

1983 Assembly Bill 236

Date of enactment: **April 23, 1984**
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1983 Wisconsin Act 333

AN ACT *to repeal* 16.72 (3) (b); *to renumber* 16.71, 16.72 (3) (a) and 16.75 (2) (c); *to amend* 16.75 (1) (a) and 16.82 (4) (a); and *to create* 16.71 (2), 16.72 (2) (d), 16.75 (2g), 16.75 (3t) (b) and (c), 56.015 (3) and 230.21 (3) of the statutes, *relating to* revising the prison industries program.

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

SECTION 1. 16.71 of the statutes is renumbered 16.71 (1).

SECTION 2. 16.71 (2) of the statutes is created to read:

16.71 (2) The department of administration shall delegate authority to make all purchases for prison industries to the division responsible for prison industries within the department of health and social services. This delegation may be withdrawn by the department of administration only with the consent of, and in accordance with the terms specified by, the joint committee on finance, for failure to comply with applicable purchasing rules, procedures or statutory requirements.

SECTION 3c. 16.72 (2) (d) of the statutes is created to read:

16.72 (2) (d) To the extent possible, the department and any other designated purchasing agent under s. 16.71 (1) shall write specifications for the purchase of materials, supplies, commodities, equipment and contractual services so as to permit their purchase from prison industries, as created under s. 56.01 (1).

SECTION 3g. 16.72 (3) (a) of the statutes is renumbered 16.75 (3t) (a).

SECTION 3n. 16.72 (3) (b) of the statutes, as affected by 1983 Wisconsin Act 92, is repealed.

SECTION 3r. 16.75 (1) (a) of the statutes, as affected by 1983 Wisconsin Act 27, is amended to read:

16.75 (1) (a) All orders awarded or contracts made by the department for all materials, supplies, equipment and contractual services, except as otherwise provided in par. (c) and subs. (1m), (2), (2m), (3m), (3s), (3t), (6), (7) and (8) and ss. 16.754, 50.05 (7) (f) and 144.48 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the institution or agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery; but preference shall always be given to materials, supplies, equipment and contractual services of Wisconsin producers, distributors, suppliers and retailers. Bids may be received only in accordance with such specifications as are adopted by the department as provided in this subsection. Any or all bids may be rejected. Each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated shall, after the award or letting of the contract, be opened to public inspection. Where a low bid is rejected, a complete written record shall be compiled and filed, giving the reason in full for such action. Any waiver of sealed, advertised bids as provided in sub. (2m) or (6) or of the purchasing prohibition provided in sub. (8) shall be entered on a record kept by the department and open to public inspection.

SECTION 3w. 16.75 (2) (c) of the statutes is renumbered 16.72 (2) (c).

SECTION 4. 16.75 (2g) of the statutes is created to read:

16.75 (2g) (a) The purchasing authority under s. 16.71 (2) may make purchases for products of and goods for resale by prison industries, other than purchases of printing or stationery, without inviting bids and without accepting the lowest responsible bid.

(b) The purchasing authority shall notify the governor prior to any purchase under par. (a) which exceeds \$15,000. The governor has 72 hours, excluding Saturday, Sunday or a legal holiday, in which to veto any such purchase.

(c) All other purchasing rules and procedures shall apply to prison industries purchases.

SECTION 4b. 16.75 (3t) (b) and (c) of the statutes are created to read:

16.75 (3t) (b) All commodities required to be furnished by the department which are produced at the institutions of the state shall be purchased from the institutions if the commodities conform to the specifications prepared by the department.

(c) The department of health and social services shall periodically provide to the department of administration a current list of all materials, supplies, equipment or contractual services, excluding commodities, that are supplied by prison industries, as created under s. 56.01. The department of administration shall distribute the list to all designated purchasing agents under s. 16.71 (1). Prior to seeking bids or competitive sealed proposals with respect to the purchase of any materials, supplies, equipment or contractual services enumerated in the list, the department of administration or any other designated purchasing agent under s. 16.71 (1) shall offer prison industries the opportunity to supply the materials, supplies, equipment or contractual services if the department of health and social services is able to provide them at a price comparable to one which may be obtained through competitive bidding or competitive sealed proposals and is able to conform to the specifications, provided the specifications are written in accordance with s. 16.72 (2) (d). If the department of administration or other purchasing agent is unable to determine whether the price of prison industries is comparable, it may solicit bids or competitive proposals before awarding the order or contract. This paragraph does not apply to the printing of materials specifically excluded from the definition of "form" under par. (a).

SECTION 4g. 16.82 (4) (a) of the statutes is amended to read:

16.82 (4) (a) May produce or contract to have produced, printing of classes 1, 3 and 4, and excerpts from the statutes under class 2, and all materials offered by state agencies for production. ~~All printing of forms, as defined in s. 16.72 (3) (a), shall be done under s. 16.72 (3).~~

SECTION 4m. 56.015 (3) of the statutes is created to read:

56.015 (3) In this section, "prison industries" does not include any prison farm operation.

SECTION 5. 230.21 (3) of the statutes is created to read:

230.21 (3) The administrator shall designate classifications in prison industries in the department of health and social services as critical positions requiring expeditious hiring and shall develop such recruitment, examination and certification processes as will provide the department with prompt certification when qualified applicants can be found, provided that due notice has been given and proper competitive standards have been maintained.

SECTION 5m. **Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.191 (intro.)	none	16.75 (3t)

SECTION 6. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
16.75 (1)(a)	subs. (1m), (2)	subs. (1m), (2), (2g)
20.255 (1)(c), as affected by 1983 Wis. Act 27	16.71	16.71 (1)
20.285 (1)(c)	16.71	16.71 (1)
20.435 (2)(f) and (f)	16.71	16.71 (1)

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20.465 (1)(f)	16.71	16.71 (1)
20.485 (1)(c)	16.71	16.71 (1)
21.19 (8)	16.71	16.71 (1)

SECTION 7. Initial applicability. This act applies to orders and contracts awarded after the effective date of this act for which bids or competitive sealed proposals have not been solicited prior to the effective date of this act.
