



State of Wisconsin
2011 - 2012 LEGISLATURE

January 2011 Special Session



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RAC/CMH/CTS/JTK:all:rs

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 6**

February 2, 2011 – Offered by Representatives BARCA, SEIDEL and MILROY.

1 **AN ACT to amend** 1.12 (1) (b), 13.172 (1), 13.48 (13) (a), 13.62 (2), 13.94 (1) (mm),
2 13.94 (4) (a) 1., 13.95 (intro.), 16.002 (2), 16.004 (4), 16.004 (5), 16.004 (12) (a),
3 16.045 (1) (a), 16.15 (1) (ab), 16.41 (4), 16.417 (1) (a), 16.417 (1) (a), 16.417 (1)
4 (b), 16.52 (7), 16.528 (1) (a), 16.53 (2), 16.54 (9) (a) 1., 16.765 (1), 16.765 (2),
5 16.765 (5), 16.765 (6), 16.765 (7) (intro.), 16.765 (7) (d), 16.765 (8), 16.85 (2),
6 16.865 (8), 40.02 (28), 40.02 (36), 71.26 (1) (be), 77.54 (9a) (a), 100.45 (1) (dm),
7 101.177 (1) (d), 230.03 (3), 281.75 (4) (b) 3. and 285.59 (1) (b); and **to create**
8 13.48 (10) (b) 6., 13.48 (12) (b) 5., 13.94 (1) (dr), 13.94 (1s) (c) 5., 19.42 (10) (sm),
9 19.42 (10) (t), 19.42 (13) (om), 19.42 (13) (p), 19.45 (11) (e), 20.192, 40.02 (54) (m),
10 70.11 (38r) and chapter 238 of the statutes; **relating to:** creation of an
11 authority, to be known as the Wisconsin Economic Development Corporation,
12 and making appropriations.

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

1 **SECTION 1.** 1.12 (1) (b) of the statutes is amended to read:

2 1.12 (1) (b) “State agency” means an office, department, agency, institution of
3 higher education, the legislature, a legislative service agency, the courts, a judicial
4 branch agency, an association, society, or other body in state government that is
5 created or authorized to be created by the constitution or by law, for which
6 appropriations are made by law, excluding the Health Insurance Risk-Sharing Plan
7 Authority and the Wisconsin Economic Development Corporation.

8 **SECTION 2.** 13.172 (1) of the statutes is amended to read:

9 13.172 (1) In this section, “agency” means an office, department, agency,
10 institution of higher education, association, society, or other body in state
11 government created or authorized to be created by the constitution or any law, that
12 is entitled to expend moneys appropriated by law, including the legislature and the
13 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
14 ch. 52, 231, 233, 234, 238, or 279.

15 **SECTION 3.** 13.48 (10) (b) 6. of the statutes is created to read:

16 13.48 (10) (b) 6. Projects of the Wisconsin Economic Development Corporation.

17 **SECTION 4.** 13.48 (12) (b) 5. of the statutes is created to read:

18 13.48 (12) (b) 5. A facility constructed by or for the Wisconsin Economic
19 Development Corporation.

20 **SECTION 5.** 13.48 (13) (a) of the statutes is amended to read:

21 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
22 facility that is constructed for the benefit of or use of the state, any state agency,
23 board, commission or department, the University of Wisconsin Hospitals and Clinics

1 Authority, the Fox River Navigational System Authority, the Wisconsin Quality
2 Home Care Authority, the Wisconsin Economic Development Corporation, or any
3 local professional baseball park district created under subch. III of ch. 229 if the
4 construction is undertaken by the department of administration on behalf of the
5 district, shall be in compliance with all applicable state laws, rules, codes and
6 regulations but the construction is not subject to the ordinances or regulations of the
7 municipality in which the construction takes place except zoning, including without
8 limitation because of enumeration ordinances or regulations relating to materials
9 used, permits, supervision of construction or installation, payment of permit fees, or
10 other restrictions.

11 **SECTION 6.** 13.62 (2) of the statutes is amended to read:

12 13.62 (2) "Agency" means any board, commission, department, office, society,
13 institution of higher education, council, or committee in the state government, or any
14 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232,
15 233, 234, 237, 238, or 279, except that the term does not include a council or
16 committee of the legislature.

17 **SECTION 7.** 13.94 (1) (dr) of the statutes is created to read:

18 13.94 (1) (dr) Biennially, beginning in 2013, conduct a financial audit of the
19 Wisconsin Economic Development Corporation and a program evaluation audit of
20 the economic development programs administered by the Wisconsin Economic
21 Development Corporation under ch. 238. The legislative audit bureau shall file a
22 copy of each audit report under this paragraph with the distributees specified in par.
23 (b).

24 **SECTION 8.** 13.94 (1) (mm) of the statutes is amended to read:

1 13.94 (1) (mm) No later than July 1, 2012, prepare a financial and performance
2 evaluation audit of the economic development programs administered by the
3 department of commerce, the University of Wisconsin System, the department of
4 agriculture, trade and consumer protection, the department of natural resources, the
5 Wisconsin Housing and Economic Development Authority, the Wisconsin Economic
6 Development Corporation, the department of tourism, the technical college system,
7 and the department of transportation. In this paragraph, economic development
8 program has the meaning given in s. 560.001 (1m). The legislative audit bureau shall
9 file a copy of the report of the audit under this paragraph with the distributees
10 specified in par. (b).

11 **SECTION 9.** 13.94 (1s) (c) 5. of the statutes is created to read:

12 13.94 (1s) (c) 5. The Wisconsin Economic Development Corporation for the cost
13 of the audit required to be performed under sub. (1) (dr).

14 **SECTION 10.** 13.94 (4) (a) 1. of the statutes is amended to read:

15 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
16 credentialing board, commission, independent agency, council or office in the
17 executive branch of state government; all bodies created by the legislature in the
18 legislative or judicial branch of state government; any public body corporate and
19 politic created by the legislature including specifically the Wisconsin Quality Home
20 Care Authority, the Fox River Navigational System Authority, the Lower Fox River
21 Remediation Authority, and the Wisconsin Aerospace Authority, the Wisconsin
22 Economic Development Corporation, a professional baseball park district, a local
23 professional football stadium district, a local cultural arts district and a long-term
24 care district under s. 46.2895; every Wisconsin works agency under subch. III of ch.
25 49; every provider of medical assistance under subch. IV of ch. 49; technical college

1 district boards; every county department under s. 51.42 or 51.437; every nonprofit
2 corporation or cooperative or unincorporated cooperative association to which
3 moneys are specifically appropriated by state law; and every corporation, institution,
4 association or other organization which receives more than 50% of its annual budget
5 from appropriations made by state law, including subgrantee or subcontractor
6 recipients of such funds.

7 **SECTION 11.** 13.95 (intro.) of the statutes is amended to read:

8 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
9 known as the “Legislative Fiscal Bureau” headed by a director. The fiscal bureau
10 shall be strictly nonpartisan and shall at all times observe the confidential nature
11 of the research requests received by it; however, with the prior approval of the
12 requester in each instance, the bureau may duplicate the results of its research for
13 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director’s
14 designated employees shall at all times, with or without notice, have access to all
15 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
16 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
17 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
18 Authority, the Wisconsin Economic Development Corporation, and the Fox River
19 Navigational System Authority, and to any books, records, or other documents
20 maintained by such agencies or authorities and relating to their expenditures,
21 revenues, operations, and structure.

22 **SECTION 12.** 16.002 (2) of the statutes is amended to read:

23 16.002 (2) “Departments” means constitutional offices, departments, and
24 independent agencies and includes all societies, associations, and other agencies of
25 state government for which appropriations are made by law, but not including

1 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and or in chs. ch. 52,
2 231, 232, 233, 234, 235, 237, and 238, or 279.

3 **SECTION 13.** 16.004 (4) of the statutes is amended to read:

4 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
5 department as the secretary designates may enter into the offices of state agencies
6 and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under
7 chs. 52, 231, 233, 234, 237, 238, and 279, and may examine their books and accounts
8 and any other matter that in the secretary's judgment should be examined and may
9 interrogate the agency's employees publicly or privately relative thereto.

10 **SECTION 14.** 16.004 (5) of the statutes is amended to read:

11 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
12 authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs.
13 52, 231, 233, 234, 237, 238, and 279, and their officers and employees, shall cooperate
14 with the secretary and shall comply with every request of the secretary relating to
15 his or her functions.

16 **SECTION 15.** 16.004 (12) (a) of the statutes is amended to read:

17 16.004 (12) (a) In this subsection, "state agency" means an association,
18 authority, board, department, commission, independent agency, institution, office,
19 society, or other body in state government created or authorized to be created by the
20 constitution or any law, including the legislature, the office of the governor, and the
21 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority,
22 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
23 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
24 Care Authority, the Wisconsin Economic Development Corporation, and the Fox
25 River Navigational System Authority.

1 **SECTION 16.** 16.045 (1) (a) of the statutes is amended to read:

2 16.045 (1) (a) “Agency” means an office, department, independent agency,
3 institution of higher education, association, society, or other body in state
4 government created or authorized to be created by the constitution or any law, that
5 is entitled to expend moneys appropriated by law, including the legislature and the
6 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
7 ch. 149 or in ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

8 **SECTION 17.** 16.15 (1) (ab) of the statutes is amended to read:

9 16.15 (1) (ab) “Authority” has the meaning given under s. 16.70 (2), but
10 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
11 River Remediation Authority, the Wisconsin Quality Home Care Authority, the
12 Wisconsin Economic Development Corporation, and the Health Insurance
13 Risk-Sharing Plan Authority.

14 **SECTION 18.** 16.41 (4) of the statutes is amended to read:

15 16.41 (4) In this section, “authority” means a body created under subch. II of
16 ch. 114 or subch. III of ch. 149 or under ch. 52, 231, 233, 234, 237, 238, or 279.

17 **SECTION 19.** 16.417 (1) (a) of the statutes is amended to read:

18 16.417 (1) (a) “Agency” means an office, department, independent agency,
19 institution of higher education, association, society, or other body in state
20 government created or authorized to be created by the constitution or any law, that
21 is entitled to expend moneys appropriated by law, including the legislature and the
22 courts, but not including an authority or the body created under subch. III of ch. 149
23 or under ch. 238.

24 **SECTION 20.** 16.417 (1) (a) of the statutes, as affected by 2011 Wisconsin Act
25 (this act), is amended to read:

1 16.417 (1) (a) “Agency” means an office, department, independent agency,
2 institution of higher education, association, society, or other body in state
3 government created or authorized to be created by the constitution or any law, that
4 is entitled to expend moneys appropriated by law, including the legislature and the
5 courts, but not including an authority or the body created under subch. III of ch. 149
6 or under ch. 238.

7 **SECTION 21.** 16.417 (1) (b) of the statutes is amended to read:

8 16.417 (1) (b) “Authority” means a body created under subch. II of ch. 114 or
9 ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

10 **SECTION 22.** 16.52 (7) of the statutes is amended to read:

11 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
12 that is authorized to maintain a contingent fund under s. 20.920 may establish a
13 petty cash account from its contingent fund. The procedure for operation and
14 maintenance of petty cash accounts and the character of expenditures therefrom
15 shall be prescribed by the secretary. In this subsection, “agency” means an office,
16 department, independent agency, institution of higher education, association,
17 society, or other body in state government created or authorized to be created by the
18 constitution or any law, that is entitled to expend moneys appropriated by law,
19 including the legislature and the courts, but not including an authority created in
20 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

21 **SECTION 23.** 16.528 (1) (a) of the statutes is amended to read:

22 16.528 (1) (a) “Agency” means an office, department, independent agency,
23 institution of higher education, association, society, or other body in state
24 government created or authorized to be created by the constitution or any law, that
25 is entitled to expend moneys appropriated by law, including the legislature and the

1 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
2 ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

3 **SECTION 24.** 16.53 (2) of the statutes is amended to read:

4 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
5 invoice, the agency shall notify the sender of the invoice within 10 working days after
6 it receives the invoice of the reason it is improperly completed. In this subsection,
7 “agency” means an office, department, independent agency, institution of higher
8 education, association, society, or other body in state government created or
9 authorized to be created by the constitution or any law, that is entitled to expend
10 moneys appropriated by law, including the legislature and the courts, but not
11 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
12 52, 231, 233, 234, 237, 238, or 279.

13 **SECTION 25.** 16.54 (9) (a) 1. of the statutes is amended to read:

14 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
15 institution of higher education, association, society or other body in state
16 government created or authorized to be created by the constitution or any law, which
17 is entitled to expend moneys appropriated by law, including the legislature and the
18 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
19 ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

20 **SECTION 26.** 16.765 (1) of the statutes is amended to read:

21 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
22 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
23 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
24 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
25 Wisconsin Economic Development Corporation, and the Bradley Center Sports and

1 Entertainment Corporation shall include in all contracts executed by them a
2 provision obligating the contractor not to discriminate against any employee or
3 applicant for employment because of age, race, religion, color, handicap, sex, physical
4 condition, developmental disability as defined in s. 51.01 (5), sexual orientation as
5 defined in s. 111.32 (13m), or national origin and, except with respect to sexual
6 orientation, obligating the contractor to take affirmative action to ensure equal
7 employment opportunities.

8 **SECTION 27.** 16.765 (2) of the statutes is amended to read:

9 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
10 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
11 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
12 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
13 Wisconsin Economic Development Corporation, and the Bradley Center Sports and
14 Entertainment Corporation shall include the following provision in every contract
15 executed by them: "In connection with the performance of work under this contract,
16 the contractor agrees not to discriminate against any employee or applicant for
17 employment because of age, race, religion, color, handicap, sex, physical condition,
18 developmental disability as defined in s. 51.01 (5), sexual orientation or national
19 origin. This provision shall include, but not be limited to, the following: employment,
20 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
21 termination; rates of pay or other forms of compensation; and selection for training,
22 including apprenticeship. Except with respect to sexual orientation, the contractor
23 further agrees to take affirmative action to ensure equal employment opportunities.
24 The contractor agrees to post in conspicuous places, available for employees and

1 applicants for employment, notices to be provided by the contracting officer setting
2 forth the provisions of the nondiscrimination clause”.

3 **SECTION 28.** 16.765 (5) of the statutes is amended to read:

4 16.765 (5) The head of each contracting agency and the boards of directors of
5 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
6 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
7 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
8 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
9 Development Corporation, and the Bradley Center Sports and Entertainment
10 Corporation shall be primarily responsible for obtaining compliance by any
11 contractor with the nondiscrimination and affirmative action provisions prescribed
12 by this section, according to procedures recommended by the department. The
13 department shall make recommendations to the contracting agencies and the boards
14 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox
15 River Navigational System Authority, the Wisconsin Aerospace Authority, the
16 Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
17 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
18 Development Corporation, and the Bradley Center Sports and Entertainment
19 Corporation for improving and making more effective the nondiscrimination and
20 affirmative action provisions of contracts. The department shall promulgate such
21 rules as may be necessary for the performance of its functions under this section.

22 **SECTION 29.** 16.765 (6) of the statutes is amended to read:

23 16.765 (6) The department may receive complaints of alleged violations of the
24 nondiscrimination provisions of such contracts. The department shall investigate
25 and determine whether a violation of this section has occurred. The department may

1 delegate this authority to the contracting agency, the University of Wisconsin
2 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
3 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
4 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
5 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
6 Sports and Entertainment Corporation for processing in accordance with the
7 department's procedures.

8 **SECTION 30.** 16.765 (7) (intro.) of the statutes is amended to read:

9 16.765 (7) (intro.) When a violation of this section has been determined by the
10 department, the contracting agency, the University of Wisconsin Hospitals and
11 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
12 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
13 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
14 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
15 Entertainment Corporation, the contracting agency, the University of Wisconsin
16 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
17 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
18 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
19 Authority, the Wisconsin Economic Development Corporation, or the Bradley Center
20 Sports and Entertainment Corporation shall:

21 **SECTION 31.** 16.765 (7) (d) of the statutes is amended to read:

22 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
23 further violations of this section and to report its corrective action to the contracting
24 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
25 Navigational System Authority, the Wisconsin Aerospace Authority, the Health

1 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
2 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
3 Development Corporation, or the Bradley Center Sports and Entertainment
4 Corporation.

5 **SECTION 32.** 16.765 (8) of the statutes is amended to read:

6 16.765 (8) If further violations of this section are committed during the term
7 of the contract, the contracting agency, the Fox River Navigational System Authority,
8 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
9 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
10 Care Authority, the Wisconsin Economic Development Corporation, or the Bradley
11 Center Sports and Entertainment Corporation may permit the violating party to
12 complete the contract, after complying with this section, but thereafter the
13 contracting agency, the Fox River Navigational System Authority, the Wisconsin
14 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
15 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, the
16 Wisconsin Economic Development Corporation, or the Bradley Center Sports and
17 Entertainment Corporation shall request the department to place the name of the
18 party on the ineligible list for state contracts, or the contracting agency, the Fox River
19 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
20 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
21 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
22 Development Corporation, or the Bradley Center Sports and Entertainment
23 Corporation may terminate the contract without liability for the uncompleted
24 portion or any materials or services purchased or paid for by the contracting party
25 for use in completing the contract.

1 **SECTION 33.** 16.85 (2) of the statutes is amended to read:

2 16.85 (2) To furnish engineering, architectural, project management, and other
3 building construction services whenever requisitions therefor are presented to the
4 department by any agency. The department may deposit moneys received from the
5 provision of these services in the account under s. 20.505 (1) (kc) or in the general
6 fund as general purpose revenue — earned. In this subsection, “agency” means an
7 office, department, independent agency, institution of higher education, association,
8 society, or other body in state government created or authorized to be created by the
9 constitution or any law, which is entitled to expend moneys appropriated by law,
10 including the legislature and the courts, but not including an authority created in
11 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, 238, or 279.

12 **SECTION 34.** 16.865 (8) of the statutes is amended to read:

13 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
14 proportionate share of the estimated costs attributable to programs administered by
15 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
16 may charge premiums to agencies to finance costs under this subsection and pay the
17 costs from the appropriation on an actual basis. The department shall deposit all
18 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
19 Costs assessed under this subsection may include judgments, investigative and
20 adjustment fees, data processing and staff support costs, program administration
21 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
22 subsection, “agency” means an office, department, independent agency, institution
23 of higher education, association, society, or other body in state government created
24 or authorized to be created by the constitution or any law, that is entitled to expend
25 moneys appropriated by law, including the legislature and the courts, but not

1 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
2 52, 231, 232, 233, 234, 235, 237, 238, or 279.

3 **SECTION 35.** 19.42 (10) (sm) of the statutes is created to read:

4 19.42 (10) (sm) The members of the board of directors of the Wisconsin
5 Economic Development Corporation employed in the private sector who are
6 appointed by the speaker of the assembly and the senate majority leader.

7 **SECTION 36.** 19.42 (10) (t) of the statutes is created to read:

8 19.42 (10) (t) The management staff of the Wisconsin Economic Development
9 Corporation, as determined by the chief executive officer of the corporation.

10 **SECTION 37.** 19.42 (13) (om) of the statutes is created to read:

11 19.42 (13) (om) The members of the board of directors of the Wisconsin
12 Economic Development Corporation employed in the private sector who are
13 appointed by the speaker of the assembly and the senate majority leader.

14 **SECTION 38.** 19.42 (13) (p) of the statutes is created to read:

15 19.42 (13) (p) The management staff of the Wisconsin Economic Development
16 Corporation, as determined by the chief executive officer of the corporation.

17 **SECTION 39.** 19.45 (11) (e) of the statutes is created to read:

18 19.45 (11) (e) The board of directors of the Wisconsin Economic Development
19 Corporation shall prescribe and enforce a code of ethics for employees of the
20 corporation who are not state public officials.

21 **SECTION 40.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
22 insert the following amounts for the purposes indicated:

2009-10 2010-11

**20.192 Wisconsin Economic Development
Corporation**

(1) PROMOTION OF ECONOMIC DEVELOPMENT

(a)	Operations and programs	GPR	C	-0-	-0-
(k)	Transferred general fund moneys from department of commerce	PR-S	C	-0-	-0-
(m)	Federal aid; programs	PR-F	C	-0-	-0-

SECTION 41. 20.192 of the statutes is created to read:

20.192 Wisconsin Economic Development Corporation. There is appropriated to the Wisconsin Economic Development Corporation for the following program:

(1) PROMOTION OF ECONOMIC DEVELOPMENT. (a) *Operations and programs.* As a continuing appropriation, the amounts in the schedule for the operations of the Wisconsin Economic Development Corporation and for funding economic development programs developed and implemented under s. 238.03.

(k) *Transferred general fund moneys from department of commerce.* All moneys transferred under 2011 Wisconsin Act (this act), section 9155 (2), for the operations of the Wisconsin Economic Development Corporation and for funding economic development programs developed and implemented under s. 238.03.

(m) *Federal aid; programs.* All moneys received from the federal government as authorized by the governor under s. 16.54, for the purposes of funding programs administered by the Wisconsin Economic Development Corporation.

SECTION 42. 40.02 (28) of the statutes is amended to read:

1 40.02 (28) “Employer” means the state, including each state agency, any
2 county, city, village, town, school district, other governmental unit or
3 instrumentality of 2 or more units of government now existing or hereafter created
4 within the state, any federated public library system established under s. 43.19
5 whose territory lies within a single county with a population of 500,000 or more, a
6 local exposition district created under subch. II of ch. 229, the Wisconsin Economic
7 Development Corporation created under ch. 238, a transit authority created under
8 s. 66.1039, and a long-term care district created under s. 46.2895, except as provided
9 under ss. 40.51 (7) and 40.61 (3). “Employer” does not include a local cultural arts
10 district created under subch. V of ch. 229. Each employer shall be a separate legal
11 jurisdiction for OASDHI purposes.

12 **SECTION 43.** 40.02 (36) of the statutes is amended to read:

13 40.02 (36) “Governing body” means the legislature or the head of each state
14 agency with respect to employees of that agency for the state, the common council
15 in cities, the village board in villages, the town board in towns, the county board in
16 counties, the school board in school districts, or the board, commission, or other
17 governing body having the final authority for any other unit of government, for any
18 agency or instrumentality of 2 or more units of government, for any federated public
19 library system established under s. 43.19 whose territory lies within a single county
20 with a population of 500,000 or more, for a local exposition district created under
21 subch. II of ch. 229, for the Wisconsin Economic Development Corporation created
22 under ch. 238, or for a long-term care district created under s. 46.2895, but does not
23 include a local cultural arts district created under subch. V of ch. 229.

24 **SECTION 44.** 40.02 (54) (m) of the statutes is created to read:

1 40.02 (54) (m) The Wisconsin Economic Development Corporation, but only if
2 the corporation elects to become a participating employer under s. 40.21 (1).

3 **SECTION 45.** 70.11 (38r) of the statutes is created to read:

4 70.11 (38r) ECONOMIC DEVELOPMENT CORPORATION. All property owned by the
5 Wisconsin Economic Development Corporation, provided that use of the property is
6 primarily related to the purposes of the Wisconsin Economic Development
7 Corporation.

8 **SECTION 46.** 71.26 (1) (be) of the statutes is amended to read:

9 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
10 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
11 Authority, of the Wisconsin Quality Home Care Authority, of the Fox River
12 Navigational System Authority, of the Wisconsin Economic Development
13 Corporation, and of the Wisconsin Aerospace Authority.

14 **SECTION 47.** 77.54 (9a) (a) of the statutes is amended to read:

15 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
16 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
17 Insurance Risk-Sharing Plan Authority, the Wisconsin Quality Home Care
18 Authority, the Wisconsin Economic Development Corporation, and the Fox River
19 Navigational System Authority.

20 **SECTION 48.** 100.45 (1) (dm) of the statutes is amended to read:

21 100.45 (1) (dm) “State agency” means any office, department, agency,
22 institution of higher education, association, society, or other body in state
23 government created or authorized to be created by the constitution or any law which
24 is entitled to expend moneys appropriated by law, including the legislature and the
25 courts, the Wisconsin Housing and Economic Development Authority, the Bradley

1 Center Sports and Entertainment Corporation, the University of Wisconsin
2 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
3 Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care
4 Authority, the Wisconsin Economic Development Corporation, and the Fox River
5 Navigational System Authority.

6 **SECTION 49.** 101.177 (1) (d) of the statutes is amended to read:

7 101.177 (1) (d) "State agency" means any office, department, agency,
8 institution of higher education, association, society, or other body in state
9 government created or authorized to be created by the constitution or any law, that
10 is entitled to expend moneys appropriated by law, including the legislature and the
11 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
12 Center Sports and Entertainment Corporation, the University of Wisconsin
13 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
14 Quality Home Care Authority, the Wisconsin Economic Development Corporation,
15 and the Wisconsin Health and Educational Facilities Authority, but excluding the
16 Health Insurance Risk-Sharing Plan Authority and the Lower Fox River
17 Remediation Authority.

18 **SECTION 50.** 230.03 (3) of the statutes is amended to read:

19 230.03 (3) "Agency" means any board, commission, committee, council, or
20 department in state government or a unit thereof created by the constitution or
21 statutes if such board, commission, committee, council, department, unit, or the
22 head thereof, is authorized to appoint subordinate staff by the constitution or
23 statute, except a legislative or judicial board, commission, committee, council,
24 department, or unit thereof or an authority created under subch. II of ch. 114 or
25 subch. III of ch. 149 or under ch. 52, 231, 232, 233, 234, 235, 237, 238, or 279.

1 “Agency” does not mean any local unit of government or body within one or more local
2 units of government that is created by law or by action of one or more local units of
3 government.

4 **SECTION 51.** Chapter 238 of the statutes is created to read:

5 **CHAPTER 238**

6 WISCONSIN ECONOMIC DEVELOPMENT

7 CORPORATION

8 **238.01 Definitions.** In this chapter, except as otherwise provided:

9 (1) “Board” means the board of directors of the corporation.

10 (2) “Corporation” means the Wisconsin Economic Development Corporation.

11 (3) “Economic development program” means a program or activity having the
12 primary purpose of encouraging the establishment and growth of business in this
13 state, including the creation and retention of jobs.

14 **238.02 Creation and organization of corporation.** (1) There is created
15 an authority, which is a public body corporate and politic, to be known as the
16 “Wisconsin Economic Development Corporation.” The members of the board shall
17 consist of the governor, who shall serve as chairperson of the board, and 6 members
18 nominated by the governor, and with the advice and consent of the senate appointed,
19 to serve at the pleasure of the governor; 3 members appointed by the speaker of the
20 assembly, consisting of one majority and one minority party representative to the
21 assembly, appointed as are the members of standing committees in the assembly, and
22 one person employed in the private sector, to serve at the speaker’s pleasure; and 3
23 members appointed by the senate majority leader, consisting of one majority and one
24 minority party senator, appointed as are members of standing committees in the
25 senate, and one person employed in the private sector, to serve at the majority

1 leader's pleasure. The secretary of administration and the secretary of revenue shall
2 also serve on the board as nonvoting members.

3 (2) A majority of the voting members of the board constitutes a quorum for the
4 purpose of conducting its business and exercising its powers and for all other
5 purposes, notwithstanding the existence of any vacancies. Action may be taken by
6 the board upon a vote of a majority of the voting members present.

7 (3) A chief executive officer shall be nominated by the governor, and with the
8 advice and consent of the senate appointed, to serve at the pleasure of the governor.
9 The board may delegate to the chief executive officer any powers and duties the board
10 considers proper. The chief executive officer shall receive such compensation as may
11 be determined by the board.

12 **238.03 Duties of board.** (1) The board shall develop and implement economic
13 programs to provide business support and expertise and financial assistance to
14 companies that are investing and creating jobs in Wisconsin and to support new
15 business start-ups and business expansion and growth in Wisconsin. The board may
16 also develop and implement any other programs related to economic development in
17 Wisconsin.

18 (2) For each program developed and implemented by the board, the board shall
19 do all of the following:

20 (a) Establish clear and measurable goals for the program that are tied to
21 statutory or programmatic policy objectives.

22 (b) Establish at least one quantifiable benchmark for each program goal
23 described in par. (a).

24 (c) Require that each recipient of a grant or loan under the program submit a
25 report to the corporation. Each contract with a recipient of a grant or loan under the

1 program must specify the frequency and format of the report to be submitted to the
2 corporation and the performance measures to be included in the report.

3 (d) Establish a method for evaluating the projected results of the program with
4 actual outcomes as determined by evaluating the information described in pars. (a)
5 and (b).

6 (e) Annually and independently verify, from a sample of grants and loans, the
7 accuracy of the information required to be reported under par. (c).

8 **(3)** The board shall require for each program developed and implemented by
9 the board all of the following:

10 (a) That each recipient of a grant or loan under the program of at least \$100,000
11 submit to the corporation a verified statement describing the recipient's expenditure
12 of the grant or loan funds, signed by both an independent certified public accountant
13 and the director or principal officer of the recipient to attest to the accuracy of the
14 verified statement. The board shall also require the recipient of such a grant or loan
15 to make available for inspection the documents supporting the verified statement.
16 The board must include the requirement in the contract with grant or loan recipients.

17 (b) That the board, if a recipient of a grant or loan under the program submits
18 false or misleading information to the corporation or fails to comply with the terms
19 of a contract entered into with the corporation, without providing satisfactory
20 explanation for the noncompliance, do all of the following:

- 21 1. Recoup payments made to the recipient.
- 22 2. Withhold future payments to be made to the recipient.
- 23 3. Impose a financial penalty on the recipient.

1 **238.04 Powers of board.** The board shall have all the powers necessary or
2 convenient to carry out the purposes and provisions of this chapter. In addition to
3 all other powers granted the board under this chapter, the board may specifically:

4 (1) Adopt, amend, and repeal any bylaws, policies, and procedures for the
5 regulation of its affairs and the conduct of its business.

6 (2) Have a seal and alter the seal at pleasure.

7 (3) Maintain an office.

8 (4) Sue and be sued.

9 (5) Accept gifts, grants, loans, or other contributions from private or public
10 sources.

11 (6) Establish the corporation's annual budget and monitor the fiscal
12 management of the corporation.

13 (7) Execute contracts and other instruments required for the operation of the
14 corporation.

15 (8) Employ any officers, agents, and employees that it may require and
16 determine their qualifications, duties, and compensation.

17 (9) Issue notes, bonds, and any other obligations.

18 (10) Make loans and provide grants.

19 (11) Incur debt.

20 (12) Procure liability insurance.

21 (13) Elect to become a participating employer in the Wisconsin Retirement
22 System under s. 40.21 (1).

23 (14) Enter into a memorandum of understanding with the department of
24 commerce to administer the tax benefit and tax credit and other economic

1 development programs under ch. 560 and to assume the department's reporting
2 requirements related to those programs.

3 **238.05 Department of commerce assistance and coordination.** (1) If
4 requested by the board, the department of commerce shall provide staff or other
5 resources to assist the board in carrying out the purposes and provisions of this
6 chapter.

7 (2) To the greatest extent practicable, the department of commerce and the
8 board shall seek to coordinate their economic development programs.

9 **238.06 Liability limited.** Neither the state nor any political subdivision of
10 the state, nor any officer, employee, or agent of the state or a political subdivision of
11 the state who is acting within the scope of employment or agency, is liable for any
12 debt, obligation, act, or omission of the corporation.

13 **238.07 Submission of annual reports to legislature.** (1) Annually, by
14 January 1, the board shall submit to the chief clerk of each house of the legislature,
15 for distribution to the legislature under s. 13.172 (2), a report identifying the
16 economic development projects that the board intends to develop and implement
17 during the current calendar year.

18 (2) Annually, no later than October 1, the board shall submit to the joint
19 legislative audit committee and the chief clerk of each house of the legislature, for
20 distribution to the legislature under s. 13.172 (2), a report for the previous fiscal year
21 on each of the economic development programs of the corporation that contains all
22 of the following:

23 (a) A description of each program.

24 (b) A comparison of expected and actual program outcomes.

25 (c) The number of grants made under the program.

- 1 (d) The number of loans made under the program.
- 2 (e) The amount of each grant and loan made under the program.
- 3 (f) The recipient of each grant or loan made under the program.
- 4 (g) The sum total of all grants and loans awarded to and received by each
5 recipient under the program.
- 6 (h) Any recommended changes to the program.
- 7 **(3)** The board shall make readily accessible to the public on an Internet-based
8 system the information required under sub. (2).

9 **238.10 Excess reserves.** In any fiscal year, if the reserves in the accounts of
10 the corporation are greater than 125 percent of the moneys appropriated to the
11 corporation under s. 20.192 in that fiscal year, the board shall submit a report to the
12 joint committee on finance specifying the amount of the reserves and the reasons for
13 why the reserves exceed 125 percent of the moneys appropriated to the corporation
14 under s. 20.192 in that fiscal year. If the joint committee on finance determines that
15 the reasons are not sufficient to justify the amount of the reserves, the joint
16 committee on finance may require the board to pay any excess reserves to the general
17 fund.

18 **SECTION 52.** 281.75 (4) (b) 3. of the statutes is amended to read:
19 281.75 (4) (b) 3. An authority created under subch. II of ch. 114 or ch. 52, 231,
20 233, 234, ~~or 237,~~ or 238.

21 **SECTION 53.** 285.59 (1) (b) of the statutes is amended to read:
22 285.59 (1) (b) "State agency" means any office, department, agency, institution
23 of higher education, association, society, or other body in state government created
24 or authorized to be created by the constitution or any law which is entitled to expend
25 moneys appropriated by law, including the legislature and the courts, the Wisconsin

1 Housing and Economic Development Authority, the Bradley Center Sports and
2 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
3 Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace
4 Authority, the Wisconsin Quality Home Care Authority, the Wisconsin Economic
5 Development Corporation, and the Wisconsin Health and Educational Facilities
6 Authority.

7 **SECTION 9155. Nonstatutory provisions; Other.**

8 (1) ABOLITION OF DEPARTMENT OF COMMERCE POSITIONS. Notwithstanding section
9 16.505 (1) of the statutes, before July 1, 2011, the secretary of administration may
10 abolish any full-time equivalent position or portion thereof that is funded from the
11 general fund from revenues appropriated under section 20.143 of the statutes and
12 that is assigned duties relating to economic development programs of the
13 department of commerce.

14 (2) TRANSFER OF MONEYS FROM THE DEPARTMENT OF COMMERCE TO THE WISCONSIN
15 ECONOMIC DEVELOPMENT CORPORATION. Before July 1, 2011, or the effective date of the
16 2011-2013 biennial budget act, whichever is later, the secretary of administration
17 may transfer moneys from any general fund appropriation under section 20.143 (1)
18 or (4) of the statutes that are used to fund economic development programs of the
19 department of commerce to the appropriation under section 20.192 (1) (k) of the
20 statutes, as created by this act. The secretary may not transfer any moneys under
21 this subsection if the transfer of those moneys would violate a condition imposed by
22 the federal government on the expenditure of the moneys or if the transfer would
23 violate the federal or state constitution.

24 **SECTION 9455. Effective dates; Other.**

