

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,

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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 s. 16.548, 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.

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 himself of any matters relating to his 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) The secretary shall establish and maintain a system of rental rates and policies for state-owned housing and shall review the system for possible changes every 2 years and submit a report relating to the system to the joint committee on finance in March of each even-numbered year. The report relating to the system shall include any changes in rental rates or policies recommended by the secretary.

(b) The joint committee on finance, following its review, shall approve rental rates and policies for state-owned housing. Any changes in rental rates or policies shall be effective for the 2-year period beginning on July 1 of the even-numbered year following their submittal under par. (a).

(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 rates or policies contained in the report submitted under par. (a) within 14 working days after the date of the secretary's submittal, the secretary may implement any recommended changes in rental rates or 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 rates or 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. (a) 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.

(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.

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.

16.005 Bradley center sports and entertainment corporation. Except as provided in s. 16.765, this chapter does not apply to the Bradley center sports and entertainment corporation created under ch. 232.

History: 1985 a. 26.

16.006 State employees suggestion board. (1) DUTIES. The state employees suggestion board shall:

(a) Formulate, establish and maintain a plan or plans to encourage and reward unusual and meritorious suggestions and accomplishments by state employees promoting efficiency and economy in the performance of any function of state government;

(b) Appoint departmental or divisional committees to analyze and review suggestions and accomplishments of state employees submitted for consideration under such plan or plans, and make recommendations thereon to the board;

(c) Make and render awards to or for the benefit of state employees nominated to receive them in accordance with such plan or plans.

(2) PERSONNEL, FACILITIES AND EQUIPMENT. The department shall appoint, under the classified service, a secretary and such other employees as are necessary to carry out the board's duties, and shall provide such facilities and equipment as the board requires for the proper performance of its work. The board may request and shall receive from any state department such assistance as it requires.

(3) AWARDS. The board may determine the nature and extent of the awards to be made under this section which may include, but shall not be limited to, the following:

(a) Certificates, medals or other insignia which shall be in such form and shall be awarded at such times as the board determines;

(b) Cash awards, which shall be of such amount and shall be payable at such times as the board determines.

(4) RULES. The board may promulgate rules governing the operation of any plan or plans established under this section, the eligibility and qualifications of state employees participating therein, the character and quality of suggestions and accomplishments submitted for consideration, the method of their submission and the procedure for their review, nominations for awards, and the kind, character and value of such awards, and such other rules as are necessary for the proper administration of this section or for the accomplishment of the purposes thereof.

History: 1971 c. 270 s. 87; Stats. 1971 s. 16.34; 1977 c. 196 s. 61; Stats. 1977 s. 16.008; 1977 c. 418 s. 36; Stats. 1977 s. 16.006; 1981 c. 20; 1987 a. 142.

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. 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. It 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 of not more than \$1,000 to a claimant is justified, it may order the amount so found to be justified paid on its own motion without submission of the claim in bill form to the legislature. Such amounts shall be paid on vouchers 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.

2. Payment of a refund of state inheritance tax which has been overpaid by any taxpayer or for which a valid claim has been filed under s. 72.15 (6).

NOTE: Subd. 2 is repealed by 1987 Wis. Act 27, eff. 1-1-92.

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. 180.87.

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 appro-

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priations 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.

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, "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.

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

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

(b) 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 or state laws, rules or regulations related to long-term care for the aged or disabled.

(c) 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) 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.

(3) The board on aging and long-term care may contract with any state agency to carry out the board's activities.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27.

16.01 Women's council. (1) In this section:

(a) "Adolescent" means a person who is at least 12 years of age but under the age of 18.

(b) "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.

(4) From the appropriation under s. 20.505 (3) (b), the women's council shall make grants for the provision, on a regional project basis, of information to communities in order to increase community knowledge about problems of adolescents and information to and activities for adolescents, particularly female adolescents, in order to enable the adolescents to develop skills with respect to reducing adolescent pregnancy and increasing economic self-sufficiency and expanding career options for adolescents, enhancing individual adolescent self-esteem and neutralizing sex-role stereotyping, to the department of health and social services, on a continuing basis.

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

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.

16.04 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 employees 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. A compliance schedule which includes a list of significant events and stages which are expected to be reached as the federal department of energy assesses the suitability of the state for the long-term disposal of high-level radioactive

waste or transuranic waste and a description of the actions to be taken by the federal department of energy and the state at each event and stage.

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

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

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

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

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

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

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

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

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

energy may involve a process of scientific review and mediation.

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

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

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

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

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

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

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

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

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

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

(d) *Veto review.* Within 10 days after the bill passes the legislature, the chief clerk of the house of origin shall refer the bill to the governor for executive action. If the governor

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vetoed the bill, the appropriate committees in each house of the legislature shall schedule a veto review session.

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

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

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

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

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

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

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

(11m) **REVIEW OF FINAL SITE SELECTION AND SITE PLAN.** (a) *Review by the board.* If the federal department of energy selects a site in the state for construction of a repository for the long-term disposal of high-level radioactive or transuranic waste, the board shall review the adequacy of the selected site and of the site plan prepared by the federal department of energy under sub. (9) (b) 12. The review shall include a full scientific review of the adequacy of the selected site and of the site plan. The board shall solicit written comments on the selected site and the site plan from the radioactive waste policy council and the radioactive waste technical council. The board shall utilize recognized experts in conducting its

scientific review. The board shall conduct more than one public hearing on the site plan and shall make available to the public arguments and evidence for and against the site plan. The board shall provide 30 days' notice of the date and location of the public hearings. The board shall solicit comments from appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups on the adequacy of the selected site and the site plan. The board shall make these comments available to the public.

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

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

(d) *Legislative action required.* Within 120 days after the legislation is introduced under par. (c), the appropriate committees in each house of the legislature shall authorize an extraordinary session of the legislature to commence within the 120 days and to extend until the legislature passes a bill which approves the site selected by the federal department of energy and the site plan or the legislature passes a bill which disapproves the site or the site plan or both. If the 120-day period extends beyond the date specified under s. 13.02 (1), the 120-day period is deemed to commence on the first day the succeeding legislature convenes, unless a bill is passed prior to that time.

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

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

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

erning bodies, the general public and interested citizen groups.

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

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

History: 1981 c. 62; 1985 a. 29.

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 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. Expedient 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

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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 appoint 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 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

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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.

(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.

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

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

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

(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).

(2) PROGRAM ESTABLISHMENT. The department shall establish a resource recovery and recycling program to promote the reduction of solid waste by agencies, the separation, recovery and disposition of recyclable materials and the procurement of recycled materials and recovered materials. The department shall require each agency 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 participation of local governmental units in the program when feasible.

(2m) WASTEPAPER RECYCLING. The department shall require all agencies to establish a program for the recycling of office wastepaper. Under the program, each agency shall ensure the separate collection of at least 50% of the office wastepaper generated by the agency by January 1, 1990, for the purposes of recycling.

(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.
 - c. Local governmental units.

(b) By July 1 of each even-numbered year, each agency 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.

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.

(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 conservation 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 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 and the food stamp program under 7 USC 2011 to 2029.

(g) "State agency" has the meaning specified for agency under s. 227.01 (1).

(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 conservation 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.

(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 conservation projects, corps enrollee employment and supervision, project coordination and other details of the program to the executive secretary or other staff 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 conservation 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 CONSERVATION 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 conservation project.

(b) *Eligible projects.* In order to qualify as an approved conservation project, the project is required to provide employment opportunities and to be a conservation activity. If the sponsor is a nonprofit organization, the project is required to serve a valid public purpose in order to qualify as an approved conservation project.

(c) *Sponsor's application.* In order to qualify as an approved conservation 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 conservation projects and shall provide assistance and information to facilitate these applications.

(e) *Not to involve labor dispute or displace other employees.* 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 CONSERVATION PROJECT APPROVAL. The board shall establish guidelines to be used in selecting conservation 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.

(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) CONSERVATION PROJECT FUNDING. (a) *Conservation projects; appropriations.* Moneys appropriated under s. 20.399 (1) (j), (m) and (q) may be utilized for conservation projects 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 conservation project if implementation of the conservation project is consistent with any purpose for which the moneys are appropriated.

(8) ADMINISTRATION; CONSERVATION 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.* Conservation 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 conservation 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 conservation 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 conservation 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 conservation 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 conservation project. The board may delegate to a sponsor responsibility for implementing various aspects of a conservation 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 conservation project in the responsibility agreement.

(L) *Project coordination.* The board is responsible for the coordination of work activities related to various conservation 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 employable 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 conservation 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. Assistant crew leaders and crew leaders may be paid more than the prevailing federal minimum wage.

(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 (5) (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.* A corps enrollee is not an eligible employe for health care benefits or other benefits under ch. 40.

(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 which is worth at least \$1,000 but not more than \$1,500.

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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 with a safety helmet displaying a Wisconsin conservation corps emblem. The board shall require each corps enrollee to have adequate protective footwear 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 working on a conservation project.

(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 shall 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.

(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 hire at least 50% of its corps members from among those persons who are eligible to receive public assistance at the time of application for 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 conservation 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 conservation 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 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 conservation 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.

SUBCHAPTER III**FINANCE**

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

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

NOTE: Sub. (1) is shown as amended by 1987 Wis. Act 4, s. 6m, eff. 7-1-89. Prior to that date, sub. (1) reads:

“(1) **PREPARE BUDGETS.** Discharge all duties in connection with the compilation both of the biennial state budget report imposed by ss. 16.42 to 16.46 and an annual budget bill or bills under s. 16.476.”

(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 investment 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 expendi-

tures 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.

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.

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.

(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 the personnel board or by any member thereof, 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).

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, 233 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.

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:

NOTE: Sub. (1) (intro.) is shown as amended by 1987 Wis. Act 4, s. 7m, eff. 7-1-89. Prior to that date, sub. (1) (intro.) reads:

"(1) All agencies, other than the legislature and the courts, prior to each fiscal biennium 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, 72, 76 and 77 tax exemption devices. 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.

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.

NOTE: This section is shown as affected by 1987 Wis. Act 4, s. 8m and 1987 Wis. Act 186, s. 12, both eff. 7-1-89. Prior to that date, this section reads:

"16.45 **BUDGET MESSAGE TO LEGISLATURE.** In each regular session of the legislature, the governor shall deliver the biennial 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 of the odd-numbered year. 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."

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.

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

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.

NOTE: Sub. (1m) is shown as amended by 1987 Wis. Act 4, s. 9m, eff. 7-1-89. Prior to that date, sub. (1m) reads:

"(1m) Immediately after the delivery of the biennial budget message, the biennial 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.

NOTE: Sub. (2) is shown as amended by 1987 Wis. Act 4, s. 10m, eff. 7-1-89. Prior to that date, replace "budget bill" with "biennial budget bill" in 2 places. History: 1971 c. 125; 1979 c. 34, 221; 1981 c. 20; 1983 a. 27; 1987 a. 4.

16.476 Annual budget. (1) In each even-numbered year, the governor shall not later than the last Tuesday in January submit to the joint committee on finance his or her recommended annual budget bill draft or drafts incorporating any needed changes in appropriations or revenues for the current biennium.

(2) Upon submittal of the annual budget bill draft or drafts, the joint committee on finance shall introduce the bill or bills without change in either house of the legislature. When introduced, the bill or bills shall be referred to that committee.

History: 1987 a. 4.

NOTE: This section is repealed by 1987 Act 4, section 11m, eff. 7-1-89.

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).

NOTE: Sub. (3) is shown as affected by 1987 Wis. Act 4, s. 12m and 1987 Wis. Act 27, s. 73m, eff. 7-1-89. Prior to that date, replace "biennial budget process" with "biennial or annual budget process".

(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 his decision to the governor, who, after a hearing and such investigation as he 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).

NOTE: Sub. (5) is shown as amended by 1987 Wis. Act 4, s. 13m, eff. 7-1-89. Prior to that date, replace "current or forthcoming fiscal" with "current fiscal".

(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 available 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.

NOTE: Par. (a) is shown as amended by 1987 Wis. Act 4, s. 14m, eff. 7-1-89. Prior to that date, par. (a) reads:

"(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 first fiscal year of the biennium 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.

(8) REVENUE SHORTFALL; ANNUAL BUDGET. (a) If following the enactment of an annual budget act or acts under s. 16.476 in any biennium the secretary determines that previously authorized expenditures will exceed revenues in the first or 2nd fiscal year of the biennium by more than 0.5% 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.

NOTE: Sub. (8) is repealed by 1987 Act 4, section 15m, eff. 7-1-89.

Secretary is not authorized by 16.50 (2), 1979 stats., to reduce payments to municipalities under 79.03 and 79.16 (3). 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) 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.

(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 15th 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.

History: 1977 c. 196, 418; 1979 c. 34; 1981 c. 20; 1983 a. 27; 1987 a. 27.

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.

(7) AUDIT CLAIMS FOR EXPENSES IN CONNECTION WITH PRISONERS. Receive, examine, determine and audit claims, duly certified and approved by the department of health and social services, 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. 53.01, 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.

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 pro-

jected 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).

History: 1981 c. 20.

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 biennium of the budget and not included in authorizations under the biennial budget act but which should be included as continued budget authorizations in the 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 biennium of the budget due to appropriation or position increases authorized under ss. 16.505 (2) or (2m) and 16.515 subsequent to October 1 of the fiscal year immediately preceding the biennium of the budget and prior to June 30 of that fiscal year. 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.

NOTE: This section is shown as amended, eff. 7-1-89, by 1987 Wis. Act 4, s. 16m and 1987 Wis. Act 27, s. 78m. Prior to that date, this section reads:

"16.517 ADJUSTMENTS OF PROGRAM REVENUE POSITIONS AND FUNDING LEVELS. No later than 30 days after the effective date of each biennial and each annual 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 biennium or fiscal year of the budget and not included in authorizations under the biennial or annual budget act but which should be included as continued budget authorizations in the biennium or fiscal year 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 biennium or fiscal year of the budget due to appropriation or position increases authorized under ss. 16.505 (2) or (2m) and 16.515 subsequent to October 1 of the fiscal year immediately preceding the biennium or fiscal year of the budget and prior to June 30 of that fiscal year. 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."

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

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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 he 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 his decision to the governor, who, after a hearing and such investigation as he 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 establish 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 his office, to render statements thereof to him; and all such persons shall render such statements at such time and in such form as he 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).

(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.

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.

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) DEFINITION. In this section, "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) 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.

(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 appropria-

tion 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. Annually before January 1, the department shall report that information to the joint committee on finance, together with an analysis of the progress made in reducing from previous years the interest paid under this section by each agency.

(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.

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 his 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 re-

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quests 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 he may desire. The governor, by executive order, may require his 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 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 his 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, his name may be signed thereto by one or more persons in his department designated by him or by the use of a mechanical device adopted by him for affixing a facsimile signature; and the state treasurer, when written authority and reasons therefor are filed in his office, 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.

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.

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.

16.535 Reimbursement for travel expenses. (1) DEFINITIONS. In this section, unless the context otherwise requires:

(a) "Employee" means any officer or employe of the state and any legislator or board member entitled to actual, reasonable and necessary expenses.

(b) "Headquarters city" includes the area within the city or village limits, if any, where an employe's permanent work site is located and the area within a radius of 15 miles from the employe's permanent work site.

(c) "Reasonable" means not extreme or excessive.

(2) **LODGING.** All reimbursement claims for lodging must be accompanied by a receipt.

(3) **MEALS.** Subject to the limitation prescribed in sub. (7) (b), employes shall be reimbursed for all reasonable amounts expended for their own meals incurred in the performance of their official duties. Receipts for meals are not required except for any unusual amount, which must be accompanied by a receipt and full explanation of the reasonableness of such expense.

(4) **SPECIAL ALLOWANCE EXPENSES.** Employes shall be reimbursed for the following expenses when traveling on state business:

(a) For reasonable laundry, cleaning or pressing service, if away from home more than 3 days. Charges shall be limited to one cleaning, one pressing and one laundry charge per calendar week.

(b) For tips for meals and taxis, at the maximum rate of 15% of the meal charge or taxi fare.

(5) **EXPENSES IN AN EMPLOYEE'S HEADQUARTER CITY.** Employes who are headquartered in a city in which the expense occurs shall be reimbursed for their actual, reasonable and necessary expenses incurred in the discharge of official duties

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only on the approval of the head of the employe's agency. This does not apply to travel between an employe's residence and the city in which he is headquartered, which shall not be reimbursable.

(6) **TRANSPORTATION.** Employes shall be reimbursed for their actual transportation expenses when traveling in the performance of their official duties, subject to the following limitations:

(a) *Scheduled air travel.* Reimbursement for air travel shall be limited to the fare for the lowest jet class available. Only if other classes are not available or on the approval of the department head or such person's representative may an employe travel first class. If no other class is available, the employe shall obtain a statement from the carrier that a lower class was not available.

(b) *Train.* Travel by train shall be limited to coach unless overnight, where accommodations should be limited to roomette.

(c) *Reimbursement.* All claims for reimbursement of transportation expense, except for taxicabs and airport limousines, must be accompanied by a receipt.

(7) **APPROVAL.** (a) 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.

(b) 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.

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

History: 1975 c. 39, 189; 1977 c. 418; 1979 c. 34, 221; 1983 a. 27, 189.

Guidelines in setting the use of an automobile as a condition of employment. 61 Atty. Gen. 210.

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 his 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 total less than 90% of the amount received in federal fiscal year 1987, in federal fiscal year 1988 or in federal fiscal year 1989, 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.

NOTE: Sub. (8) is shown as amended by 1987 Wis. Act 4, s. 17m, eff. 7-1-89. Prior to that date, replace "biennial budget" with "biennial or annual budget".

(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 expenditures 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.

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.

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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.

16.58 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 of administration or his 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).

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.

(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, or other documentary materials or any copy thereof, regardless of physical form or characteristics, made, or received by any agency of the state or its officers or employes in connection with the transaction of public business, except the records and correspondence of

any member of the state legislature. "Public records" includes all records subject to disposal under s. 645.76.

(bm) "Records and forms officer" means a person designated by a state agency to design, review, analyze, consolidate, simplify and file all records and forms under s. 15.04 (l) (j) and to act as a liaison between that state agency and the board.

(c) "Records series" means 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 make reasonable 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 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).

(n) Shall submit a report biennially in even-numbered years to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(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.

(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 health and social services, division of corrections, 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.

(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 REPRODUCTION DEEMED ORIGINAL RECORD. (a) Any microfilm reproduction of an original record is deemed an original record if all of the following conditions are met:

1. The device used to reproduce the record on film is one which 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 the board.

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.

5. The state agency records and forms officer or other person designated by the head of the state agency executes a statement of intent and purpose describing the record to be reproduced, the disposition of the original record, the disposal authorization number assigned by the board for state records, the enabling ordinance or resolution for cities, towns, villages or school districts, or the resolution which authorizes the reproduction for counties when required, and a certificate that the record was received or created and microfilmed 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) ADMISSIBLE IN EVIDENCE. (a) Any microfilm reproduction meeting the requirements of 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 any microfilm reproduction made as provided by this section and certified by the custodian as provided in s. 889.08 shall have the same force as the microfilm reproduction itself.

(9) PRESERVATION OF REPRODUCTIONS. Provision shall be made for the preservation of any microfilm reproductions of public records in conveniently accessible files in the agency of origin or its successor or in the state archives.

(10) CONTRACTS FOR MICROFILM REPRODUCTION. Contracts for microfilm reproduction of records to be made 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 microfilm reproduction 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 without the approval of the board as provided in sub. (4).

(12) ACCESS TO MICROFILM REPRODUCTIONS. All persons may examine and use the microfilm reproductions of public records 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) 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.

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.

See note to 19.21, citing 63 Atty. Gen. 400, concerning governor's records.
See note to 19.21, citing 67 Atty. Gen. 214.

16.62 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.

(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.

SUBCHAPTER IV

PURCHASING

16.70 Purchasing; definitions. In ss. 16.70 to 16.77:

(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 or 234.

(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 \$10,000 to be done for or furnished to the state or any agency thereof.

(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.

(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.

(12) "Recycled material" means a product which is manufactured from solid waste.

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.

"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 employes;

(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 employes of the agency, disclosure of any former employment of the contractor or employes 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) Within 60 days after the fulfillment of each agreement for contractual services authorized under this section, the agency for which the contractual services are performed shall file with the department an evaluation of the contractor's performance in such form as the secretary may require.

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(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.

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 ss. 16.74 and 565.25 (2) (a), 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 division responsible for prison industries within the department of health and social services. 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.

History: 1977 c. 418; 1983 a. 333; 1985 a. 29, 300; 1987 a. 119.

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) 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. 56.01 (1).

(e) The department and any other designated purchasing agent under s. 16.71 (1) shall write specifications for the purchase of recycled materials and recovered materials if their use is technically and economically feasible.

(4) (a) Except as provided in ss. 16.74 and 565.25 (2) (a) or as otherwise provided in this subchapter and the rules promulgated pursuant thereto, 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 and major procurements by the lottery board, as defined in s. 565.01 (4), 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.

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.

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 specifications and standards and contracts or published summaries of contracts, including price and delivery information.

History: 1983 a. 27; 1985 a. 29 s. 3200 (1).

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. (1m), (2), (2g), (2m), (3m), (3s), (3t), (6) and (7) and ss. 16.754, 46.265, 50.05 (7) (f) and 144.48 (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) (a) The department shall consider life cycle cost estimates in the award of any order or contract for materials, supplies or equipment 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.

(b) The department may select a bid under this subsection from a bidder who is not the lowest initial cost bidder.

(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

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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, unless the department is required under sub. (3s) to award the order or contract to a sheltered workshop. 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 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).

(3s) If a sheltered workshop licensed by the department of industry, labor and human relations under s. 104.07 submits a qualified responsible competitive bid with respect to an order or contract that is no more than 2% higher than the lowest responsible bid, or a competitive proposal with respect to an order or contract that is no more than 2% higher than the most advantageous proposal, the department and any agency making purchases under s. 16.74 shall award the order or contract to that sheltered workshop. If more than one sheltered workshop submits such a bid or proposal, the department or other agency shall award the order or contract to the one submitting the lowest bid or proposal. This subsection does not apply to purchases of printing and stationery.

(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 health and social services 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. 56.01. 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 health and social services 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 in the statewide purchasing program by ensuring that there are no undue impediments to such participation and by actively encouraging small businesses to play an active role in the solicitation of public purchasing business. To that end the department shall:

1. Maintain a comprehensive list of small state businesses which have demonstrated the capacity of providing 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 state businesses which submit bids or proposals to the state.
3. Assist small state businesses in complying with the state's competitive bidding and competitive proposal procedures.
4. Notify businesses on the list 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 and minority business opportunities which evaluates the performance of small Wisconsin businesses 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.

(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.

(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 services, 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

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purchase, except when the department of administration exercises the discretion vested in it by s. 16.82 (4).

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.

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.

16.754 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 and minority business opportunities. The council on small and minority business opportunities shall:

(1) Review the extent of small 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.

"Subdivisions" in (1) refers to state agencies, not to political subdivisions such as cities and counties. 68 Atty. Gen. 306.

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) and contracts under s. 565.25 (2) (a) shall be signed by the executive director of the lottery board.

(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.

History: 1973 c. 333; 1977 c. 196 s. 130 (3); 1979 c. 34; 1983 a. 27; 1985 a. 29; 1987 a. 119, 142.

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 employe 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 employe 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 employes 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 or major procurements made directly by the executive director of the lottery board under s. 565.25 (2) (a).

(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.

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) (a) The department shall distribute in pamphlet form such laws as may be required to meet the public demand, including the constitution and additional copies of election laws; also blank nomination papers, manuals and other election blanks and supplies, not otherwise provided for, for use of candidates and committees, and by county and municipal clerks. Such laws, blanks, manuals and supplies shall be sold by the department at cost, including distribution cost as determined under s. 35.80.

(b) The elections board shall inform the department in writing as to which election law pamphlets, manuals, blanks and other supplies shall be so printed, or purchased, and offered for sale or distribution. Supplies distributed under this subsection shall include ballot bags or containers.

History: 1971 c. 82; 1973 c. 334 s. 57; 1979 c. 34; 1983 a. 484; 1985 a. 29.

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 indi-

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rectly 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 his 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 ride-sharing program for state employees, in cooperation with the legislature, the courts and all constitutional offices, departments and independent agencies and shall promote and encourage participation in the state ride-sharing program. In addition, the department shall promote and encourage alternate means of transportation for state, municipal and federal employees and other persons in the private sector including but not limited to mass transit, bicycle commuting, car pooling and van pooling; and may provide contract group transportation of state employees from designated pickup points to work sites and return in the absence of convenient and public scheduled transportation. Nonstate employees may be permitted to participate in van pools as passengers when necessary in order to provide viable van pool service for state employees. Van pools are limited to a maximum of one-third nonstate employees for each vehicle. The 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, except as provided in s. 16.843 (2) (bm). No person is deemed to

be in the course of employment while utilizing the 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.

16.825 Council on printing. (1) The council on printing shall confer with the secretary on policies and procedures with respect to the printing activities of the state and advise the secretary on such matters. The council shall meet with the secretary at least quarterly. The council may request reports, through the department, pertinent to its functions from any state agency.

(2) The secretary shall annually confer with the appropriate standing committees of the legislature, as determined by the presiding officer of each house, with respect to the printing activities of the state, including changes in administrative policies and procedures and changes in legislation which may be desirable.

History: 1971 c. 125; 1977 c. 26, 273; 1979 c. 34.

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. From the remaining capitol space not reserved for the use of the legislature, the department may assign additional rooms to be used by the attorney general.

History: 1977 c. 3, 447; 1983 a. 27.

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

appropriation under s. 20.505 (5) (ka), 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 appropriations under s. 20.505 (5) (kb) and (kc) sufficient to make lease rental payments and principal and interest payments on state facilities.

(2) Appoint such number of security officers as is necessary to safeguard all public property placed by law in the department's charge and respond to alarms at the historical society museum located at 30 N. Carroll Street in the city of Madison. 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).

(4) Assign space in the capitol, other than rooms reserved by either house of the legislature. In assigning officers to space in the capitol preference shall be given to those who are especially entitled by law to such space. All assignments shall be subject to the approval of the governor.

(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.

(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.

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. The department may prescribe a schedule of fees for parking during other hours at any state-owned office building located in such a municipality. In addition, the department may establish fees for parking at other state facilities located in such a municipality.

(bm) Fees established under this subsection for parking at any facility shall be established so that the total amount collected equals the total costs of:

1. Administration of the parking program;

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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 at a state-owned office building in a fiscal year, 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 preceding 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.

(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.

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.

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 and 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;

(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 connected with each state-owned power and electric plant and pumping and heating station and to provide for the methods of operating said 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 said plants shall not only report to his governing body but to the secretary in the manner provided and at such times as the secretary determines.

(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 his 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 he determines that the best interests of the state will be served. All such delegation will be in writing and accompanied by the proper rules and guidelines the agencies must follow to ensure performance to the satisfaction of the secretary.

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.

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 his 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 not to exceed 5% of the total bid in order to bring the bid within the limits imposed by authorized funds.

(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) 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. 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 release of up to \$50,000 of building trust funds or the use of other available program revenues, but such approvals shall be reported to the building commission at their next regular meeting.

(17) This section shall 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 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.

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.

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 employees 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 employees' worker's compensation program and the statewide self-funded programs to protect the state from losses due to liability and damage to state property.

(5) Arrange appropriate insurance contracts for the transfer of risk of loss on the part of the state or its employees, 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) On July 1 of each year, allocate as a charge to agencies a proportionate share of the estimated cost attributable to programs not funded from general purpose revenue to be paid from the appropriations under s. 20.865 (1) (dm), (f) and (fm). Costs may be charged to and collected from agencies on an estimated or premium basis and paid from the appropriations on an actual basis. The department shall deposit all collections 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.

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.

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" means services specified under s. 23.40 (5).

(c) "Limited trades work" has the meaning given under s. 16.70 (7).

(2) A contract for engineering service, architectural service or environmental consultant service or a contract involving an expenditure of \$2,500 or more for construction work, or \$10,000 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) 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. 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.

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).

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.

16.90 Fuel for state heating and power plants. The secretary shall:

(1) Prepare all specifications for contracts for fuel for all state-owned or operated heating or heating and power plants wherein the annual requirement is in excess of 12,500 therms of such fuel. 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 as affected by an increase or decrease in the miners'

wage scale during the life of the contract in the district in which the coal purchase is produced, or for increases or decreases in production costs of other fuels.

(1a) Prepare all specifications for contracts for lubricants for all state-owned or operated heating or heating and power plants and make such tests in connection therewith as may be deemed necessary.

(2) Test all fuel purchased for state-owned or operated heating or heating and power plants wherein the annual requirement is in excess of 12,500 therms and where purchased on a heating value and quality basis.

(3) Make such rules and regulations as he deems necessary, not inconsistent with this section, to promote efficiency and economy in the testing, handling, storing and use of such fuel.

16.91 Contracts for fuel. (1) 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.

(2) Payments for fuel delivered under contracts under this section and for delivery costs shall be made upon vouchers approved by the secretary, but upon being audited and paid shall be charged against the proper appropriation to the department which has jurisdiction over the institution at which such fuel is used. The secretary shall report on a quarterly basis to each such department the total of payments charged under this subsection to their respective appropriations and institutions, but approval of the payments by the department against which the appropriation is charged is not required.

History: 1979 c. 34.

16.94 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.

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 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.

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.

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(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) 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 special census is unavailable, 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. Upon making such population adjustments, the department of revenue shall correct shared revenue distributions under subch. I of ch. 79 according to s. 79.08. 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 under par. (a). 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.

(3) (a) Establish a demographic services center to develop and administer such systems needed to carry out the functions required under subs. (1) and (2) to maintain a current repository of appropriate published and computer retrievable federal census information and cooperate with state agencies and regional planning agencies so that the department's population estimates, projections and published reports will be useful for the many planning and other purposes for which they are required. The center shall coordinate population information development and use. 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.

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.

16.963 Strategic planning council. (1) The strategic planning council, if created, shall review, assess and develop strategic plans to foster the economic development of the state. The council may initiate and direct long-range studies of state economic policy and public issues relating to that policy.

(2) The council, if created, may utilize staff resources made available to it by agencies as defined in s. 16.52 (7), authorities created under ch. 231 or 234 or private sector sources.

(3) The council, if created, shall meet at least quarterly.

(4) The council, if created, shall publish a biennial report and transmit the report to the secretary.

History: 1985 a. 84, 332; 1987 a. 399.

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.

(2) The governor shall appoint an executive director under s. 15.105 (19) outside of the classified service.

History: 1987 a. 27.

16.967 Land resource data coordination. (1) **DEFINITION.** As used in this section, "land resource data" includes any physical, legal or environmental information or characteristics concerning land, water, groundwater or subsurface resources in this state. This term includes data related to topography, soils, soil erosion, geology, vegetation, land

cover, associated natural resources, land use, land ownership, surface water, groundwater, land survey records and references, aerial photographic information, mapping information, planimetric data collection and land use controls and restrictions.

(2) **COORDINATION.** The department shall coordinate land resource data collection in this state.

(3) **DEPARTMENT DUTIES.** The department shall coordinate the collection of land resource data which is financed with federal or state funding. The department shall establish guidelines and standards for the collection, storage, recall and display of land resource data by state agencies and units of local government. The department may establish recommendations for the purchase of computer machinery, equipment or programs to be used with land resource data. The purpose of the department's coordination efforts shall be to cause data collection efforts to be carried out in a manner which is efficient and timely and which makes data available and useful to the widest possible number of public agencies and citizens. The department shall maintain and distribute an inventory of land resource data available for this state.

(4) **ADVICE; COOPERATION.** In carrying out its duties under this section, the department shall seek advice from the university of Wisconsin system, state agencies, units of local government and other experts involved in collecting land resource data. Every agency of the state shall cooperate with the department in the coordination of land resource data collection and in the development of agency proposals for land resource data collection programs.

History: 1979 c. 34; 1983 a. 27; 1985 a. 29.

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

DATA PROCESSING

16.97 Data processing responsibilities. (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.

(3) Acquisition of a computing resource that the department considers major, or that is likely to result in a substantive change of service, which was not considered in the regular budgeting process and which is to be financed from general purpose revenues or corresponding revenues in a segregated fund requires prior approval of the joint committee on finance. Any computing resources to be acquired from program revenues or corresponding revenues from program receipts in a segregated fund are not subject to prior approval but shall be promptly reported to the joint committee on finance by the department.

(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; 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.

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.