2017–18 WISCONSIN STATUTES & ANNOTATIONS
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CHAPTER 1
SOVEREIGNTY AND JURISDICTION OF THE STATE

1.01 State sovereignty and jurisdiction. The sovereignty and jurisdiction of this state extend to all places within the boundaries declared in article II of the constitution, subject only to such rights of jurisdiction as have been or shall be acquired by the United States over any places therein; and the governor, and all subordinate officers of the state, shall maintain and defend its sovereignty and jurisdiction. Such sovereignty and jurisdiction are asserted and exercised over the St. Croix River from the eastern shore thereof to the center or thread of the same, and the exclusive jurisdiction of the state of Minnesota to authorize any person to obstruct the navigation of said river east of the center or thread thereof, or to enter upon the same and build piers, booms or other fixtures, or to occupy any part of said river east of the center or thread thereof for the purpose of sorting or holding logs, is denied; such acts can only be authorized by the concurrent consent of the legislature of this state.

History: 1983 a. 538.

1.02 United States sites and buildings. Subject to the conditions mentioned in s. 1.03 the legislature consents to the acquisitions heretofore effected and hereafter to be effected by the United States, by gift, purchase or condemnation proceedings, of the title to places or tracts of land within the state; and, subject to said conditions, the state grants, cedes and confirms to the United States exclusive jurisdiction over all such places and tracts. Such acquisitions are limited to the following purposes:

1. To sites for the erection of forts, magazines, arsenals, dockyards, custom houses, courthouses, post offices, or other public buildings or for any purpose whatsoever contemplated by the 17th clause of section 8 of article one of the United States constitution.

2. To all land now or hereafter included within the boundaries of Fort McCoy in townships 17, 18 and 19 north, ranges 2 and 3 west, near Sparta, in Monroe County, to be used for military purposes as a target and maneuvering range and such other purposes as the department of the army deems necessary and proper.

3. To erect thereon dams, abutments, locks, lockkeepers’ dwellings, chutes, or other structures necessary or desirable in improving the navigation of the rivers or other waters within and on the borders of this state.

4. To the SW 1/4 of the NE 1/4 of section 6, township 19 north, range 2 west of the fourth principal meridian to be used for military purposes as a target and maneuvering range and such other purposes as the department of the army deems necessary and proper.

History: 1985 a. 135.

1.025 United States jurisdiction in Adams County. The legislature consents to the conveyance by lease with option to purchase to the United States of the institution and the land on which it is located in the town of New Chester, Adams County, described as follows: The entire section 15, township 16 north, range 7 east of the fourth principal meridian, consisting of 640 acres, and upon the execution of said lease the state grants, cedes and confirms to the United States exclusive legislative jurisdiction over said place and tract, retaining concurrent jurisdiction solely to the extent that all legal process issued under the authority of the state may be served upon persons located on said place and tract. The authority granted in this section shall remain in effect for the duration of said lease and continue in effect in the event title passes to the United States at the termination of the lease.

History: 1973 c. 90, 1977 c. 418.
1.026 Apostle Islands land purchase. (1) LEGISLATIVE STATEMENT OF PURPOSE AND INTENT. (a) The legislature concurs with the stated purpose of Congress in authorizing the establishment of the Apostle Islands national lakeshore. It is therefor the purpose of this section to conserve and develop for the benefit, inspiration, education, recreational use, and enjoyment of the public certain significant islands and shorelands of this state and their related geographic, scenic and scientific values.

(b) It is the policy of the legislature that the Apostle Islands be managed in a manner that will preserve their unique primitive and wilderness character. The department of natural resources is directed before taking any action or making a decision concerning the Apostle Islands to make a finding that such an action or decision will ensure that the citizens of this state will be assured the opportunity for wilderness, inspirational primitive and scenic experiences in the Apostle Islands into perpetuity.

(2) JURISDICTION Ceded to the United States. The consent of the state is given to the acquisition by the United States, in any manner authorized under an act of Congress, of lands lying within the boundaries of Apostle Islands national lakeshore, and jurisdiction is hereby ceded to the United States to all territory which is now, or may be included within the lakeshore, except that the state shall retain concurrent jurisdiction in all cases, and such criminal process as may issue under the authority of the state against any persons charged with the commission of any offense within or without such areas, including, but not limited to, state laws and regulations governing hunting, fishing and trapping on those areas open to such activities, may be executed thereon in like manner as if such jurisdiction had not been ceded to the United States.

(3) LANDS TO BE CONVEYED. Notwithstanding any other law to the contrary, the department of natural resources, with the approval of the governor, is directed to donate and convey, upon request of the United States for purposes of the development of the lakeshore, all state-owned lands within the lakeshore boundary, as hereafter described: The state-owned lands on Basswood, La Pointe, Ashland County, Wisconsin. Each conveyance shall contain a provision that such lands shall revert to the state when they are no longer used for national lakeshore purposes as defined by section 7 of the Apostle Islands national lakeshore act of 1970 (P.L. 91-424; 84 stat. 880), except that such reversion does not without such areas, including, but not limited to, state laws and regulations governing hunting, fishing and trapping on those areas open to such activities, may be executed thereon in like manner as if such jurisdiction had not been ceded to the United States.

History: 1975 c. 51; 1975 c. 198 s. 62; 1979 c. 89.

1.03 Concurrent jurisdiction over United States sites; conveyances. The conditions mentioned in s. 1.02 are the following conditions precedent:

(1) That an application setting forth an exact description of the place or tract so acquired shall be made by an authorized officer of the United States to the governor, accompanied by a plat thereof, and by proof that all conveyances and a copy of the record of all judicial proceedings necessary to the acquisition of an unencumbered title by the United States have been recorded in the office of the register of deeds of the county wherein such lands are located. Such conveyances shall be recorded in the office of the register of deeds of the county wherein such lands are located. The legal title to and the custody and protection of the fish and water, shall first be approved by the governor, on the advice of the department of natural resources.

History: 1975 c. 51; 1975 c. 198 s. 62; 1979 c. 89.

1.036 Bird reservations, acquisition by United States. Consent of this state is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in Wisconsin, by and with the consent of the governor of the state, as the United States deems necessary for the establishment of migratory bird reservations in accordance with the act of congress approved February 18, 1929, entitled “An Act to more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other pur-
with the execution of a survey or any part thereof, may enter upon any lands in this state for the purpose of doing any act necessary to the performance of the survey. The person may erect on the lands any signals, temporary observatories or other small frame structures, establish permanent marks of stations, and encamp on the land. The person is liable for all actual damages done thereby. If the amount of the damages cannot be agreed upon by the person, or any representative of the federal government, and the owner or occupant of the lands entered upon, either of them may petition the circuit court for the county in which the lands, or any part of them, are situated for the appointment of a day for the hearing of the parties and their witnesses and the assessment of the damages. The hearing shall be held at the earliest practicable time after 14 days' notice of the time and place is given to all the parties interested in the manner the court orders. The damages may be assessed by the court with or without a view of the premises. If the damages assessed do not exceed the sum tendered the occupant or owner of the land, the person who made the tender shall recover costs; if they are in excess of that sum, the other party shall recover costs, which shall be allowed and taxed in accordance with the rules of the court.

History: 1977 c. 449.

1.07 State coat of arms. The coat of arms of the state of Wisconsin is declared to be as follows:

**ARMS.**—Or, quartered, the quarters bearing respectively a plow, a crossed shovel and pick, an arm and held hammer, and an anchor, all proper; the base of shield resting upon a horn of plenty and pyramid of pig lead, all proper; over all, on fesse point, the arms and motto of the United States, namely: Arms, palewise of 13 pieces argent and gules; a chief azure; motto (on garter surrounding inescutcheon), “E pluribus unum”.

**CREST.**—A badger, passant, proper.

**SUPPORTERS.**—Dexter, a sailor holding a coil of rope, proper; sinister, a yeoman resting on a pick, proper.

**MOTTO.**—Over crest, “Forward”.

History: 1975 c. 61.

**NOTE:** An example of the state coat of arms is shown below:

| A | F | O | R | W | A | R | D | L | P | A | T | R | I | U | M | E | N | T | O | R |
| A | F | O | R | W | A | R | D | L | P | A | T | R | I | U | M | E | N | T | O | R |

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1.08 State flag. (1) The Wisconsin state flag consists of the following features:

(a) Relative dimensions of 2 to 3, hoist to fly.

(b) A background of royal blue cloth.

(c) The state coat of arms, as described under s. 1.07, in material of appropriate colors, applied on each side in the center of the field, of such size that, if placed in a circle whose diameter is equal...
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to 50 percent of the hoist, those portions farthest from the center of the field would meet, but not cross, the boundary of the circle.

(d) The word “WISCONSIN” in white, capital, condensed Gothic letters, one-eighth of the hoist in height, centered above the coat of arms, midway between the uppermost part of the coat of arms and the top edge of the flag.

(e) The year “1848” in white, condensed Gothic numbers, one-eighth of the hoist in height, centered below the coat of arms, midway between the lowermost part of the coat of arms and the bottom edge of the flag.

(f) Optional trim on the edges consisting of yellow knotted fringe.

(2) The department of administration shall ensure that all official state flags that are manufactured on or after May 1, 1981 conform to the requirements of this section. State flags manufactured before May 1, 1981 may continue to be used as state flags.

History: 1979 c. 286.

1.09 Seat of government. Be it enacted by the council and house of representatives of the territory of Wisconsin, that the seat of government of the territory of Wisconsin, be and the same is located and established at the town of Madison, between the 3rd and 4th of the 4 lakes, on the corner of sections 13, 14, 23 and 24 in township 7, north, of range 9, east.

1.10 State song, state ballad, state waltz, state dance, and state symbols. (1) The Wisconsin state song is “Oh, Wisconsin,” music written by W. T. Purdy, the words to which are as follows: “Oh, Wisconsin! Oh, Wisconsin! Grand old badger state! We, thy loyal sons and daughters, Hail thee, good and great. Oh, Wisconsin! Oh, Wisconsin! Champion of the right, ‘Forward’, our motto — God will give thee might!”.

(1m) The Wisconsin state ballad is “Oh Wisconsin, Land of My Dreams,” music written by Shari A. Sarazin and lyrics written by Erma Barrett, the words to which are as follows: “Oh Wisconsin, land of beauty, with your hillsides and your plains, with your jackpine and your birch tree, and your oaks of mighty frame. Land of rivers, lakes and valleys, land of warmth and winter snows, land of birds and beasts and humanity, oh Wisconsin, I love you so. Oh Wisconsin, land of my dreams. Oh Wisconsin, you’re all I’ll ever need. A little heaven here on earth could you be? Oh Wisconsin, land of my dreams. In the summer, golden grain fields; in the winter, dust of white snow; in the springtime, robins singing; in the autumn, flaming colors show. Oh I wonder who could wander, or who could want to drift for long, away from all your beauty, all your sunshine, all your sweet song? Oh Wisconsin, land of my dreams. Oh Wisconsin, you’re all I’ll ever need. A little heaven here on earth could you be? Oh Wisconsin, land of my dreams. And when it’s time, let my spirit run free in Wisconsin, land of my dreams.”

(1r) The Wisconsin state waltz is “The Wisconsin Waltz,” music and lyrics written by Eddie Hansen, the words to which are as follows: “Music from heaven throughout the years; the beautiful Wisconsin Waltz. Favorite song of the pioneers; the beautiful Wisconsin Waltz. Song of my heart on that last final day, when it is time to lay me away. One thing I ask is to let them play the beautiful Wisconsin Waltz. My sweetheart, my complete heart, it’s for you when we dance together; the beautiful Wisconsin Waltz. I remember that September, before love turned into an ember, we danced to the Wisconsin Waltz. Summer ended, we intended that our lives then would both be blended, but somehow our planning got lost. Memory now sings a dream song, a faded love theme song; the beautiful Wisconsin Waltz.”

(2) The Wisconsin state dance is the polka.

(3) The Wisconsin state symbols are as follows:

(a) The mourning dove (Zenaida macroura) is the state bird.

(b) The wood violet (Viola papilionacea) is the state flower.

(c) The badger (Taxidea taxus) is the state animal.

(d) Corn (Zea mays) is the state grain.

(e) The milkweed (Asclepias syringae) is the state flower.

(f) The robin (Turdus migratorius) is the state bird.

(g) The muskellunge (Esox masquinongy masquinongy Mitchell) is the state fish.

(h) Galena (lead sulfide) is the state mineral.

(i) The American water spaniel is the state dog.

(j) The honey bee (Apis mellifera) is the state insect.

(k) The trilobite (calymene celebra) is the state fossil.

(l) The cranberry (Vaccinium macrocarpon) is the state fruit.

(m) Antigo silt loam (Typic Argiaquoll) is the state soil.

(n) Ginseng is the state herb.

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) Alternatives to the proposed action;

(4) The relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity;

(5) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented; and

(6) Such statement shall also contain details of the beneficial aspects of the proposed project, both short term and long term, and the economic advantages and disadvantages of the proposal.

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has jurisdiction or special expertise with respect to any
environmental impact involved. Copies of such statement and the comments and views of the appropriate agencies, which are authorized to develop and enforce environmental standards shall be made available to the governor, the department of natural resources and to the public. Every proposal other than for legislation shall receive a public hearing before a final decision is made. Holding a public hearing as required by another statute fulfills this section. If no public hearing is otherwise required, the responsible agency shall hold the hearing in the area affected. Notice of the hearing shall be given by publishing a class 1 notice, under ch. 985, at least 15 days prior to the hearing in a newspaper covering the affected area. If the proposal has statewide significance, notice shall be published in the official state newspaper;

(h) Initiate and utilize ecological information in the planning and development of resource–oriented projects;

(i) Annually, no later than September 15, submit a report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), including the number of proposed actions, and the agency conducting the action. If an assessment of whether an impact statement was required under par. (c) and the number of impact statements prepared under par. (c).

(4) Nothing in this section affects the specific statutory obligations of any agency;

(a) To comply with criteria or standards of environmental quality;

(b) To coordinate or consult with any other state or federal agency; or

(c) To act, or refrain from acting, contingent upon the recommendations or certification of any other state or federal agency.

(5) The policies and goals set forth in this section are supplementary to those set forth in existing authorizations of agencies.


Cross-reference: See also chs. NR 150, PSC 4, TCS 4, and Trans 400 and ss. Adm 60.01, ATCP 3.07, DOC 335.01, DHIS 18.01, NR 2.085, and SPS 301.01, Wis. adm. code.

The Wisconsin Environmental Protection Act, while not creating a public trust analogous to the public trust in the state’s navigable waters, recognizes an interest sufficient to require an agency to assure compliance with its provisions when it is alleged that agency action will harm the environment in the area where the person resides. Wisconsin’s Environmental Decade, Inc. v. PSC, 69 Wis. 2d 1, 230 N.W.2d 243 (1975).

Orders filed before and in effect on April 21, 2019. Published and certified under s. 35.18. Changes effective after June 1, 2019, at least 15 days prior to the hearing in a newspaper covering the affected area. If the proposal has statewide significance, notice shall be published in the official state newspaper;

The Department of Natural Resources’ decision to limit the scope of a threshold environmental impact statement is one of reasonableness and good faith. When conditions for approval that compensate for any adverse environmental impacts are imposed, the statutory threshold of significant environmental impact is not crossed, and no EIS is required. State ex rel. Boehm v. DNR, 174 Wis. 2d 657, 497 N.W.2d 445 (1993).

Section 227.42 (1) does not grant a right to a contested case hearing regarding the need for an environmental impact statement. North Lake Management District v. DNR, 182 Wis. 2d 500, 513 N.W.2d 703 (Ct. App. 1994).

The burden of proving the adequacy of an environmental impact statement is discussed. Citizens’ Utility Board v. PSC, 211 Wis. 2d 537, 565 N.W.2d 554 (Ct. App. 1997) 97-0687.

It was reasonable to suspend the requirement for a draft environmental impact statement and the corresponding comment period when legislatively imposed time constraints could not have been met. Responsible Use of Rural & Agricultural Land v. PSC, 2000 WI 129, 239 Wis. 2d 660, 619 N.W.2d 888, 99-0567-A.

A court must assess an environmental impact statement (EIS) in light of the rule of reason, which requires an EIS to furnish only such information as appears to be reasonably necessary for the evaluations of the project rather than to be so all-encompassing in scope that the task of preparing it would become either fruitless or well nigh impossible. While reasonable alternatives are to be considered, every potentiality need not be evaluated. Clean Wisconsin, Inc. v. PSC, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768, 04−3179.

The environmental impact statement is an informational tool that does not compel a particular decision by the agency or prevent the agency from concluding that other values outweigh the environmental consequences of a proposed action. Clean Wisconsin, Inc. v. PSC, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768, 04−3179.

Agency decision-making under the Wisconsin environmental policy act. 1977 WLR 111.

1.12 State energy policy. (1) DEFINITIONS. In this section:

(a) “Local governmental unit” has the meaning given in s. 19.42 (7u).

(b) “State agency” means an office, department, agency, institution of higher education, the legislature, a legislative service agency, the courts, a judicial branch agency, an association, society, or other body in state government that is created or authorized to be created by the constitution or by law, for which appropriations are made by law, excluding the Wisconsin Economic Development Corporation.

(2) CONSERVATION POLICY. A state agency or local governmental unit shall investigate and consider the maximum conservation of energy resources as an important factor when making any major decision that would significantly affect energy usage.

(3) GOALS. (a) Energy efficiency. It is the goal of the state to reduce the ratio of energy consumption to economic activity in the state.

(b) Renewable energy resources. It is the goal of the state that, to the extent that it is cost-effective and technically feasible, all new installed capacity for electric generation in the state be based on renewable energy resources, including hydroelectric, wind, solar, refuse, agricultural and biomass energy resources.

(c) Afforestation. It is the goal of the state to ensure a future supply of wood fuel and reduce atmospheric carbon dioxide by increasing the forested areas of the state.

(4) PRIORITIES. In meeting energy demands, the policy of the state is that, to the extent cost-effective and technically feasible, options be considered based on the following priorities, in the order listed:

(a) Energy conservation and efficiency.

(b) Noncombustible renewable energy resources.

(c) Combustible renewable energy resources.

(cm) Advanced nuclear energy using a reactor design or amended reactor design approved after December 31, 2010, by the U.S. Nuclear Regulatory Commission.

Wisconsin’s Environmental Decade, Inc. v. DNR, 115 Wis. 2d 381, 340 N.W.2d 722 (1983).

Increased traffic congestion was a sufficient allegation of injury to acquire standing to challenge a final environmental impact statement. Milwaukee Brewers Baseball Club v. DHSS, 130 Wis. 2d 56, 387 N.W.2d 245 (1986).

When a state action did not come within an action type listed in Department of Administration rules, an environmental assessment was required. A determination followed an assessment that an environmental impact statement was not required for a building constructed for the state by a private developer under a lease/purchase arrangement was reasonable under the circumstances. Larsen v. Munz Corp., 167 Wis. 2d 583, 482 N.W.2d 332 (1992).

The test as to whether an environmental impact statement (EIS) should be conducted is one of reasonableness and good faith. When conditions for approval that compensate for any adverse environmental impacts are imposed, the statutory threshold of significant environmental impact is not crossed, and no EIS is required. State ex rel. Boehm v. DNR, 174 Wis. 2d 657, 497 N.W.2d 445 (1993).

The department of natural resources: (4) decreased energy consumption in the state is that, to the extent cost-effective and technically feasible, new installed capacity for electric generation in the state be based on renewable energy resources, including hydroelectric, wind, solar, refuse, agricultural and biomass energy resources.

Energy efficiency and conservation. (1) “Energy efficiency” is the degree to which energy is used effectively and productively. Wisconsin’s Environmental Decade, Inc. v. DILHR, 985 249, 255 N.W.2d 917 (1972).

The department of natural resources: (1) decreased energy consumption in the state is that, to the extent cost-effective and technically feasible, new installed capacity for electric generation in the state be based on renewable energy resources, including hydroelectric, wind, solar, refuse, agricultural and biomass energy resources.

Energy efficiency and conservation. (1) “Energy efficiency” is the degree to which energy is used effectively and productively.
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(d) Nonrenewable combustible energy resources, in the order listed:
1. Natural gas.
2. Oil or coal with a sulphur content of less than 1 percent.
3. All other carbon–based fuels.

(5) MEETING ENERGY DEMANDS. (a) In designing all new and replacement energy projects, a state agency or local governmental unit shall rely to the greatest extent feasible on energy efficiency improvements and renewable energy resources, if the energy efficiency improvements and renewable energy resources are cost–effective and technically feasible and do not have unacceptable environmental impacts.

(b) To the greatest extent cost–effective and technically feasible, a state agency or local governmental unit shall design all new and replacement energy projects following the priorities listed in sub. (4).

(6) SITING OF ELECTRIC TRANSMISSION FACILITIES. In the siting of new electric transmission facilities, including high–voltage transmission lines, as defined in s. 196.491 (1) (f), it is the policy of this state that, to the greatest extent feasible that is consistent with economic and engineering considerations, reliability of the electric system, and protection of the environment, the following corridors should be utilized in the following order of priority:
(a) Existing utility corridors.
(b) Highway and railroad corridors.
(c) Recreational trails, to the extent that the facilities may be constructed below ground and that the facilities do not significantly impact environmentally sensitive areas.

(d) New corridors.

NOTE: 1993 Wis. Act 414, which creates subs. (1) and (3) to (5), contains extensive explanatory notes.

1.13 Land use planning activities. (1) In this section:
(a) “Local governmental unit” has the meaning given in s. 1.12 (1) (a).
(b) “State agency” has the meaning given in s. 1.12 (1) (b).

(2) Each state agency, where applicable and consistent with other laws, is encouraged to design its programs, policies, infrastructure and investments of the agency to reflect a balance between the mission of the agency and the following local, comprehensive planning goals:
(a) Promotion of the redevelopment of lands with existing infrastructure and public services and the maintenance and rehabilitation of existing residential, commercial and industrial structures.
(b) Encouragement of neighborhood designs that support a range of transportation choices.

(c) Protection of natural areas, including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources.

(d) Protection of economically productive areas, including farmland and forests.

(e) Encouragement of land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state governmental and utility costs.

(f) Preservation of cultural, historic and archaeological sites.

(g) Encouragement of coordination and cooperation among nearby units of government.

(h) Building of community identity by revitalizing main streets and enforcing design standards.

(i) Providing an adequate supply of affordable housing for individuals of all income levels throughout each community.

(j) Providing adequate infrastructure and public services and an adequate supply of developable land to meet existing and future market demand for residential, commercial and industrial uses.

(k) Promoting the expansion or stabilization of the current economic base and the creation of a range of employment opportunities at the state, regional and local levels.

(l) Balancing individual property rights with community interests and goals.

(m) Planning and development of lands that create or preserve varied and unique urban and rural communities.

(n) Providing an integrated, efficient and economical transportation system that affords mobility, convenience and safety and that meets the needs of all citizens, including transit–dependent and disabled citizens.

(3) Consistently with other laws, each state agency, whenever it administers a law under which a local governmental unit prepares a plan, is encouraged to design its planning requirements in a manner that makes it practical for local governmental units to incorporate these plans into local comprehensive plans prepared under s. 66.1001.


1.14 Display of flag at public buildings, structures, and facilities. (1) In this section:
(a) “Local governmental unit” has the meaning given in s. 16.97 (7).
(b) “State agency” has the meaning given for “agency” under s. 16.70 (1e).
(c) “State authority” has the meaning given for “authority” under s. 16.70 (2).

(2) Each state agency, state authority, and local governmental unit shall ensure that each United States flag that is displayed at each building, structure, or facility that is owned or occupied entirely by the agency, authority, or unit is manufactured in the United States.

History: 2007 a. 166.