



**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2009 ASSEMBLY BILL 792**

April 6, 2010 – Offered by Representative JORGENSEN.

1 **AN ACT** *to renumber and amend* 16.705 (1), 16.705 (2), 16.705 (6) and 16.87 (2);
2 *to amend* 16.705 (7), 16.705 (8) (a), 16.75 (1) (b), 16.75 (2m) (b), 16.75 (6) (c),
3 25.18 (1) (a), 25.18 (1) (f), 25.18 (1) (m), 84.01 (13), 84.01 (31), 84.06 (2) (a), 84.06
4 (3), 84.06 (4), 85.015, 102.81 (2), 103.50 (2), 165.08, 165.25 (11), 221.0903 (4) (b),
5 801.02 (1), 803.09 (1) and (2), 804.01 (2) (intro.), 805.04 (2m) and 893.981; and
6 **to create** 16.42 (1) (h), 16.46 (10), 16.705 (1) (a) 3., (b) and (c), 16.705 (2) (a) 3.,
7 (b) and (c), 16.705 (4), 16.705 (5g), (5m) and (5r), 16.705 (6) (a), 16.705 (8) (am),
8 16.705 (9), 16.75 (1) (a) 4., 16.771, 16.871, 20.932, 66.0902, 84.01 (13m) and
9 85.65 of the statutes; **relating to:** state contractual services and false claims
10 submitted to state and local governments, requiring the exercise of
11 rule-making authority, and providing penalties.

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

1 **SECTION 1.** 16.42 (1) (h) of the statutes is created to read:

2 16.42 (1) (h) 1. The total amount of contracted positions, including the number
3 of service hours and recurring service rate payments, providing services for the
4 agency that are paid from the agency’s base level funding and an identification of the
5 appropriation or appropriations used to fund the contract expenditures. In
6 preparing this information, agencies shall use actual salary and service hour data,
7 if available. If such data are not available, the agency may use estimates. Any
8 estimate relying on state employee salary data for comparable work shall be
9 accompanied by a detailed statement explaining why the use of state employee
10 salary data is necessary and why such use does not misrepresent the salaries paid
11 for contracted positions.

12 2. The total amount of agency base level funding used to pay for the contracted
13 positions under subd. 1.

14 3. The amount of funding requested for contracted positions identified under
15 subd. 1 and an identification of the appropriation or appropriations that will be used
16 to fund the contracted positions.

17 **SECTION 2.** 16.46 (10) of the statutes is created to read:

18 16.46 (10) (a) A statement of the number of contracted positions providing
19 services for each state agency that are paid from the agency’s base level funding and
20 an identification of the appropriation or appropriations used to fund the contracted
21 positions.

22 (b) A statement of the total amount of each state agency’s base level funding
23 used to pay for the contracted positions.

1 (c) A statement of the amount of funding requested by state agencies for
2 contracted positions and an identification of the appropriation or appropriations that
3 will be used to fund the contracted positions.

4 **SECTION 3.** 16.705 (1) of the statutes is renumbered 16.705 (1) (a) (intro.) and
5 amended to read:

6 16.705 (1) (a) (intro.) The department or its agents may contract for services
7 ~~which~~ if at least 2 of the following conditions apply:

8 1. The services can be performed more economically ~~or~~ by contract.

9 2. When considering expertise of the current full-time positions, whether filled
10 or vacant, the services can be performed more efficiently by such contract than by use
11 of employees in those positions.

12 (d) The department shall, by rule, prescribe uniform procedures for
13 determining whether services are appropriate for contracting under this subsection.

14 **SECTION 4.** 16.705 (1) (a) 3., (b) and (c) of the statutes are created to read:

15 16.705 (1) (a) 3. When considering timeliness of delivery, the services can be
16 performed more efficiently by contract.

17 (b) Notwithstanding par. (a), the department or its agents may contract for any
18 services if the contract will be for a period that is not more than one year and if the
19 contract is not eligible for renewal.

20 (c) No contract under this section may be automatically renewed.

21 **SECTION 5.** 16.705 (2) of the statutes is renumbered 16.705 (2) (a) (intro.) and
22 amended to read:

23 16.705 (2) (a) (intro.) The department shall promulgate rules for the
24 procurement of contractual services by the department and its designated agents,
25 including but not limited to ~~rules~~ the following:

1 1. Rules prescribing approval and monitoring processes for contractual service
2 contracts.

3 2. Except as provided in par. (b), a requirement for agencies to conduct a
4 uniform cost-benefit analysis of each proposed contractual service procurement
5 involving an estimated expenditure of more than ~~\$25,000~~ \$50,000 in accordance with
6 standards prescribed in the rules, and, except as provided in par. (b), a requirement
7 for agencies to review periodically, and before any renewal, the continued
8 appropriateness of contracting under each contractual services agreement involving
9 an estimated expenditure of more than ~~\$25,000~~ \$50,000. The rules shall require the
10 cost-benefit analysis or continued appropriateness review to compare the costs of
11 using a current employee who is providing, or who would provide, the service, or a
12 similarly situated employee if the current position is vacant, to the costs of using an
13 employee under a contract and shall require the comparison to include all relevant
14 costs including the salary and fringe benefit costs, costs of any training that will be
15 necessary to fulfill the task, materials, inspections, unemployment insurance,
16 transitional costs, liability insurance, overhead, facility costs, taxes, and other
17 incidental costs.

18 (d) Each officer requesting approval to engage any person to perform
19 contractual services shall submit to the department written justification for such
20 contracting which shall include a description of the contractual services to be
21 procured, justification of need, justification for not contracting with other agencies,
22 a specific description of the scope of contractual services to be performed, and
23 justification for the procurement process if a process other than competitive bidding
24 is to be used. The department may not approve any contract for contractual services

1 unless it is satisfied that the justification for contracting conforms to the
2 requirements of this section and ss. 16.71 to 16.77.

3 **SECTION 6.** 16.705 (2) (a) 3., (b) and (c) of the statutes are created to read:

4 16.705 (2) (a) 3. A requirement that each agency that contracts for services
5 under this section perform periodic audits on cost-benefit analyses or continued
6 appropriateness reviews and contracts that required a cost-benefit analysis or
7 continued appropriateness review.

8 (b) 1. A cost-benefit analysis or continued appropriateness review is not
9 required for the following services:

10 a. Services that federal or state law requires to be performed by contract.

11 b. Services that are incidental to the purchase of a commodity.

12 c. Services that are substantially dissimilar to services performed by state
13 employees or that state employees have not performed historically and are not able
14 to perform without significant retraining or investment in infrastructure or capital.

15 d. Services that must be provided per a contract, license, or warranty by the
16 original equipment manufacturer or publisher unless the contract, license, or
17 warranty has expired or is no longer valid.

18 2. If an agency is exempted from the cost-benefit analysis or continued
19 appropriateness review under subd. 1. c. only, the department must include in the
20 report submitted under sub. (8) the services that the agency determined were exempt
21 under subd. 1. c.

22 (c) 1. Neither a cost-benefit analysis nor a continued appropriateness review
23 may be conducted by contract.

24 2. A cost-benefit analysis may not be shown to a bidder prior to the issuance
25 of a letter of intent to contract.

1 **SECTION 7.** 16.705 (4) of the statutes is created to read:

2 16.705 (4) Any person submitting a bid or proposal or a labor organization that
3 is certified under subch. V or VI of ch. 111 to be the representative of the appropriate
4 collective bargaining unit that is aggrieved by a solicitation for bids or by a letter of
5 intent to contract may protest to the agency that solicited or awarded the contractual
6 services. The protesting party shall file a written notice of intent to protest with, or
7 send an electronic notice of intent to protest to, the agency that solicited or awarded
8 the contractual services within 7 working days after the solicitation or the letter,
9 whichever is appropriate, and shall serve a written or send an electronic protest
10 within 12 working days after issuance of the solicitation or the letter, whichever is
11 appropriate.

12 **SECTION 8.** 16.705 (5g), (5m) and (5r) of the statutes are created to read:

13 16.705 (5g) All contracts for contractual services must provide notice of the
14 rules promulgated by the division of legal services under sub. (5m) (a) and of the
15 requirements under sub. (5r).

16 **(5m)** The division of legal services shall promulgate rules on all of the
17 following:

18 (a) Actions by the person performing the contractual services that would result
19 in the agency for which contractual services are performed recovering any
20 expenditures for those contractual services that the agency paid to the person
21 performing the contractual services.

22 (b) Standard performance measures, including quantifiable benchmark
23 indicators, to evaluate persons performing contractual services.

24 (c) Signing bonuses, reimbursements, and per diem costs included in all
25 contracts for contractual services.

1 **(5r)** (a) 1. If the cost of the contractual services exceeds \$25,000, any
2 expenditures of the person performing the contractual services that exceed its
3 original bid by 10 percent or more may not be paid unless the agency for which the
4 contractual services are performed notifies the governor and the joint committee on
5 finance the amount by which the cost exceeds the original bid and the reason for the
6 increase.

7 2. Subdivision 1. does not apply to contractual services purchased for the
8 University of Wisconsin System, or for any University of Wisconsin System campus
9 or institution, if the contractual services are for research or instructional purposes,
10 as determined by the University of Wisconsin System or the campus or institution,
11 whichever is appropriate.

12 (b) No person performing contractual services under this section may provide
13 any salary increase if the salary increase would result in greater expenditures for the
14 agency for which the contractual services are performed than the amounts specified
15 in the original bid. This restriction under this paragraph on salary increases does
16 not apply if the salary increase is in accordance with the terms of a collective
17 bargaining agreement.

18 **SECTION 9.** 16.705 (6) of the statutes is renumbered 16.705 (6) (b) and amended
19 to read:

20 16.705 **(6)** (b) If the agency for which contractual services are performed under
21 a contractual services agreement concludes under par. (a) that the performance was
22 unsatisfactory, recovers expenditures because the contractor's actions were listed in
23 the rules developed under sub. (5m) (a), or concludes that the performance was
24 unsatisfactory based on factors the agency considers, the agency shall file with the
25 department an evaluation of stating that the contractor's performance was

1 unsatisfactory within 60 days after the fulfillment of the agreement. The evaluation
2 shall be in such form as the secretary may require.

3 **SECTION 10.** 16.705 (6) (a) of the statutes is created to read:

4 16.705 (6) (a) An agency for which contractual services are performed under
5 a contractual services agreement shall evaluate the contractual services using the
6 standard performance measures and benchmark indicators created under sub. (5m)

7 (b). No contract may be renewed until the agency completes the evaluation.

8 **SECTION 11.** 16.705 (7) of the statutes is amended to read:

9 16.705 (7) The department shall review evaluations submitted under sub. (6)
10 (b) and promulgate rules prescribing procedures to assure that future contracts for
11 contractual services are not awarded to contractors whose past performance is found
12 to be unsatisfactory, to the extent feasible.

13 **SECTION 12.** 16.705 (8) (a) of the statutes is amended to read:

14 16.705 (8) (a) A summary of the cost–benefit analyses completed by agencies
15 in compliance with rules promulgated by the department under sub. (2) (a).

16 **SECTION 13.** 16.705 (8) (am) of the statutes is created to read:

17 16.705 (8) (am) As provided under sub. (2) (b) 2., any services on which agencies
18 would have had to perform a cost–benefit analysis or a continued appropriateness
19 review but for the exemption under sub. (2) (b) 1. c.

20 **SECTION 14.** 16.705 (9) of the statutes is created to read:

21 16.705 (9) (a) In this subsection, “federal economic stimulus funds” means
22 federal moneys received by the state, pursuant to federal legislation enacted during
23 the 111th Congress for the purpose of reviving the economy of the United States.

24 (b) Except as provided in pars. (c) and (d), if in any fiscal year an agency in the
25 executive branch is prohibited from hiring employees to fill vacant positions or its

1 employees are required to serve an unpaid leave of absence, the agency may not enter
2 into, renew, or extend any contractual services contracts with private contractors or
3 consultants for the remainder of that fiscal year for the performance of services of
4 agency employees who would have performed the services had they been hired or had
5 they not have been required to take an unpaid leave of absence.

6 (c) Paragraph (b) shall not apply to contractual services contracts that are
7 funded with federal economic stimulus funds and the secretary determines that any
8 deadlines imposed by the federal government on the expenditure of the federal
9 economic stimulus funds cannot be met without an agency's entering into, renewing,
10 or extending a contractual services contract or a cost-benefit analysis is conducted
11 that demonstrates that a contractual services contract would be more cost effective
12 and efficient than having state employees perform the services.

13 (cm) Paragraph (b) shall not apply to contracts entered into, renewed, or
14 extended under s. 977.08.

15 (d) An agency in the executive branch may submit a written request to the joint
16 committee on finance to have par. (b) not apply to the agency with respect to a specific
17 contractual services contract. If the cochairpersons of the committee do not notify
18 the agency within 14 working days after the date of the agency's submittal that the
19 committee intends to schedule a meeting to review the request, approval of the
20 request is granted. If, within 14 working days after the date of the agency's request
21 submittal, the cochairpersons of the committee notify the agency that the committee
22 intends to schedule a meeting to review the request, the request may be granted only
23 as approved by the committee.

24 **SECTION 15.** 16.75 (1) (a) 4. of the statutes is created to read:

1 16.75 (1) (a) 4. The contracting agency shall electronically send the successful
2 bidder a letter of intent to contract and shall send electronic copies of the letter to all
3 other bidders.

4 **SECTION 16.** 16.75 (1) (b) of the statutes is amended to read:

5 16.75 (1) (b) When the estimated cost exceeds \$25,000, the department shall
6 invite bids to be submitted. The department either shall ~~either~~ solicit sealed bids to
7 be opened publicly at a specified date and time, or shall solicit bidding by auction to
8 be conducted electronically at a specified date and time. Whenever bids are invited,
9 due notice inviting bids shall may be published as a class 2 notice, under ch. 985 ~~or,~~
10 and notice inviting bids, including a copy of all documents soliciting bids, shall be
11 posted on the Internet at a site determined or approved by the department. The bid
12 opening or auction shall occur at least 7 days after the date of the last insertion of
13 the notice or at least 7 days after the date of posting on the Internet. The notice under
14 ch. 985, if applicable, and the Internet site shall specify whether sealed bids are
15 invited or bids will be accepted by auction, and shall give a clear description of the
16 materials, supplies, equipment, or contractual services to be purchased, the amount
17 of any bond, share draft, check, or other draft to be submitted as surety with the bid
18 or prior to the auction, and the date and time that the public opening or the auction
19 will be held.

20 **SECTION 17.** 16.75 (2m) (b) of the statutes is amended to read:

21 16.75 (2m) (b) When the estimated cost exceeds \$25,000, the department may
22 invite competitive sealed proposals by publishing a class 2 notice under ch. 985 ~~or by~~
23 posting and shall post notice, including all documents soliciting proposals, on the
24 Internet at a site determined or approved by the department. The notice under ch.
25 985, if applicable, and the notice on the Internet site shall describe the materials,

1 supplies, equipment, or contractual services to be purchased, the intent to make the
2 procurement by solicitation of proposals rather than by solicitation of bids, any
3 requirement for surety, and the date the proposals will be opened, which shall be at
4 ~~least 7 days after the date of the last insertion of the notice or~~ at least 7 days after
5 the date of posting on the Internet.

6 **SECTION 18.** 16.75 (6) (c) of the statutes is amended to read:

7 16.75 (6) (c) If the secretary determines that it is in the best interest of this state
8 to do so, he or she may, with the approval of the governor, waive the requirements
9 of subs. (1) to (5) and may purchase supplies, material, equipment, or contractual
10 services, other than printing and stationery, from a private source other than a
11 source specified in par. (b). Except as provided in sub. (2g) (c), if the cost of the
12 purchase is expected to exceed \$25,000, the department shall may first publish a
13 class 2 notice under ch. 985 ~~or~~ and shall post a notice on the Internet at the site
14 determined or approved by the department under sub. (1) (b) describing the
15 materials, supplies, equipment, or contractual services to be purchased, stating the
16 intent to make the purchase from a private source without soliciting bids or
17 competitive sealed proposals and stating the date on which the contract or purchase
18 order will be awarded. The date of the award shall be at least 7 days after ~~the date~~
19 ~~of the last insertion or~~ the date of posting on the Internet.

20 **SECTION 19.** 16.771 of the statutes is created to read:

21 **16.771 False claims. (1)** In this section, “contract” means any of the
22 following:

23 (a) Contracts or orders that are subject to s. 16.705.

1 (b) Contracts or orders entered into for projects that are subject to s. 103.49 or
2 103.50 if the party presenting the false claim is alleged to have failed to comply with
3 s. 103.49 or 103.50.

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

11 **SECTION 20.** 16.87 (2) of the statutes is renumbered 16.87 (2) (a) and amended
12 to read:

13 16.87 (2) (a) A contract for engineering services or architectural services or a
14 to be done for or furnished to the state or a department, board, commission, or officer
15 of the state is exempt from the requirements of ss. 16.75 and 16.705, but an engineer
16 or an architect employed at the department shall determine if the project could be
17 completed more effectively and efficiently with state employees before a contract
18 may be approved under sub. (3).

19 (b) A contract involving an expenditure of \$10,000 or more for construction
20 work, or \$30,000 or more for limited trades work, to be done for or furnished to the
21 state or a department, board, commission, or officer of the state is exempt from the
22 requirements of ss. 16.705 and 16.75.

23 (c) The department shall attempt to ensure that 5% of the total amount
24 expended under this section in each fiscal year is paid to minority businesses, as
25 defined under s. 16.75 (3m) (a).

1 **SECTION 21.** 16.871 of the statutes is created to read:

2 **16.871 False claims. (1)** In this section:

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

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

5 (bm) “Contract” has the meaning given in s. 16.771 (1).

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

7 **(2)** Whoever knowingly presents or causes to be presented a false claim under
8 any contract for construction work or limited trades work, or for engineering or
9 architectural services, to be provided to any agency shall forfeit not less than \$5,000
10 nor more than \$10,000, plus 3 times the amount of the damages that were sustained
11 by the state or would have been sustained by the state, whichever is greater, as a
12 result of the false claim. The attorney general may bring an action on behalf of the
13 state to recover any forfeiture incurred under this subsection.

14 **SECTION 22.** 20.932 of the statutes is created to read:

15 **20.932 False claims; actions by or on behalf of state. (1)** In this section:

16 (a) “Authority” has the meaning given in s. 16.70 (2).

17 (b) “Claim” includes any request or demand for money, property, or services
18 made to any officer, employee, or agent of this state, or to any contractor, grantee, or
19 other recipient, whether or not under contract, if any portion of the money, property,
20 or services that are requested or demanded is derived from state resources, or if the
21 state is obligated to reimburse the contractor, grantee, or other recipient for any
22 portion of the money, property, or services that are requested or demanded. “Claim”
23 does not include any request or demand for medical assistance described under s.
24 20.931 (1) (b).

25 (c) “Employer” includes all agencies and authorities.

1 (d) “Knowingly” has the meaning given in s. 20.931 (1) (d).

2 (e) “Proceeds” has the meaning given in s. 20.931 (1) (e).

3 (f) “State public official” has the meaning given in s. 19.42 (14).

4 (2) Except as provided in subs. (3) and (4), any person who does any of the
5 following is liable to this state for 3 times the amount of the damages sustained by
6 this state because of the actions of the person, and shall forfeit not less than \$5,000
7 nor more than \$10,000 for each violation:

8 (a) Knowingly presents or causes to be presented to any officer, employee, or
9 agent of this state, or to any contractor, grantee, or other recipient of state resources,
10 a false claim for payment or approval.

11 (b) Knowingly makes, uses, or causes to be made or used a false record or
12 statement to obtain approval or payment of a false claim.

13 (c) Conspires to defraud this state by obtaining allowance or payment of a false
14 claim, or by knowingly making or using, or causing to be made or used, a false record
15 or statement to conceal, avoid, or decrease an obligation to pay or transmit money
16 or property to this state.

17 (d) Has possession, custody, or control of property used or to be used by this
18 state and knowingly delivers or causes to be delivered less property than the amount
19 for which the person receives a certificate or receipt.

20 (e) Being authorized to make or deliver a document certifying receipt of
21 property that is used or to be used by this state, knowingly makes or delivers a receipt
22 that falsely represents the property that is used or to be used.

23 (f) Knowingly buys or receives as a pledge for payment of an obligation or debt
24 for this state property from any person who lawfully may not sell or pledge the
25 property.

1 (g) Knowingly makes, uses, or causes to be made or used a false record or
2 statement to conceal, avoid, or decrease any obligation to pay or transmit money or
3 property to this state.

4 (h) Is a beneficiary of the submission of a false claim to any officer, employee,
5 or agent of this state, or to any contractor, grantee, or other recipient of state
6 resources, knows that the claim is false, and fails to disclose the false claim to this
7 state within a reasonable time after the person becomes aware that the claim is false.

8 **(3)** Except as provided in sub. (4), the court may assess against a person who
9 violates sub. (2) not less than 2 nor more than 3 times the amount of the damages
10 sustained by the state because of the acts of the person, and may not assess any
11 forfeiture, if the court finds all of the following:

12 (a) The person who commits the acts furnished the attorney general with all
13 information known to the person about the acts within 30 days after the date on
14 which the person obtained the information.

15 (b) The person fully cooperated with any investigation of the acts by this state.

16 (c) At the time that the person furnished the attorney general with information
17 concerning the acts, no criminal prosecution or civil or administrative enforcement
18 action had been commenced with respect to any such act, and the person did not have
19 actual knowledge of the existence of any investigation into any such act.

20 **(4)** Subsections (2) and (3) do not apply to any claim, record, statement, or
21 return made under chs. 70 to 79.

22 **(5)** (a) Except as provided in subs. (10) and (12), any person may bring a civil
23 action as a qui tam plaintiff against a person who commits an act in violation of sub.
24 (2) for the person and the state in the name of the state.

1 (b) The plaintiff shall serve upon the attorney general a copy of the complaint
2 and documents disclosing substantially all material evidence and information that
3 the person possesses. The plaintiff shall file a copy of the complaint with the court
4 for inspection in camera. Except as provided in par. (c), the complaint shall remain
5 under seal for a period of 60 days from the date of filing, and shall not be served upon
6 the defendant until the court so orders. Within 60 days from the date of service upon
7 the attorney general of the complaint, evidence, and information under this
8 paragraph, the attorney general may intervene in the action.

9 (c) The attorney general may, for good cause shown, move the court for one or
10 more extensions of the period during which a complaint in an action under this
11 subsection remains under seal.

12 (d) Before the expiration of the period during which the complaint remains
13 under seal, the attorney general shall do one of the following:

14 1. Proceed with the action or an alternate remedy under sub. (10), in which case
15 the state shall prosecute the action or proceeding under sub. (10).

16 2. Notify the court that he or she declines to proceed with the action, in which
17 case the action may not proceed.

18 (e) If a person brings a valid action under this subsection, no person other than
19 the state may intervene or bring a related action while the original action is pending
20 based upon the same facts underlying the pending action.

21 (f) In any action or other proceeding under sub. (10) brought under this
22 subsection, all essential elements of the cause of action or complaint, including
23 damages, must be proven by a preponderance of the evidence.

24 **(6)** If the state proceeds with an action under sub. (5) or an alternate remedy
25 under sub. (10), the state has primary responsibility for prosecuting the action or

1 proceeding under sub. (10). The state is not bound by any act of the person bringing
2 the action, but that person has the right to continue as a party to the action, subject
3 to the limitations under sub. (7).

4 (7) (a) The state may move to dismiss an action under sub. (5) or an
5 administrative proceeding under sub. (10) to which the state is a party for good cause
6 shown, notwithstanding objection of the person bringing the action, if that person is
7 served with a copy of the state's motion and is provided with an opportunity to oppose
8 the motion before the court or the administrative agency before which the proceeding
9 is conducted.

10 (b) With the approval of the governor, the attorney general may compromise
11 and settle an action under sub. (5) or an administrative proceeding under sub. (10)
12 to which the state is a party, notwithstanding objection of the person bringing the
13 action, if the court determines, after affording to the person bringing the action the
14 right to a hearing at which the person is afforded the opportunity to present evidence
15 in opposition to the proposed settlement, that the proposed settlement is fair,
16 adequate, and reasonable considering the relevant circumstances pertaining to the
17 violation.

18 (c) Upon a showing by the state that unrestricted participation in the
19 prosecution of an action under sub. (5) or an alternate proceeding to which the state
20 is a party by the person bringing the action would interfere with or unduly delay the
21 prosecution of the action or proceeding, or would result in consideration of
22 repetitious or irrelevant evidence or evidence presented for purposes of harassment,
23 the court may limit the person's participation in the prosecution in any of the
24 following ways:

- 25 1. Limiting the number of witnesses that the person may call.

1 2. Limiting the length of the testimony of the witnesses.

2 3. Limiting the cross-examination of witnesses by the person.

3 4. Otherwise limiting the participation by the person in the prosecution of the
4 action or proceeding.

5 (d) Upon showing by a defendant that unrestricted participation in the
6 prosecution of an action under sub. (5) or alternate proceeding under sub. (10) to
7 which the state is a party by the person bringing the action would result in
8 harassment or would cause the defendant undue burden or unnecessary expense, the
9 court may limit the person's participation in the prosecution.

10 **(9)** Upon showing in camera by the attorney general that discovery by the
11 person bringing the action would interfere with the state's ongoing investigation or
12 prosecution of a criminal or civil matter arising out of the same facts as the facts upon
13 which the action is based, the court may stay the discovery in whole or in part for not
14 more than 60 days. The court may extend the stay upon further showing in camera
15 by the attorney general that the state has pursued the criminal or civil investigation
16 of the matter with reasonable diligence and the proposed discovery in the action
17 brought under sub. (5) will interfere with the ongoing criminal or civil investigation
18 or prosecution.

19 **(10)** The attorney general may pursue a claim relating to an alleged violation
20 of sub. (2) through an alternate remedy available to the state or any state agency,
21 including an administrative proceeding to assess a civil forfeiture. If the attorney
22 general elects an alternate remedy, the attorney general shall serve timely notice of
23 his or her election upon the person bringing the action under sub. (5), and that person
24 has the same rights in the alternate venue as the person would have had if the action
25 had continued under sub. (5). Any finding of fact or conclusion of law made by a court

1 or by a state agency in the alternate venue that has become final is conclusive upon
2 all parties named in an action under sub. (5). For purposes of this subsection, a
3 finding or conclusion is final if it has been finally determined on appeal, if all time
4 for filing an appeal or petition for review with respect to the finding or conclusion has
5 expired, or if the finding or conclusion is not subject to judicial review.

6 (11) (a) Except as provided in pars. (b) and (d), if the state proceeds with an
7 action brought by a person under sub. (5) or the state pursues an alternate remedy
8 relating to the same acts under sub. (10), the person who brings the action shall
9 receive at least 15 percent but not more than 25 percent of the proceeds of the action
10 or settlement of the claim, depending upon the extent to which the person
11 contributed to the prosecution of the action or claim.

12 (b) Except as provided in par. (d), if an action or claim is one in which the court
13 or other adjudicator finds to be based primarily upon disclosures of specific
14 information not provided by the person who brings an action under sub. (5) relating
15 to allegations or transactions specifically in a criminal, civil, or administrative
16 hearing, or in a legislative or administrative report, hearing, audit, or investigation,
17 or report made by the news media, the court or other adjudicator may award an
18 amount that it considers appropriate but that is not more than 10 percent of the
19 proceeds of the action or settlement of the claim, depending upon the significance of
20 the information and the role of the person bringing the action in advancing the
21 prosecution of the action or claim.

22 (c) Except as provided in par. (d), in addition to any amount received under par.
23 (a) or (b), a person bringing an action under sub. (5) shall be awarded his or her
24 reasonable expenses necessarily incurred in bringing the action together with the

1 person's costs and reasonable actual attorney fees. The court or other adjudicator
2 shall assess any award under this paragraph against the defendant.

3 (d) Whether the state proceeds with the action or an alternate proceeding under
4 sub. (10), if the court or other adjudicator finds that the person who brought an action
5 under sub. (5) also planned or initiated the violation upon which the action or
6 proceeding is based, then the court may, to the extent that the court considers
7 appropriate, reduce the share of the proceeds of the action that the person would
8 otherwise receive under par. (a) or (b), taking into account the role of that person in
9 advancing the prosecution of the action or claim and any other relevant circumstance
10 pertaining to the violation, except that if the person bringing the action is convicted
11 of criminal conduct arising from his or her role in a violation of sub. (2), the court or
12 other adjudicator shall dismiss the person as a party and the person shall not receive
13 any share of the proceeds of the action or claim or any expenses, costs, or fees under
14 par. (c).

15 **(12)** (a) No court has jurisdiction over an action brought by a private person
16 under sub. (5) against a state public official if the action is based upon information
17 known to the attorney general at the time that the action is brought.

18 (am) No court has jurisdiction over an action brought by a private person under
19 sub. (5) if the action is based on public disclosure of allegations or transactions in a
20 criminal action; in a legislative, administrative, or other governmental report,
21 hearing, audit, or investigation; or from news media, unless the private person has
22 direct and independent knowledge of the information on which the allegations or
23 transactions are based and has voluntarily provided the knowledge to the attorney
24 general under sub. (5) (b).

1 (b) No person may bring an action under sub. (5) that is based upon allegations
2 or transactions that are the subject of a civil action or an administrative proceeding
3 to assess a civil forfeiture in which the state is a party if that action or proceeding
4 was commenced prior to the date that the action is filed.

5 **(13)** The state is not liable for any expenses incurred by a private person in
6 bringing an action under sub. (5).

7 **(14)** Any employee who is discharged, demoted, suspended, threatened,
8 harassed, or in any other manner discriminated against by his or her employer
9 because of lawful actions taken by the employee, on behalf of the employee, or by
10 others in furtherance of an action or claim filed under this section, including
11 investigation for, initiation of, testimony for, or assistance in an action or claim filed
12 or to be filed under sub. (5) is entitled to all necessary relief to make the employee
13 whole. The relief shall in each case include reinstatement with the same seniority
14 status that the employee would have had but for the discrimination, 2 times the
15 amount of back pay, interest on the back pay at the legal rate, and compensation for
16 any special damages sustained as a result of the discrimination, including costs and
17 reasonable actual attorney fees. An employee may bring an action to obtain the relief
18 to which the employee is entitled under this subsection.

19 **(15)** A civil action may be brought based upon acts occurring prior to the
20 effective date of this subsection [LRB inserts date], if the action is brought within
21 the period specified in s. 893.981.

22 **(16)** A judgment of guilty entered against a defendant in a criminal action in
23 which the defendant is charged with fraud or making false statements estops the
24 defendant from denying the essential elements of the offense in any action under sub.
25 (5) that involves the same elements as in the criminal action.

1 (17) The remedies provided for under this section are in addition to any other
2 remedies provided for under any other law or available under the common law.

3 (18) This section shall be liberally construed and applied to promote the public
4 interest and to effect the congressional intent in enacting 31 USC 3729 to 3733, as
5 reflected in the act and the legislative history of the act.

6 **SECTION 23.** 25.18 (1) (a) of the statutes is amended to read:

7 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.
8 16, except s. 16.753, employ special legal or investment counsel in any matters
9 arising out of the scope of its investment authority. ~~Section~~ Sections 16.753 does,
10 16.771, 16.871 and 20.932 do not apply to the employment of legal or investment
11 counsel for the purpose of assisting the board with investments or arising out of the
12 scope of the board's investment authority. The employment of special legal counsel
13 shall be with the advice and consent of the attorney general whenever such special
14 counsel is to be compensated by the board. Any expense of counsel so employed shall
15 be borne by the fund for which the services shall be furnished.

16 **SECTION 24.** 25.18 (1) (f) of the statutes is amended to read:

17 25.18 (1) (f) Maintain and repair any building or other structure or premises
18 which it owns in fee or in which it owns the beneficial interest and, notwithstanding
19 all provisions of subch. IV or V of ch. 16, except s. 16.753, it shall have exclusive
20 authority to make such agreements and enter into such contracts as it deems
21 necessary for such purpose. ~~Section~~ Sections 16.753 does, 16.771, 16.871, and 20.932
22 do not apply to agreements and contracts entered into by the board for the purpose
23 of assisting the board with investments or arising out of the scope of the board's
24 investment authority. All noncapital costs under this paragraph shall be charged to

1 the current income accounts of the funds having an interest in the building, structure
2 or premises.

3 **SECTION 25.** 25.18 (1) (m) of the statutes is amended to read:

4 25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,
5 except s. 16.753, employ professionals, contractors or other agents necessary to
6 evaluate or operate any property if a fund managed by the board has an interest in,
7 or is considering purchasing or lending money based upon the value of, that property.
8 ~~Section Sections~~ 16.753 does, 16.771, 16.871, and 20.932 do not apply to the
9 employment of any person for the purpose of assisting the board with investments
10 or arising out of the scope of the board's investment authority. Costs under this
11 paragraph shall be paid by the fund and charged to the appropriate account under
12 s. 40.04 (3).

13 **SECTION 26.** 66.0902 of the statutes is created to read:

14 **66.0902 False claims. (1) DEFINITIONS.** In this section:

15 (a) "Local governmental unit" has the meaning given in s. 66.0131 (1) (a).

16 (b) "Public contract" means a contract that is subject to s. 66.0903 and that is
17 for the construction, execution, repair, remodeling, or improvement of a public work
18 or building or for the furnishing of supplies, equipment, material, or professional or
19 contractual services of any kind.

20 **(2) PRESENTATION OF FALSE CLAIMS.** Whoever knowingly presents or causes to
21 be presented a false claim for payment under any public contract with a local
22 governmental unit shall forfeit not less than \$5,000 nor more than \$10,000, plus 3
23 times the amount of the damages that were sustained by the local governmental unit
24 or would have been sustained by the local governmental unit, whichever is greater,
25 as a result of the false claim.

1 **SECTION 27.** 84.01 (13) of the statutes is amended to read:

2 84.01 (13) ENGINEERING SERVICES. The department may engage such
3 engineering, consulting, surveying, or other specialized services as it deems
4 advisable. Any engagement of services under this subsection is exempt from ss.
5 16.70 to ~~16.75~~ 16.7015, 16.705 (4), 16.71 to 16.751, 16.755 to 16.82, and 16.85 to
6 16.89, but ss. 16.42, 16.46, 16.528, 16.705 except s. 16.705 (4), 16.752, 16.753, and
7 16.754 apply to such engagement. Section 20.932 does not apply to any engagement
8 of services under this subsection. Any engagement involving an expenditure of
9 \$3,000 or more shall be by formal contract approved by the governor. The
10 department shall conduct a uniform cost-benefit analysis, as defined in s. 16.70 (3g),
11 of each proposed engagement under this subsection that involves an estimated
12 expenditure of more than ~~\$25,000~~ \$50,000 in accordance with standards prescribed
13 by rule of the department. The department shall review periodically, and before any
14 renewal, the continued appropriateness of contracting pursuant to each engagement
15 under this subsection that involves an estimated expenditure of more than ~~\$25,000~~
16 \$50,000. Notwithstanding any provision of s. 16.705 or rule promulgated under s.
17 16.705, the department of transportation is not required to submit any proposed
18 contractual engagement of services to, or obtain approval of any such engagement
19 of services from, the department of administration before engaging any services
20 under this subsection and the department of administration has no oversight
21 authority over any such engagement of services under this subsection.
22 Notwithstanding s. 16.705 (2), the department of transportation, rather than the
23 department of administration, shall, before engaging any services under this
24 subsection, satisfy itself that the justification for engaging such services conforms to
25 the requirements of ss. 16.705, 16.752, 16.753, and 16.754, and the written

1 justification required under s. 16.705 (2) shall be submitted to the department of
2 transportation rather than the department of administration.

3 **SECTION 28.** 84.01 (13m) of the statutes is created to read:

4 84.01 (13m) CONTRACTUAL ENGAGEMENTS OF SERVICES REPORTING. On or before
5 October 15 of each year, the department shall submit to the governor, the joint
6 committee on finance, the joint legislative audit committee, and the chief clerk of
7 each house of the legislature for distribution to the appropriate standing committees
8 under s. 13.172 (3) a report concerning the number, value, and nature of contractual
9 engagements of services authorized under sub. (13) during the preceding fiscal year.
10 To the extent possible, the report required under this subsection may be combined
11 with the report required under s. 16.705 (8). The report shall also include, with
12 respect to contractual engagements of services for the preceding fiscal year, all of the
13 following:

14 (a) A summary of the cost-benefit analyses completed in compliance with rules
15 promulgated by the department.

16 (b) Recommendations for elimination of unneeded contractual engagements of
17 services and for consolidation or resolicitation of existing contractual engagements
18 of services.

19 **SECTION 29.** 84.01 (31) of the statutes is amended to read:

20 84.01 (31) ACCOMMODATION OF UTILITY FACILITIES WITHIN HIGHWAY RIGHTS-OF-WAY.
21 Notwithstanding ss. 84.06 (4), 84.063, 84.065, and 84.093, the department may, upon
22 finding that it is feasible and advantageous to the state, negotiate and enter into an
23 agreement to accept any plant or equipment used for the conveyance, by wire, optics,
24 radio signal, or other means, of voice, data, or other information at any frequency
25 over any part of the electromagnetic spectrum, or to accept any services associated

1 with the collection, storage, forwarding, switching, and delivery incidental to such
2 communication, as payment for the accommodation of a utility facility, as defined in
3 s. 84.063 (1) (b), within a highway right-of-way. Any agreement under this
4 subsection is exempt from ss. 16.70 to 16.75, 16.755 to 16.82, and 16.85 to 16.89, but
5 ss. 16.528, 16.752, and 16.754 apply to such agreement. Section 20.932 does not
6 apply to any agreement under this subsection.

7 **SECTION 30.** 84.06 (2) (a) of the statutes is amended to read:

8 84.06 (2) (a) All such highway improvements shall be executed by contract
9 based on bids unless the department finds that another method as provided in sub.
10 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
11 the manner determined by the department. Except as provided in s. 84.075, the
12 contract shall be awarded to the lowest competent and responsible bidder as
13 determined by the department. If the bid of the lowest competent bidder is
14 determined by the department to be in excess of the estimated reasonable value of
15 the work or not in the public interest, all bids may be rejected. The department shall,
16 so far as reasonable, follow uniform methods of advertising for bids and may
17 prescribe and require uniform forms of bids and contracts. Except as provided in par.
18 (b), the secretary shall enter into the contract on behalf of the state. Every such
19 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
20 ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract. Section 20.932 does not
21 apply to the contract. Any such contract involving an expenditure of \$1,000 or more
22 shall not be valid until approved by the governor. The secretary may require the
23 attorney general to examine any contract and any bond submitted in connection with
24 the contract and report on its sufficiency of form and execution. The bond required
25 by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to

1 approval by the secretary. This subsection also applies to contracts with private
2 contractors based on bids for maintenance under s. 84.07.

3 **SECTION 31.** 84.06 (3) of the statutes is amended to read:

4 84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If
5 the department finds that it would be more feasible and advantageous to have the
6 improvement performed by the county in which the proposed improvement is located
7 and without bids, the department may, by arrangement with the county highway
8 committee of the county, enter into a contract satisfactory to the department to have
9 the work done by the county forces and equipment. In such contract the department
10 may authorize the county to purchase, deliver, and store materials and may fix the
11 rental rates of small tools and equipment. The contract shall be between the county
12 and the state and shall not be based on bids, and may be entered into on behalf of the
13 county by the county highway committee and on behalf of the state by the secretary.
14 Section 20.932 does not apply to the contract. Such contract is exempted from s.
15 779.14 and from all provisions of chs. 16 and 230, except ss. 16.753 and 16.754. If
16 the total estimated indebtedness to be incurred exceeds \$5,000 the contract shall not
17 be valid until approved by the governor. The provisions of this subsection relating
18 to agreements between a county and the state shall also authorize and apply to such
19 arrangements between a city, town, or a village and the state. In such cases, the
20 governing body of the city, town, or village shall enter into the agreement on behalf
21 of the municipality.

22 **SECTION 32.** 84.06 (4) of the statutes is amended to read:

23 84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement
24 undertaken by the department will cross or affect the property or facilities of a
25 railroad or public utility company, the department may, upon finding that it is

1 feasible and advantageous to the state, arrange to perform portions of the
2 improvement work affecting such facilities or property or perform work of altering,
3 rearranging, or relocating such facilities by contract with the railroad or public
4 utility. Such contract shall be between the railroad company or public utility and the
5 state and need not be based on bids. The contract may be entered into on behalf of
6 the state by the secretary. Section 20.932 does not apply to the contract. Every such
7 contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230, except
8 ss. 16.528, 16.752, 16.753, and 16.754. No such contract in which the total estimated
9 debt to be incurred exceeds \$5,000 shall be valid until approved by the governor. As
10 used in this subsection, “public utility” means the same as in s. 196.01 (5), and
11 includes a telecommunications carrier as defined in s. 196.01 (8m), and “railroad”
12 means the same as in s. 195.02. “Property” as used in this subsection includes but
13 is not limited to tracks, trestles, signals, grade crossings, rights-of-way, stations,
14 pole lines, plants, substations, and other facilities. Nothing in this subsection shall
15 be construed to relieve any railroad or public utility from any financial obligation,
16 expense, duty, or responsibility otherwise provided by law relative to such property.

17 **SECTION 33.** 85.015 of the statutes is amended to read:

18 **85.015 Transportation assistance contracts.** All contracts entered into
19 under this chapter to provide financial assistance in the areas of railroads, urban
20 mass transit, specialized transportation, and harbors are subject to ss. 16.528,
21 16.752, and 16.753 but are exempt from ss. 16.70 to 16.75, 16.755 to 16.82, 16.85 to
22 16.87, and 16.875 to 16.89. Section 20.932 does not apply to contracts specified in
23 this section.

24 **SECTION 34.** 85.65 of the statutes is created to read:

1 **85.65 Workload outsourcing rules.** The department shall promulgate rules
2 establishing a methodology to determine the percentage of work for which the
3 department has responsibility that the department may outsource to persons not
4 employed by the department. The rules shall set forth a process by which the
5 department could attain staffing levels sufficiently proficient to ensure that not more
6 than 50 percent of work for which the department has responsibility is outsourced
7 to persons not employed by the department.

8 **SECTION 35.** 102.81 (2) of the statutes is amended to read:

9 102.81 (2) The department may retain an insurance carrier or insurance
10 service organization to process, investigate and pay claims under this section and
11 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to
12 do business in this state in an amount that the secretary determines is necessary for
13 the sound operation of the uninsured employers fund. In cases involving disputed
14 claims, the department may retain an attorney to represent the interests of the
15 uninsured employers fund and to make appearances on behalf of the uninsured
16 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.930 and all
17 provisions of subch. IV of ch. 16, except s. ss. 16.753 and 16.771, do not apply to an
18 attorney hired under this subsection. The charges for the services retained under
19 this subsection shall be paid from the appropriation under s. 20.445 (1) (rp). The cost
20 of any reinsurance obtained under this subsection shall be paid from the
21 appropriation under s. 20.445 (1) (sm).

22 **SECTION 36.** 103.50 (2) of the statutes is amended to read:

23 103.50 (2) **PREVAILING WAGE RATES AND HOURS OF LABOR.** No person performing
24 the work described in sub. (2m) in the employ of a contractor, subcontractor, agent
25 or other person performing any work on a project under a contract based on bids as

1 provided in s. 84.06 (2) or (3) to which the state is a party for the construction or
2 improvement of any highway may be permitted to work a greater number of hours
3 per day or per week than the prevailing hours of labor; nor may he or she be paid a
4 lesser rate of wages than the prevailing wage rate in the area in which the work is
5 to be done determined under sub. (3); except that any such person may be permitted
6 or required to work more than such prevailing hours of labor per day and per week
7 if he or she is paid for all hours worked in excess of the prevailing hours of labor at
8 a rate of at least 1.5 times his or her hourly basic rate of pay.

9 **SECTION 37.** 165.08 of the statutes is amended to read:

10 **165.08 Power to compromise.** Any civil action prosecuted by the
11 department by direction of any officer, department, board or commission, shall be
12 compromised or discontinued when so directed by such officer, department, board or
13 commission. Except as provided in s. ss. 20.931 (7) (b) and 20.932 (7) (b), any civil
14 action prosecuted by the department on the initiative of the attorney general, or at
15 the request of any individual may be compromised or discontinued with the approval
16 of the governor. In any criminal action prosecuted by the attorney general, the
17 department shall have the same powers with reference to such action as are vested
18 in district attorneys.

19 **SECTION 38.** 165.25 (11) of the statutes is amended to read:

20 165.25 (11) FALSE CLAIMS. Diligently investigate possible violations of s. 20.931
21 or 20.932, and, if the department determines that a person has committed an act that
22 is punishable under s. 20.931 or 20.932, whichever is being investigated, may bring
23 a civil action against that person.

24 **SECTION 39.** 221.0903 (4) (b) of the statutes is amended to read:

1 221.0903 (4) (b) *Contracts for examination services.* The division may enter
2 into contracts with any bank supervisory agency with concurrent jurisdiction over
3 a state bank or an in-state branch of an out-of-state state bank to engage the
4 services of the agency's examiners at a reasonable rate of compensation, or to provide
5 the services of the division's examiners to the agency at a reasonable rate of
6 compensation. Contracts entered into under this paragraph are exempt from ss.
7 16.70 to 16.752, 16.754 to 16.76, and 16.767 to 16.77, and 16.78 to 16.82.

8 **SECTION 40.** 801.02 (1) of the statutes is amended to read:

9 801.02 (1) Except as provided in s. ss. 20.931 (5) (b) and 20.932 (5) (b), a civil
10 action in which a personal judgment is sought is commenced as to any defendant
11 when a summons and a complaint naming the person as defendant are filed with the
12 court, provided service of an authenticated copy of the summons and of the complaint
13 is made upon the defendant under this chapter within 90 days after filing.

14 **SECTION 41.** 803.09 (1) and (2) of the statutes are amended to read:

15 803.09 (1) Except as provided in s. ss. 20.931 and 20.932, upon timely motion
16 anyone shall be permitted to intervene in an action when the movant claims an
17 interest relating to the property or transaction which is the subject of the action and
18 the movant is so situated that the disposition of the action may as a practical matter
19 impair or impede the movant's ability to protect that interest, unless the movant's
20 interest is adequately represented by existing parties.

21 (2) Except as provided in s. ss. 20.931 and 20.932, upon timely motion anyone
22 may be permitted to intervene in an action when a movant's claim or defense and the
23 main action have a question of law or fact in common. When a party to an action
24 relies for ground of claim or defense upon any statute or executive order or rule
25 administered by a federal or state governmental officer or agency or upon any

1 regulation, order, rule, requirement or agreement issued or made pursuant to the
2 statute or executive order, the officer or agency upon timely motion may be permitted
3 to intervene in the action. In exercising its discretion the court shall consider
4 whether the intervention will unduly delay or prejudice the adjudication of the rights
5 of the original parties.

6 **SECTION 42.** 804.01 (2) (intro.) of the statutes is amended to read:

7 804.01 (2) SCOPE OF DISCOVERY. (intro.) Except as provided in s. ss. 20.931 (9)
8 and 20.932 (9), and unless otherwise limited by order of the court in accordance with
9 the provisions of this chapter, the scope of discovery is as follows:

10 **SECTION 43.** 805.04 (2m) of the statutes is amended to read:

11 805.04 (2m) FALSE CLAIMS. An action filed under s. 20.931 or 20.932 may be
12 dismissed only by order of the court. In determining whether to dismiss the action
13 filed under s. 20.931 or 20.932, the court shall take into account the best interests
14 of the parties and the purposes of s. 20.931 or 20.932, whichever is appropriate.

15 **SECTION 44.** 893.981 of the statutes is amended to read:

16 **893.981 False claims.** An action or claim under s. 20.931 or 20.932 shall be
17 commenced within 10 years after the cause of the action or claim accrues or be
18 barred.

19 **SECTION 45. Nonstatutory provisions.**

20 (1) REPORT ON LOCAL ROAD PROJECTS. No later than the first day of the 7th month
21 beginning after the effective date of this subsection, the department of
22 transportation shall submit a report to the joint committee on finance that contains
23 all of the following:

1 (a) Recommendations on actions that the department and local governments
2 can take to improve the efficiency, cost-effectiveness, and timeliness of local road
3 construction projects.

4 (b) Any proposed legislative changes that the legislature can consider that may
5 help to implement the recommendations under paragraph (a).

6 (2) REPORT ON WORKLOAD OUTSOURCING. No later than February 1, 2011, the
7 department of transportation shall submit to the legislature under section 13.172 (2)
8 of the statutes a report on the work for which the department of transportation has
9 responsibility and that the department of transportation has, during the previous 3
10 fiscal years, outsourced to persons not employed by the department of
11 transportation. The report shall include any outsourced projects for which the
12 department of transportation has encumbered, expended, or otherwise committed
13 any funding. In this report, the department of transportation shall also denote work
14 that was committed from funding provided under the American Recovery and
15 Reinvestment Act of 2009.

16 (3) RULEMAKING ON WORKLOAD OUTSOURCING. The department of transportation
17 shall begin promulgating the rules required under section 85.65 of the statutes, as
18 created by this act, no later than February 1, 2011, and shall submit in proposed form
19 the rules required under section 85.65 of the statutes, as created by this act, to the
20 legislative council staff under section 227.15 (1) of the statutes no later than
21 February 1, 2012.

22 **SECTION 46. Initial applicability.**

23 (1) The treatment of sections 16.705 (5g), (5m), and (5r) and 16.75 (1) (b), (2m)
24 (b), and (6) (c) of the statutes, the renumbering and amendment of section 16.705 (1),
25 (2), and (6) of the statutes, and the creation of section 16.705 (1) (a) 3. and (b), (2) (a)

1 3., (b), and (c), and (6) (a) of the statutes first apply to solicitations for contractual
2 services issued on the effective date of this subsection.

3 (2) The creation of section 16.705 (1) (c) of the statutes first applies to contracts
4 entered into, renewed, modified, or extended, whichever occurs first, on the effective
5 date of this subsection.

6 (3) The treatment of section 16.705 (4) of the statutes first applies to a
7 solicitation or a letter of intent to contract issued on the effective date of this
8 subsection.

9 (4) The treatment of sections 16.771, 16.871, 25.18 (1) (a), (f), and (m), 66.0902,
10 84.01 (13), 84.06 (2) (a), (3), and (4), 85.015, 102.81 (2), and 221.0903 (4) (b) of the
11 statutes first applies with respect to false claims that are presented or caused to be
12 presented on the effective date of this subsection.

13 (END)