



## 1997 ASSEMBLY BILL 392

May 27, 1997 - Introduced by Representatives OTT, OTTE, BRANDEMUEHL, SYKORA, WARD, HAHN, AINSWORTH, POWERS and OWENS, cosponsored by Senator ROESSLER. Referred to Committee on Agriculture.

1     **AN ACT to repeal** 15.135 (5) and 93.50 (1) (b); **to renumber and amend** 93.51;  
2           **to amend** 20.115 (9) (a), 93.50 (1) (d), 93.50 (2) (title), 93.50 (2) (a), 93.50 (2)  
3           (am), 93.50 (2) (b), 93.50 (2) (d), 93.50 (2) (e), 93.50 (2) (f), 93.50 (3) (am) 6., 93.50  
4           (3) (b), 93.50 (3) (e), 93.50 (3) (f), 93.50 (4) (b) and 93.50 (4) (e); **to repeal and**  
5           **recreate** 93.51 (1), (2) (title) and (c) and (3); and **to create** 93.52 and 904.15 of  
6           the statutes; **relating to:** the farm mediation and arbitration program,  
7           eliminating the farm mediation and arbitration board, the farmer assistance  
8           program, exit from and entry into the dairy industry, granting rule-making  
9           authority and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

#### ***Farmer assistance program***

Current law authorizes the department of agriculture, trade and consumer protection (DATCP) to administer a farmer assistance program to provide consultation and assistance to distressed farmers. The program may use volunteers to advise farmers about financial matters and other concerns. Current law does not establish eligibility requirements for participation in the farmer assistance program.

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Under this bill, to receive assistance under the farmer assistance program, a farmer's gross sales of farm products for the preceding year must equal or exceed 2,088 times the federal minimum hourly wage. The bill requires DATCP to provide any necessary training to persons who DATCP accepts as volunteer advisors under the farmer assistance program and to compensate those persons for travel and other necessary expenses. The bill requires DATCP and volunteer advisors to keep confidential all information obtained in providing advice and counseling, except that the confidentiality requirement does not apply to reports of child abuse.

***Farm mediation and arbitration program***

Under current law, DATCP and the farm mediation and arbitration board (board) administer the farm mediation and arbitration program. The board has rule-making authority and selects mediators and arbitrators. To be eligible to participate in the farm mediation and arbitration program a farmer must own or lease at least 60 acres of agricultural property and have gross sales of farm products of at least \$20,000 for the preceding year.

This bill eliminates the 60 acre requirement for eligibility to participate in the farm mediation and arbitration program and changes the minimum required value of gross sales of farm products to 2,088 times the federal minimum hourly wage. This bill eliminates the board and transfers the board's current responsibilities concerning the farm mediation and arbitration program, including rule-making, to DATCP.

***Dairy farmer exit and entry***

This bill requires DATCP to administer a program to assist in the transfer of farm operations from persons exiting the dairy industry to persons wishing to enter the industry. The bill requires DATCP to keep confidential information obtained under the program.

***Admissibility of evidence***

This bill provides that communication made in the course of providing assistance under the farmer assistance program, the dairy farmer exit and entry program or the stray voltage program is generally not admissible in evidence or subject to discovery or subpoena in any judicial or administrative proceeding.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1           **SECTION 1.** 15.135 (5) of the statutes is repealed.
- 2           **SECTION 2.** 20.115 (9) (a) of the statutes is amended to read:
- 3           20.115 (9) (a) *General program operations.* The amounts in the schedule for
- 4           general program operations under ss. 93.50 ~~and~~, 93.51 and 93.52.

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1           **SECTION 3.** 93.50 (1) (b) of the statutes is repealed.

2           **SECTION 4.** 93.50 (1) (d) of the statutes is amended to read:

3           93.50 (1) (d) "Farmer" means a farmer, as defined in s. 102.04 (3), who owns  
4 or leases a total of 60 acres or more of land that is agricultural property and whose  
5 gross sales of farm products for the preceding year equaled \$20,000 or more or  
6 exceeded the product of 2,088 multiplied by the federal minimum hourly wage under  
7 29 USC 206 (a) 1.

8           **SECTION 5.** 93.50 (2) (title) of the statutes is amended to read:

9           93.50 (2) (title) ~~BOARD, MEDIATORS~~ MEDIATORS AND ARBITRATORS.

10          **SECTION 6.** 93.50 (2) (a) of the statutes is amended to read:

11          93.50 (2) (a) *Selection of mediators.* The ~~board~~ department shall select as  
12 mediators ~~who are residents of this state,~~ persons who have the character and ability  
13 to serve as mediators and who have knowledge of financial or agricultural matters  
14 or of mediation processes. The ~~board~~ department shall ensure that each mediator  
15 receives sufficient training in mediation processes, resolving conflicts, farm finance  
16 ~~and management and the farm credit system and practices to enable the mediator~~  
17 credit and other subjects to develop or maintain the skills necessary to perform his  
18 or her functions under this section.

19          **SECTION 7.** 93.50 (2) (am) of the statutes is amended to read:

20          93.50 (2) (am) *Selection of arbitrators.* The ~~board~~ department shall select as  
21 arbitrators ~~who are residents of this state,~~ persons who have the character and  
22 ability to serve as arbitrators and who have knowledge of ~~financial or agricultural~~  
23 ~~matters or of arbitration~~ or other conflict resolution processes. The ~~board~~ shall  
24 ensure that each arbitrator receives sufficient department may provide training in  
25 arbitration processes, resolving conflicts, ~~farm finance and management and the~~

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1 ~~farm credit system and practices to enable the arbitrator or agricultural issues as~~  
2 ~~part of the process of selecting arbitrators or to arbitrators selected by the~~  
3 ~~department to enable arbitrators to maintain the skills necessary to perform his or~~  
4 ~~her their~~ functions under this section.

5 **SECTION 8.** 93.50 (2) (b) of the statutes is amended to read:

6 93.50 (2) (b) *Compensation of mediators and arbitrators.* Mediators and  
7 arbitrators shall be compensated for travel and other necessary expenses in amounts  
8 approved by the ~~board~~ department.

9 **SECTION 9.** 93.50 (2) (d) of the statutes is amended to read:

10 93.50 (2) (d) *Forms and publicity.* The ~~board~~ department shall prepare all  
11 forms necessary for the administration of this section and shall ensure that forms are  
12 disseminated and that the availability of mediation and arbitration under this  
13 section is publicized.

14 **SECTION 10.** 93.50 (2) (e) of the statutes is amended to read:

15 93.50 (2) (e) *Exclusion from open records law.* All mediators and arbitrators  
16 shall keep confidential all information and records obtained in conducting mediation  
17 and arbitration. The ~~board~~ department shall keep confidential all information and  
18 records that may serve to identify any party to mediation and arbitration under this  
19 section. Any information required to be kept confidential under this paragraph may  
20 be disclosed if the ~~board~~ department and the parties agree to disclosure.

21 **SECTION 11.** 93.50 (2) (f) of the statutes is amended to read:

22 93.50 (2) (f) The ~~board~~ department may promulgate rules necessary to  
23 implement this section. The ~~board~~ department may promulgate rules defining  
24 owners and creditors of agriculturally related businesses and permitting owners and  
25 creditors of such businesses to participate in mediation and arbitration subject to the

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1 same terms and conditions applicable to farmers and creditors under this section.  
2 The board may promulgate a rule under sub. (3) (am) 6. specifying a kind of dispute  
3 as eligible for mediation only with the approval of the department.

4 **SECTION 12.** 93.50 (3) (am) 6. of the statutes is amended to read:

5 93.50 (3) (am) 6. A kind of dispute specified as eligible for mediation by the  
6 board department by rule.

7 **SECTION 13.** 93.50 (3) (b) of the statutes is amended to read:

8 93.50 (3) (b) *Request for mediation; agreement to mediate.* To participate in  
9 mediation, the farmer or other party to a dispute described in par. (am) shall submit  
10 a request for mediation to the board department on forms prepared by the board  
11 department. The board department may not proceed under this section until the  
12 farmer and the other party have submitted an agreement to mediate.

13 **SECTION 14.** 93.50 (3) (e) of the statutes is amended to read:

14 93.50 (3) (e) *Selection of mediator.* If the board department has obtained the  
15 agreement under par. (b), the farmer and the other party may request the board  
16 department to provide the names, mailing addresses and qualifications of up to 3  
17 mediators located in the geographical area in which the agricultural property or  
18 farmer is located. The parties shall select a mediator or, upon request of the parties,  
19 the board department shall designate a mediator for the parties.

20 **SECTION 15.** 93.50 (3) (f) of the statutes is amended to read:

21 93.50 (3) (f) *Mediation.* The function of the mediator is to encourage a  
22 voluntary settlement among the parties. The mediator may not compel a settlement.  
23 The mediator shall schedule meetings of the parties, direct the parties to prepare for  
24 the meetings, attempt to achieve a mediated resolution to the issues among the  
25 parties and, if the parties request, assist the parties in preparing a written

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1 agreement. All mediation meetings shall be held in this state and be conducted  
2 under the laws of this state.

3 **SECTION 16.** 93.50 (4) (b) of the statutes is amended to read:

4 93.50 (4) (b) *Request for arbitration; agreement to arbitrate.* To participate in  
5 arbitration, the farmer and other party under par. (a) shall submit a request for  
6 arbitration to the board department on a form prepared by the board department.  
7 After receipt of the request, if the parties wish to proceed to arbitration under this  
8 subsection, the board department shall require the parties to enter into an  
9 agreement to binding arbitration on a form prepared by the board department.

10 **SECTION 17.** 93.50 (4) (e) of the statutes is amended to read:

11 93.50 (4) (e) *Selection of arbitrator.* After the board department has obtained  
12 the agreement under par. (b), the farmer and the other party may request the board  
13 department to provide the names, mailing addresses and qualifications of up to 3  
14 arbitrators located in the geographical area in which the agricultural property or  
15 farmer is located. The parties shall select an arbitrator or, upon request of the  
16 parties, the board department shall designate an arbitrator for the parties.

17 **SECTION 18.** 93.51 of the statutes is renumbered 93.51 (2) (a) and amended to  
18 read:

19 93.51 (2) (a) The department may provide consultation and assistance to  
20 distressed farmers, which may include but is not limited to providing employment  
21 and retraining counseling for farmers needing employment other than farming,  
22 operating a program in which volunteers advise or counsel farmers about financial  
23 matters and other concerns and operating a crisis hotline for farmers. ~~In addition,~~  
24 the

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1           **(b)** The department may make grants to low-income farmers for the purpose  
2 of paying all or part of the tuition for a farmer who enrolls in a course on farm and  
3 business management techniques offered by a technical college.

4           **SECTION 19.** 93.51 (1), (2) (title) and (c) and (3) of the statutes are created:

5           **93.51 (1) DEFINITIONS.** In this section:

6           (a) "Farmer" has the meaning given in s. 93.50 (1) (d).

7           (b) "Farming" has the meaning given in s. 102.04 (3).

8           **(2) (title) ASSISTANCE PROGRAM.** (c) The department may promulgate rules  
9 necessary to implement this section.

10          **(3) ADVISORS.** (a) The department may select volunteers to provide advice and  
11 counseling services to distressed farmers. Advisors shall have expertise and  
12 experience in relevant areas of knowledge.

13          (b) The department shall provide any necessary training to advisors, including  
14 training concerning the making of voluntary child abuse reports under s. 48.981 (2).

15          (c) Advisors shall be compensated for travel and other necessary expenses in  
16 amounts approved by the department.

17          (d) Advisors and the department shall keep confidential all information  
18 obtained in the process of providing advice or counseling. Any such information  
19 contained in a record is not subject to the right of public inspection and copying under  
20 s. 19.35 (1). This paragraph does not apply to reports of child abuse under s. 48.981  
21 (2).

22          **SECTION 20.** 93.52 of the statutes is created to read:

23          **93.52 Dairy farmer exit-entry program.** The department shall administer  
24 a program to assist in the transfer of farm operations from persons exiting the dairy  
25 industry to persons wishing to enter the industry, including assistance in negotiating

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1 the financial and legal aspects of farm transfers. The department shall keep  
2 confidential information obtained under the program. Any such information  
3 contained in a record is not subject to the right of public inspection and copying under  
4 s. 19.35 (1).

5 **SECTION 21.** 904.15 of the statutes is created to read:

6 **904.15 Communication in farmer assistance programs.** (1) Except as  
7 provided under sub. (2), no oral or written communication made in the course of  
8 providing or receiving advice or counseling under s. 93.51 or in providing or receiving  
9 assistance under s. 93.41 or 93.52 is admissible in evidence or subject to discovery  
10 or compulsory process in any judicial or administrative proceeding.

11 (2) (a) Subsection (1) does not apply to reports of child abuse made under s.  
12 48.981 (2).

13 (b) Subsection (1) does not apply if the person receiving advice or counseling  
14 under s. 93.51 or assistance under s. 93.41 or 93.52 consents to admission or  
15 discovery of the communication.

16 (c) A court may admit evidence otherwise barred by this section if necessary  
17 to prevent a manifest injustice.

18 **SECTION 22. Nonstatutory provisions.**

19 (1) FARM MEDIATION AND ARBITRATION BOARD.

20 (a) *Rules.* All rules promulgated by the farm mediation and arbitration board  
21 that are in effect on the effective date of this paragraph remain in effect until their  
22 specified expiration date or until amended or repealed by the department of  
23 agriculture, trade and consumer protection.

24 (b) *Pending matters.* Any matter pending with the farm mediation and  
25 arbitration board on the effective date of this paragraph is transferred to the



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1 department of agriculture, trade and consumer protection and all materials  
2 submitted to or actions taken by the farm mediation and arbitration board with  
3 respect to the pending matter are considered as having been submitted to or taken  
4 by the department of agriculture, trade and consumer protection.

5

(END)