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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Veterans, Homeland Security,
Military Affairs, Small Business and Government
Reform (SC-VHSMASBGR)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform

Senate Bill 56

Relating to: state contractual service contracting procedures and information and fiscal estimate cost mitigation analyses, granting rule-making authority, and providing an exemption from and extending the time limit for emergency rule procedures.

By Senators Cowles, Ellis, Brown, Darling, S. Fitzgerald, Kapanke, A. Lasee, Lazich, Leibham, Olsen, Roessler, Zien and Breske; cosponsored by Representatives Gottlieb, Jensen, Nass, Davis, Gronemus, Gunderson, Hahn, Hines, Honadel, Kaufert, Krawczyk, F. Lasee, LeMahieu, McCormick, Moulton, Musser, Nischke, Ott, Owens, Pridemore, Staskunas and Van Roy.

February 15, 2005 Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

March 23, 2005 **PUBLIC HEARING HELD**

Present: (4) Senators Brown, Zien, Breske and Wirch.
Absent: (1) Senator Kanavas.

Appearances For

- Rob Cowles — State Senator, 2nd State Senate District
- Casey Newman, Madison — Wisconsin Department of Transportation
- Susan McMurray — AFSCME
- Kenneth Weaver, Oconomowoc — Wisconsin State EE's Union
- George Mickelson, Madison — State Engineering Association
- Mark Gottlieb — State Representative, 60th Assembly District

Appearances Against

- None.

Appearances for Information Only

- Carol Godiksen, Madison — American Council of Engineering Companies of Wisconsin (ACEC of WI)
- Carol Weidel, Madison — PERSA
- Ruth Anderson, Madison — University of Wisconsin System
- Cory Mason, Madison — AFT-Wisconsin

Registrations For

- Mike Ellis — State Senator, 19th Senate District
- Carol Roessler — State Senator, 18th Senate District
- Jim Parvett, Burlington — AFSCME Council 24
- Robert McLinn, Waupun
- Steven Williams, Madison — AFSCME Council 24
- Joan Hanson, Madison — Wisconsin Manufacturers and Commerce (WMC)

Registrations Against

- None.

March 23, 2005

EXECUTIVE SESSION HELD

Present: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.
Absent: (0) None.

Moved by Senator Zien, seconded by Senator Breske that **Senate Amendment LRBa0346** be recommended for adoption.

Ayes: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.
Noes: (0) None.

ADOPTION OF SENATE AMENDMENT LRBA0346 RECOMMENDED, Ayes 5,
Noes 0

Moved by Senator Breske, seconded by Senator Wirch that **Senate Amendment LRBa0348** be recommended for adoption.

Ayes: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.
Noes: (0) None.

ADOPTION OF SENATE AMENDMENT LRBA0348 RECOMMENDED, Ayes 5,
Noes 0

Moved by Senator Zien, seconded by Senator Breske that **Senate Amendment LRBa0347** be recommended for adoption.

Ayes: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.
Noes: (0) None.

ADOPTION OF SENATE AMENDMENT LRBA0347 RECOMMENDED, Ayes 5,
Noes 0

April 6, 2005

EXECUTIVE SESSION HELD

Present: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.
Absent: (0) None.

Moved by Senator Zien, seconded by Senator Wirch that **Senate Substitute Amendment LRBS0066** be recommended for adoption.

Ayes: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.
Noes: (0) None.

ADOPTION OF SENATE SUBSTITUTE AMENDMENT LRBS0066
RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Breske, seconded by Senator Kanavas that **Senate Bill 56** be recommended for passage as amended.

Ayes: (5) Senators Brown, Zien, Kanavas, Breske and Wirch.
Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 0

Daniel Lindstedt
Committee Clerk

SENATE BILL 56 (LRB -0796)

An Act to renumber and amend 16.705 (8); to amend 13.093 (2) (a), 16.705 (1) and 16.705 (2); and to create 16.705 (8) (a) and (b) of the statutes; relating to: state contractual service contracting procedures and information and fiscal estimate cost mitigation analyses, granting rule-making authority, and providing an exemption from and extending the time limit for emergency rule procedures.

2005

02-15.	S.	Introduced by Senators Cowles, Ellis, Brown, Darling, S. Fitzgerald, Kapanke, A. Lasee, Lazich, Leibham, Olsen, Roessler and Zien ; cosponsored by Representatives Gottlieb, Jensen, Nass, Davis, Gronemus, Gunderson, Hahn, Hines, Honadel, Kaufert, Krawczyk, F. Lasee, LeMahieu, McCormick, Moulton, Musser, Nischke, Ott, Owens, Pridemore, Staskunas and Van Roy .	
02-15.	S.	Read first time and referred to committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform	81
03-01.	S.	Fiscal estimate received.	
03-23.	S.	Senate amendment 1 offered by Senator Cowles (LRB a0346)	137
03-23.	S.	Senate amendment 2 offered by Senator Cowles (LRB a0348)	137
03-23.	S.	Senate amendment 3 offered by Senator Cowles (LRB a0347)	137
03-23.	S.	Public hearing held.	
03-23.	S.	Executive action taken.	
03-30.	S.	Senator Breske added as a coauthor	141
04-05.	S.	Senate substitute amendment 1 offered by Senator Cowles (LRB s0066)	148
04-06.	S.	Executive action taken.	
04-22.	S.	Report adoption of Senate Substitute Amendment 1 recommended by committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform, Ayes 5, Noes 0	184
04-22.	S.	Report passage as amended recommended by committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform, Ayes 5, Noes 0	184
04-22.	S.	Available for scheduling.	
04-22.	S.	Pursuant to Senate Rule 46 (2)(c), withdrawn from the committee on Senate Organization and referred to the joint committee on Finance	184
05-31.	S.	LRB correction (Senate Substitute Amendment 1)	236
09-21.	S.	Executive action taken.	
09-26.	S.	Report adoption of Senate Substitute Amendment 1 recommended by joint committee on Finance, Ayes 16, Noes 0	364
09-26.	S.	Report passage as amended recommended by joint committee on Finance, Ayes 16, Noes 0	364
09-26.	S.	Available for scheduling.	

2006

05-11.	S.	Failed to pass pursuant to Senate Joint Resolution 1	853
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Vote Record

Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform

Date: _____

SA 1 / AA 1

Moved by: _____

Seconded by: _____

AB _____

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

Breske
Zien

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
- Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Ronald Brown, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator David Zien	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Ted Kanavas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roger Breske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Totals: _____

SA 2

Breske
Wirch

SA 3 2 / B
Zien *Breske*

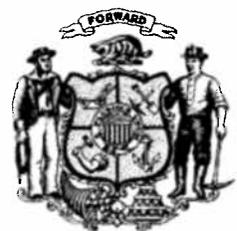
SB 56
paper ballot

Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE



ROBERT L. COWLES
Wisconsin State Senator • 2nd Senate District

Competitive Contracting Reform Bill (AB 105/SB 56)
Senate Committee on Veterans, Homeland Security, Military Affairs, Small Business & Government Reform
Testimony Submitted by State Senator Robert Cowles
March 23, 2005

Good Afternoon.

Thank you for the opportunity to speak to you on behalf of Senate Bill 56. I appreciate your committee's prompt action on this important bill.

I started work on this contracting reform bill last fall after we learned of the Department of Transportation (DOT) paying a private consultant \$165,000 for services that a state employee was performing for \$52,000.

Unfortunately, the news has only gotten worse in the meantime:

- The DOT paid \$685,000 for a website for the Marquette Interchange.
- In addition, questions have been raised regarding the \$14 million statewide voter database and contracts to process Medicaid claims.
- And just two weeks ago, there was a story in the Journal Sentinel about a former state employee working on final contract negotiations for a \$116 million telecommunications project for the state and university. This new SBC employee had intimate knowledge of the project as a former member of the negotiating team for DOA.

The hardworking taxpayers of this state deserve a better accounting for their dollars. We can improve our long-term fiscal crisis if we cut the waste and become more efficient.

While SB56 is not a panacea, it certainly is a major step forward in addressing these concerns.

State government now spends about \$740 million each year in contracts. Under current law, the state may contract for services whenever they may be performed more efficiently or economically than if state employees performed them. SB 56 would ensure these contracts are procured and executed in the most cost-effective manner.

I think it is only common sense to have a uniform and complete cost analysis to be implemented throughout government, and this is something we don't have right now.

Assembly Speaker Gard has recently proposed the "Contract Sunshine Act" to require private businesses to disclose meetings with state officials for the procurement of state contracts. In addition, Governor Doyle has issued a series of orders to review service contracts and identify contracts to be consolidated or eliminated.

This bill is meant to compliment and strengthen these efforts. Government spending and contracting reforms should be enacted as soon as possible to save taxpayer dollars.

Senator Cowles

Testimony on AB 105/SB 56

Senate Committee on Veterans, Homeland Security, Military Affairs, Small Business & Government Reform
Page Two

I developed this plan based on a 1998 report by a bi-partisan commission on competitive contracting. SB 56 includes the following measures:

- Implementing a uniform and complete cost analysis model throughout state government.
- Providing analysis similar to the Fiscal Note process where proposed bills and budget amendments are reviewed for competitive contracting opportunities.
- Documenting the results of competitive contracting activities through measuring cost savings and quality of services.
- Providing annual recommendations for elimination of unneeded contractual service procurements and for consolidation or resolicitation of existing contractual service procurements.

This last point is important. Some contracts have not been re-bid in a long time. Governor Doyle announced last year that the new Medicaid contract would save the state \$93 million. Another example would be to look at contracts such as the one for state government public notices. This bill would seek recommendation for consolidation and/or resolicitation of contracts.

A couple simple amendments were added in the Assembly. The first one ensures that engineering services for DOT are included under the bill. This area is exempted under current law and therefore needed to be specifically identified in an amendment. The second amendment specifies factors such as cost, quality and timeliness to be considered when conducting the cost benefit analysis. The third amendment asks that the analysis be applied before any renewal of a contract.

This bill passed the Assembly 88-7 last week and I am told it has Governor Doyle's support.

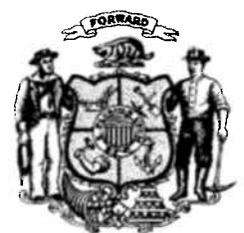
In conclusion, SB 56 is designed to create more accountability. As the state becomes more involved in awarding private contracts, state taxpayers and state employees need to have more confidence in the awards process. In tight fiscal times, our system needs to become more cost-effective.

We need assurances that these contracts are based on merit, not politics. The taxpayers deserve nothing less.

Thank you, and I can take questions at this time.



WISCONSIN STATE LEGISLATURE



**Testimony on SB-56 to the
Senate Committee on Veterans, Homeland Security,
Military Affairs, Small Business and Government Reform**

and

**Recommendations for Content of the
Emergency Rule**

March 23, 2005

**George Mickelson,
State Engineering Association**

Testimony

The State Engineering Association (SEA) is the bargaining unit that represents professionals in engineering occupations that are employed by the State of Wisconsin.

It has been well documented in the media that engineers and other employees in related occupations that work for the state are much less costly to the taxpayers than the consultants that have in many cases replaced them. In 1985, the Department of Transportation (DOT) determined that consultants cost more than in-house engineering staff, in some cases "*extraordinarily*" more expensive. Yet for the past two decades, the practice of outsourcing engineering work to consultants has grown while in-house engineering staff levels have declined, especially at the DOT.

SEA represented employees are unique taxpayers. SEA members have observed an increase in wasteful contracting, while state employees often are asked to bear the brunt when solutions to the State's budget problems are developed. The intent of this bill is to increase cost effectiveness, which SEA members support.

This bill will not solve the State's deficit. It however is one small step that is necessary to achieve a cost effective state government. This bill requires that a "... *uniform cost-benefit analysis of each proposed contractual service ...*" be performed before the service is procured.

And, the bill requires that emergency rules be drafted by the Department of Administration (DOA) to specify the procedures that are used for the cost-benefit analysis.

There is a huge problem with DOA writing rules on cost effectiveness. To illustrate by an example:

- SEA pressured DOT to conduct a cost effectiveness analysis of state employees versus engineering consultants. The DOT finally prepared an extremely in depth economic analysis that evaluated a large population of projects over a four year period of fiscal

years 1999 through 2002. That analysis was completed in June 2003 and demonstrated that outsourced engineering services cost 26.6 percent more than the cost of engineering performed in-house. This result however did not support the Administration's goal of cutting 10,000 state employees. Therefore when DOT administration officials met with SEA leadership on June 25, 2003, they refused to share the report and did not acknowledge its existence.

- DOT then went back to the raw data in an attempt to change the outcome of the analysis by reallocating overhead costs. The net result after massive shifting of costs is that outsourced engineering services still cost 17.9 percent more. Several tens of millions of dollars are wasted by ongoing outsourcing of engineering work. This is documented in a summary report dated April 20, 2004. DOT shared this information with DOA but DOT refused to share this report with SEA after multiple open records requests. DOT informed SEA that they had shared the report with the "roadbuilders." However it was not clear exactly with which trade group DOT shared it.
- After reviewing the April 2004 DOT report, DOA determined that; when only a subset of the data is evaluated, if significant costs are double counted, other significant costs are disregarded, and if additional economic assumptions are created, it was possible to make the DOT report appear to be wrong. Unlike the DOT report, the calculations performed by DOA were not in depth and could easily fit on the back of an envelope. Only after the DOA analysis was completed on October 1, 2004 did DOA authorize DOT to provide both the April 2004 DOT report and the newly prepared DOA rebuttal report to SEA. This was provided to SEA on November 11, 2004 after several additional open records requests.
- DOT analysts dissected the DOA rebuttal report and determined that serious mathematical and assumption errors were made by DOA. DOA's "seriously flawed" and "dramatically inaccurate findings" were documented in yet another DOT report dated November 19, 2004. The Chief Legal Counsel of DOT, Jim Thiel, released this report in accordance with open records laws, but (according to a copyrighted article in the Milwaukee Journal Sentinel) without the express approval of Randy Romanski, the Executive Assistant to the Secretary of DOT. The Chief Legal Counsel, after a long and distinguished career, was immediately demoted.

Another example:

- Before a contract for professional services can be finalized, Adm 10.05(1)(c), Wisconsin Administrative Code requires that a Request for Purchase Authority include: "A statement showing why the services can be performed more economically or efficiently by contract rather than by current state employees or by hiring permanent, project, or limited term employees..." Thus, DOA has a codified procedure that promotes cost effectiveness in contracting. But, the Administration, and hence, DOA, has a goal to cut 10,000 state employees.

- It has been well documented by the Legislative Audit Bureau that the state consistently pays more for information technology contractors than it costs for state employees to perform the same work. It also is well known that although agencies have vacancies, DOA prevents agencies from filling those vacancies by withholding authority to fill positions. Thus, DOA forces agencies to contract to consultants at a higher cost by blocking agencies from hiring a cost effective state employee. Therefore a consultant becomes *more efficient* by default.

Summary and conclusions:

- DOA has demonstrated that they are unable to prepare a fair and objective cost benefit analysis regarding the outsourcing of professional services. Instead their bias towards support for the administration's goal of cutting 10,000 state employees results in erroneous economic analyses.
- DOA consistently prevents agencies from hiring cost effective state employees to perform the work by withholding authority to fill vacancies so that a consultant must be hired if the work is to be performed.
- Unless the legislature provides extreme close scrutiny over DOA in the rule development process to assure that DOA carries out the intent of the legislation, there probably will not be any savings for the taxpayer.

Recommendations for Rule Development

Most Wisconsin state agencies solicit the input of outside parties when they perform rule development. This, however is not how DOA has traditionally operated. I suggest that the legislature instruct DOA to form an advisory committee to advise on detailed rule development and that an SEA representative be invited to sit on that committee.

If DOA will not form such an advisory committee, as a former economist with the federal government, I have provided several conceptual content suggestions for the rule, below. I recommend that the legislature consider these recommendations, and if the legislature concurs with these recommendations, that the legislature forward these recommendations to DOA. These recommendations are specific to procurement of professional services from the private sector, however procurement of other services under these recommendations may also be appropriate.

This rule would cover a wide range of contracts from a small contract of less than \$10,000 to a multi-million dollar multi-year contract for engineering services for the Marquette Interchange. For this reason, it may be appropriate to prepare several different uniform procedures based on size of contract, length of time for the contract and whether or not the contract is for a skill set that will or will not have a recurring need. The following are examples of categories of professional services contracts that may be considered:

- Contracts that are expected to cost less than \$25,000 and are for a scope of work that is for a skill set that does not have a recurring need and is less than one year in duration. Such contracts should undergo a streamlined analysis that allows expedited approval with minimal analysis.
- Contracts that are expected to cost between \$25,000 and \$100,000 and are for a non-recurring skill set of less than one year or are less than \$25,000 and may extend beyond one year or for recurring tasks in the future. Although these contracts are more complex and for a greater cost, it may be appropriate to use a procedure that is streamlined, but to a lesser degree than the smallest contracts.
- Contracts that are expected to cost between \$100,000 and \$1,000,000 and are for a non-recurring skill set of less than one year or are between \$25,000 and \$100,000 and may extend beyond one year or are for recurring tasks.
- Contracts that are expected to cost between \$1,000,000 and \$5,000,000 and are for a non-recurring skill set of less than one year or are between \$100,000 and \$1,000,000 and may extend beyond one year. Such contracts should undergo a more thorough cost effectiveness analysis because the costs involved may present significant opportunities for savings.
- Contracts that are expected to cost more than those listed above. Such contracts provide the greatest opportunities for significant cost savings and shall undergo the most in-depth economic analysis.

It is critical that an agency must not be allowed to split the scope of work for a project into multiple consecutive contracts because that may allow the use of a less in-depth cost evaluation. It also is necessary to prevent an agency from accepting a contract with a contractor that low-bids the job to get their foot in the door with the expectation that the big money will be paid in future sole-sourced contracts or change orders that expand the scope.

It is recommended that the cost effectiveness analysis include the following:

1. A complete breakdown of all anticipated contractor costs on a unit basis.
2. Such contracts frequently contain a contingency clause for a small increase for unanticipated costs. Since small increases in costs are common and expected, the cost estimates used for cost effectiveness analyses should include this contingency. This is intended to limit the practice of low-bidding to obtain the job with the expectation that a contract change order will cover the actual costs later.
3. A complete breakdown of all direct and indirect contract procurement and negotiation costs incurred by the State prior to contract award. This would include the cost to perform the cost effectiveness evaluation. For streamlining purposes, in the lowest cost categories of contracts, a minimum lump sum or multiplier that is proportional to total contract cost based on past contract history by that agency may be appropriate.
4. An estimate of complete direct and indirect contract oversight and contract closeout costs incurred by the State. As above, use of a lump sum or multiplier may be appropriate for streamlining for the lowest cost categories.
5. If the State provides any facilities, equipment or intellectual property to the contractor for the contractor's use, a complete estimate of the value of those facilities, equipment and intellectual property shall be listed in the cost analysis, less salvage value, if any at the end of the contract. If the state will incur any costs to train the contractor in the use of any state owned facilities, equipment or intellectual property, the total cost to the state for such training shall also be included.
6. If any computer software or intellectual property is developed under the contract that will be used by the state in the future, the cost to train state employees or subsequent contractors in the use of that software or intellectual property before the end of the contract is concluded.
7. If the contractor selected for the work has a history of change orders that increase costs over the original estimate on more than 20 percent of their contracts during the prior 24 months, include in the cost estimate the greater of an additional 10 percent or the average cost overrun incurred during the past 24 months.

8. If the economic evaluation is performed before an accurate cost estimate can be obtained from a contractor and if the bid from the contractor is more than 20 percent greater than the economic analysis, a new economic analysis shall be prepared before a contract can be approved.
9. If the contract is expected to extend beyond one year, cost escalation factors for inflation are often estimated for budget purposes. But, actual payments shall be paid at a rate that is no greater than the escalation factors provided by indices published by the U.S. Bureau of Labor Statistics. Usage of such indices is described by Schwenk, 1997, which should be incorporated into the rule by reference. (Reference: Schwenk, A.E., Escalation in Employer Costs for Employee Compensation: A Guide to Contracting Parties,” *Compensation and Working Conditions*, Spring 1997, available at: <http://www.bls.gov/opub/cwc/archive/spring1997art1.pdf>)
10. An estimate of the costs incurred by the taxpayer if the work had been performed by state employees instead of by a contractor on a comparable unit basis.
11. When a contractor is determined to cost less and a contract is to be issued, resulting in state employee(s) to be laid off, the cost estimate for replacing a state employee with a contractor shall also consider the increased costs to the state to lay off that employee (in accordance with Adm 10.05(1)(c), Wisconsin Administrative Code, that includes unemployment benefits).

As noted above, agencies under the direction of DOA have continued to promote the hiring of consultants for professional services even when those services are not cost effective. For this reason, collective bargaining units should have an opportunity to challenge the results of the cost benefit analyses for a brief period (perhaps 30 days) after such analyses are completed, but before the contracts are signed.

Other issues that shall be considered in the cost effectiveness analysis, when applicable, include the following:

1. Is there an unquantifiable benefit to having a state employee(s) perform the work because the state employee(s) are familiar with the tasks and are expected to produce a final product or service that is of greater quality? For example, a transportation engineer that has worked on maintenance of a road for several years has the knowledge of which road sections require special engineering to account for unusual frost heave or other unique geotechnical issues. If so, prepare a justification if a contractor is to be selected to account for the selection of a service that may result in lower quality and higher long term costs to be incurred after contract completion.
2. Is there an unquantifiable benefit to having a state employee(s) perform the work because the state employee(s) will gain institutional knowledge that will result in future work by that employee(s) to be more efficient? An example would be computer software development where the same state employee would be responsible for maintenance of

that software or that employee would be available to support those responsible for maintenance in the future. In this example, that employee(s) is familiar with the architecture of the product and maintenance is more efficient. If so, prepare a justification if a contractor is to be selected instead of a state employee(s). If possible, the justification shall also include an economic analysis to determine the value of such institutional knowledge.

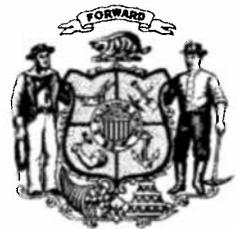
3. Will outsourcing of the work contribute to the State losing core competencies that are necessary for either conducting the work or accurately judging contractor performance.
4. If there are no available state employees to perform the work in the necessary time period and the agency does not reasonably anticipate having similar recurring tasks that require that skill set beyond the end of the biennium, then a contract may be more appropriate than hiring a state employee that will not be needed later. However, agencies must be scrutinized when such proposals are presented, as nonrecurring tasks are quite rare.
5. If there are no available state employees to perform the work in the necessary time period but a state employee would be more cost effective, the agency should determine if it will have similar recurring tasks beyond the end of the biennium that a state employee(s) with the appropriate skill set could perform at a lower cost. If so:
 - a. If the agency currently has contractors performing similar work and those contractors are budgeted to perform more than 20 percent of that type of work for the agency, the agency should request authority to hire more state employees from DOA or if necessary from the Joint Committee on Finance instead of hiring a contractor. This is a critical component for the rule because if more than 20 percent of the work is already outsourced at a higher cost, if an agency is allowed to continue the practice without hiring more cost effective employees, the rule will not provide the expected savings that the legislation intends.
 - b. If however the agency anticipates a reduction in funding for that type of work in future years and if contractors that work for the agency that perform similar work constitute less than 20 percent of the budget for that type of work, the agency may contract for the work. This is intended to prevent a boom and bust cycle.
 - c. If the agency would require more than a 20 percent annual growth in the number of state employees within a classification series to obtain sufficient in-house expertise to replace higher cost contractors, additional contractors can be hired at a greater cost provided that the agency works toward filling positions at an annual growth rate of 20 percent. The purpose of capping annual growth of state employees within a classification series at 20 percent is to avoid excessive growth that may reduce efficiency and cost effectiveness.
 - d. If performance of the task is time critical and efforts to hire state employees would cause an unacceptable delay, the agency shall prepare a plan to obtain the

necessary skill set in-house and shall request authority to hire. A contractor could be hired on a temporary basis once authority to hire has been granted to the agency.

- e. Some agencies have signed master services contracts for significant costs when they have not yet decided what the scope of work should be that the contractor should carry out. This practice is inconsistent with the goals of the rule because if the scope of work is not yet defined, it is impossible to perform a cost benefit analysis. But, if there are no available state employees to perform the work, a master contract could be allowed if the agency is already working toward filling positions at an annual growth rate of 20 percent within the classification.
6. In some cases, federal law on federally-funded projects prohibits selection of a low bidder but instead requires a qualifications-based contractor selection. The rule should list which types of projects may have special requirements for federal funding.



WISCONSIN STATE LEGISLATURE





AFSCME®

Date?

WISCONSIN OFFICE • 8033 Excelsior Drive, Suite A • Madison, Wisconsin 53717-1903 • Telephone 608/836-6666

Written Testimony on Senate Bill 56

Presented By: Susan McMurray and John Grabel

To The Senate Committee on Veterans, Homeland Security and Military Affairs, and Small Business and Government Reform

Chairperson Brown and members of the committee, thank you for taking our testimony into consideration as you deliberate Senate Bill 56.

As you may be aware SB 56 has companion legislation titled Assembly Bill 105 offered by Representative Gottlieb that passed the State Assembly last week. Originally AB 105 was drafted identically to SB 56. Two weeks ago AB 105 received a public hearing before the Assembly Committee on Budget Review. At that hearing AFSCME testified "for information only" indicating to the members of the committee that AFSCME supported the general idea behind the legislation, but felt additional language was necessary to safe guard against some potential short comings of the bill.

AFSCME's chief concern revolved around the amount of direction given to the Department of Administration (DOA) under AB 105 and SB 56 for implementing a uniform cost-benefit analysis. AFSCME firmly believes that in an "apples to apples" comparison, state employees can solidly compete with private contractors for state projects. However, given Wisconsin's recent experience with the conflicting analysis of contract costs by the Department of Transportation (DOT) and the DOA, as well as instances of DOA overstating public employee costs in previous cost-benefit analysis, AFSCME believes that greater direction needs to be given to DOA to ensure the effect of this legislation matches the intent.

For this reason AFSCME endorsed an amendment to AB 105 offered by Representative Berceau that would have, among other things, amended the bill to add a list of items to be included in any uniform cost-benefit analysis system created by DOA. After discussions between AFSCME, Representative Berceau and Representative Gottlieb a compromise amendment was agreed to, Assembly Amendment 4, which was offered by Representative Gottlieb and adopted by the Assembly.

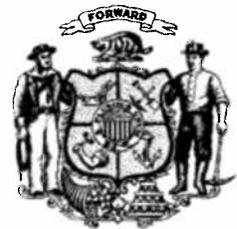
Assembly Amendment 4 defines the term "Cost-benefit analysis" to mean a comprehensive study to identify and compare the total cost, quality, and timeliness of a service performed by state employees and resources with the total cost, quality, and timeliness of the same service obtained by means of a contract for contractual services. AFSCME believes that this amendment gives greater direction to DOA and will help to ensure that any uniform cost-benefit analysis system the agency creates will provide a more accurate comparison of private bids versus public employee costs.

AFSCME encourages committee members to adopt amendment language to SB 56 identical to Assembly Amendment 4 and support SB 56 in executive session. Again, thank you for your consideration of AFSCME's comments and concerns, and know that we are available to answer questions from members of the committee.

in the public service

American Federation of State, County and Municipal Employees, AFL-CIO





WISDOT
VARIOUS CONSULTANT WAGE INCREASE AGREEMENTS
 (Examples)

PROJECT ID	PROJECT NAME	CONSULTANT FIRM	2002	2003	2004	2005	MILE RATE	PROFIT %
1643-01-73	USH 14 ROAD(W.CO.LINE-WIS RIV	EARTH TECH	NA	4.50%			0.36	8.30%
1393-00-74	STH 26 WATERTOWN	DAAR ENG.	NA	3.30% - 5.60%			0.36	7.00%
1209-02-72	PLATTEVILLE BYPASS	CGC	NA		2.00%		0.37	9.00%
5640-01-73	WIS RIV FERRY NORTH LNDG	MSA?	NA	3.10% - 3.50%			0.40	9.00%
5300-03-71	USH 12(CTH KP-STH19)		NA	3.00% - 4.00%			0.40	8.00%
5606-00-72	STH 92 V OF BROOKLYN			5.00%			0.37	9.50%
5650-01-74	BADFISH CR. BRIDGE STH 59	MEAD&HUNT?		5.00%	3.40%		0.37	9.50%
1001-04-72	ROCK CO BRIDGES	STRAND & ASSOC					0.36	9.50%
1080-00-72	USH 12 WHITEWATER BYPASS	RA SMITH	3.30% - 9.90%	3.00% - 5.00%			0.365 - .042	7.50%
3384-00-74				3.00%			0.36	7.00%
2350-05-70	STH 32 RACINE-MILW.RD	GAS & ASSOC		5.00%			0.37	8.50%
3160-01/03-00	STH 67 & PED/BIKE PATH	CRISPELL-SYNDER			3.00%	3.00%	0.36	9.00%
1450-03-00	N.B.I-43 OZAUKEE CO.	EARTHTECH INC.	5.00%				0.36	9.00%
2711-03-00	WESTERN AVE BRIDGE WASH CO	OMNI ASSOCIATES		5.00%			0.365 - 0.501	9.00%
5625-00-03	LOCAL RD BRIDGE LAFAYETTE CO.	MSA&ASSOC.		3.00%			0.40	8.00%
4660-06-71	STH 47 WINNEBAGO CO.	S.E.H. INC		5.00%			0.375	8.50%
1371-07-72	STH16/67 OCONOMOWOC BYPASS	OWEN AYRES ASSOC.					0.36	7.80%
5300-03-74	USH 12 (STH19-CTHK) DANE CO.	STRAND AND ASSOC.		3.6% - 10.5% 2003 - 2006	2.00%	1.00%		
5010-00-73	STH 82 & KENNEDY ST INTSECT	M.S.A. PRO INC			4.00%		0.45	9.00%
5030-02-73	STH 33 SAUK CO.	M.S.A. PRO INC			4.00%		0.45	9.00%
5817-00-70	CTH H JUNEAU CO.	M.S.A. PRO INC			4.00%		0.45	9.00%
6160-04-60	PETENWELL BRIDGE REPAIR	M.S.A. PRO INC			4.00%		0.45	9.00%
5030-01-71	STH 33 BRIDGE JUNEAU CO.	M.S.A. PRO INC			4.00%		0.45	9.00%
5030-02-74	STH 33 BRIDGE JUNEAU CO.	M.S.A. PRO INC			4.00%		0.45	9.00%
5827-00-70	CTH H BRIDGE JUNEAU CO.	M.S.A. PRO INC			4.00%		0.45	9.00%
4277-02-71	CTH PP SHEBOYGAN CO.	EARTHTECH INC.	2.00%		4.00%		0.45	9.00%
3364-00-74	STH 67 DODGE CO.	GREMMER& ASSOC		3.00%			0.365	10.00%
3020-00-71	STH 28 BRIDGE DODGE CO.	GREMMER& ASSOC		3.00%			0.36	7.00%
4060-00-71	STH 28 DODGE CO.	GREMMER& ASSOC		3.00%				7.00%
4060-00-73	RR OVERPASS STH 28 DOD.CO	GREMMER& ASSOC		3.00%				7.00%
1080-00-22	R/E WORK ORDER USH 12 WALWORT	OWEN AYRES ASSOC.		4.50%			0.36	9.50%

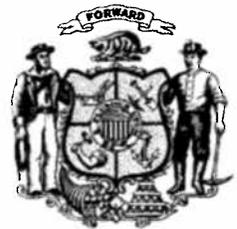
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 AFSCME Council 24 AFL-CIO
 Wisconsin State Employees Union

Office: (608) 836-0024
 Fax: (608) 836-0222
 Web: www.wseu-24.org

Contact:
 Kenneth Weaver, Chairman
 WSEU Committee on Contracting Out



WISCONSIN STATE LEGISLATURE



2005 SENATE BILL 56

Introduced by Senators COWLES, ELLIS, **BROWN**, DARLING, S. FITZGERALD, KAPANKE, A. LASEE, LAZICH, LEIBHAM, OLSEN, ROESSLER and ZIEN, cosponsored by Representatives GOTTLIEB, JENSEN, NASS, DAVIS, GRONEMUS, GUNDERSON, HAHN, HINES, HONADEL, KAUFERT, KRAWCZYK, F. LASEE, LEMAHIEU, MCCORMICK, MOULTON, MUSSER, NISCHKE, OTT, OWENS, PRIDEMORE, STASKUNAS and VAN ROY.

AN ACT *to renumber and amend* 16.705 (8); *to amend* 13.093 (2) (a), 16.705 (1) and 16.705 (2); and *to create* 16.705 (8) (a) and (b) of the statutes; *relating to: state contractual service contracting procedures and information and fiscal estimate cost mitigation analyses, granting rule-making authority, and providing an exemption from and extending the time limit for emergency rule procedures.*

Analysis by the Legislative Reference Bureau

Currently, the Department of Administration (DOA) or any state agency to which DOA delegates purchasing authority may contract for contractual services whenever the services may be performed more efficiently or economically than if they were performed by state employees.

- This bill directs DOA to prescribe, by rule, uniform procedures for determining whether services are appropriate for contracting.

Currently, DOA must promulgate, by rule, procedures for DOA and the state agencies to which DOA delegates purchasing authority to use when entering into contractual service contracts.

- This bill provides that these rules must include a requirement for the agencies to conduct a uniform cost-benefit analysis of each proposed contractual service procurement in accordance with standards prescribed in the rules and a requirement for agencies periodically to review the continued appropriateness of contracting under each contractual services agreement.

Currently, following the end of each fiscal year, DOA must report to the governor, the Joint Committee on Finance, the Joint Legislative Audit Committee, and the appropriate legislative standing committees concerning state contractual service procurements during the preceding fiscal year.

- This bill provides that the report shall include a summary of the cost-benefit analyses prepared by state agencies in the preceding fiscal year and recommendations for elimination of unneeded contractual service procurements and for consolidation or resolicitation of existing contractual service procurements.
- The bill also provides that each fiscal estimate prepared for a bill must indicate whether any increased costs incurred by the state under the bill can be mitigated through the use of contractual service contracts let in accordance with competitive procedures. Currently, there is no similar requirement.

SB56

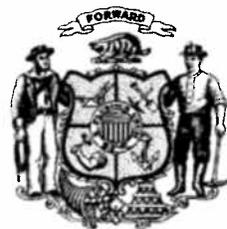
SENATE BILL 56

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2005

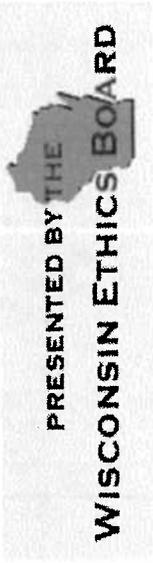
- 02-15-05. S. Introduced by Senators Cowles, Ellis, Brown, Darling, S. Fitzgerald, Kapanke, A. Lasee, Lazich, Leibham, Olsen, Roessler and Zien; cosponsored by Representatives Gottlieb, Jensen, Nass, Davis, Gronemus, Gunderson, Hahn, Hines, Honadel, Kaufert, Krawczyk, F. Lasee, LeMahieu, McCormick, Moulton, Musser, Nischke, Ott, Owens, Pridemore, Staskunas and Van Roy.
- 02-15-05. S. Read first time and referred to committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform. 81
- 03-01-05. S. Fiscal estimate received.



WISCONSIN STATE LEGISLATURE



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- ▶ Lobbyists



as of Tuesday, March 22, 2005

2005-2006 legislative session

Legislative bills and resolutions

(search for another legislative bill or resolution at the bottom of this page)

- Text, Sponsors and Analysis
- Status and Fiscal Estimate
- Lobbying Effort on this item

Senate Bill 56

state contractual service contracting procedures and information and fiscal estimate cost mitigation analyses, granting rule-making authority, and providing an exemption from and extending the time limit for emergency rule procedures. (FE)

Organization		Date Notified	Position	Comments
Profile	Interests			
●	AFSCME Council 11	3/21/2005	↑	
●	AFT - Wisconsin	2/21/2005	?	
●	American Council of Engineering Companies of Wisconsin	3/4/2005	↔	
●	National Federation of Independent Business	2/16/2005	?	
●	Wisconsin State Employees Union	2/22/2005	?	
●	Wisconsin Transportation Builders Association	3/21/2005	?	

Place pointer on icon to display comments,
click icon to display prior comments

These organizations have reported lobbying on this proposal:

Assembly
 Senate

House

Proposal Type

Select a legislative proposal and click "go"