

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/21/99**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Assembly Republican Caucus 6-1452**

By/Representing: **Miller**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters: **grantpr
shoveme
nilsepe**

Subject: **State Government - state bldg pr
Counties
Munis - miscellaneous
Education - miscellaneous**

Extra Copies:

Pre Topic:

ARC:.....Miller - Am # 41,

Topic:

Prohibition of all-union agreements on state and local projects

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 06/21/99	wjackson 06/21/99		_____			
/1			jfrantze 06/22/99	_____	lrb_docadmin 06/22/99		

FE Sent For:

<END>

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17/1	kuesejt	6/21/11 NJ	6/21/96	6/22/96	me		

FE Sent For:

<END>

To Be Drafted

Agency	Admin	Amendment#	41
ARC Analyst	Miller	IRR#	
		Tax Cut	<input type="checkbox"/>

04071

Summary

Currently, with certain exceptions, public works contracts with a political subdivision, metropolitan sewerage district or local exposition district are generally required to be awarded to the lowest responsible bidder.

This amendment requires the Department of Administration for state construction projects or the secretary of Transportation with respect to transportation-related projects, a school board, the governing body of a political subdivision of this state (a city, village, town or county), a metropolitan sewerage district, a local exposition district or a local professional baseball park district, to ensure that the specifications for bids and contracts for their public works projects do NOT: 1) require any bidder, contractor or subcontractor to enter into or 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, continue to adhere to or enforce any agreement that requires its employees, 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 employees, exceeding the employees' proportionate share of the cost of collective bargaining, contract administration and grievance adjustment.

Fiscal Impact

There will be no fiscal impact upon the state.

Statement of Intent

Department of Administration. Requires the Department of Administration for state construction projects, the Secretary of Transportation with respect to transportation-related projects and other public governing entities to meet certain requirements when requesting specifications for bids and contracts for public works projects.



2

1999 BILL

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

BILL

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, continue to adhere to or enforce any agreement that requires its employees, 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 employees, exceeding the employees' 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, continue to adhere to or enforce any agreement that requires services that are funded under the grant to be performed by employees 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 employees, exceeding the employees' 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 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.

The 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, a local exposition district or a 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.

BILL

3. Require any bidder, contractor or subcontractor to enter into, 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.

In addition, the bill 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.

Under current law, state agencies have only the powers given to them by law or necessarily inferred 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, the 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.

Currently, with certain exceptions, public works contracts with a political subdivision, metropolitan sewerage district or 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 or 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 inferred 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.

1999

Date (time) needed

SOON

LRB b 0796,1

CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]

JT<MST+P&V+PG:WJ:

See form AMENDMENTS — COMPONENTS & ITEMS.

CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 1999 ASSEMBLY BILL 133

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page 8., line 20: delete "or all of s. 16.855" and substitute "~~or all provision of s. 16.855 except~~ ^{s.} 16.855 (4m) "

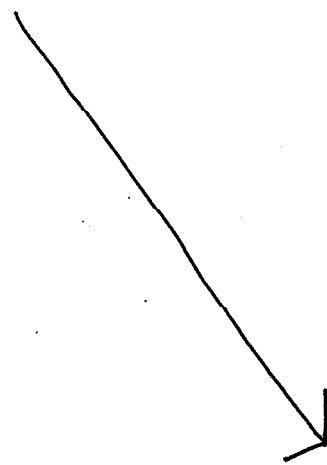
#. Page 5!, line 20: after that line insert:

#. Page, line

#. Page, line

#. Page, line

#. Page, line



BILL

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 ^{lose (b)} 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 ⁽²²⁾ ~~(23)~~ and 16.87 do not apply to

19 services provided or contracted by the department under this section.

20 SECTION 3. 16.854 (4) of the statutes, as affected by 1999 Wisconsin Act ^{(this}

21 act), is amended to read:

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1 ~~16.854 (4)~~ Sections 16.85, 16.855 (1) to (14) and (15) to ~~(23)~~ (22) and 16.87 do
2 not apply to services provided or contracted by the department under this section.

3 SECTION ~~4~~ 16.855 (14m) of the statutes is created to read:

4 16.855 (14m) (a) In this subsection, "labor organization" has the meaning given
5 in s. 5.02 (8m).

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

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

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

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

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

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

22 (c) Any taxpayer of this state or any other person who enters into contracts or
23 subcontracts for building construction services may bring an action to require
24 compliance with this subsection. If that person prevails in his or her action, the court

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1 shall award to that person reasonable actual attorney fees in addition to other costs
2 allowed to prevailing parties under ch. 814. " (C)

3 **SECTION 5.** 20:931 of the statutes is created to read:

4 **20.931 Conditions upon state grants prohibited.** (1) In this section,
5 "labor organization" has the meaning given in s. 5.02 (8m).

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

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

11 (b) Enter into, continue to adhere to or enforce any agreement that requires
12 services that are funded under the grant to be performed by employees who must do
13 any of the following:

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

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

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

22 allowed to prevailing parties under ch. 814.

23 *" + Page 76, line 21: after that line (insert:*
SECTION 6. 59.52 (29) (a) of the statutes is renumbered 59.52 (29) (am).
1577w (C)

24 **SECTION 7.** 59.52 (29) (ae) of the statutes is created to read:
1577w (C)

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1 59.52 (29) (ae) In this subsection, "labor organization" has the meaning given
2 in s. 5.02 (8m).

3 ^{15770. ← (b)}
SECTION 8. 59.52 (29) (b) of the statutes is amended to read:

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

10 ^{15770 ← (b)}
SECTION 9. 59.52 (29) (c) and (d) of the statutes are created to read:

11 59.52 (29) (c) The board shall ensure that the specifications for bids and
12 contracts for construction projects entered into under this subsection do not do any
13 of the following:

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

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

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

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

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

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

9 u #page 763, line 23: after that line insert:
SECTION 10. 60.47 (1) (a) of the statutes is renumbered 60.47 (1) (am).
11582M ← O

10 SECTION 11. 60.47 (1) (ae) of the statutes is created to read:
11582M ← O

11 60.47 (1) (ae) "Labor organization" has the meaning given in s. 5.02 (8m).

12 SECTION 12. 60.47 (5m) of the statutes is created to read:
11582M ← O

13 60.47 (5m) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The town board shall
14 ensure that the specifications for bids and contracts for construction projects entered
15 into under this section do not do any of the following:

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

19 2. Discriminate against any bidder, contractor or subcontractor for refusing to
20 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 3. Require any bidder, contractor or subcontractor to enter into, continue to
23 adhere to or enforce any agreement that requires its employes, as a condition of
24 employment, to do any of the following:

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

BILL

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

4 (b) Any taxpayer of this state or any other person who enters into contracts or
5 subcontracts for building construction services may bring an action to require
6 compliance with par. (a). If that person prevails in his or her action, the court shall
7 award to that person reasonable actual attorney fees in addition to other costs
8 allowed to prevailing parties under ch. 814. ¹¹

9 ^{# Page 764, line 25: after that line insert:}
10 ^{1589mt} SECTION ~~13.~~ 61.55 (title) of the statutes is created to read:

11 ^{1589mt} **61.55 (title) Public contracts and competitive bidding.**

12 ^{1589mt} SECTION ~~14.~~ 61.55 of the statutes is renumbered 61.55 (2) and amended to read:

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

24 ^{1589mt} SECTION ~~15.~~ 61.55 (1) of the statutes is created to read:

BILL

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

3 SECTION ^{1589P ← ⊙} 16. 61.55 (3) of the statutes is created to read:

4 61.55 (3) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The village board shall
5 ensure that the specifications for bids and contracts for construction projects entered
6 into under this section do not do any of the following:

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

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

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

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

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

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

25 SECTION ^{1589P ← ⊙} 17. 62.15 (1e) of the statutes is created to read:

BILL

1 62.15 (1e) DEFINITION. In this section "labor organization" has the meaning
2 given in s. 5.02 (8m). *1589 ← (B)*

3 SECTION ~~18~~. 62.15 (15) of the statutes is created to read:

4 62.15 (15) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The common council shall
5 ensure that the specifications for bids and contracts for construction projects entered
6 into under this section do not do any of the following:

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

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

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

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

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

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

25 SECTION ~~19~~. 66.20 (3s) of the statutes is created to read:
Page 785, line 13: after that line insert:

1617m ← (B)

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1 66.20 (3s) "Labor organization" has the meaning given in s. 5.02 (8m).

2 ^{1617P + ③}
SECTION 20. 66.24 (5m) of the statutes is created to read:

3 66.24 (5m) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall
4 ensure that the specifications for bids and contracts for construction projects entered
5 into under sub. (5) do not do any of the 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, 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 (b) 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 par. (a). If that person prevails in his or her action, the court shall
22 award to that person reasonable actual attorney fees in addition to other costs
23 allowed to prevailing parties under ch. 814.

24 ^{# Page 800, line 20: after ① that line insert:}
SECTION 21. 66.88 (5s) of the statutes is created to read:

25 ^{1032m PJ-③}
66.88 (5s) "Labor organization" has the meaning given in s. 5.02 (8m).

BILL

1640m (B)

1 SECTION 22. 66.904 (6) of the statutes is created to read:

2 66.904 (6) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall
3 ensure that the specifications for bids and contracts for construction projects entered
4 into under this section do not do any of the following:

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

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

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

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

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

18 (b) Any taxpayer of this state or any other person who enters into contracts or
19 subcontracts for building construction services may bring an action to require
20 compliance with par. (a). If that person prevails in his or her action, the court shall
21 award to that person reasonable actual attorney fees in addition to other costs
22 allowed to prevailing parties under ch. 814. 11

23 # Page 808, line 24: after that line insert:
" SECTION 23. 66.949 (3) of the statutes is amended to read:

24 1646m (B)

25 66.949 (3) NOTICE. Notwithstanding ss. 27.065 (5) (a), 30.32, 38.18, 43.17 (9)
(a), 59.52 (29) (a) (am), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.55, 61.56, 61.57,

BILL

1 62.15 (1), 62.155, 66.24 (5) (d), 66.299 (2), 66.431 (5) (a) 2., 66.47 (11), 66.505 (10),
2 66.508 (10) and 66.904 (2), before entering into a performance contract under this
3 section, a local governmental unit shall solicit bids or competitive sealed proposals
4 from qualified providers. A local governmental unit may only enter into a
5 performance contract if the contract is awarded by the governing body of the local
6 governmental unit. The governing body shall give at least 10 days' notice of the
7 meeting at which the body intends to award a performance contract. The notice shall
8 include a statement of the intent of the governing body to award the performance
9 contract, the names of all potential parties to the proposed performance contract, and
10 a description of the energy conservation and facility improvement measures
11 included in the performance contract. At the meeting, the governing body shall
12 review and evaluate the bids or proposals submitted by all qualified providers and
13 may thereafter award the performance contract to the qualified provider that best
14 meets the needs of the local governmental unit, which need not be the lowest cost
15 provider.

16 *# Page 959, line 17: after that the insert.*
17 *18199 ← 2*
18 **SECTION 21.** 84.06 (2) (a) of the statutes is amended to read:

19 84.06 (2) (a) All such highway improvements shall be executed by contract
20 based on bids unless the department finds that another method as provided in sub.
21 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
22 the manner determined by the department. Except as provided in s. 84.075, the
23 contract shall be awarded to the lowest competent and responsible bidder as
24 determined by the department. If the bid of the lowest competent bidder is
25 determined by the department to be in excess of the estimated reasonable value of
the work or not in the public interest, all bids may be rejected. The department shall,
so far as reasonable, follow uniform methods of advertising for bids and may

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1 prescribe and require uniform forms of bids and contracts. Except as provided in par.
 2 (b), the secretary shall enter into the contract on behalf of the state. Every such
 3 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
 4 ss. 16.528, 16.752 and 16.754 apply to the contract. Contracts under this section are
 5 subject to s. 85.017. Any such contract involving an expenditure of \$1,000 or more
 6 shall not be valid until approved by the governor. The secretary may require the
 7 attorney general to examine any contract and any bond submitted in connection with
 8 the contract and report on its sufficiency of form and execution. The bond required
 9 by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to
 10 approval by the secretary. This subsection also applies to contracts with private
 11 contractors based on bids for maintenance under s. 84.07. ¹¹ [⊙]

12 *# page 964, line 10: after that line insert*
 SECTION 25. 85.017 of the statutes is created to read:

13 **85.017 Contracts conditioned on use of labor organizations**

14 **prohibited.** (1) In this section, "labor organization" has the meaning given in s.
 15 5.02 (8m).

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

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

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

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1 (c) Require any bidder, contractor or subcontractor to enter into, continue to
2 adhere to or enforce any agreement that requires its employes, as a condition of
3 employment, to do any of the following:

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

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

8 (3) Any taxpayer of this state or any other person who enters into contracts or
9 subcontracts for construction services subject to sub. (2) may bring an action against
10 the secretary to require compliance with this section. If that person prevails in his
11 or her action, the court shall award to that person reasonable actual attorney fees
12 in addition to other costs allowed to prevailing parties under ch. 814. " 0

13 " # Page 979, line 25: after that line insert:
SECTION 26. 86.31 (2) (b) of the statutes is amended to read:

14 86.31 (2) (b) Except as provided in par. (d), improvements for highway
15 construction projects funded under the program shall be under contracts. Such The
16 contracts are subject to ss. 59.52 (29) (c), 60.47 (5m), 61.55 (3) and 62.15 (15). The
17 contracts shall be awarded on the basis of competitive bids and shall be awarded to
18 the lowest responsible bidder. If a city, village or town does not receive a responsible
19 bid for an improvement, the city, village or town may contract with a county for the
20 improvement. " 0

21 " # Page 1104, line 5: after that line insert:
SECTION 27. 118.265 of the statutes is created to read:

22 118.265 **Contracts with labor organizations.** (1) In this section, "labor
23 organization" has the meaning given in s. 5.02 (8m).

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

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

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

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

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

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

17 (3) Any taxpayer of this state or any other person who enters into contracts or
18 subcontracts for building construction services may bring an action to require
19 compliance with sub. (2). If that person prevails in his or her action, the court shall
20 award to that person reasonable actual attorney fees in addition to other costs
21 allowed to prevailing parties under ch. 814. "0

22 # Page 117, line 12 after that line insert:
" SECTION 28. 119.04 (1) of the statutes is amended to read:

23 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c),
24 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
25 (2), 115.45, 118.001 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14,

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1 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19,
2 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.265, 118.30
3 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2)
4 (b) to (g), (3), (14), (17) to (19), (26), (34) and (35) and 120.14 are applicable to a 1st
5 class city school district and board. "O

Page 1194, line 20, after that line insert:
u SECTION 29. 229.41 (8m) of the statutes is created to read:

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

Page 1195, line 5, after that line insert:
SECTION 30. 229.44 (4) (d) of the statutes is amended to read:

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

SECTION 31. 229.46 (8) of the statutes is created to read:

229.46 (8) (a) The district shall ensure that the specifications for bids and
16 contracts for construction projects entered into under this subchapter do not do any
17 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.

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

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

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

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

13 SECTION ^{2359L ← ⊕} 32. 229.65 (6m) of the statutes is created to read:

14 229.65 (6m) "Labor organization" has the meaning given in s. 5.02 (8m).

15 SECTION ^{2359m ← ⊕} 33. 229.68 (4) (d) of the statutes is amended to read:

16 229.68 (4) (d) Enter into contracts, subject to s. 229.682 (9) and to such
17 standards as may be established by the district board. The district board may award
18 any such contract for any combination or division of work it designates and, subject
19 to s. 229.682 (9), may consider any factors in awarding a contract, including price,
20 time for completion of work and qualifications and past performance of a contractor.

21 SECTION ^{2359n ← ⊕} 34. 229.682 (9) of the statutes is created to read:

22 229.682 (9) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The district shall ensure
23 that the specifications for bids and contracts for construction projects entered into
24 under this subchapter 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, continue to
8 adhere to or enforce any agreement that requires its employees, 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.

Page 1604, line 25: after last line insert
SECTION 35. Initial applicability.

(6s) ALL-UNION AGREEMENTS ON PUBLIC PROJECTS

19 The treatment of sections 16.855 (14m), 20.931, 61.55 (title), (1) and (3),
20 62.15 (1e) and (15), 66.20 (3s), 66.24 (5m), 66.88 (5s), 66.904 (6), 84.06 (2) (a), 85.017,
21 86.31 (2) (b), 118.265, 229.41 (8m), 229.44 (4) (d), 229.46 (8), 229.65 (6m), 229.68 (4)
22 (d) and 229.682 (9) of the statutes and the renumbering and amendment of section
23 61.55 of the statutes first apply to grants that are made and bids and contracts that
24

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1 are let, entered into, extended, modified or renewed on the effective date of this
2 subsection. ①

3 **SECTION 36. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The treatment of section 16.854 (4) (SECTION 3) of the statutes takes effect
6 on July 1, 1999.

7 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0796/1
JTK/MES/PEN/PG:wljf

ARC:.....Miller – Am # 41, Prohibition of all–union agreements on state and local projects

FOR 1999–01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 8, line 20: delete “or all of s. 16.855” and substitute “or all provision
3 of s. 16.855 except s. 16.855 (14m)”.

4 2. Page 51, line 20: after that line insert:

5 “SECTION 105e. 16.854 (3) of the statutes is amended to read:

6 16.854 (3) It shall be a goal of the department, with regard to each of the
7 contracts described under sub. (2) (a), (b) and (c), to award at least 25% of the dollar
8 value of such contracts to minority businesses and at least 5% of the dollar value of
9 such contracts to women’s businesses.

1 **(4)** Sections 16.85, 16.855 (1) to (14) and (15) to (22) and 16.87 do not apply to
2 services provided or contracted by the department under this section.

3 **SECTION 105g.** 16.855 (14m) of the statutes is created to read:

4 **16.855 (14m)** (a) In this subsection, “labor organization” has the meaning given
5 in s. 5.02 (8m).

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

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

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

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

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

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

22 (c) Any taxpayer of this state or any other person who enters into contracts or
23 subcontracts for building construction services may bring an action to require
24 compliance with this subsection. If that person prevails in his or her action, the court

1 shall award to that person reasonable actual attorney fees in addition to other costs
2 allowed to prevailing parties under ch. 814.”.

3 **3.** Page 761, line 21: after that line insert:

4 “**SECTION 1577m.** 59.52 (29) (a) of the statutes is renumbered 59.52 (29) (am).

5 **SECTION 1577n.** 59.52 (29) (ae) of the statutes is created to read:

6 59.52 (29) (ae) In this subsection, “labor organization” has the meaning given
7 in s. 5.02 (8m).

8 **SECTION 1577o.** 59.52 (29) (b) of the statutes is amended to read:

9 59.52 (29) (b) The provisions of par. (a) (am) are not mandatory for the repair
10 or reconstruction of public facilities when damage or threatened damage thereto
11 creates an emergency, as determined by resolution of the board, in which the public
12 health or welfare of the county is endangered. Whenever the board by majority vote
13 at a regular or special meeting determines that an emergency no longer exists, this
14 paragraph no longer applies.

15 **SECTION 1577p.** 59.52 (29) (c) and (d) of the statutes are created to read:

16 59.52 (29) (c) The board shall ensure that the specifications for bids and
17 contracts for construction projects entered into under this subsection do not do any
18 of the following:

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

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

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

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

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

8 (d) Any taxpayer of this state or any other person who enters into contracts or
9 subcontracts for building construction services may bring an action to require
10 compliance with par. (c). If that person prevails in his or her action, the court shall
11 award to that person reasonable actual attorney fees in addition to other costs
12 allowed to prevailing parties under ch. 814.”.

13 **4.** Page 763, line 23: after that line insert:

14 “**SECTION 1582m.** 60.47 (1) (a) of the statutes is renumbered 60.47 (1) (am).

15 **SECTION 1582n.** 60.47 (1) (ae) of the statutes is created to read:

16 60.47 (1) (ae) “Labor organization” has the meaning given in s. 5.02 (8m).

17 **SECTION 1582o.** 60.47 (5m) of the statutes is created to read:

18 60.47 (5m) **CONTRACTS WITH LABOR ORGANIZATIONS.** (a) The town board shall
19 ensure that the specifications for bids and contracts for construction projects entered
20 into under this section do not do any of the following:

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

1 2. Discriminate against any bidder, contractor or subcontractor for refusing to
2 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 3. Require any bidder, contractor or subcontractor to enter into, 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 a. Become members of or become affiliated with a labor organization.

8 b. 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 (b) 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 par. (a). 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 **5.** Page 764, line 25: after that line insert:

17 “**SECTION 1589m.** 61.55 (title) of the statutes is created to read:

18 **61.55 (title) Public contracts and competitive bidding.**

19 **SECTION 1589n.** 61.55 of the statutes is renumbered 61.55 (2) and amended to
20 read:

21 **61.55 (2) CONTRACTS INVOLVING OVER \$10,000; HOW LET; EXCEPTION.** All contracts
22 for public construction, in any such village, exceeding \$10,000, shall be let by the
23 village board to the lowest responsible bidder in accordance with s. 66.29 insofar as
24 said ~~that~~ section may be applicable. If the estimated cost of any public construction

1 exceeds \$5,000, but is not greater than \$10,000, the village board shall give a class
2 1 notice, under ch. 985, of the proposed construction before the contract for the
3 construction is executed. This provision and s. 281.41 are not mandatory for the
4 repair and reconstruction of public facilities when damage or threatened damage
5 thereto creates an emergency, as determined by resolution of the village board, in
6 which the public health or welfare of the village is endangered. Whenever the village
7 board by majority vote at a regular or special meeting declares that an emergency
8 no longer exists, this exemption no longer applies.

9 **SECTION 1589o.** 61.55 (1) of the statutes is created to read:

10 61.55 (1) DEFINITION. In this section “labor organization” has the meaning
11 given in s. 5.02 (8m).

12 **SECTION 1589p.** 61.55 (3) of the statutes is created to read:

13 61.55 (3) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The village board shall
14 ensure that the specifications for bids and contracts for construction projects entered
15 into under this section do not do any of the following:

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

19 2. Discriminate against any bidder, contractor or subcontractor for refusing to
20 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 3. Require any bidder, contractor or subcontractor to enter into, 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 a. Become members of or become affiliated with a labor organization.

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

9 **SECTION 1589q.** 62.15 (1e) of the statutes is created to read:

10 62.15 (1e) DEFINITION. In this section "labor organization" has the meaning
11 given in s. 5.02 (8m).

12 **SECTION 1589r.** 62.15 (15) of the statutes is created to read:

13 62.15 (15) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The common council shall
14 ensure that the specifications for bids and contracts for construction projects entered
15 into under this section do not do any of the following:

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

19 2. Discriminate against any bidder, contractor or subcontractor for refusing to
20 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 3. Require any bidder, contractor or subcontractor to enter into, continue to
23 adhere to or enforce any agreement that requires its employes, as a condition of
24 employment, to do any of the following:

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

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

9 **6.** Page 785, line 13: after that line insert:

10 “**SECTION 1617m.** 66.20 (3s) of the statutes is created to read:

11 66.20 (3s) “Labor organization” has the meaning given in s. 5.02 (8m).

12 **SECTION 1617p.** 66.24 (5m) of the statutes is created to read:

13 66.24 (5m) **CONTRACTS WITH LABOR ORGANIZATIONS.** (a) The commission shall
14 ensure that the specifications for bids and contracts for construction projects entered
15 into under sub. (5) do not do any of the following:

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

19 2. Discriminate against any bidder, contractor or subcontractor for refusing to
20 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 3. Require any bidder, contractor or subcontractor to enter into, continue to
23 adhere to or enforce any agreement that requires its employes, as a condition of
24 employment, to do any of the following:

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

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

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

10 **7.** Page 806, line 20: after that line insert:

11 “**SECTION 1638p.** 66.88 (5s) of the statutes is created to read:

12 66.88 (5s) “Labor organization” has the meaning given in s. 5.02 (8m).

13 **SECTION 1640m.** 66.904 (6) of the statutes is created to read:

14 66.904 (6) **CONTRACTS WITH LABOR ORGANIZATIONS.** (a) The commission shall
15 ensure that the specifications for bids and contracts for construction projects entered
16 into under this section do not do any of the following:

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

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

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

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

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

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

13 **8.** Page 808, line 24: after that line insert:

14 “**SECTION 1646m.** 66.949 (3) of the statutes is amended to read:

15 66.949 (3) NOTICE. Notwithstanding ss. 27.065 (5) (a), 30.32, 38.18, 43.17 (9)
16 (a), 59.52 (29) (~~a~~) (am), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.55, 61.56, 61.57,
17 62.15 (1), 62.155, 66.24 (5) (d), 66.299 (2), 66.431 (5) (a) 2., 66.47 (11), 66.505 (10),
18 66.508 (10) and 66.904 (2), before entering into a performance contract under this
19 section, a local governmental unit shall solicit bids or competitive sealed proposals
20 from qualified providers. A local governmental unit may only enter into a
21 performance contract if the contract is awarded by the governing body of the local
22 governmental unit. The governing body shall give at least 10 days' notice of the
23 meeting at which the body intends to award a performance contract. The notice shall
24 include a statement of the intent of the governing body to award the performance

1 contract, the names of all potential parties to the proposed performance contract, and
2 a description of the energy conservation and facility improvement measures
3 included in the performance contract. At the meeting, the governing body shall
4 review and evaluate the bids or proposals submitted by all qualified providers and
5 may thereafter award the performance contract to the qualified provider that best
6 meets the needs of the local governmental unit, which need not be the lowest cost
7 provider.”.

8 **9.** Page 959, line 17: after that line insert:

9 “SECTION 1819g. 84.06 (2) (a) of the statutes is amended to read:

10 84.06 (2) (a) All such highway improvements shall be executed by contract
11 based on bids unless the department finds that another method as provided in sub.
12 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
13 the manner determined by the department. Except as provided in s. 84.075, the
14 contract shall be awarded to the lowest competent and responsible bidder as
15 determined by the department. If the bid of the lowest competent bidder is
16 determined by the department to be in excess of the estimated reasonable value of
17 the work or not in the public interest, all bids may be rejected. The department shall,
18 so far as reasonable, follow uniform methods of advertising for bids and may
19 prescribe and require uniform forms of bids and contracts. Except as provided in par.
20 (b), the secretary shall enter into the contract on behalf of the state. Every such
21 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
22 ss. 16.528, 16.752 and 16.754 apply to the contract. Contracts under this section are
23 subject to s. 85.017. Any such contract involving an expenditure of \$1,000 or more
24 shall not be valid until approved by the governor. The secretary may require the

1 attorney general to examine any contract and any bond submitted in connection with
2 the contract and report on its sufficiency of form and execution. The bond required
3 by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to
4 approval by the secretary. This subsection also applies to contracts with private
5 contractors based on bids for maintenance under s. 84.07.”.

6 **10.** Page 964, line 10: after that line insert:

7 **“SECTION 1826m.** 85.017 of the statutes is created to read:

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

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

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

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

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

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

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 **11.** Page 979, line 25: after that line insert:

10 **“SECTION 1875d.** 86.31 (2) (b) of the statutes is amended to read:

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

18 **12.** Page 1104, line 5: after that line insert:

19 **“SECTION 2070m.** 118.265 of the statutes is created to read:

20 **118.265 Contracts with labor organizations.** (1) In this section, “labor
21 organization” has the meaning given in s. 5.02 (8m).

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

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

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

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

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

14 (3) 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 sub. (2). 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 **13.** Page 1117, line 12: after that line insert:

20 “SECTION 2108a. 119.04 (1) of the statutes is amended to read:

21 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c),
22 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
23 (2), 115.45, 118.001 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14,
24 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19,

1 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.265, 118.30
2 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2)
3 (b) to (g), (3), (14), (17) to (19), (26), (34) and (35) and 120.14 are applicable to a 1st
4 class city school district and board.”.

5 **14.** Page 1194, line 20: after that line insert:

6 “**SECTION 2359f.** 229.41 (8m) of the statutes is created to read:

7 229.41 (8m) “Labor organization” has the meaning given in s. 5.02 (8m).”.

8 **15.** Page 1195, line 5: after that line insert:

9 “**SECTION 2359j.** 229.44 (4) (d) of the statutes is amended to read:

10 229.44 (4) (d) Enter into contracts. All contracts, the estimated costs of which
11 exceed \$30,000, are subject to s. 229.46 (8), except contracts subject to s. 229.46 (5)
12 and contracts for personal or professional services, The contracts shall be subject
13 to bid and shall be awarded to the lowest qualified and competent bidder. The district
14 may reject any bid that is submitted under this paragraph.

15 **SECTION 2359k.** 229.46 (8) of the statutes is created to read:

16 229.46 (8) (a) The district shall ensure that the specifications for bids and
17 contracts for construction projects entered into under this subchapter do not do any
18 of the following:

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

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

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

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

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

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

13 **SECTION 2359L.** 229.65 (6m) of the statutes is created to read:

14 229.65 (6m) "Labor organization" has the meaning given in s. 5.02 (8m).

15 **SECTION 2359m.** 229.68 (4) (d) of the statutes is amended to read:

16 229.68 (4) (d) Enter into contracts, subject to s. 229.682 (9) and to such
17 standards as may be established by the district board. The district board may award
18 any such contract for any combination or division of work it designates and, subject
19 to s. 229.682 (9), may consider any factors in awarding a contract, including price,
20 time for completion of work and qualifications and past performance of a contractor.

21 **SECTION 2359n.** 229.682 (9) of the statutes is created to read:

22 229.682 (9) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The district shall ensure
23 that the specifications for bids and contracts for construction projects entered into
24 under this subchapter do not do any of the following:

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, continue to
8 adhere to or enforce any agreement that requires its employees, 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 employees, exceeding the employees' 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 **16.** Page 1604, line 25: after that line insert:

20 “(6s) ALL-UNION AGREEMENTS ON PUBLIC PROJECTS. The treatment of sections
21 16.855 (14m), 61.55 (title), (1) and (3), 62.15 (1e) and (15), 66.20 (3s), 66.24 (5m),
22 66.88 (5s), 66.904 (6), 84.06 (2) (a), 85.017, 86.31 (2) (b), 118.265, 229.41 (8m), 229.44
23 (4) (d), 229.46 (8), 229.65 (6m), 229.68 (4) (d) and 229.682 (9) of the statutes and the
24 renumbering and amendment of section 61.55 of the statutes first apply to bids and

1 contracts that are let, entered into, extended, modified or renewed on the effective
2 date of this subsection.”.

3 (END)