



1997 SENATE BILL 476

February 25, 1998 - Introduced by Senator WELCH, cosponsored by Representatives OWENS, GROTHMAN, SERATTI, LADWIG, AINSWORTH, F. LASEE, NASS and SCHAFER. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT to renumber** 59.52 (29) (a) and 60.47 (1) (a); **to renumber and amend**
2 61.55; **to amend** 13.48 (19), 16.854 (3), 59.52 (29) (b), 66.949 (3), 84.06 (2) (a),
3 86.31 (2) (b), 119.04 (1), 229.44 (4) (d) and 229.68 (4) (d); and **to create** 16.855
4 (14m), 20.931, 59.52 (29) (ac), 59.52 (29) (c) and (d), 60.47 (1) (ac), 60.47 (5m),
5 61.55 (title), 61.55 (1), 61.55 (3), 62.15 (1e), 62.15 (15), 66.20 (3s), 66.24 (5m),
6 66.88 (5s), 66.904 (6), 85.017, 118.265, 229.41 (8m), 229.46 (8), 229.65 (6m) and
7 229.682 (9) of the statutes; **relating to:** requirements concerning participation
8 by labor organizations in public construction contracts and the expenditure of
9 public grant moneys.

Analysis by the Legislative Reference Bureau

This bill requires the department of administration, or the secretary of transportation with respect to transportation-related projects, to ensure that the specifications for bids and contracts for state construction projects and construction projects of local professional baseball park districts do not:

1. Require any bidder, contractor or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

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2. Discriminate against any bidder, contractor or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

3. Require any bidder, contractor or subcontractor to enter into or continue to adhere to or enforce any agreement that requires its employes, as a condition of employment, to:

a. Become members of or become affiliated with a labor organization.

b. Make payments to a labor organization, without the authorization of the employes, exceeding the employes' proportionate share of the cost of collective bargaining, contract administration and grievance adjustment.

The bill permits any taxpayer of this state or any other person who enters into contracts or subcontracts for building construction services or transportation-related construction services to bring a lawsuit to require compliance with these requirements. If that person prevails in his or her lawsuit, the bill provides that the court shall award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.

The bill also prohibits any state agency from conditioning the award of any state grant upon any agreement by the recipient:

1. To enter into or continue to adhere to an agreement with any labor organization concerning services to be funded under the grant.

2. To enter into or continue to adhere to or enforce any agreement that requires services that are funded under the grant to be performed by employes who must:

a. Become members of or become affiliated with a labor organization.

b. Make payments to a labor organization, without the authorization of the employes, exceeding the employes' proportionate share of the cost of collective bargaining, contract administration and grievance adjustment.

The bill similarly permits any taxpayer of this state or any other person who applies for a state grant to bring a lawsuit to require compliance with these requirements and provides that, if that person prevails in his or her lawsuit, the court shall award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.

Under current law, state agencies have only the powers given to them by law or necessarily implied therefrom. These powers do not include the authority to condition the award of state contracts or grants upon agreements with labor organizations, representation by labor organizations or making of payments to labor organizations. With certain exceptions, state construction contracts are generally required to be awarded to the lowest responsible bidder. With certain exceptions, contractor for a state building project is required to pay employes who perform work under the contract the prevailing wage for similar work in the area where the project is located. State grants are subject to the specific requirements of various laws under which the grants are made. Currently, state law prohibits any employer from entering into a contract with an employe or prospective employe concerning membership or nonmembership in a labor organization.

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This bill also requires a school board, the governing body of a political subdivision of this state (a city, village, town or county), a metropolitan sewerage district, local exposition district and local professional baseball park district to ensure that the specifications for bids and contracts for public works projects conducted by the school board, political subdivision, metropolitan sewerage district, local exposition district or local professional baseball park district including highway projects, do not:

1. Require any bidder, contractor or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

2. Discriminate against any bidder, contractor or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

3. Require any bidder, contractor or subcontractor to enter into or continue to adhere to or enforce any agreement that requires its employes, as a condition of employment, to:

- a. Become members of or become affiliated with a labor organization.

- b. Make payments to a labor organization, without the authorization of the employes, exceeding the employes' proportionate share of the cost of collective bargaining, contract administration and grievance adjustment.

The bill also permits any taxpayer of this state or any other person who enters into contracts or subcontracts for building construction services to bring a lawsuit to require compliance with these requirements. If that person prevails in his or her lawsuit, the bill provides that the court shall award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.

With certain exceptions, public works contracts with a political subdivision, metropolitan sewerage district and local exposition district are generally required to be awarded to the lowest responsible bidder. With certain exceptions, persons who contract with a political subdivision, metropolitan sewerage district, local exposition district and local professional baseball park district for public works projects are required to pay employes who perform work under such a contract the prevailing wage for similar work in the area where the project is located.

Under current law, towns and counties have only the powers given to them by law or necessarily implied therefrom. These powers do not include the authority to condition the award of public works contracts upon agreements with labor organizations, representation by labor organizations or making of payments to labor organizations. To the extent that the lowest responsible bidder requirements or other exceptions do not apply, cities and villages, under their current law home rule authority, could condition the award of public works contracts upon agreements with labor organizations.

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

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

1 **SECTION 1.** 13.48 (19) of the statutes is amended to read:

2 13.48 (19) ALTERNATIVES TO STATE CONSTRUCTION. Whenever the building
3 commission determines that the use of innovative types of design and construction
4 processes will make better use of the resources and technology available in the
5 building industry, the building commission may waive any ~~or all~~ provision of s.
6 16.855 except s. 16.855 (14m) if such action is in the best interest of the state and if
7 the waiver is accomplished through formal action of the building commission. The
8 building commission may authorize the lease, lease purchase or acquisition of such
9 facilities constructed in the manner authorized by the building commission. The
10 building commission may also authorize the lease, lease purchase or acquisition of
11 existing facilities in lieu of state construction of any project enumerated in the
12 authorized state building program.

13 **SECTION 2.** 16.854 (3) of the statutes is amended to read:

14 16.854 (3) It shall be a goal of the department, with regard to each of the
15 contracts described under sub. (2) (a), (b) and (c), to award at least 25% of the dollar
16 value of such contracts to minority businesses and at least 5% of the dollar value of
17 such contracts to women's businesses.

18 (4) Sections 16.85, 16.855 (1) to (14) and (15) to (23) and 16.87 do not apply to
19 services provided or contracted by the department under this section.

20 **SECTION 3.** 16.855 (14m) of the statutes is created to read:

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1 16.855 (**14m**) (a) In this subsection, “labor organization” has the meaning given
2 in s. 5.02 (8m).

3 (b) The department shall ensure that the specifications for bids and contracts
4 for construction projects entered into under this section do not do any of the
5 following:

6 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
7 an agreement with any labor organization concerning services to be performed in
8 relation to the project or a related project.

9 2. Discriminate against any bidder, contractor or subcontractor for refusing to
10 enter into or continue to adhere to an agreement with any labor organization
11 concerning services to be performed in relation to the project or a related project.

12 3. Require any bidder, contractor or subcontractor to enter into or continue to
13 adhere to or enforce any agreement that requires its employes, as a condition of
14 employment, to do any of the following:

15 a. Become members of or become affiliated with a labor organization.

16 b. Make payments to a labor organization, without the authorization of the
17 employes, exceeding the employes’ proportionate share of the cost of collective
18 bargaining, contract administration and grievance adjustment.

19 (c) Any taxpayer of this state or any other person who enters into contracts or
20 subcontracts for building construction services may bring an action to require
21 compliance with this subsection. If that person prevails in his or her action, the court
22 shall award to that person reasonable actual attorney fees in addition to other costs
23 allowed to prevailing parties under ch. 814.

24 **SECTION 4.** 20.931 of the statutes is created to read:

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1 **20.931 Conditions upon state grants prohibited.** (1) In this section,
2 “labor organization” has the meaning given in s. 5.02 (8m).

3 (2) No state agency may condition the award of any grant made by the agency
4 from moneys appropriated under this chapter upon any agreement by the recipient
5 to do any of the following:

6 (a) Enter into or continue to adhere to an agreement with any labor
7 organization concerning services to be funded under the grant.

8 (b) Enter into or continue to adhere to or enforce any agreement that requires
9 services that are funded under the grant to be performed by employes who must do
10 any of the following:

11 1. Become members of or become affiliated with a labor organization.

12 2. Make payments to a labor organization, without the authorization of the
13 employes, exceeding the employes’ proportionate share of the cost of collective
14 bargaining, contract administration and grievance adjustment.

15 (3) Any taxpayer of this state or any other person who applies for a grant to be
16 made from moneys appropriated under this chapter may bring an action to require
17 compliance with this section. If that person prevails in his or her action, the court
18 shall award to that person reasonable actual attorney fees in addition to other costs
19 allowed to prevailing parties under ch. 814.

20 **SECTION 5.** 59.52 (29) (a) of the statutes is renumbered 59.52 (29) (am).

21 **SECTION 6.** 59.52 (29) (ac) of the statutes is created to read:

22 59.52 (29) (ac) In this subsection, “labor organization” has the meaning given
23 in s. 5.02 (8m).

24 **SECTION 7.** 59.52 (29) (b) of the statutes is amended to read:

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1 59.52 (29) (b) The provisions of par. (a) (am) are not mandatory for the repair
2 or reconstruction of public facilities when damage or threatened damage thereto
3 creates an emergency, as determined by resolution of the board, in which the public
4 health or welfare of the county is endangered. Whenever the board by majority vote
5 at a regular or special meeting determines that an emergency no longer exists, this
6 paragraph no longer applies.

7 **SECTION 8.** 59.52 (29) (c) and (d) of the statutes are created to read:

8 59.52 (29) (c) The board shall ensure that the specifications for bids and
9 contracts for construction projects entered into under this subsection do not do any
10 of the following:

11 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
12 an agreement with any labor organization concerning services to be performed in
13 relation to the project or a related project.

14 2. Discriminate against any bidder, contractor or subcontractor for refusing to
15 enter into or continue to adhere to an agreement with any labor organization
16 concerning services to be performed in relation to the project or a related project.

17 3. Require any bidder, contractor or subcontractor to enter into or continue to
18 adhere to or enforce any agreement that requires its employees, as a condition of
19 employment, to do any of the following:

20 a. Become members of or become affiliated with a labor organization.

21 b. Make payments to a labor organization, without the authorization of the
22 employees, exceeding the employees' proportionate share of the cost of collective
23 bargaining, contract administration and grievance adjustment.

24 (d) Any taxpayer of this state or any other person who enters into contracts or
25 subcontracts for building construction services may bring an action to require

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1 compliance with par (c). If that person prevails in his or her action, the court shall
2 award to that person reasonable actual attorney fees in addition to other costs
3 allowed to prevailing parties under ch. 814.

4 **SECTION 9.** 60.47 (1) (a) of the statutes is renumbered 60.47 (1) (am).

5 **SECTION 10.** 60.47 (1) (ac) of the statutes is created to read:

6 60.47 (1) (ac) “Labor organization” has the meaning given in s. 5.02 (8m).

7 **SECTION 11.** 60.47 (5m) of the statutes is created to read:

8 60.47 (5m) **CONTRACTS WITH LABOR ORGANIZATIONS.** (a) The town board shall
9 ensure that the specifications for bids and contracts for construction projects entered
10 into under this section do not do any of the following:

11 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
12 an agreement with any labor organization concerning services to be performed in
13 relation to the project or a related project.

14 2. Discriminate against any bidder, contractor or subcontractor for refusing to
15 enter into or continue to adhere to an agreement with any labor organization
16 concerning services to be performed in relation to the project or a related project.

17 3. Require any bidder, contractor or subcontractor to enter into or continue to
18 adhere to or enforce any agreement that requires its employes, as a condition of
19 employment, to do any of the following:

20 a. Become members of or become affiliated with a labor organization.

21 b. Make payments to a labor organization, without the authorization of the
22 employes, exceeding the employes’ proportionate share of the cost of collective
23 bargaining, contract administration and grievance adjustment.

24 (b) Any taxpayer of this state or any other person who enters into contracts or
25 subcontracts for building construction services may bring an action to require

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1 compliance with par (a). If that person prevails in his or her action, the court shall
2 award to that person reasonable actual attorney fees in addition to other costs
3 allowed to prevailing parties under ch. 814.

4 **SECTION 12.** 61.55 (title) of the statutes is created to read:

5 **61.55 (title) Public contracts and competitive bidding.**

6 **SECTION 13.** 61.55 of the statutes is renumbered 61.55 (2) and amended to read:

7 **61.55 (2) CONTRACTS INVOLVING OVER \$10,000; HOW LET; EXCEPTION.** All contracts
8 for public construction, in any such village, exceeding \$10,000, shall be let by the
9 village board to the lowest responsible bidder in accordance with s. 66.29 insofar as
10 said that section may be applicable. If the estimated cost of any public construction
11 exceeds \$5,000, but is not greater than \$10,000, the village board shall give a class
12 1 notice, under ch. 985, of the proposed construction before the contract for the
13 construction is executed. This provision and s. 281.41 are not mandatory for the
14 repair and reconstruction of public facilities when damage or threatened damage
15 thereto creates an emergency, as determined by resolution of the village board, in
16 which the public health or welfare of the village is endangered. Whenever the village
17 board by majority vote at a regular or special meeting declares that an emergency
18 no longer exists, this exemption no longer applies.

19 **SECTION 14.** 61.55 (1) of the statutes is created to read:

20 **61.55 (1) DEFINITION.** In this section "labor organization" has the meaning
21 given in s. 5.02 (8m).

22 **SECTION 15.** 61.55 (3) of the statutes is created to read:

23 **61.55 (3) CONTRACTS WITH LABOR ORGANIZATIONS.** (a) The village board shall
24 ensure that the specifications for bids and contracts for construction projects entered
25 into under this section do not do any of the following:

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1 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
2 an agreement with any labor organization concerning services to be performed in
3 relation to the project or a related project.

4 2. Discriminate against any bidder, contractor or subcontractor for refusing to
5 enter into or continue to adhere to an agreement with any labor organization
6 concerning services to be performed in relation to the project or a related project.

7 3. Require any bidder, contractor or subcontractor to enter into or continue to
8 adhere to or enforce any agreement that requires its employes, as a condition of
9 employment, to do any of the following:

10 a. Become members of or become affiliated with a labor organization.

11 b. Make payments to a labor organization, without the authorization of the
12 employes, exceeding the employes' proportionate share of the cost of collective
13 bargaining, contract administration and grievance adjustment.

14 (b) Any taxpayer of this state or any other person who enters into contracts or
15 subcontracts for building construction services may bring an action to require
16 compliance with par. (a). If that person prevails in his or her action, the court shall
17 award to that person reasonable actual attorney fees in addition to other costs
18 allowed to prevailing parties under ch. 814.

19 **SECTION 16.** 62.15 (1e) of the statutes is created to read:

20 62.15 (1e) DEFINITION. In this section “labor organization” has the meaning
21 given in s. 5.02 (8m).

22 **SECTION 17.** 62.15 (15) of the statutes is created to read:

23 62.15 (15) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The common council shall
24 ensure that the specifications for bids and contracts for construction projects entered
25 into under this section do not do any of the following:

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1 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
2 an agreement with any labor organization concerning services to be performed in
3 relation to the project or a related project.

4 2. Discriminate against any bidder, contractor or subcontractor for refusing to
5 enter into or continue to adhere to an agreement with any labor organization
6 concerning services to be performed in relation to the project or a related project.

7 3. Require any bidder, contractor or subcontractor to enter into or continue to
8 adhere to or enforce any agreement that requires its employes, as a condition of
9 employment, to do any of the following:

10 a. Become members of or become affiliated with a labor organization.

11 b. Make payments to a labor organization, without the authorization of the
12 employes, exceeding the employes' proportionate share of the cost of collective
13 bargaining, contract administration and grievance adjustment.

14 (b) Any taxpayer of this state or any other person who enters into contracts or
15 subcontracts for building construction services may bring an action to require
16 compliance with par. (a). If that person prevails in his or her action, the court shall
17 award to that person reasonable actual attorney fees in addition to other costs
18 allowed to prevailing parties under ch. 814.

19 **SECTION 18.** 66.20 (3s) of the statutes is created to read:

20 66.20 (3s) "Labor organization" has the meaning given in s. 5.02 (8m).

21 **SECTION 19.** 66.24 (5m) of the statutes is created to read:

22 66.24 (5m) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall
23 ensure that the specifications for bids and contracts for construction projects entered
24 into under sub. (5) do not do any of the following:

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1 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
2 an agreement with any labor organization concerning services to be performed in
3 relation to the project or a related project.

4 2. Discriminate against any bidder, contractor or subcontractor for refusing to
5 enter into or continue to adhere to an agreement with any labor organization
6 concerning services to be performed in relation to the project or a related project.

7 3. Require any bidder, contractor or subcontractor to enter into or continue to
8 adhere to or enforce any agreement that requires its employes, as a condition of
9 employment, to do any of the following:

10 a. Become members of or become affiliated with a labor organization.

11 b. Make payments to a labor organization, without the authorization of the
12 employes, exceeding the employes' proportionate share of the cost of collective
13 bargaining, contract administration and grievance adjustment.

14 (b) Any taxpayer of this state or any other person who enters into contracts or
15 subcontracts for building construction services may bring an action to require
16 compliance with par (a). If that person prevails in his or her action, the court shall
17 award to that person reasonable actual attorney fees in addition to other costs
18 allowed to prevailing parties under ch. 814.

19 **SECTION 20.** 66.88 (5s) of the statutes is created to read:

20 66.88 (5s) "Labor organization" has the meaning given in s. 5.02 (8m).

21 **SECTION 21.** 66.904 (6) of the statutes is created to read:

22 66.904 (6) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall
23 ensure that the specifications for bids and contracts for construction projects entered
24 into under this section do not do any of the following:

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1 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
2 an agreement with any labor organization concerning services to be performed in
3 relation to the project or a related project.

4 2. Discriminate against any bidder, contractor or subcontractor for refusing to
5 enter into or continue to adhere to an agreement with any labor organization
6 concerning services to be performed in relation to the project or a related project.

7 3. Require any bidder, contractor or subcontractor to enter into or continue to
8 adhere to or enforce any agreement that requires its employes, as a condition of
9 employment, to do any of the following:

10 a. Become members of or become affiliated with a labor organization.

11 b. Make payments to a labor organization, without the authorization of the
12 employes, exceeding the employes' proportionate share of the cost of collective
13 bargaining, contract administration and grievance adjustment.

14 (b) Any taxpayer of this state or any other person who enters into contracts or
15 subcontracts for building construction services may bring an action to require
16 compliance with par (a). If that person prevails in his or her action, the court shall
17 award to that person reasonable actual attorney fees in addition to other costs
18 allowed to prevailing parties under ch. 814.

19 **SECTION 22.** 66.949 (3) of the statutes is amended to read:

20 66.949 (3) NOTICE. Notwithstanding ss. 27.065 (5) (a), 30.32, 38.18, 43.17 (9)
21 (a), 59.52 (29) (~~a~~) (am), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.55, 61.56, 61.57,
22 62.15 (1), 62.155, 66.24 (5) (d), 66.299 (2), 66.431 (5) (a) 2., 66.47 (11), 66.505 (10),
23 66.508 (10) and 66.904 (2), before entering into a performance contract under this
24 section, a local governmental unit shall solicit bids or competitive sealed proposals
25 from qualified providers. A local governmental unit may only enter into a

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1 performance contract if the contract is awarded by the governing body of the local
2 governmental unit. The governing body shall give at least 10 days' notice of the
3 meeting at which the body intends to award a performance contract. The notice shall
4 include a statement of the intent of the governing body to award the performance
5 contract, the names of all potential parties to the proposed performance contract, and
6 a description of the energy conservation and facility improvement measures
7 included in the performance contract. At the meeting, the governing body shall
8 review and evaluate the bids or proposals submitted by all qualified providers and
9 may thereafter award the performance contract to the qualified provider that best
10 meets the needs of the local governmental unit, which need not be the lowest cost
11 provider.

12 **SECTION 23.** 84.06 (2) (a) of the statutes is amended to read:

13 84.06 (2) (a) All such highway improvements shall be executed by contract
14 based on bids unless the department finds that another method as provided in sub.
15 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
16 the manner determined by the department. Except as provided in s. 84.075, the
17 contract shall be awarded to the lowest competent and responsible bidder as
18 determined by the department. If the bid of the lowest competent bidder is
19 determined by the department to be in excess of the estimated reasonable value of
20 the work or not in the public interest, all bids may be rejected. The department shall,
21 so far as reasonable, follow uniform methods of advertising for bids and may
22 prescribe and require uniform forms of bids and contracts. Except as provided in par.
23 (b), the secretary shall enter into the contract on behalf of the state. Every such
24 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
25 ss. 16.528, 16.752 and 16.754 apply to the contract. Contracts under this section are

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1 subject to s. 85.017. Any such contract involving an expenditure of \$1,000 or more
2 shall not be valid until approved by the governor. The secretary may require the
3 attorney general to examine any contract and any bond submitted in connection with
4 the contract and report on its sufficiency of form and execution. The bond required
5 by s. 779.14 (1m) (b) for any such contract involving an expenditure of less than
6 \$1,000 is exempt from approval by the governor and shall be subject to approval by
7 the secretary. This subsection also applies to contracts with private contractors
8 based on bids for maintenance under s. 84.07.

9 **SECTION 24.** 85.017 of the statutes is created to read:

10 **85.017 Contracts conditioned on use of labor organizations**
11 **prohibited.** (1) In this section, "labor organization" has the meaning given in s.
12 5.02 (8m).

13 (2) The secretary shall ensure that the specifications for bids, contracts for
14 construction or maintenance projects entered into by the secretary or the
15 department do not do any of the following:

16 (a) Require any bidder, contractor or subcontractor to enter into or to adhere
17 to an agreement with any labor organization concerning services to be performed in
18 relation to the project or a related project.

19 (b) Discriminate against any bidder, contractor or subcontractor for refusing
20 to enter into or continue to adhere to an agreement with any labor organization
21 concerning services to be performed in relation to the project or a related project.

22 (c) Require any bidder, contractor or subcontractor to enter into or continue to
23 adhere to or enforce any agreement that requires its employees, as a condition of
24 employment, to do any of the following:

25 1. Become members of or become affiliated with a labor organization.

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1 2. Make payments to a labor organization, without the authorization of the
2 employes, exceeding the employes' proportionate share of the cost of collective
3 bargaining, contract administration and grievance adjustment.

4 **(3)** Any taxpayer of this state or any other person who enters into contracts or
5 subcontracts for construction services subject to sub. (2) may bring an action against
6 the secretary to require compliance with this section. If that person prevails in his
7 or her action, the court shall award to that person reasonable actual attorney fees
8 in addition to other costs allowed to prevailing parties under ch. 814.

9 **SECTION 25.** 86.31 (2) (b) of the statutes is amended to read:

10 86.31 **(2)** (b) Except as provided in par. (d), improvements for highway
11 construction projects funded under the program shall be under contracts. Such
12 contracts are subject to ss. 59.52 (29) (c), 60.47 (5m), 61.55 (3) and 62.15 (15) and shall
13 be awarded on the basis of competitive bids and shall be awarded to the lowest
14 responsible bidder. If a city, village or town does not receive a responsible bid for an
15 improvement, the city, village or town may contract with a county for the
16 improvement.

17 **SECTION 26.** 118.265 of the statutes is created to read:

18 **118.265 Contracts with labor organizations.** **(1)** In this section, "labor
19 organization" has the meaning given in s. 5.02 (8m).

20 **(2)** The school board shall ensure that the specifications for bids and contracts
21 for construction projects entered into by the school board do not do any of the
22 following:

23 (a) Require any bidder, contractor or subcontractor to enter into or to adhere
24 to an agreement with any labor organization concerning services to be performed in
25 relation to the project or a related project.

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1 (b) Discriminate against any bidder, contractor or subcontractor for refusing
2 to enter into or continue to adhere to an agreement with any labor organization
3 concerning services to be performed in relation to the project or a related project.

4 (c) Require any bidder, contractor or subcontractor to enter into or continue to
5 adhere to or enforce any agreement that requires its employees, as a condition of
6 employment, to do any of the following:

7 1. Become members of or become affiliated with a labor organization.

8 2. Make payments to a labor organization, without the authorization of the
9 employees, exceeding the employees' proportionate share of the cost of collective
10 bargaining, contract administration and grievance adjustment.

11 **(3)** Any taxpayer of this state or any other person who enters into contracts or
12 subcontracts for building construction services may bring an action to require
13 compliance with sub. (2). If that person prevails in his or her action, the court shall
14 award to that person reasonable actual attorney fees in addition to other costs
15 allowed to prevailing parties under ch. 814.

16 **SECTION 27.** 119.04 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
17 is amended to read:

18 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c),
19 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
20 (2), 115.40, 115.45, 118.001 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to
21 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.18, 118.19, 118.20,
22 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.265, 118.30 to
23 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (24), 120.125, 120.13 (1), (2) (b)
24 to (g), (3), (14), (17) to (19), (26), (34) and (35) and 120.14 are applicable to a 1st class
25 city school district and board.

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1 **SECTION 28.** 229.41 (8m) of the statutes is created to read:

2 229.41 **(8m)** "Labor organization" has the meaning given in s. 5.02 (8m).

3 **SECTION 29.** 229.44 (4) (d) of the statutes is amended to read:

4 229.44 **(4)** (d) Enter into contracts. All contracts, the estimated costs of which
5 exceed \$30,000 are subject to s. 229.46 (8), except contracts subject to s. 229.46 (5)
6 and contracts for personal or professional services, and shall be subject to bid and
7 shall be awarded to the lowest qualified and competent bidder. The district may
8 reject any bid that is submitted under this paragraph.

9 **SECTION 30.** 229.46 (8) of the statutes is created to read:

10 229.46 **(8)** (a) The district shall ensure that the specifications for bids and
11 contracts for construction projects entered into under this subchapter do not do any
12 of the following:

13 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
14 an agreement with any labor organization concerning services to be performed in
15 relation to the project or a related project.

16 2. Discriminate against any bidder, contractor or subcontractor for refusing to
17 enter into or continue to adhere to an agreement with any labor organization
18 concerning services to be performed in relation to the project or a related project.

19 3. Require any bidder, contractor or subcontractor to enter into or continue to
20 adhere to or enforce any agreement that requires its employes, as a condition of
21 employment, to do any of the following:

22 a. Become members of or become affiliated with a labor organization.

23 b. Make payments to a labor organization, without the authorization of the
24 employes, exceeding the employes' proportionate share of the cost of collective
25 bargaining, contract administration and grievance adjustment.

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1 (b) Any taxpayer of this state or any other person who enters into contracts or
2 subcontracts for building construction services may bring an action to require
3 compliance with par (a). If that person prevails in his or her action, the court shall
4 award to that person reasonable actual attorney fees in addition to other costs
5 allowed to prevailing parties under ch. 814.

6 **SECTION 31.** 229.65 (6m) of the statutes is created to read:

7 229.65 (6m) "Labor organization" has the meaning given in s. 5.02 (8m).

8 **SECTION 32.** 229.68 (4) (d) of the statutes is amended to read:

9 229.68 (4) (d) Enter into contracts, subject to s. 229.682 (9) and to such
10 standards as may be established by the district board. The district board may award
11 any such contract for any combination or division of work it designates and, subject
12 to s. 229.682 (9), may consider any factors in awarding a contract, including price,
13 time for completion of work and qualifications and past performance of a contractor.

14 **SECTION 33.** 229.682 (9) of the statutes is created to read:

15 229.682 (9) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The district shall ensure
16 that the specifications for bids and contracts for construction projects entered into
17 under this subchapter do not do any of the following:

18 1. Require any bidder, contractor or subcontractor to enter into or to adhere to
19 an agreement with any labor organization concerning services to be performed in
20 relation to the project or a related project.

21 2. Discriminate against any bidder, contractor or subcontractor for refusing to
22 enter into or continue to adhere to an agreement with any labor organization
23 concerning services to be performed in relation to the project or a related project.

