SENATE SUBSTITUTE AMENDMENT 1,

TO 2003 SENATE BILL 111

March 1, 2004 – Offered by Senator COWLES.

1 AN ACT *to create* 16.855 (10s) and 20.924 (1) (j) of the statutes; **relating to:** the
2 energy efficiency of equipment used in state building projects and certain other
3 projects constructed for the state, a review of the Energy Conservation Code for
4 public buildings and places of employment, and granting rule–making
5 authority.

Analysis by the Legislative Reference Bureau

This substitute amendment directs the Department of Administration (DOA) to prescribe and annually review and revise as necessary energy efficiency standards for equipment installed under state construction projects. The standards must meet or exceed current applicable guidelines of the U.S. Environmental Protection Agency relating to energy efficiency of heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration and other energy–consuming functions (for example, the "energy star" program), guidelines that apply to the federal energy management program for federal energy consumption, and standards established by the American Society of Heating, Refrigerating and Air–Conditioning Engineers.

The substitute amendment also requires DOA to ensure that specifications for any equipment that is designed for any energy–consuming function under any contract administered by DOA meet the applicable standards prescribed by DOA. Under the substitute amendment, if there is no standard applicable to the type of

equipment being purchased, DOA is required to ensure that the equipment that is selected for purchase maximizes energy efficiency to the extent technically and economically feasible. The substitute amendment provides that the energy efficiency of equipment shall be considered to be economically feasible if the difference between the cost of the purchase and installation of energy–efficient equipment and the equipment that would otherwise be installed is not greater than the difference between the cost of operating energy–efficient equipment and the equipment that would otherwise be installed over the anticipated life of the equipment. In addition, the substitute amendment provides that the Building Commission shall not enter into a lease or other contract that provides for construction of a building, structure, or facility to be initially occupied by the state and that contains an option for the state to purchase the building, structure, or facility unless all energy–consuming equipment to be installed meets applicable requirements for state–constructed buildings, structures, and facilities.

Under current law, the Department of Commerce (department) is required to promulgate an Energy Conservation Code for the purpose of energy conservation in public buildings and places of employment and to review that code and promulgate rules that change that code to improve energy conservation whenever the American Society of Heating, Refrigerating, and Air–Conditioning Engineers revises its standards for the energy efficient design of new buildings and whenever five years have elapsed since the last review of that code. Current law requires the department, in conducting that review, to consider incorporating into the Energy Conservation Code design requirements from the most current national energy efficiency design standards that are generally acceptable and used by engineers and the construction industry.

This substitute amendment requires the department, notwithstanding those deadlines for reviewing the Energy Conservation Code, to begin a review of the Energy Conservation Code on the effective date of this substitute amendment and to complete that review and submit proposed rules changing the Energy Conservation Code to improve energy conservation to the Legislative Council Staff by no later than the first day of the 18th month beginning after the effective date of the substitute amendment. The substitute amendment also requires the department, in conducting that review, to consider, to the extent practicable, incorporating into the Energy Conservation Code design requirements from the most current national energy efficiency design standards for new buildings published by the American Society of Heating, Refrigerating, and Air–Conditioning Engineers.

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

1 **SECTION 1.** 16.855 (10s) of the statutes is created to read:

16.855 **(10s)** (a) The department shall, by rule, prescribe and annually review and revise as necessary energy efficiency standards for equipment that is installed as a component of a construction project and that relates to heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function that consumes energy. The standards shall meet or exceed current applicable guidelines of the U.S. Environmental Protection Agency relating to energy efficiency of the functions specified in this paragraph, guidelines that apply to the federal energy management program under 42 USC 8251 et seq., and standards established by the American Society of Heating, Refrigerating and Air–Conditioning Engineers.

(b) The department shall ensure that the specifications for any equipment that is designed for heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function that consumes energy under any contract administered by the department meet applicable standards established under par. (a). If there is no standard under par. (a) applicable to the type of equipment being purchased or if the equipment meeting that standard is not reasonably available, the department shall ensure that energy consumption within a building, structure, or facility and all equipment that is purchased under each contract administered by the department maximizes energy efficiency to the extent technically and economically feasible. The department shall not determine that equipment that meets the applicable standard under par. (a) is not reasonably available on the basis of cost alone unless the difference in the cost of the purchase and installation of the equipment that meets the standard and the equipment that would otherwise be installed is greater than the difference in the cost of operating the equipment that meets the standard and the equipment that would otherwise be installed over the anticipated life of the equipment. The energy efficiency of

equipment shall be considered to be economically feasible if the difference between the cost of the purchase and installation of energy–efficient equipment and the equipment that would otherwise be installed is not greater than the difference between the cost of operating energy–efficient equipment and the equipment that would otherwise be installed over the anticipated life of the equipment.

SECTION 2. 20.924 (1) (j) of the statutes is created to read:

20.924 **(1)** (j) Shall not enter into any lease or other contract that provides for the construction of any building, structure, or facility, or portion thereof, for initial occupancy by the state and that contains an option for the state to purchase the building, structure, or facility unless the seller or lessor agrees that all equipment to be installed as a component of the building, structure, or facility that relates to any function that consumes energy meets applicable requirements for state building projects under s. 16.855 (10s).

SECTION 3. Nonstatutory provisions.

(1) REVIEW OF ENERGY CONSERVATION CODE. Notwithstanding section 101.027 (3) (a) and (b) of the statutes, the department of commerce shall begin a review of the Energy Conservation Code, as defined in section 101.027 (1) (a) of the statutes, on the effective date of this subsection and shall complete that review and submit proposed rules changing the Energy Conservation Code as provided in section 101.027 (2) of the statutes to the legislative council staff under section 227.15 (1) of the statutes by no later than the first day of the 18th month beginning after the effective date of this subsection. Notwithstanding section 101.027 (2) of the statutes, in conducting the review under this subsection, the department of commerce, to the extent practicable, shall consider incorporating into the Energy Conservation Code design requirements from the most current national energy efficiency design

standards for new buildings, except low–rise residential buildings, published by the American Society of Heating, Refrigerating, and Air–Conditioning Engineers.

SECTION 4. Initial applicability.

(1) This act first applies with respect to projects for which design work begins on the effective date of this subsection.

SECTION 5. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ENERGY EFFICIENCY STANDARDS FOR EQUIPMENT INSTALLED IN STATE BUILDING PROJECTS. The treatment of sections 16.855 (10s) and 20.924 (1) (j) of the statutes and SECTION 4 (1) of this act take effect on January 1, 2005.

(END)