20.435 (2) (f).

(g) Section 20.465 (1) (f).

(h) Section 20.485 (1) (c).

(i) Section 20.505 (5) (ka).

(j) Section 20.865 (2) (e).

(5) **ENERGY EFFICIENCY PROGRAM.** (a) The department shall establish an energy efficiency program to assist agencies in energy conservation. The department shall seek out energy saving opportunities, review and rank energy efficiency projects, award loans under sub. (6) to agencies for energy efficiency projects and verify energy savings achieved by an energy efficiency project.

(b) The department may award a loan under sub. (6) to an agency for any of the following energy efficiency projects:

1. Construction projects that involve remodeling, renovation or similar modifications made to the interior or exterior structure of a building.

2. Nonconstruction projects that include energy efficiency work that is not included under subd. 1.

(6) **LOANS.** (a) From the appropriation under s. 20.505 (5) (q), the department may award a loan to an agency to fund an energy efficiency project. The department may not award a

loan under this paragraph unless all of the following conditions are satisfied:

1. The energy efficiency project generates sufficient utility expense savings to pay back the loan within 6 years.

2. The loan funds an energy efficiency project in an existing state facility.

3. The energy efficiency project is a construction project under sub. (5) (b) 1 or a nonconstruction project under sub. (5) (b) 2.

4. The energy efficiency project meets any other condition established by the department.

(7) **LOAN APPROVAL.** Loans made under sub. (6) require approval by the department or the building commission, or both, as follows:

(a) For any loan, approval by the department under sub. (6) is required.

(b) For loans of \$100,000 or more, after approval by the department under par. (a), approval by the building commission is required. Any approval by the building commission does not require enumeration as provided in s. 20.924 (1).

(8) **REPAYMENT AGREEMENTS.** (a) As a condition of receiving a loan under sub. (6), an agency shall enter into an agreement to repay the loan.

(b) As a condition of receiving a loan under sub. (6), an agency shall agree that for 6 years after the loan is repaid utility expenses saved by the energy efficiency project shall be allocated as follows:

1. The department may transfer savings to the general fund.

2. The department may transfer savings to the energy efficiency fund for maintenance and for energy efficiency monitoring.

3. Subject to review under s. 16.50 (2), the agency may retain one-third of the annual savings for its general program operations.

(9) **MAINTENANCE, MONITORING AND EDUCATION.** (a) From the appropriation under s. 20.505 (5) (q), the department may expend up to 3% of the total amounts deposited in the energy fund for energy efficiency monitoring and for education programs that provide information about energy efficiency projects or information about energy conservation.

(b) From the appropriation under s. 20.505 (5) (q), the department may expend amounts deposited in the energy efficiency fund under sub. (8) (b) 2 for maintenance and for energy efficiency monitoring.

History: 1991 a 269

## SUBCHAPTER V

### ENGINEERING

**16.85 Department of administration; powers, duties.** The department of administration shall exercise the powers and duties prescribed by ss. 16.85 to 16.91:

(1) To take charge of and supervise all engineering or architectural services or construction work as defined in s. 16.87 performed by, or for, the state, or any department, board, institution, commission or officer thereof, including nonprofit-sharing corporations organized for the purpose of assisting the state in the construction and acquisition of new buildings or improvements and additions to existing buildings as contemplated under ss. 13.488, 36.09 and 36.11, except the engineering, architectural and construction work of the department of transportation, the engineering service performed by the department of industry, labor and human relations, department of revenue, public service commission, department of health and social services and other departments, boards and commissions when the service is not

related to the maintenance, construction and planning of the physical properties of the state, and energy efficiency projects of the energy efficiency program under s. 16.847. The department shall not authorize construction work for any state office facility in the city of Madison after May 11, 1990, unless the department first provides suitable space for a day care center primarily for use by children of state employees.

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

(3) To act and assist any department, board, commission or officer requesting such cooperation and assistance, in letting contracts for engineering or architectural work authorized by law and in supervising the work done thereunder;

(4) To approve the appointment of a chief operating engineer for each state-owned or operated heating, cooling or power plant and pumping station, to provide for the methods of operating the plants and stations and to design records and forms for reporting accurately the cost per unit of product or service. The superintendent or other person having charge of each plant or station shall not only report to the agency which operates the plant or station but to the secretary in the manner and at such times as the secretary determines. In this subsection, “agency” has the meaning given under sub. (2).

(5) To promote the use of energy conservation methods in state-owned facilities, to implement and refine a statewide energy monitoring system and to develop and implement initiatives of replacing fossil fuels with renewable energy fuels.

(6) To approve the appointment of a principal engineer or architect for departments, boards and commissions and when such continuous service is needed. No such engineer or architect shall be employed without the written approval of the secretary.

(7) To rebuild and repair discarded machinery of the several state institutions when found feasible, and put the same back into service in the same department or in any other state department, and upon requisition to furnish services and material and loan equipment at fair rentals based on the cost thereof, in connection with the construction, operation and maintenance of heating and power plants, utilities and equipment.

(8) The secretary or the secretary’s designated assistants shall make a biennial inspection of each building of each institution of the state. The secretary may delegate this responsibility to the board, commission or officer in charge of such institution.

(10) To prepare in cooperation with the state agencies concerned, plans for the future growth and development of various state institutions and to serve as technical adviser to the building commission in connection with the development of the state long-range building program provided in ss. 13.48 and 13.482.

(11) The secretary may delegate any of the work under this subchapter to the various state agencies when the secretary determines that the best interests of the state will be served. All such delegation will be in writing and accompanied by the

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proper rules and guidelines the agencies must follow to ensure performance to the satisfaction of the secretary.

(12) To review and approve plans and specifications for any building or structure that is constructed for the benefit of the university of Wisconsin system or any institution thereof, and to periodically review the progress of any such building or structure during construction to assure compliance with the approved plans and specifications.

**History:** 1971 c. 42; 1973 c. 90; 1973 c. 335 s. 13; 1977 c. 29 s. 1654 (8) (c); 1979 c. 221; 1983 a. 36 s. 96 (4); 1985 a. 29; 1987 a. 142, 399; 1989 a. 31, 336; 1991 a. 39, 269, 316

**16.855 Construction project contracts.** (1) The department shall let by contract to the lowest qualified responsible bidder all construction work when the estimated construction cost of the project exceeds \$30,000, except as provided in sub. (10m) or s. 13.48 (19). If a bidder is not a Wisconsin firm and the department determines that the state, foreign nation or subdivision thereof in which the bidder is domiciled grants a preference to bidders domiciled in that state, nation or subdivision in making governmental purchases, the department shall give a preference over that bidder to Wisconsin firms, if any, when awarding the contract, in the absence of compelling reasons to the contrary. The department may enter into agreements with states, foreign nations and subdivisions thereof for the purpose of implementing this subsection.

(2) Whenever the estimated construction cost of a project exceeds \$30,000, or if less and in the best interest of the state, the department shall:

(a) Advertise for proposals by publication of a class 1 notice, under ch. 985, in the official state newspaper. Similar notices may be placed in publications likely to inform potential bidders of the project. The department may solicit bids from qualified contractors to insure adequate competition. All advertisements shall contain the following information:

1. Location of work and the name of the owner.
2. Scope of the work.
3. Amount of bid guarantee required.
4. Date, time and place of bid opening.
5. Date, and place where plans will be available.

(b) 1. Require that a guarantee of not less than 10% of the amount of the bid shall be included with each bid submitted guaranteeing the execution of the contract within 10 days of offering, if offered within 30 days after the date set for the opening thereof. The parties may agree to extend the time for offering of the contract beyond 30 days after the opening of bids.

2. If the federal government participates in a state project, the bid guarantee required in this paragraph controls, unless the federal government makes a specific provision for a different bid guarantee.

(c) Publicly open and read aloud, at the time and place specified in the notice, all bids. Within a reasonable time after opening, tabulations of all bids received shall be available for public inspection.

(d) Not allow or make any correction or alteration of a bid, except as provided in sub. (6).

(3) At any time prior to the published time of opening, a bid may be withdrawn on written request submitted to the department by the bidder or the bidder's agent, without prejudice to the right of the bidder to file a new bid.

(4) If a bid contains an error, omission or mistake, the bidder may limit liability to the amount of the bidder's bid guarantee by giving written notice of intent not to execute the contract to the department within 72 hours of the bid opening. The department of administration, with the approval of the attorney general, may settle and dispose of cases

and issues arising under this subsection. However, if no such settlement is obtained, the bidder is not entitled to recover the bid guarantee unless the bidder proves in the circuit court for Dane county that in making the mistake, error or omission the bidder was free from negligence.

(5) Any or all bids may be rejected if, in the opinion of the department, it is in the best interest of the state. The reasons for rejection shall be given to the bidder or bidders in writing.

(6) Nothing contained in this section shall prevent the department from negotiating deductive changes in the lowest qualified bid.

(7) The department may issue contract change orders, if they are deemed to be in the best interests of the state.

(9) The department may require bidders to submit sworn statements as to financial ability, equipment and experience in construction and require such other information as may be necessary to determine their competency.

(10) When the department believes that it is in the best interests of the state to contract for certain articles or materials available from only one source, it may contract for said articles or materials without the usual statutory procedure, after a publication of a class 1 notice, under ch. 985, in the official state newspaper.

(10m) (a) In awarding construction contracts the department shall attempt to ensure that 5% of the total amount expended in each fiscal year is awarded to contractors and subcontractors which are minority businesses, as defined under s. 16.75 (3m) (a). The department may award any contract to a minority business that submits a qualified responsible bid that is no more than 5% higher than the apparent low bid.

(b) Upon completion of any contract, the contractor shall report to the department any amount of the contract that was subcontracted to minority businesses.

(c) The department shall maintain and annually publish data on contracts awarded to minority businesses under this subsection and ss. 16.87 and 84.075.

(10p) For each proposed construction project, the department shall ensure that the specifications require the use of recovered materials and recycled materials, as defined under s. 16.70 (11) and (12), to the extent that such use is technically and economically feasible.

(11) A contractor shall be liable for any damages to another contractor working on the same project caused by reason of the former's default, act or nonperformance.

(12) Nothing contained in this section shall be construed so as to make contracts let under this section subject to s. 66.29.

(13) (a) A list of subcontractors shall not be required to be submitted with the bid. The department may require the successful bidder to submit in writing the names of prospective subcontractors for the department's approval before the award of a contract to the prime contractor.

(b) All subcontractors must be approved in writing by the department prior to their employment. Requests for approval of prospective subcontractors shall be in writing.

(c) Changes may be made in the list of subcontractors, with the agreement of the department and the prime contractor, when in the opinion of the department it is in the best interests of the state to require the change.

(14) (a) On all construction projects requiring the taking of bids under sub. (2) the department shall take both single bids and separate bids on any division of the work it designates. Contracts shall be awarded according to the division of work selected for bidding and, except as provided in sub. (10m) (a), to the lowest qualified responsible bidder or bidders that result in the lowest total construction cost for the project.

(b) The state is not liable to a prime contractor for damage from delay caused by another prime contractor if the department takes reasonable action to require the delaying prime contractor to comply with its contract. If the state is not liable under this paragraph, the delayed prime contractor may bring an action for damages against the delaying prime contractor.

(15) The department shall promulgate rules to implement the advertising and award of contracts.

(16) (a) This section does not apply to contracts between the state and federal government or any agency thereof, or with any political subdivision of the state. Subject to the approval of the governor, the requirements of this section may be waived in emergency situations involving the public health, welfare or safety or with respect to contracting with public utilities, but only when any such waiver is deemed by the governor to be in the best interests of the state.

(b) 1. In this paragraph, "agency" has the meaning given in s. 16.70 (1).

2. In emergency situations, the governor may approve repairs and construction in lieu of building commission approval under s. 13.48 (10), and for such purposes, may authorize the expenditure of up to \$250,000 from the state building trust fund or from other available moneys appropriated to an agency derived from any revenue source. The governor shall report any such authorization to the building commission at its next regular meeting following the authorization.

(17) This section does not apply to any project on which the work is to be performed by inmates or patients in institutions under the jurisdiction of the department of corrections or the department of health and social services working under the supervision or with the assistance of state employees.

(18) This section shall not apply to restoration or reconstruction of the state capitol building, historic structures at the old world Wisconsin site and at Heritage Hill state park when the department determines that a waiver of this section would serve the best interests of this state.

(19) As the work progresses under any contract for construction the department, from time to time, shall grant to the contractor an estimate of the amount and proportionate value of the work done, which shall entitle the contractor to receive the amount thereof, less the retainage, from the proper fund. On all construction projects, the retainage shall be an amount equal to 10% of said estimate until 50% of the work has been completed. At 50% completion, no additional amounts shall be retained, and partial payments shall be made in full to the contractor unless the architect or engineer certifies that the job is not proceeding satisfactorily. At 50% completion or any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. For the purposes of this section, estimates may include any fabricated or manufactured materials and components specified, previously paid for by contractor and delivered to the work or properly stored and suitable for incorporation in the work embraced in the contract.

(20) This section does not apply to construction work performed by university of Wisconsin system students when the construction work performed is a part of a curriculum and where the work is course-related for the student involved. Prior approval of the building commission must be obtained for all construction projects to be performed by university of Wisconsin system students.

(21) This section does not apply to contracts by the department of natural resources for construction work related to hazardous substance spill response under s. 144.76 or environmental repair under s. 144.442.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316.

Construing (2) (a) 2 and (14), it is held that the department has authority to create a division of work not limited to traditional trade practices, which may include work divisions other than the four enumerated in the statute if the new division involves a specialized area of construction, e.g., elevator work which is commonly designated a division although it involves the electrical trade. *Breiby v. Dept. of Administration*, 55 W (2d) 16, 197 NW (2d) 737.

A bid proposal asking for the name of a subcontractor is contrary to (13) (a), and the request is invalid. 61 Atty. Gen. 224.

See note to 16.75, citing 74 Atty. Gen. 47.

**16.865 Department of administration; statewide risk management coordination.** The department shall:

(1) Be responsible for statewide risk management coordination in order to:

(a) Protect the state from losses which are catastrophic in nature and minimize total cost to the state of all activities related to the control of accidental loss.

(b) Place emphasis on the reduction of loss through professional attention to scientific loss control techniques and by motivational incentives, prompt claims payments and other loss prevention measures.

(2) Identify and evaluate exposure to loss to the state, its employes or injury to the public by reason of fire or other accidents and fortuitous events at state-owned properties or facilities.

(3) Recommend changes in procedures, program conditions or capital improvement for all agencies which would satisfactorily eliminate or reduce the existing exposure.

(4) Manage the state employes' worker's compensation program and the statewide self-funded programs to protect the state from losses of and damage to state property and liability.

(5) Arrange appropriate insurance contracts for the transfer of risk of loss on the part of the state or its employes, to the extent such loss cannot reasonably be assumed by the individual agencies or the self-funded programs. The placement of insurance may be by private negotiation rather than competitive bid, if such insurance has a restricted number of interested carriers. The department shall approve all insurance purchases.

(6) Train, upgrade and guide appropriate personnel in the agencies in implementation of sound risk management practices.

(7) Have the authority to contract for investigative and adjustment services as provided in s. 20.865 (1) (fm) which can be performed more economically or efficiently by such contract.

(8) Annually in each fiscal year, allocate as a charge to each agency a proportionate share of the estimated costs attributable to programs administered by the agency to be paid from the appropriation under s. 20.505 (2) (k). The department may charge premiums to agencies to finance costs under this subsection and pay the costs from the appropriation on an actual basis. The department shall deposit all collections under this subsection in the appropriation account under s. 20.505 (2) (k). Costs assessed under this subsection may include judgments, investigative and adjustment fees, data processing and staff support costs, program administration costs, litigation costs and the cost of insurance contracts under sub. (5). In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any

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law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 232 or 234.

**History:** 1973 c. 333; 1975 c. 81, 189, 422; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1985 a. 29; 1987 a. 399; 1989 a. 125; 1991 a. 39

**16.87 Approval of contracts by secretary and governor; audit.** (1) In this section:

(a) "Construction work" includes all labor and materials used in the framing or assembling of component parts in the erection, installation, enlargement, alteration, repair, moving, conversion, razing, demolition or removal of any appliance, device, equipment, building, structure or facility.

(b) "Environmental consultant services" includes services provided by environmental scientists, engineers and other experts.

(c) "Limited trades work" has the meaning given under s. 16.70 (7).

(2) A contract for engineering services or architectural services or a contract involving an expenditure of \$2,500 or more for construction work, or \$20,000 or more for limited trades work, to be done for or furnished to the state or a department, board, commission or officer of the state is exempt from the requirements of ss. 16.705 and 16.75. The department shall attempt to ensure that 5% of the total amount expended under this section in each fiscal year is paid to minority businesses, as defined under s. 16.75 (3m) (a).

(3) Except as provided in sub. (4), a contract under sub. (2) is not valid or effectual for any purpose until it is endorsed in writing and approved by the secretary or the secretary's designated assistant and, if the contract involves an expenditure over \$30,000, approved by the governor. Except as provided in sub. (4), no payment or compensation for work done under any contract involving \$2,500 or more, except a highway contract, may be made unless the written claim is audited and approved by the secretary or the secretary's designee. Any change order to a contract requiring approval under this subsection requires the prior approval by the secretary or the secretary's designated assistant and, if the change order involves an expenditure over \$30,000, the approval of the governor.

(4) This section does not apply to contracts by the department of natural resources for environmental consultant services or engineering services for hazardous substance spill response under s. 144.76 or environmental repair under s. 144.442, or for environmental consultant services to assist in the preparation of an environmental impact statement or to provide preapplication services under s. 23.40.

**History:** 1973 c. 90; 1975 c. 39, 199; 1977 c. 418; 1979 c. 221 ss. 68, 81, 82; 1983 a. 27; 1983 a. 390 s. 6; 1985 a. 29 s. 3202 (1); 1989 a. 31; 1991 a. 39

**16.875 Setoffs.** All amounts owed by this state under this subchapter are subject to being set off under s. 73.12.

**History:** 1985 a. 29.

**16.88 Charges against projects.** The cost of services furnished pursuant to s. 16.85 (2) to (4), (6) and (7) shall be charged to and paid out of available funds for the respective projects, whenever in the judgment of the secretary the charges are warranted and the cost of the services can be ascertained with reasonable accuracy.

**16.89 Construction and services controlled by this chapter.** No department, independent agency, constitutional office or agent of the state shall employ engineering, architectural or allied services or expend money for construction purposes on behalf of the state, except as provided in this chapter.

**History:** 1981 c. 390; 1983 a. 27.

**16.895 State-owned or operated heating, cooling or power plants.** (1) In this section, "agency" has the meaning given under s. 16.52 (7).

(2) The department may:

(a) Prepare all specifications, bid and administer contracts for the purchase of fuels for all state-owned or operated heating, cooling or power plants.

(b) Coordinate the state fuel and utility management program to maximize the economy of operations of the program.

(c) Determine the method of operation of state-owned or operated heating, cooling or power plants, including maintenance standards and policies concerning utilization of alternative fuels and energy conservation.

(d) Assure compliance with federal and state laws, federal regulations and state administrative rules applicable to state-owned or operated heating, cooling or power plants.

(e) Delegate to any agency the department's authority under par. (c) or (d) and approve all expenditures of the agency under par. (c) or (d).

(f) Review and approve rates charged by any agency for the sale of fuel, water, sewage treatment service, electricity, heat or chilled water under s. 16.93, and the rates at which any agency charges its appropriations for fuel, water, sewage treatment service, electricity, heat or chilled water that the agency provides to itself.

(g) Provide for emissions testing, waste product disposal and fuel quality testing at state-owned or operated heating, cooling or power plants, and secure permits that are required for operation of the plants.

(h) Periodically assess to agencies their proportionate cost of the expenses incurred by the department under this subsection and ss. 16.85 (4), 16.90, 16.91 and 16.92 in accordance with a method of apportionment determined by the department.

**History:** 1989 a. 31 ss. 135, 140.

**16.90 Fuel for state heating, cooling or power plants.** (1) In this section, "agency" has the meaning given in s. 16.52 (7).

(2) The secretary shall:

(a) Prepare all specifications for contracts for the purchase of fuel for each state-owned or operated heating, cooling or power plant. All such specifications where feasible shall provide for purchase of such fuel on a heating value and quality basis and may provide for an adjustment of the base price of any fuel as a result of changes in production or transportation costs during the term of a contract.

(b) Distribute fuel purchased by the department or any agency to agencies that require it, and reallocate such fuel between agencies in the event of a shortage.

(c) Set standards for storage of fuel by agencies.

(d) Test all fuel purchased for each state-owned or operated heating, cooling or power plant wherein the annual requirement is in excess of 12,500 therms and where purchased on a heating value and quality basis.

(e) Promulgate such rules as the secretary considers necessary, not inconsistent with this section, to promote efficiency, energy conservation and economy in the testing, handling and use of fuel for state-owned or operated heating, cooling or power plants.

**History:** 1989 a. 31, 359.

**16.91 Contracts for fuel.** (1) In this section, "agency" has the meaning given under s. 16.52 (7).

(2) No contract for the purchase of fuel for any state-owned or operated heating or heating and power plant wherein the annual requirement is in excess of 12,500 therms is binding unless purchased upon specifications furnished by

the secretary. A contract for fuel may be for any term deemed to be in the best interests of the state, but the term and any provisions for renewal or extension shall be incorporated in the bid specifications and the contract document.

(3) Payments for fuel delivered under contracts specified in sub. (2) and for delivery costs shall be made upon vouchers approved by the secretary. Upon being audited and paid, the department shall charge each purchase against the appropriation to the agency which has jurisdiction over the facility at which the fuel is used. The secretary shall report on a quarterly basis to each such agency the total amount of payments charged under this subsection to each of its appropriations and facilities. Approval of the payments by the agency whose appropriation is charged is not required.

History: 1979 c. 34; 1989 a. 31

#### 16.92 Purchase of fuel, electricity, heat and chilled water.

(1) In this section, "agency" has the meaning given in s. 16.52 (7).

(2) Each agency shall utilize the most cost-effective means of procurement of fuel, electricity, heat and chilled water.

History: 1989 a. 31

#### 16.93 Sale of fuel or utility service. (1) In this section, "agency" has the meaning given under s. 16.52 (7).

(2) Except as provided in sub. (3), any agency, with the approval of the department, may sell fuel, water, sewage treatment service, electricity, heat or chilled water to another agency, a federal agency, a local government or a private entity.

(3) Prior to contracting for the sale of any fuel or extending any water, sewage treatment, electrical, heating or chilled water service to a new private entity after August 9, 1989, an agency shall contact each public utility that serves the area in which the private entity is located and that is engaged in the sale of the same fuel or utility service. If a public utility so contacted objects to the proposed sale and commits to provide the fuel or service, the agency shall not contract for the sale.

History: 1989 a. 31

### SUBCHAPTER VI

#### STATE PLANNING AND ENERGY

**16.95 Powers and duties.** The department shall, through a system of comprehensive long-range planning, promote the development and the maximum wise use of the energy, natural and human resources of the state. It shall:

(1) Collect, analyze, interpret and, in cooperation with the other state agencies, maintain the comprehensive data needed for effective state agency planning and effective review of those plans by the governor and the legislature.

(2) Perform research to evaluate and measure alternative objectives and administrative actions.

(3) Stimulate and encourage all state agencies to comprehensively plan and advance proposals for their area of state government services, and assist the state agencies to develop a necessary planning capacity.

(4) Prepare and maintain plans for those state agencies which do not have an adequate planning capacity, at the request and in cooperation with those agencies.

(5) Advise and assist state agencies in their development and maintenance of comprehensive plans, providing them with technical and program information, and advising them of the impact of related plans of other state agencies.

(6) Stimulate the consideration and possible use of creative techniques and actions that may better accomplish the objectives of this section.

(7) Evaluate the plans of all state agencies, identify both duplication and program gaps in the plans and measure the agency plans with the state goals enacted by the governor and the legislature.

(8) Advise and assist the governor and the legislature in establishing long-range development policies and programs in considering state agency plans with regard to those policies and programs.

(9) Develop and submit to the governor's office and to the appropriate standing committees of the legislature, as determined by the speaker of the assembly and the president of the senate on or before September 1 of each even-numbered year a 5-year and 10-year plan for the resolution of the energy needs of low-income households. The department shall consult with the public service commission, the department of health and social services and other agencies and groups related to low-income energy assistance. The department shall include in each plan, without limitation due to enumeration, items such as target populations, income eligibility, goals and funding.

(10) Assist in implementing agency plans in accordance with policies and programs established by the governor and the legislature.

(11) Administer federal planning grants for state planning, when so designated by the governor pursuant to s. 16.54. The department may contract with other state agencies for the preparation of all or part of a facet of the state plan which is financed in whole or in part by federal planning grants.

(12) Prepare and maintain contingency plans for responding to critical energy shortages so that when the shortages occur they can be dealt with quickly and effectively.

History: 1977 c. 29; 1985 a. 29

**16.955 Energy administration. (1) INFORMATION.** If the governor determines that a disruption of energy supplies poses a serious risk to the economic well-being, health or welfare of the citizens of this state, the governor may issue an order declaring an energy alert. Upon declaration of an energy alert by the governor, the department may issue general or special orders, as defined in s. 101.01 (1) (e), or promulgate emergency rules under ch. 227 to compel disclosure of information required for purposes of this section. Any person, or agent of the person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who is subject to an emergency rule or general or special order of the department within reasonable time limits specified in the order shall file or furnish such reports, information, data, copies of extracts of originals as the department deems necessary relating to existing and future energy supplies, including but not limited to record of sales in years for 1970 and thereafter, storage capacity, supplies on hand and anticipated supplies, and anticipated demand. To the extent that the reports and data requested by the department are presently available from other state or federal agencies, the department shall coordinate its data reporting requirements with the agencies to avoid duplication of reporting.

(2) **INFORMATION TO BE CONFIDENTIAL.** All information furnished under sub. (1) shall be considered confidential and may be compiled or published only for purposes of general statistical comparison. The information may be disclosed to agencies of the state or of the federal government, under the same or similar rules of confidentiality.

(3) PENALTIES AND JUDICIAL RELIEF. (a) Any person, or agent of a person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who fails to provide information requested by the department at the time and in the manner specified by the department shall forfeit an amount not to exceed \$1,000. Each day the violation of this section continues from the day notice has been received constitutes a separate offense.

(b) Upon request of the department, the attorney general or the district attorney of the proper county may aid in any investigation, enforce any request of the department for information under this section or seek forfeitures for violations of this section.

(c) Upon request of the department, the attorney general or the district attorney of the proper county may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this section.

(d) The remedies under this section shall not be exclusive.

(4) HEARINGS; EVIDENCE; WITNESS FEES. (a) The department or any of its authorized agents may, in relation to any matter arising under this section, conduct hearings, administer oaths, issue subpoenas and take testimony.

(b) The witnesses subpoenaed by the department or its agent and officers who serve subpoenas shall be entitled to the fees allowed in courts of record. The fees shall be audited and paid by the state in the same manner as other expenses of the department are audited and paid. No witness subpoenaed at the instance of any party other than the department is entitled to payment of fees by the state, unless the department certifies that the testimony of the witness was material.

(c) Any person who unlawfully fails to attend as a witness or refuses to testify may be compelled to do so as provided in s. 885.12.

(d) A record of all hearings shall be kept by the department. All hearings shall be public.

History: 1977 c. 29; 1979 c. 19; 1983 a. 189 s. 329 (4); 1985 a. 236; 1989 a. 359.

### 16.956 Energy development and demonstration program.

(1) DEFINITIONS. In this section:

(b) "Demonstration" means a systematic plan and follow-through procedure to establish the applicability and reliability of renewable energy resource projects and energy conservation projects and includes, but is not limited to, public presentation of such plans and procedures.

(c) "Development" means use of the basic results of research or available knowledge and application of such results or knowledge to the actual development of methods or hardware.

(d) "Eligible person" means a small business, a corporation organized under ch. 181, a cooperative organized under ch. 185 or an individual.

(e) "Energy conservation" means the application of procedures, methods or technologies which increase energy use efficiency and which reduce the use of petroleum, natural gas, coal and uranium.

(f) "Grant" means a grant under this section.

(g) "Project" means a project for at least one of the following purposes:

1. Development or demonstration or both of renewable energy resources available in this state.

2. Development or demonstration or both of energy conservation methods appropriate to this state.

(gm) "Renewable energy resource" means a source of energy other than petroleum, natural gas, coal, uranium or dams with heads greater than 65 feet.

(h) "Small business" means a small business as defined under s. 16.75 (4) (c) or a business with less than 100 employees.

(2) CREATION. There is created an energy development and demonstration grant program funded under s. 20.505 (1) (d) and administered by the secretary. The purpose of the program is to support projects for the development and demonstration of renewable energy resources available in this state and of energy conservation methods appropriate for this state.

(3) NOTICE; APPLICATIONS. The secretary shall publicize the program under this section and the availability of grants. Eligible persons may apply for grants to fund projects on forms which the secretary shall prescribe.

(4) PROJECT ELIGIBILITY. The secretary shall solicit the following types of proposals and may solicit other types of proposals at the discretion of the secretary:

(a) Energy use and performance monitoring for energy efficient, passive solar and active solar homes.

(b) Development, testing, refinement and demonstration of residential heating system efficiency improvements.

(c) Design, construction, and monitoring of homes which suit the climate of this state and which use little or no supplemental heating energy.

(d) Design and monitoring of energy efficient new commercial buildings.

(e) Analysis, implementation and demonstration of industrial energy conservation projects including operation and maintenance programs, cogeneration, industrial process modifications and new industrial process designs.

(f) Research and development of new energy conservation products.

(g) Feasibility analysis, construction and demonstration of biomass conversion projects including wood, alcohol, methane, refuse derived fuel, fuel from agricultural products or wastes and others.

(h) Installation, monitoring and demonstration of innovative wind turbine applications.

(5) SELECTION CRITERIA. For the purpose of awarding grants under this section, the secretary shall evaluate proposals submitted under sub. (4) on the basis of the following criteria:

(a) The project's technical feasibility and merit.

(b) The applicant's ability to successfully complete the proposed project.

(c) The expected short- and long-term energy conservation and renewable energy supply benefits to the state.

(d) The accuracy and completeness of the written proposal.

(e) The applicant's inability to obtain funding from other sources.

(6) LEGISLATIVE REVIEW. At least 30 days prior to the award of any grant, the secretary shall submit a summary of all applications for grants to the speaker of the assembly and the president of the senate, who each shall assign the summary to the appropriate committee of his or her respective house for review and comment. The secretary shall include with the summary a list of preliminary selections for the award of grants.

(7) GRANT CONDITIONS. (a) After receipt and consideration of the comments of the legislative committees under sub. (6), the secretary shall make the final award of grants. The amount of a grant may be decreased from the amount requested to account for moneys received from other sources, cost sharing by the applicant and the availability of other federal and state financial subsidies. Each grant shall be awarded by a contract between the department and the recipient.

(b) The contract for every grant shall provide, without limitation because of enumeration, for the following:

1. A schedule for timely reporting by the grant recipient on the progress of the grant project and for termination of the contract if the recipient fails to comply with the schedule.

2. The ownership of patents and copyrights flowing from the grant project and the disposal of income derived from the marketing of the grant project. The secretary, on a case-by-case basis, shall consider the public interest and the equities of the grantee in providing for the ownership of copyrights, patents and disposal of project income.

(c) Sections 16.70 to 16.79 do not apply to any contract entered into by the department under this section.

(8) **BIENNIAL REPORT.** Biennially by January 1 of odd-numbered years, the secretary shall report to the governor and the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) on the administration of the program under this section. The report shall include an evaluation of the necessity and effectiveness of the program.

(9) **PUBLIC RECORD.** The results of every grant project shall be a matter of public record.

**History:** 1979 c. 34; 1979 c. 329 s. 25 (4), (5); 1979 c. 350 s. 27 (4), (5); 1981 c. 20; 1983 a. 189, 524

**16.959 Wind energy.** The department shall:

(1) Promote the use of wind energy systems. "Wind energy system" means equipment which converts and then transfers or stores energy from the wind into usable forms of energy.

(2) Gather and disseminate information on wind characteristics and the economic feasibility of using wind energy systems in the state.

(3) Offer assistance to persons interested in installing a wind energy conversion system.

(4) Train university of Wisconsin system extension staff to assist persons interested in siting wind energy conversion systems.

(5) Publish a list, at intervals not to exceed 6 months, of reputable manufacturers and distributors of wind energy conversion systems in the upper midwest region of the United States.

**History:** 1987 a. 142.

**16.96 Population estimates.** The department of administration shall periodically make population estimates and projections. These population determinations shall be deemed to be the official state population estimates and projections. These determinations shall be used for all official estimate and projection purposes, except where otherwise directed by statute, but do not supersede s. 990.01 (29). The department shall:

(1) Annually make estimates of the current number of persons residing in each municipality and county of the state, and periodically make projections of the anticipated future population of the state, counties and municipalities.

(2) Prepare population estimates for purposes of state revenue sharing distribution under ch. 79. For this purpose:

(a) On or before August 10 of each year, the department shall make its preliminary population determinations and shall notify the clerk of each municipality and county of its preliminary population determinations. The reference date for all population determinations for state shared revenue distribution purposes shall be January 1.

(b) Municipalities and counties believing that population determinations under par. (a) are based upon incorrect information may, no later than September 15 of the same year in which the determination is made, challenge the determination by filing their specific objections, and evidence

in support thereof, with the department. If the challenge is denied by the department, the municipality or county may appeal the denial, by October 1 of the same year, by notifying the department that the appellant intends to have a special census conducted by the U.S. bureau of the census in support of the appeal under par. (dm).

(c) On or before October 10 of each year, the department shall make any necessary adjustments in its population determinations for the November distribution, and shall notify the clerk of any affected municipality or county of these adjustments. The adjusted population determinations shall be consistent with the methods used statewide for population determinations, and adjustments from the August 10 population determinations shall be made only to accommodate corrected information.

(cm) The July preliminary distribution shall be based on the final population determination of the previous year.

(d) Except as authorized in pars. (dm) and (e), the population determinations shall be based upon the last previous federal decennial or special census or other official statewide census and shall take into consideration growth rates of municipalities.

(dm) The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on August 10 if the final certified results of such censuses are received by the department before July 1 in the year in which the determination is made. The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on October 10 if the final certified results of such censuses are received by the department before October 1 in the year in which the determination is made. If a municipality or county notifies the department in writing by October 1 of its intention to contract for a special census with the U.S. bureau of the census in support of a challenge to the August 10 population determination, and if the final certified results of such a special census are received by the department before July 15 in the following year, the department shall adjust the preceding October 10 population estimate to reflect the results of the special census. If a municipality or county notifies the department of its intention to contract for a special census but the results are not received by July 15 in the following year, the department may use the best information from the most recent federal census. The department shall report the adjusted population determination to the department of revenue before August 1 of the year subsequent to the challenge. The department shall prorate census results for census dates occurring after the reference date of any population determination back to the reference date of the estimate for all municipalities and counties under par. (a). Upon receiving an adjusted population determination, the department of revenue shall correct shared revenue distributions under subch. I of ch. 79 according to s. 79.08. If a municipality contracts with the U.S. bureau of the census for a special census, the municipality shall assure that the results of such special census are certified to the department not later than 30 days after the release of the census results by the U.S. bureau of the census.

(e) Before August 1 of the year following the year in which a federal decennial census is taken, the department shall adjust the October 10 population determinations of the decennial census year to correspond to the final federal decennial census results as reported to an agency of the state by the U.S. bureau of the census under 13 USC 141 (c). The department may use preliminary results from the decennial



**16.96 DEPARTMENT OF ADMINISTRATION**

91-92 Wis. Stats. 346

census for any municipality or a county for which the final results are not available before August 1 of the year following the decennial census year. The department shall prorate each population determination adjustment from the decennial census date back to the reference date of the estimate for all municipalities and counties under par. (a) in the decennial census year. The department shall report the adjusted population determination to the department of revenue before August 1 of the year following the federal decennial census year. Upon receiving an adjusted population determination, the department of revenue shall correct shared revenue distributions under subch. I of ch. 79 according to s. 79.08.

(f) Persons who are members in the Wisconsin veterans home at King shall be considered residents of the town of Farmington and of Waupaca county for purposes of the state revenue sharing distribution under subch. II of ch. 79.

(3) (a) Establish a demographic services center for the purpose of developing and administering systems needed to carry out the functions of the department under subs. (1) and (2), maintaining a current repository of appropriate published and computer retrievable federal census information and cooperating with state agencies and regional planning agencies so that the department's population estimates, projections and published reports are useful for planning and other purposes for which they are required. The center shall coordinate population information development and use. The center shall provide assistance to and encourage and coordinate efforts by state and local agencies, regional planning agencies and private businesses and associations to inform the public regarding the federal census process and the importance of obtaining a complete, accurate federal decennial census. The department may enter into agreements with state and local agencies or regional planning agencies for their assistance in the preparation of population estimates, projections and forecasts.

(b) Maintain and keep current throughout the decade the maps of congressional and legislative district boundaries received from the legislative reference bureau under s. 13.92 (1) (a) 6 and provide copies thereof to the elections board.

(c) Serve as the state's liaison to the U.S. bureau of the census to facilitate accurate federal decennial census counts in this state.

**History:** 1971 c. 215; 1973 c. 37, 333; 1975 c. 189; 1977 c. 29 ss. 93 to 95, 1648 (1), (3); 1979 c. 34; 1981 c. 20; 1983 a. 29; 1987 a. 142; 1989 a. 31; 1991 a. 39, 269.

**16.964 Office of justice assistance. (1)** The office of justice assistance shall:

(a) Serve as the state planning agency under the juvenile justice and delinquency prevention act of 1974, P.L. 93-415.

(b) Prepare a state comprehensive juvenile justice improvement plan on behalf of the governor. The plan shall be submitted to the joint committee on finance in accordance with s. 16.54 and to the appropriate standing committees of each house of the legislature as determined by the presiding officer of each house. The plan shall be updated periodically and shall be based on an analysis of the state's juvenile justice needs and problems.

(c) Recommend appropriate legislation in the criminal and juvenile justice field to the governor and the legislature.

(d) Cooperate with and render technical assistance to state agencies and units of local government and public or private agencies relating to the criminal and juvenile justice system.

(e) Apply for contracts or receive and expend for its purposes any appropriation or grant from the state, a political subdivision of the state, the federal government or any other source, public or private, in accordance with the statutes.

(f) Maintain a statistical analysis center to serve as a clearing house of justice system data and information and conduct justice system research and data analysis under this section.

(g) Collect information concerning the number and nature of offenses known to have been committed in this state and such other information as may be useful in the study of crime and the administration of justice. The office may determine any other information to be obtained regarding crime and justice system statistics. The information shall include data requested by the federal bureau of investigation under its system of uniform crime reports for the United States.

(h) Furnish all reporting officials with forms or instructions or both that specify the nature of the information required under par. (g), the time it is to be forwarded, the method of classifying and any other matters that facilitate collection and compilation.

(2) All persons in charge of law enforcement agencies and other criminal and juvenile justice system agencies shall supply the office with the information described in sub. (1) (g) on the basis of the forms or instructions or both to be supplied by the office under sub. (1) (g).

(2m) (a) The office shall provide grants to local law enforcement agencies from the appropriation under s. 20.505 (6) (pb) for payment of costs under par. (b). Local law enforcement agencies may submit a proposed plan for the expenditure of funds to the office. The office shall review any proposed plans to determine if the criteria under this subsection have been met.

(b) A local law enforcement agency is eligible for a grant under par. (a) only if:

1. The grant is to provide a multi-jurisdictional enforcement group for drug-related law enforcement activities; and
2. Local funding is provided for at least 10% of the cost of the services covered by the grant.

(c) This subsection does not apply after June 30, 1993.

(3) The governor shall appoint an executive director under s. 15.105 (19) outside of the classified service.

**History:** 1987 a. 27; 1989 a. 31, 122; 1991 a. 39.

**16.967 Land information program. (1) DEFINITIONS.** In this section:

(a) "Board" means the land information board.

(b) "Land information" means any physical, legal, economic or environmental information or characteristics concerning land, water, groundwater, subsurface resources or air in this state. "Land information" includes information relating to topography, soil, soil erosion, geology, minerals, vegetation, land cover, wildlife, associated natural resources, land ownership, land use, land use controls and restrictions, jurisdictional boundaries, tax assessment, land value, land survey records and references, geodetic control networks, aerial photographs, maps, planimetric data, remote sensing data, historic and prehistoric sites and economic projections.

(c) "Land information system" means an orderly method of organizing and managing land information and land records.

(d) "Land records" means maps, documents, computer files and any other information storage medium in which land information is recorded.

(3) **BOARD DUTIES.** The board shall direct and supervise the land information program and serve as the state clearing-house for access to land information. In addition, the board shall:

(a) Provide technical assistance and advice to state agencies and local governmental units with land information responsibilities.

(b) Maintain and distribute an inventory of land information available for this state, land records available for this state and land information systems.

(c) Prepare guidelines to coordinate the modernization of land records and land information systems.

(d) Review project applications received under sub. (7) and determine which projects are approved.

(e) Review for approval a countywide plan for land records modernization prepared under s. 59.88 (3) (b).

(4) **FUNDING REPORT.** The board shall identify and study possible program revenue sources or other revenue sources for the purpose of funding the operations of the board, including grants to counties under sub. (7).

(5) **FEES.** All fees received under s. 59.88 (5) (a) shall be credited to the appropriation under s. 20.505 (4) (im).

(6) **REPORTS.** By March 31, 1990, and biennially thereafter, the departments of administration, agriculture, trade and consumer protection, development, health and social services, industry, labor and human relations, natural resources, revenue and transportation, and the board of regents of the university of Wisconsin system, the public service commission and the board of curators of the historical society shall each submit to the board a plan to integrate land information to enable such information to be readily translatable, retrievable and geographically referenced for use by any state, local governmental unit or public utility.

(7) **AID TO COUNTIES.** (a) A county board that has established a county land information office under s. 59.88 (3) may apply to the board on behalf of any local governmental unit, as defined in s. 59.88 (1) (c), located wholly or partially within the county for a grant for any of the following projects:

1. The design, development and implementation of a land information system that contains and integrates, at a minimum, property and ownership records with boundary information, including a parcel identifier referenced to the U.S. public land survey; tax and assessment information; soil surveys, if available; wetlands identified by the department of natural resources; a modern geodetic reference system; current zoning restrictions; and restrictive covenants.

2. The preparation of parcel property maps that refer boundaries to the public land survey system and are suitable for use by local governmental units for accurate land title boundary line or land survey line information.

3. The preparation of maps that include a statement documenting accuracy if the maps do not refer boundaries to the public land survey system and that are suitable for use by local governmental units for planning purposes.

(b) Grants shall be paid from the appropriation under s. 20.505 (4) (im). A grant under this subsection may not exceed \$100,000. The board may award more than one grant to a county board.

(8) **ADVICE; COOPERATION.** In carrying out its duties under this section, the board may seek advice and assistance from the university of Wisconsin system, state agencies, local governmental units and other experts involved in collecting and managing land information. State agencies shall cooperate with the board in the coordination of land information collection.

History: 1989 a. 31, 339; 1991 a. 39

**16.968 Groundwater survey and analysis.** The department of administration shall allocate funds for programs of groundwater survey and analysis to the department of natural resources and the geological and natural history survey following review and approval of a mutually agreed upon division of responsibilities concerning groundwater programs between the department of natural resources and the

geological and natural history survey, a specific expenditure plan and groundwater data collection standards consistent with the purposes of s. 16.967. State funds allocated under this section shall be used to match available federal funds prior to being used for solely state-funded activities.

History: 1979 c. 34

## SUBCHAPTER VII

### INFORMATION TECHNOLOGY

**16.97 Definitions.** In this subchapter:

(1) "Agency" has the meaning given in s. 16.70 (1).

(2) "Authority" has the meaning given in s. 16.70 (2).

(3) "Computer services" means any services in which a computer is utilized other than for personal computing purposes.

(4) "Data processing" means the delivery of information processing services.

(5) "Division" means the division of information technology services in the department.

(6) "Information technology" means the electronic processing, storage and transmission of information including data processing and telecommunications.

(7) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

(8) "Personal computing" means utilizing a computer that is located at the same work station where the input or output of data is conducted.

(9) "Supercomputer" means a special purpose computer that performs in a scientific environment and that is characterized by a very high processing speed and power.

(10) "Telecommunications" means the electronic movement of information in any form from one point to another.

History: 1991 a. 39

**16.971 Responsibilities of department.** (1) The department shall ensure that an adequate level of data processing services is made available to all state agencies by establishing and monitoring the activities of regional data processing service centers and by providing systems analysis and application programming services to augment agency resources, as requested. The department shall also ensure that state agencies make effective and efficient use of the computing resources of the state. The department shall establish policies, procedures and planning processes which the state agencies and regional data processing service centers shall follow. The department shall monitor adherence to these policies, procedures and processes.

(2) The department shall:

(a) Establish regional data processing service centers.

(b) Develop and maintain computing resource planning and budgeting techniques at all levels of state government.

(c) Develop and maintain techniques to ensure interagency computer resource planning and sharing.

(d) Develop review and approval procedures which encourage timely and cost-effective hardware, software, and professional services acquisitions, and review and approve the acquisition of such items and services under those procedures.

(e) Collect, analyze and interpret, in cooperation with the state agencies, that data necessary to assist the computer resource planning needs of the governor and legislature.

(f) Provide advice and assistance during budget preparation concerning computer resource plans and capabilities.

(g) Ensure that management reviews of data processing organizations are conducted.

(h) Gather, interpret and disseminate information on new technological developments, management techniques and computing resource capabilities and their possible effect on current and future management plans to all interested parties.

(i) Ensure that a level of computing service is provided to all state agencies that is equitable in regard to resource availability, cost and performance.

(j) Ensure that all state agencies develop and operate with clear guidelines and standards in the areas of data processing systems development and that they employ good management practices and cost-benefit justifications.

(k) Ensure that all state data processing facilities develop proper privacy and security procedures and safeguards.

(L) Review and approve billing rates for services provided by regional data processing service centers.

(m) Assist in coordination and integration of the plans of agencies relating to information technology to formulate a consistent statewide strategic plan for the use and application of information technology.

(3) (a) The secretary shall notify the joint committee on finance in writing of the proposed acquisition of any computing resource that the department considers major or that is likely to result in a substantive change of service, and that was not considered in the regular budgeting process and is to be financed from general purpose revenues or corresponding revenues in a segregated fund. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed acquisition within 14 working days after the date of the secretary's notification, the department may approve acquisition of the resource. If, within 14 working days after the date of the secretary's notification, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed acquisition, the department shall not approve acquisition of the resource unless the acquisition is approved by the committee.

(b) The secretary shall promptly notify the joint committee on finance in writing of the proposed acquisition of any computing resource that the department considers major or that is likely to result in a substantive change in service, and that was not considered in the regular budgeting process and is to be financed from program revenues or corresponding revenues from program receipts in a segregated fund.

(4) (a) The department may license or authorize state agencies to license computer programs to the federal government, other states, and municipalities.

(b) Annual license fees may be established at not more than 25% of the program development cost and shall be credited to the agency which developed the program.

(c) In this subsection:

1. "Computer programs" are the processes for the treatment and verbalization of data.

2. "Municipality" has the meaning designated in s. 66.29 (1) (b).

(6) Notwithstanding subs. (1) and (2), the revisor of statutes shall approve the specifications for preparation and schedule for delivery of computer data bases containing the Wisconsin statutes.

**History:** 1971 c. 261; Stats. 1971 s. 16.96; s. 13.93 (1) (b); Stats. 1971 s. 16.97; 1975 c. 39; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1987 a. 142; 1989 a. 31; 1991 a. 39 ss. 180b, 192b; Stats. 1991 s. 16.971

**16.973 Powers of the division.** The division may:

(1) Provide such telecommunications services to agencies as the division considers to be appropriate.

(2) Provide such computer services and telecommunications services to local governmental units as the division considers to be appropriate and as the division can efficiently and economically provide. The division may exercise this power only if in doing so it maintains the services it provides at least at the same levels that it provides prior to exercising this power and it does not increase the rates chargeable to users served prior to exercise of this power as a result of exercising this power.

(3) Provide such supercomputer services to agencies, local governmental units and entities in the private sector as the division considers to be appropriate and as the division can efficiently and economically provide. The division may exercise this power only if in doing so it maintains the services it provides at least at the same levels that it provides prior to exercising this power and it does not increase the rates chargeable to users served prior to exercise of this power as a result of exercising this power.

(4) Undertake such studies, contract for the performance of such studies, and appoint such councils and committees for advisory purposes as the division considers appropriate to ensure that the division's plans, capital investments and operating priorities meet the needs of state government and of agencies and of local governmental units and entities in the private sector served by the division. The division may compensate members of any council or committee for their services and may reimburse such members for their actual and necessary expenses incurred in the discharge of their duties.

(5) Provide technical services to agencies in making hardware acquisitions to be used for computer services.

**History:** 1991 a. 39.

**16.974 Duties of the division.** The division shall:

(1) Provide or contract with a public or private entity to provide computer services to agencies.

(3) Facilitate the implementation of statewide initiatives, including development and maintenance of policies and programs to protect the privacy of individuals who are the subjects of information contained in the data bases of agencies, and of technical standards and sharing of applications among agencies and any participating local governmental units or entities in the private sector.

(4) Ensure responsiveness to the needs of agencies for delivery of high-quality information technology processing services on an efficient and economical basis, while not unduly affecting the privacy of individuals who are the subjects of the information being processed by the division.

(5) Utilize all feasible technical means to ensure the security of all information submitted to the division for processing by agencies, local governmental units and entities in the private sector.

(6) With the advice of the ethics board, adopt and enforce standards of ethical conduct applicable to its paid consultants which are similar to the standards prescribed in subch. III of ch. 19, except that the division shall not require its paid consultants to file statements of economic interests.

**History:** 1991 a. 39.

**16.975 Access to information.** The division shall withhold from access under s. 19.35 (1) all information submitted to the division by agencies, local governmental units or entities in the private sector for the purpose of processing. The authority may not process such information without the consent of the agency, unit or other entity which submitted the information and may not withhold such information

from the agency, unit or other entity or from any other person authorized by the agency, unit or entity to have access to the information. The agency, unit or other entity submitting the information remains the custodian of the information while it is in the custody of the authority and access to such information by that agency, unit or entity or any other person shall be determined by that agency, unit or other entity and in accordance with law.

History: 1991 a. 39.

**16.976 Council on information technology.** The council on information technology shall advise the secretary on matters relating to the operation and performance of the division under this subchapter.

History: 1991 a. 39.

**16.979 Treatment of classified employees.** Those individuals holding positions in the classified service in the department who are engaged in legislative text processing functions and who achieved permanent status in class on August 9, 1989, shall retain, while serving in the unclassified service in the legislature, those protections afforded employees in the classified service under ss. 230.34 (1) (a) and 230.44 (1) (c) relating to demotion, suspension, discharge, layoff, or reduction in base pay except that the applicability of any reduction in base pay of such an employe shall be determined on the basis of the base pay received by the employe on August 9, 1989, plus the total amount of any subsequent general economic increases provided in the compensation plan under s. 230.12 for nonrepresented employes in the classified service. Such employes shall also have reinstatement privileges to the classified service as provided under s. 230.33 (1). Employes of the department holding positions in the classified service on August 9, 1989, who are engaged in legislative text processing functions and who have not achieved permanent status in class in any position in the department on that date are eligible to receive the protections and privileges preserved under this section if they successfully complete service equivalent to the probationary period required in the classified service for the positions which they hold.

History: 1989 a. 31.

## SUBCHAPTER VIII

### FEDERAL RESOURCE ACQUISITION

**16.98 Federal resource acquisition. (1)** The department shall engage in such activities as the secretary deems necessary to ensure the maximum utilization of federal resources by state agencies and institutions and other eligible organizations and units of government, including community development corporations as defined in s. 234.94 (2). The department shall acquire excess and surplus real and personal property at such cost to the recipient as is necessary to amortize expenditures for transportation, packing, crating, handling and program overhead.

(2) The department may, in accordance with federal law, operate warehouses and otherwise provide for the temporary storage of property being transferred.

(3) All proceeds from the sale of land, buildings, supplies and equipment received under this section shall be credited to the appropriation under s. 20.505 (1) (im) or (ka). Such proceeds may be used for the purchase of lands and buildings or for construction or improvement of buildings for the purpose of storing and handling excess and surplus property.

History: 1971 c. 215; 1977 c. 29; 1979 c. 34 s. 2102 (1) (b), (c); 1983 a. 106; 1987 a. 27, 399.

**16.981 Transfer of appropriations.** On June 30 of each fiscal year, the department shall determine the amount within the appropriation under s. 20.505 (1) (im) by which total expenditures for the operation of warehouses and distribution centers under the federal resource acquisition program have exceeded income attributable to that operation under that appropriation as of that date. Immediately prior to the end of the fiscal year, the department shall transfer to the appropriation under s. 20.505 (1) (im) an amount equal to that excess from the unencumbered balances in the appropriation under s. 20.505 (1) (a). If the excess exceeds the unencumbered balance in any fiscal year, the department shall transfer all of the unencumbered balance. If the unencumbered balance exceeds the excess in any fiscal year, the department shall transfer an amount equal to the excess.

History: 1987 a. 27.

## SUBCHAPTER IX

### TELECOMMUNICATIONS

**16.99 Telecommunications operations and planning. (1) DEFINITION.** In this section, "telecommunications" mean all services and facilities capable of transmitting, switching or receiving information in any form, by wire, radio or other electronic means.

(2) **POWERS AND DUTIES.** The department shall ensure maximum utility, cost-benefit and operational efficiency of all telecommunications systems and activities of this state, and those which interface with cities, counties, other states and the federal government. The department, with the assistance and cooperation of all other departments, shall:

(a) Develop and maintain a statewide long-range telecommunications plan, which will serve as a major element for budget preparation, as guidance for technical implementation and as a means of ensuring the maximum use of shared systems by departments when this would result in operational or economic improvements or both.

(b) Develop policy, standards and technical and procedural guidelines to ensure a coordinated and cost-effective approach to telecommunications system acquisition and utilization.

(c) Maintain a comprehensive inventory of all state-owned or leased telecommunications equipment and services.

(d) Monitor overall state expenditures for telecommunications systems and prepare an annual financial report on such expenditures.

(e) Review the operation of all telecommunications systems of this state to ensure technical sufficiency, adequacy and consistency with goals and objectives.

(f) Perform the functions of agency telecommunications officer for those departments with no designated focal point for telecommunications planning, coordination, technical review and procurement.

History: 1977 c. 418.

## SUBCHAPTER X

### PROPERTY TAX DEFERRAL PROGRAM

**16.993 Purpose.** The legislature finds that older individuals who have resided in their homes for a substantial period of time have found it difficult to remain in their own homes because their incomes are insufficient to cover property taxes, which have risen as the value of their homes has increased. The legislature finds that it is in the public interest and that it serves a statewide public purpose to create a program whereby lien-creating loans are made to low- and moderate-

income elderly homeowners for the purpose, and only for the purpose, of enabling individuals to pay local, general property taxes on their homes so that more of these individuals can remain in their homes.

History: 1981 c. 20, 317; 1991 a. 269 s. 510s; Stats 1991 s. 16.993

**16.994 Definitions.** In this subchapter:

(1) "Coowner" means a natural person who, at the time of the initial application has an ownership interest in the qualifying dwelling unit of a participant in the program and fulfills one of the following requirements:

(a) Is the participant's spouse and a physician certifies that the participant or the coowner is permanently disabled.

(b) Is at least 60 years of age.

(3) "Free and clear" means that rights to transfer full title to the qualifying dwelling unit after satisfaction of permitted obligations are vested in the participant and coowners.

(3m) "Ownership interest" includes being a spouse of a participant.

(4) "Participant" means a natural person 65 years of age or older who has been accepted into the program.

(5) "Permitted obligations" means the total amount of outstanding liens and judgments on the qualifying dwelling unit if that amount does not exceed \$5,000. For purposes of this subchapter, housing and rehabilitation loans under s. 234.49 and liens arising under this subchapter shall not be considered outstanding liens or judgments in computing the amount of permitted obligations.

(6) "Program" means the program under this subchapter.

(7) "Qualifying dwelling unit" means a dwelling unit, not including a mobile home as defined in s. 66.058, located in this state, habitable as a permanent residence and to which property taxes are, or may conveniently be, allocated and up to one acre of land appertaining to it held in the same ownership as the dwelling unit. For purposes of this subchapter, "qualifying dwelling unit" includes a unit in a condominium or in a cooperative or in a multi-unit dwelling with 4 or fewer units, but in all of these 3 cases only the portion of taxes allocable to the unit lived in by the participant may qualify for loans under this subchapter.

History: 1981 c. 20, 317; 1985 a. 29 s. 3202 (14) (c); 1987 a. 29; 1991 a. 269 ss. 510t to 510ue; Stats 1991 s. 16.994

**16.995 Eligibility.** The department shall make loans to participants who:

(1) Apply on forms prescribed by the department for a loan to pay property taxes by June 30 of the year in which the taxes are payable on a qualifying dwelling unit and, except as provided in s. 16.996 (5), specify the names of all coowners;

(2) Reside in the qualifying dwelling unit more than 6 months of the year preceding each year of participation, but temporary residency in a health care facility may be substituted for any portion of this 6-month residency;

(3) Keep continuously in effect during the period that a loan is outstanding under this subchapter a fire and extended casualty insurance policy on the qualifying dwelling unit satisfactory to the department and permit the department to be named on the policy as a lienholder; and

(4) Either individually or with other coowners own the qualifying dwelling unit free and clear. If the qualifying dwelling unit is owned with coowners, each of these persons must approve the application under sub. (1).

(5) Earned no more than \$20,000 in income, as defined under s. 71.52 (5), in the year prior to the year in which the property taxes for which the loan is made are due.

History: 1981 c. 20; 1983 a. 189 s. 329 (10); 1983 a. 544 s. 47 (1); 1985 a. 29 s. 3202 (46) (a); 1987 a. 27, 29; 1987 a. 312 s. 17; 1991 a. 269 s. 510uf; Stats 1991 s. 16.995

**16.995 Transfer of interest.** If a participant ceases to reside in a qualifying dwelling unit, or if the participant's total ownership interest in the qualifying dwelling unit is transferred to one or more coowners in that unit, or if both of these events occur, a coowner may assume the participant's account by applying to the department if the coowner resides in the qualified dwelling unit. Upon approval of the application, and if the coowner is 65 years of age or older, the coowner shall become a participant in the program and shall qualify for program loans. A coowner who has not attained the age of 65 at the time of application under this section may assume the account of a participant but shall not become a participant or qualify for program loans until the coowner attains the age of 65.

History: 1981 c. 20, 317; 1991 a. 269 s. 510ug; Stats 1991 s. 16.9955

**16.996 Program operation.** (1) The department shall enter into agreements with participants and their coowners to loan funds to pay property taxes on their qualifying dwelling units. The maximum loan under this subchapter in any one year is limited to \$1,800 or the amount of property taxes levied on the qualifying dwelling unit for the year for which the loan is sought, including interest and penalties for delinquency attributable thereto, whichever is less. Loans shall bear interest at a rate which is determined by the secretary to be sufficient to meet all expenses arising from the operation of the program and which, in the opinion of the secretary, will also recoup the maximum possible amount of the interest foregone by the general fund without discouraging a reasonable rate of participation in the program.

(2) The department shall have all powers that are reasonably appropriate to the operation of a loan program, including, without limitation because of enumeration, the power to enter into contracts, to pay or be paid for the performance of services, to exercise all rights of a lienholder under subch. I of ch. 779 and to perform other administrative actions that are necessary in the conduct of its duties under this subchapter.

(3) The department shall promulgate rules and establish procedures under which applications for loans may be submitted, reviewed and approved; under which repayment of loans are to be obtained; under which disputes and claims are to be settled; and under which records are to be maintained.

(4) The department may enter into loan agreements with participants and coowners who agree:

(b) That the loan shall be due and payable upon the occurrence of any of the following events: transfer of the qualifying dwelling unit by any means except upon transfer to a coowner who resides in the unit and who is permitted to assume the participant's account as provided in s. 16.9955, or the death of the participant if the participant is the sole owner, or the death of the last surviving coowner who owns the qualifying dwelling unit, or upon discovery by the department that a participant or coowner has made a false statement on the application or otherwise in respect to the program, or upon condemnation or involuntary conversion of the qualifying dwelling unit, or if a participant ceases to meet the eligibility requirements of s. 16.995 except as provided in sub. (5) or fails to comply with the provisions of par. (d) or, at the participant's or coowner's election, at any time before any of the events enumerated in this paragraph occurs;

(c) To pay, upon repayment of the loan, interest specified in the loan agreement; and

(d) To limit the outstanding liens and judgments on the qualifying dwelling unit to no more than the permitted obligations.

(5) If a participant in the program ceases to meet the eligibility requirements of this section, the department, rather

than demanding repayment under sub. (4) (b), may allow the participant to continue in the program, may allow the participant to continue in the program but be ineligible for additional loans, or may require partial settlement. The department may also allow coowners to be added to the loan agreement if, in the judgment of the secretary, the addition of coowners does not significantly increase the program's exposure to risk under the loan agreement.

(6) At any time after an application is filed, the department may verify the correctness of the application and any other information regarding the eligibility of the participant. If the department finds that at the time a participant received a loan the participant was not eligible under the program, the department shall notify the participant and may require repayment of the loan as determined by the department.

(7) (a) The department, its agents or representatives may examine the books and records of an applicant under this subchapter or other sources of information bearing on the application to verify the information provided by an applicant, may require the production of books, records and memoranda and may require testimony and proof relevant to its investigation. If a person fails to furnish information requested by the department to verify the correctness of the application, the department may reject the application.

(b) Any person who intentionally files fraudulent information with the department for purposes of obtaining benefits under this subchapter may be fined not more than \$10,000 or imprisoned not more than 5 years or both, together with the cost of prosecution.

(8) A person aggrieved by the department under this subchapter may appeal that decision to the circuit court of the county where the person's residence is located within 60 days after receipt of notification of the department's decision.

(9) Upon the making of the initial loan, a nonconsensual statutory lien in favor of the department to secure payment of the principal, interest, fees and charges due on all loans, including loans made after the lien is filed, to the participant made under this subchapter shall attach to the qualifying dwelling unit in respect to which the loan is made. The qualifying dwelling unit shall remain subject to the statutory lien until the payment in full of all loans and charges. If the department funds such loans from the proceeds of revenue obligations under s. 16.997, its right under the lien shall automatically accrue to the benefit of the holders of those revenue obligations, without any action or assignment by the department. When a loan becomes due and payable, the statutory lien hereby conferred may be enforced by the department or the holders of the revenue obligations or their representative, as the case may be, in the same manner as a construction lien under ss. 779.09 to 779.12, except that neither the participant nor any coowners or their personal representatives, successors or assigns shall be personally liable for any deficiency which may arise from the sale. At the time of disbursing the initial loan to a participant, the department shall file with the register of deeds of the county in which the qualifying dwelling unit is located, on a form prescribed by the department which shall contain a legal description of the qualifying dwelling unit, a notice of the loan made under this subchapter and the existence of the

statutory lien arising therefrom. The register of deeds shall, without fee, record the notice in the land records and index it in the indexes maintained by the register of deeds. The statutory lien created by this section shall have priority over any lien that originates subsequent to the recording of the notice.

(10) If the property taxes are paid under the program after they are due, the participant shall be liable for interest and penalty charges for delinquency under ch. 74. Subject to sub. (1), the principal amount of loans made under this program may include delinquency charges.

**History:** 1981 c. 20, 317; 1985 a. 29; 1987 a. 27; 1991 a. 269 s. 510uh; Stats 1991 s. 16.996.

**16.997 Loan funding.** (1) Loans made or authorized to be made under this subchapter may be funded from the proceeds of revenue obligations issued subject to and in accordance with sub. (5) and subch. II of ch. 18 and from the appropriation under s. 20.505 (9) (a).

(2) The department may create a system of funds and accounts, separate and distinct from all other funds and accounts of the state, consisting of revenues received under sub. (5), all revenues received in the repayment of loans made under this subchapter, except as provided in sub. (2m), and any other revenues dedicated to it by the department. The department may pledge revenues received or to be received by this system of funds and accounts to secure revenue obligations issued for the program. The department shall have all other powers necessary and convenient to distribute the proceeds of the revenue obligations and loan repayments in accordance with subch. II of ch. 18.

(2m) Revenues received in the repayment of loans made under this subchapter shall be paid into the general fund.

(3) The department may enter into agreements with the federal government, its agencies, other agencies or political subdivisions of this state or private individuals or entities to insure or in other manner provide additional security for the loans or revenue obligations issued under this section.

(4) The department may promulgate rules that restrict eligibility in addition to the requirements of s. 16.995 or require the provision of additional security if, in the secretary's judgment, the rules or security are required for the satisfactory issuance of revenue obligations.

(5) Revenue obligations may be contracted by the building commission when it reasonably appears to the building commission that all obligations incurred under this section can be fully paid from moneys received from repayments of loans or anticipated and pledged to be received on a timely basis. Revenue obligations issued for the program shall not exceed \$10,000,000 in principal amount, excluding obligations issued to refund outstanding revenue obligation notes.

(6) Unless otherwise expressly provided in resolutions authorizing the issuance of revenue obligations or in other agreements with the holders of revenue obligations, each issue of revenue obligations shall be on a parity with every other revenue obligation issued for the program and in accordance with subch. II of ch. 18.

**History:** 1981 c. 20; 1983 a. 36 s. 96 (3); 1985 a. 29; 1991 a. 269 ss. 510ui to 510up; Stats 1991 s. 16.997.