

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/22/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Walter**

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

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous
Education - MPS
Bonding - municipal**

Extra Copies: **MJL**

Pre Topic:

SDC:.....Walter - Caucus # 1711; ,

Topic:

Minority firm participation in MPS intradistrict transfer aid program

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>
/1	shoveme 06/23/99	wjackson 06/24/99	hhagen 06/26/99	_____	lrb_docadmin 06/26/99		

FE Sent For:

<END>

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/1	shoveme	1/1 WJ 6/24		<i>WJ</i> <i>shoveme</i>			

FE Sent For:

<END>

b1002

yes

Agency: Public Instruction - General School Aid and School District Operation

caucus number 1711

duplicate flag:
duplicate with:

Other reference numbers: Paper 766	LFB Sum #: Comp. Summary, page 682
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Paper 766 - LFB Comp. Summary, page 682. Require that any neighborhood school construction projects resulting from the Neighborhood Schools and MPS Intradistrict Transfer Aid Program have 50% minority firm participation.

other notes

drafting instructions: Paper 766. See above.

more instructions:

caucus number 4001

duplicate flag:
duplicate with:

Other reference numbers: FM 888, items a, g, and I	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Reverse Motion 888 item a. Effect is to maintain current law for referenda approved debt. Also revers item g and I re: eliminate inclining enrollment districts and shifting costs for Milwaukee School Choice and Charter Programs to general school aids.

other notes

drafting instructions: Reverse Freestanding Motion 888 items a, g and I. See above.

more instructions:

Agency: **Public Instruction - General School Aid and School District Operation**

Number of Amendments: 2

CN 1711

Department of Public Instruction – Neighborhood Schools and MPS Intradistrict Transfer Aid

Require that any neighborhood school construction projects resulting from this provision have 50% minority firm participation.

LFB Comparative Summary document, page 682
LFB Paper # 766

66-431(5)(a)(4), d.

ch. 25
min. - max.
FVMS
sent to
everyone



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1002/1
MES.../.....
Wlj

SDC:.....Walter - Caucus # 1711; , Minority firm participation in MPS
intradistrict transfer aid program

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

Private

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

2 1. Page 788, line 24: after that line insert:

3 "SECTION 1630ce. 66.431 (5c) of the statutes is created to read:

4 66.431 (5c) MINORITY CONTRACTING PROVISIONS. (a) In this subsection:

5 1. "Minority business" has the meaning given in s. 560.036 (1) (e).✓

6 2. "Minority group member" has the meaning given in s. 560.036 (1) (f).✓

7 (b) With regard to ~~any~~ neighborhood school construction projects that ~~are~~ ^{is}

8 financed from the proceeds of bonds that are described in sub. (5) (a) 4. d., the board

9 of directors of the school district operating under ch. 119 shall ensure that, for

10 construction work and professional services contracts, a person who is awarded such

1 a contract by the board shall agree, as a condition to receiving the contract, that at
2 least 50% of the employes hired because of the contract will be minority group
3 members if the contract is for the construction of any part of a neighborhood school
4 construction project.

5 (c) With regard to ~~any~~ neighborhood school construction projects ^{is} that ~~are~~)
6 financed from the proceeds of bonds that are described in sub. (5) (a) 4. d., the board
7 of directors of the school district operating under ch. 119 shall ensure that at least
8 50% of the aggregate dollar value of contracts awarded by the board shall be awarded
9 to minority businesses in the following areas:

10 1. Contracts for the construction of ^a neighborhood school projects. ^a

11 2. ^a Contracts for professional services related to the construction of ^a
12 neighborhood school projects. // ^a

13

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1002/1dn

MES.../...
WJ

Please review this amendment carefully. The instructions were not very specific, so I based the provisions of created s. 66.431 (5c) on s. 229.70, minority contracting goals in a local professional baseball park district, even though the s. 229.70 provisions are goals and the provisions in this amendment are requirements.

You should also be aware that the minority business set-aside requirements in this amendment may be subject to a court challenge as an unconstitutional denial of equal protection. In *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 109 S.Ct. 706, 102 L.Ed 2d 854 (1989), the plurality opinion states that a law favoring a group on the basis of race must be justified by sufficient evidence of past discrimination against that group, and that past societal discrimination alone may not serve as a basis for racial preference. Such a law must be narrowly tailored to remedy the effect of past discrimination. It is my opinion that a required 50% set-aside for minority businesses and employes who are minority group members, as contained in this amendment, makes a court challenge likely.

Additionally, under *Croson*, the inclusion of minority groups that, as a practical matter, have not suffered from discrimination in the field addressed by the law (here, for example, construction companies, construction workers and professional services) suggests that the law is not a remedy for past discrimination. For example, a court may inquire as to whether native Hawaiians or Aleuts have been discriminated against in the Milwaukee construction industry. Consequently, you may wish to review the use in the amendment of the terms "minority business", as defined in s. 560.036 (1) (e), and "minority group member", as defined in s. 560.036 (1) (f).

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1002/1dn
MES:wlj:ksh

June 26, 1999

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1002/1
MES:wlj:ksh

SDC:.....Walter - Caucus # 1711; , Minority firm participation in MPS
intradistrict transfer aid program

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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TO 1999 ASSEMBLY BILL 133

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8 from the proceeds of bonds that are described in sub. (5)(a) 4. d., the board of directors
9 of the school district operating under ch. 119 shall ensure that, for construction work
10 and professional services contracts, a person who is awarded such a contract by the

1 board shall agree, as a condition to receiving the contract, that at least 50% of the
2 employes hired because of the contract will be minority group members if the
3 contract is for the construction of any part of a neighborhood school construction
4 project.

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8 aggregate dollar value of contracts awarded by the board shall be awarded to
9 minority businesses in the following areas:

- 10 1. Contracts for the construction of a neighborhood school project.
- 11 2. Contracts for professional services related to the construction of a
12 neighborhood school project.”.

13

(END)