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FRIDAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*regen cat*

1     **AN ACT to renumber and amend** 16.75 (3m) (a), 16.75 (3m) (b), 16.75 (3m) (c)  
2         4., 16.75 (3m) (c) 5., 16.75 (4) (a), 16.75 (4) (b), 16.75 (4) (c), 16.75 (4) (d) and  
3         16.755 (5); **to amend** 13.48 (29), 15.107 (2), 16.701 (1), 16.75 (3m) (c) 1., 2. and  
4         3., 16.755 (intro.), (1) and (4), 16.855 (1), 16.855 (22) and 560.035 (1) (b); and **to**  
5         **create** 16.75 (3m) (a) 1., 16.75 (3m) (a) 4., 16.75 (3m) (b) 2. and 3., 16.75 (3m)  
6         (c) 4. b., 16.75 (3m) (c) 5. b., 16.755 (5) (a), (b) and (c), 16.855 (10L) and 560.0345  
7         of the statutes; **relating to:** awarding procurements to woman-owned  
8         businesses, veteran-owned businesses, minority businesses, and small  
9         businesses.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

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

10         SECTION 1. 13.48 (29) of the statutes is amended to read:

1           13.48 (29) SMALL PROJECTS. Except as otherwise required under s. 16.855 (10L)  
2           or (10m), the building commission may prescribe simplified policies and procedures  
3           to be used in lieu of the procedures provided in s. 16.855 for any project that does not  
4           require prior approval of the building commission under sub. (10) (a).

5           **SECTION 2.** 15.107 (2) of the statutes is amended to read:

6           15.107 (2) COUNCIL ON SMALL BUSINESS, VETERAN-OWNED BUSINESS, WOMAN-OWNED  
7           BUSINESS, AND MINORITY BUSINESS OPPORTUNITIES. There is created in the department  
8           of administration a council on small business, veteran-owned business,  
9           woman-owned business, and minority business opportunities consisting of 13 7  
10          members, appointed by the ~~secretary of administration~~ governor with confirmation  
11          by the senate, for 3-year terms, with representation as follows: ~~at least 2 shall be~~  
12          ~~owners or employees of small businesses at least 51% owned by one or more members~~  
13          ~~of a racial minority group; at least one shall be an owner or employee of a small~~  
14          ~~business at least 51% owned by one or more handicapped persons; at least one shall~~  
15          ~~be an owner or employee of a small business operated on a nonprofit basis for the~~  
16          ~~rehabilitation of disabled persons; at least 2, as defined in s. 16.75 (3m) (a) 2.; one~~  
17          ~~shall be owners or employees~~ an owner of a veteran-owned businesses business, as  
18          defined in s. 16.75 (4) (d); ~~at least one shall be a representative of the department of~~  
19          ~~commerce; and at least one shall be a consumer member (3m) (a) 3.; 2 shall be owners~~  
20          of woman-owned businesses, as defined in s. 16.75 (3m) (a) 4.; and 2 shall be owners  
21          of minority businesses, as defined in s. 16.75 (3m) (a) 1m. The chair shall be elected  
22          by members. No member may serve for more than 2 consecutive full terms. The  
23          secretary of administration, or a department employee who is the secretary's  
24          designee, shall serve as the council's nonvoting secretary.

25          **SECTION 3.** 16.701 (1) of the statutes is amended to read:

1 16.701 (1) The department ~~may~~ <sup>shall</sup> provide a subscription service containing  
 2 current information of interest to prospective vendors concerning state procurement  
 3 opportunities. ~~If the department provides the service, the department shall assist~~ <sup>and</sup>  
 4 small businesses, as defined in s. 16.75 (4) (c), that have had less than \$1.5 million  
 5 in gross annual sales in the most recent calendar or fiscal year who are prospective  
 6 vendors in accessing and using the service by providing facilities or services to the  
 7 businesses. The department may charge a fee for any such service. The department  
 8 shall prescribe the amount of any fee by rule.

\*\*\*\*NOTE: I changed this due to the definition change to "small business" in s. 16.75 (3m) (a) 2. Is that okay, or do you want the new definition, which will likely have more businesses qualify, to apply here?

9 **SECTION 4.** 16.75 (3m) (a) of the statutes is renumbered 16.75 (3m) (a) (intro.)  
 10 and amended to read:

11 16.75 (3m) (a) (intro.) In this subsection, "minority:

12 1m. "Minority business" means a business certified by the department of  
 13 commerce under s. 560.036 (2).

14 **SECTION 5.** 16.75 (3m) (a) 1. of the statutes is created to read:

15 16.75 (3m) (a) 1. "Designated business" means a minority business, small  
 16 business, woman-owned business, or veteran-owned business.

17 **SECTION 6.** 16.75 (3m) (a) 4. of the statutes is created to read:

18 16.75 (3m) (a) 4. "Woman-owned business" means a business certified by the  
 19 department of commerce under s. 560.035.

20 **SECTION 7.** 16.75 (3m) (b) of the statutes is renumbered 16.75 (3m) (b) 1. and  
 21 amended to read:

22 16.75 (3m) (b) 1. The department and any agency making purchases under s.  
 23 16.74 shall attempt to ensure that ~~5%~~ 25 percent of the total amount expended under

1 this subchapter in each fiscal year is paid to minority designated businesses. Except  
 2 as provided under subd. 3. and sub. (7), the department or agency may purchase  
 3 materials, supplies, equipment and contractual services from any minority  
 4 designated business submitting a qualified responsible competitive bid that is no  
 5 more than 5% higher than the apparent low bid or competitive proposal that is no  
 6 more than 5% higher than the most advantageous offer proposal. In administering  
 7 the preference for minority designated businesses established in this paragraph, the  
 8 department and any agency making purchases under s. 16.74 shall maximize the use  
 9 of minority designated businesses which are incorporated under ch. 180 or which  
 10 have their principal place of business in this state.

11 **SECTION 8.** 16.75 (3m) (b) 2. <sup>✓</sup> and 3. of the statutes are created to read:

12 16.75 (3m) (b) 2. Of the total amount to be paid to designated businesses under  
 13 subd. 1., at least one-fifth shall be to minority businesses, at least one-fifth shall be  
 14 to woman-owned businesses, and at least one-fifth shall be to veteran-owned  
 15 businesses.

\*\*\*\*NOTE: Please review this distribution. The instructions seemed to indicate that at least 5 percent of the 25 percent should go to each type, but that is a significantly smaller amount than under current law (.0125 percent of the total amount expended in the fiscal year as compared to the current law requirement of 5 percent of the total amount for minority businesses for example). Did you intend such a reduction?

16 3. The department and any agency making purchases under s. 16.74 may  
 17 purchase materials, supplies, equipment, and contractual services from any  
 18 designated business submitting a qualified responsible competitive bid that is no  
 19 more than 10 percent higher than the apparent low bid or competitive proposal that  
 20 is no more than 10 percent higher than the most advantageous proposal if not more  
 21 than 3 years have passed since the designated business was certified, if the

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1 designated business is a woman-owned or veteran-owned business, or since the  
2 designated business qualified as a minority business or small business.

3 SECTION 9. 16.75 (3m) (c) 1., 2. and 3. of the statutes are amended to read:

4 16.75 (3m) (c) 1. After completing any contract under this subchapter, the  
5 contractor shall report to the agency that awarded the contract any amount of the  
6 contract that was subcontracted to minority businesses, any amount of the contract  
7 that was subcontracted to woman-owned businesses, any amount of the contract  
8 that was subcontracted to veteran-owned businesses, and any amount of the  
9 contract that was subcontracted to small businesses.

10 2. Each agency shall report to the department at least semiannually, or more  
11 often if required by the department, the total amount of money it has expended for  
12 contracts and orders awarded to minority businesses and the number of contacts  
13 with minority businesses in connection with proposed purchases, the total amount  
14 of money it has expended for contracts and orders awarded to woman-owned  
15 businesses and the number of contacts with woman-owned businesses in connection  
16 with proposed purchases, the total amount of money it has expended for contracts  
17 and orders awarded to veteran-owned businesses and the number of contacts with  
18 veteran-owned businesses in connection with proposed purchases, and the total  
19 amount of money it has expended for contracts and orders awarded to small  
20 businesses and the number of contacts with small businesses in connection with  
21 proposed purchases.

22 3. The department shall maintain and annually publish data on state  
23 purchases from minority businesses, woman-owned businesses, veteran-owned  
24 businesses, and small businesses, including amounts expended and the percentage  
25 of total expenditures awarded to minority businesses each type of business.

1           **SECTION 10.** 16.75 (3m) (c) 4. of the statutes is renumbered 16.75 (3m) (c) 4.  
2 (intro.) and amended to read:

3           16.75 **(3m)** (c) 4. (intro.) The department shall annually prepare and submit  
4 a report to the governor and to the chief clerk of each house of the legislature, for  
5 distribution to the appropriate standing committees under s. 13.172 (3), on all of the  
6 following:

7           a. With regard to minority businesses, the total amount of money paid to and  
8 of indebtedness or other obligations underwritten by minority businesses, minority  
9 financial advisers and minority investment firms under the requirements of this  
10 subsection and ss. 16.855 (10m), 16.87 (2), 25.185, 84.075 and 565.25 (2) (a) 3. and  
11 ~~on~~ this state's progress toward achieving compliance with par. (b) and ss. 16.855  
12 (10m) (a) and (10n), 16.87 (2), 25.185 and 84.075 (1).

13           **SECTION 11.** 16.75 (3m) (c) 4. b. of the statutes is created to read:

14           16.75 **(3m)** (c) 4. b. With regard to small businesses, woman-owned businesses,  
15 and veteran-owned businesses, this state's progress toward achieving compliance  
16 with par. (b) and s. 16.855 (10L) (a).

17           **SECTION 12.** 16.75 (3m) (c) 5. of the statutes is renumbered 16.75 (3m) (c) 5. a.  
18 and amended to read:

19           16.75 **(3m)** (c) 5. a. In determining whether a purchase, contract, or subcontract  
20 complies with the goal established under par. (b) or s. 16.855 (10m), 16.87 (2), or  
21 25.185, the department shall include only amounts paid <sup>directly</sup> to minority businesses,  
22 minority financial advisers, and minority investment firms certified by the  
23 department of commerce under s. 560.036 (2).

24           **SECTION 13.** 16.75 (3m) (c) 5. b. of the statutes is created to read:

1           16.75 (3m) (c) 5. b. In determining whether a purchase, contract, or subcontract  
2 complies with the goal established under par. (b) or s. 16.855 (10L), the department  
3 may include only amounts paid <sup>directly ← directly</sup> to woman-owned businesses, veteran-owned  
4 businesses, and small businesses.

5           SECTION 14. 16.75 (4) (a) of the statutes is renumbered 16.75 (3m) (d) and 16.75  
6 (3m) (d) (intro.), 1., 2., 3. and 5., as renumbered, are amended to read:

7           16.75 (3m) (d) (intro.) The department shall encourage the participation of  
8 minority businesses, woman-owned businesses, small businesses, and  
9 veteran-owned businesses in the statewide purchasing program by ensuring that  
10 there are no undue impediments to such participation and by actively encouraging  
11 minority businesses, woman-owned businesses, small businesses, and  
12 veteran-owned businesses to play an active role in the solicitation of purchasing  
13 business by agencies. To that end the department shall:

14           1. Maintain comprehensive lists of minority businesses, woman-owned  
15 businesses, small businesses, and of veteran-owned businesses located in this state  
16 which have indicated a willingness to provide materials, supplies, equipment, or  
17 contractual services to the state.

18           2. Develop ways of simplifying specifications and terms so that they will not  
19 impose unnecessary administrative burdens on minority businesses, woman-owned  
20 businesses, small businesses, and veteran-owned businesses located in this state  
21 which submit bids or proposals to the state.

22           3. Assist minority businesses, woman-owned businesses, small businesses,  
23 and veteran-owned businesses located in this state in complying with the state's  
24 competitive bidding and competitive proposal procedures.

1           5. By October 1 of each year, submit a report to the council on small business,  
2 veteran-owned business, woman-owned business, and minority business  
3 opportunities which evaluates the performance of small businesses located in this  
4 state in submitting bids or proposals to the state and makes recommendations for  
5 increased involvement of such businesses in submitting competitive bids and  
6 proposals under this section.

7           **SECTION 15.** 16.75 (4) (b) of the statutes is renumbered 16.75 (3m) (e) and  
8 amended to read:

9           16.75 (3m) (e) The department shall seek the cooperation and assistance of the  
10 department of commerce in the performance of its duties under par. (a) (d).

11           **SECTION 16.** 16.75 (4) (c) of the statutes is renumbered 16.75 (3m) (a) 2. and  
12 amended to read:

13           16.75 (3m) (a) 2. ~~In this section and s. 16.755, "small~~ <sup>2.5</sup> Small business" means  
14 a business which has had less than ~~\$1.5~~ <sup>\$5</sup> million in gross annual sales, or had fewer  
15 than 25 full-time employees, in the most recent calendar or fiscal year.

16           **SECTION 17.** 16.75 (4) (d) of the statutes is renumbered 16.75 (3m) (a) 3. and  
17 amended to read:

18           16.75 (3m) (a) 3. ~~In this subsection and s. 16.755, "veteran-owned~~  
19 "Veteran-owned business" means a ~~small~~ <sup>↓ ↓</sup> business, ~~as defined in par. (e),~~ that is  
20 certified by the department of veterans affairs as being at least 51% owned by one  
21 or more veterans, as defined in s. 45.01 (12).

22           **SECTION 18.** 16.755 (intro.), (1) and (4) of the statutes are amended to read:

23           16.755   **Council on small business, veteran-owned business,**  
24 **woman-owned business, and minority business opportunities.** (intro.) The

1 council on small business, veteran-owned business, woman-owned business, and  
2 minority business opportunities shall:

3 (1) Review the extent of small business, veteran-owned business,  
4 woman-owned business, and minority business participation, as required under s.  
5 16.75 (3m) (d), in purchasing by this state and its agencies.

6 (4) Advise the department concerning methods of improved compliance with  
7 any aspect of its duties under s. 16.75 (4) (a) (3m) (d).

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8 **SECTION 19.** 16.755 (5) of the statutes is renumbered 16.755 (5) (intro.) and  
9 amended to read:

10 16.755 (5) (intro.) Annually, submit ~~a report containing any recommendations~~  
11 ~~regarding the matters described in subs. (1) to (4)~~ to the governor and the chief clerk  
12 of each house of the legislature, for distribution to the legislature under s. 13.172 (2),  
13 a report containing all of the following: (d) and (e)

14 **SECTION 20.** 16.755 (5) (a), (b) and (c) of the statutes are created to read:

15 16.755 (5) (a) Any recommendations regarding the matters described in subs.  
16 (1) to (4).

17 (b) Evaluation of compliance with the requirements of s. 16.75 (3m) (b).

18 (c) Any recommendations related to bidding procedures to meet or exceed the  
19 requirements under s. 16.75 (3m) (b).

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20 **SECTION 21.** 16.855 (1) of the statutes is amended to read:

21 16.855 (1) The department shall let by contract to the lowest qualified  
22 responsible bidder all construction work when the estimated construction cost of the  
23 project exceeds \$40,000, except for construction work authorized under s. 16.858 and  
24 except as provided in sub. (10L) or (10m) or s. 13.48 (19). If a bidder is not a Wisconsin  
25 firm and the department determines that the state, foreign nation or subdivision

1 thereof in which the bidder is domiciled grants a preference to bidders domiciled in  
2 that state, nation or subdivision in making governmental purchases, the department  
3 shall give a preference over that bidder to Wisconsin firms, if any, when awarding the  
4 contract, in the absence of compelling reasons to the contrary. The department may  
5 enter into agreements with states, foreign nations and subdivisions thereof for the  
6 purpose of implementing this subsection.

7 **SECTION 22.** 16.855 (10L) of the statutes is created to read:

8 16.855 (10L) (a) In awarding a construction contract when the estimated  
9 construction cost of the project exceeds \$40,000 but is less than \$100,000, the  
10 department shall attempt to ensure all of the following:

11 1. That 5 percent of the total amount expended in each fiscal year is awarded  
12 to contractors and subcontractors that are veteran-owned businesses, as defined in  
13 s. 16.75 (3m) (a) 3.

14 2. That 5 percent of the total amount expended in each fiscal year is awarded  
15 to contractors and subcontractors that are woman-owned businesses, as defined in  
16 s. 16.75 (3m) (a) 4.

17 3. That 5 percent of the total amount expended in each fiscal year is awarded  
18 to contractors and subcontractors that are small businesses, as defined in s. 16.75  
19 (3m) (a) 2.

20 (b) The department may award any contract to a business under par. (a) that  
21 submits a qualified responsible bid that is no more than 5 percent higher than the  
22 apparent low bid.

23 (c) Upon completion of any contract, the contractor shall report to the  
24 department any amount of the contract that was subcontracted to a business under  
25 par. (a).

1 (d) The department shall maintain and annually publish data on contracts  
2 awarded to businesses under par. (a).

3 **SECTION 23.** 16.855 (22) of the statutes is amended to read:

4 16.855 (22) The provisions of this section, except ~~sub.~~ subs. (10L) and (10m),  
5 do not apply to construction work for any project that does not require the prior  
6 approval of the building commission under s. 13.48 (10) (a) if the project is  
7 constructed in accordance with policies and procedures prescribed by the building  
8 commission under s. 13.48 (29). If the estimated construction cost of any project is  
9 at least \$40,000, and the building commission elects to utilize the procedures  
10 prescribed under s. 13.48 (29) to construct the project, the department shall provide  
11 adequate public notice of the project and the procedures to be utilized to construct  
12 the project on a publicly accessible computer site.

13 **SECTION 24.** 560.0345 of the statutes is created to read:

14 **560.0345 Listing of designated businesses for state procurement.** The  
15 department shall maintain a Web site to help the department of administration and  
16 any agency making purchases under s. 16.74 comply with the requirements of s.  
17 16.75 (3m) (b). The Web site shall include all of the following:

18 (1) An up-to-date listing of veteran-owned businesses, as defined under s.  
19 16.75 (3m) (a) 3., the locations of each business, and the products and services each  
20 business offers.

21 (2) An up-to-date listing of woman-owned businesses, as defined under s.  
22 16.75 (3m) (a) 4., the locations of each business, and the products and services each  
23 business offers. The department may use the same Web site to comply with the  
24 requirement in this subsection and the Internet-listing requirement under s.  
25 560.035 (1) (b).



2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3378/P2ins  
CMH:kjf:nwn

1 Insert 4-11

2 SECTION 1. 16.75 (3m) (b) of the statutes is renu<sup>✓</sup>numbered 16.75 (3m) (b) 1. and  
3 amended to read:

4 16.75 (3m) (b) 1. The department and any agency making purchases under s.  
5 16.74 shall ~~attempt to ensure that 5% of the total amount expended under this~~  
6 ~~subchapter in each fiscal year is paid to minority~~ give preference to designated  
7 businesses. Except as provided under subd. 3. and sub. (7), the department or agency  
8 may purchase materials, supplies, equipment and contractual services from any  
9 minority designated business submitting a qualified responsible competitive bid  
10 that is no more than 5% higher than the apparent low bid or competitive proposal  
11 that is no more than 5% higher than the most advantageous offer proposal. In  
12 administering the preference for minority designated businesses established in this  
13 paragraph, the department and any agency making purchases under s. 16.74 shall  
14 maximize the use of minority designated businesses which are incorporated under  
15 ch. 180 or which have their principal place of business in this state.

16 History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983  
a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a.  
27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197; 2001 a. 16, 38; 2003 a. 33; 2005 a. 22, 25, 74, 141, 335; s. 13.93 (2) (c).

17 Insert 4-15

18 The department and any agency making purchases under s. 16.74 shall  
19 attempt to ensure that of the total amount expended under this subchapter in each  
20 fiscal year, 25 percent is paid to small businesses, <sup>5</sup>five percent is paid to minority  
21 businesses, <sup>5</sup>five percent is paid to woman-owned businesses, and <sup>5</sup>five percent is paid  
22 to veteran-owned businesses.

1

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Insert 9-8

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**SECTION 2.** 16.755 (4m) <sup>✓</sup> of the statutes is created to read:

4

16.755 (4m) Promote the awareness and consumption of locally produced

5

products.

6

7

Insert 9-20

8

(d) Evaluation of how vendor payments interact with 31 USC 3902. <sup>✓</sup>

9

(e) Evaluation of any impact VendorNet has on the competitive bidding of state

10

contracts.

<sup>✓</sup> <sup>✓</sup>  
\*\*\*\*NOTE: Please review pars. (d) and (e) closely.



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3378/P2

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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to be made  
to this bill  
are in italics  
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3 16.755 (5); *to amend* 13.48 (29), 15.107 (2), 16.701 (1), 16.75 (3m) (c) 1., 2. and  
4 3., 16.755 (intro.), (1) and (4), 16.855 (1), 16.855 (22) and 560.035 (1) (b); and *to*  
5 *create* 16.75 (3m) (a) 1., 16.75 (3m) (a) 4., 16.75 (3m) (b) 2. and 3., 16.75 (3m)  
6 (c) 4. b., 16.75 (3m) (c) 5. b., 16.755 (4m), 16.755 (5) (a), (b), (c), (d) and (e), 16.855  
7 (10L) and 560.0345 of the statutes; **relating to:** awarding procurements to  
8 woman-owned businesses, veteran-owned businesses, minority businesses,  
9 and small businesses.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

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 2           or (10m), the building commission may prescribe simplified policies and procedures  
 3           to be used in lieu of the procedures provided in s. 16.855 for any project that does not  
 4           require prior approval of the building commission under sub. (10) (a).

5           **SECTION 2.** 15.107 (2) of the statutes is amended to read:

6           15.107 (2) COUNCIL ON SMALL BUSINESS, VETERAN-OWNED BUSINESS, WOMAN-OWNED  
 7           BUSINESS, AND MINORITY BUSINESS OPPORTUNITIES. There is created in the department  
 8           of administration a council on small business, veteran-owned business,  
 9           woman-owned business, and minority business opportunities consisting of 13 7  
 10          members, <sup>↓</sup> appointed <sup>nominated</sup> by the secretary of administration governor with confirmation  
 11          by the senate, for 3-year terms, with representation as follows: at least 2 shall be  
 12          owners or employees of small businesses at least 51% owned by one or more members  
 13          of a racial minority group; at least one shall be an owner or employee of a small  
 14          business at least 51% owned by one or more handicapped persons; at least one shall  
 15          be an owner or employee of a small business operated on a nonprofit basis for the  
 16          rehabilitation of disabled persons; at least 2, as defined in s. 16.75 (3m) (a) 2.; one  
 17          shall be owners or employees an owner of a veteran-owned businesses business, as  
 18          defined in s. 16.75 (4) (d); at least one shall be a representative of the department of  
 19          commerce; and at least one shall be a consumer member (3m) (a) 3.; 2 shall be owners  
 20          of woman-owned businesses, as defined in s. 16.75 (3m) (a) 4.; and 2 shall be owners  
 21          of minority businesses, as defined in s. 16.75 (3m) (a) 1m. The chair shall be elected  
 22          by members. No member may serve for more than 2 consecutive full terms. The  
 23          secretary of administration, or a department employee who is the secretary's  
 24          designee, shall serve as the council's nonvoting secretary.

25          **SECTION 3.** 16.701 (1) of the statutes is amended to read:

appointed

the advice and consent of

and

1           16.701 (1) The department ~~may~~ shall provide a subscription service containing  
2           current information of interest to prospective vendors concerning state procurement  
3           opportunities. ~~If the department provides the service, the department~~ and shall  
4           assist small businesses, as defined in s. 16.75 ~~(4) (e) (3m) (a) 2.~~, who are prospective  
5           vendors in accessing and using the service by providing facilities or services to the  
6           businesses. The department may charge a fee for any such service. The department  
7           shall prescribe the amount of any fee by rule.

8           **SECTION 4.** 16.75 (3m) (a) of the statutes is renumbered 16.75 (3m) (a) (intro.)  
9           and amended to read:

10           16.75 (3m) (a) (intro.) In this subsection, ~~“minority:~~

11           1m. “Minority business” means a business certified by the department of  
12           commerce under s. 560.036 (2).

13           **SECTION 5.** 16.75 (3m) (a) 1. of the statutes is created to read:

14           16.75 (3m) (a) 1. “Designated business” means a minority business, small  
15           business, woman-owned business, or veteran-owned business.

16           **SECTION 6.** 16.75 (3m) (a) 4. of the statutes is created to read:

17           16.75 (3m) (a) 4. “Woman-owned business” means a business certified by the  
18           department of commerce under s. 560.035.

19           **SECTION 7.** 16.75 (3m) (b) of the statutes is renumbered 16.75 (3m) (b) 1. and  
20           amended to read:

21           16.75 (3m) (b) 1. The department and any agency making purchases under s.  
22           16.74 shall ~~attempt to ensure that 5% of the total amount expended under this~~  
23           ~~subchapter in each fiscal year is paid to minority~~ give preference to designated  
24           businesses. Except as provided under subd. 3. and sub. (7), the department or agency  
25           may purchase materials, supplies, equipment and contractual services from any

1 ~~minority~~ designated business submitting a qualified responsible competitive bid  
2 that is no more than 5% higher than the apparent low bid or competitive proposal  
3 that is no more than 5% higher than the most advantageous ~~offer~~ proposal. In  
4 administering the preference for ~~minority~~ designated businesses established in this  
5 paragraph, the department and any agency making purchases under s. 16.74 shall  
6 maximize the use of ~~minority~~ designated businesses which are incorporated under  
7 ch. 180 or which have their principal place of business in this state.

8 **SECTION 8.** 16.75 (3m) (b) 2. and 3. of the statutes are created to read:

9 16.75 **(3m)** (b) 2. The department and any agency making purchases under s.  
10 16.74 shall attempt to ensure that of the total amount expended under this  
11 subchapter in each fiscal year, 25 percent is paid to small businesses, 5 percent is  
12 paid to minority businesses, 5 percent is paid to woman-owned businesses, and 5  
13 percent is paid to veteran-owned businesses.

14 3. The department and any agency making purchases under s. 16.74 may  
15 purchase materials, supplies, equipment, and contractual services from any  
16 designated business submitting a qualified responsible competitive bid that is no  
17 more than 10 percent higher than the apparent low bid or competitive proposal that  
18 is no more than 10 percent higher than the most advantageous proposal if not more  
19 than 3 years have passed since the designated business was certified, if the  
20 designated business is a woman-owned or veteran-owned business, or since the  
21 designated business qualified as a minority business or small business.

22 **SECTION 9.** 16.75 (3m) (c) 1., 2. and 3. of the statutes are amended to read:

23 16.75 **(3m)** (c) 1. After completing any contract under this subchapter, the  
24 contractor shall report to the agency that awarded the contract any amount of the  
25 contract that was subcontracted to minority businesses, any amount of the contract

1 that was subcontracted to woman-owned businesses, any amount of the contract  
2 that was subcontracted to veteran-owned businesses, and any amount of the  
3 contract that was subcontracted to small businesses.

4       2. Each agency shall report to the department at least semiannually, or more  
5 often if required by the department, the total amount of money it has expended for  
6 contracts and orders awarded to minority businesses and the number of contacts  
7 with minority businesses in connection with proposed purchases, the total amount  
8 of money it has expended for contracts and orders awarded to woman-owned  
9 businesses and the number of contacts with woman-owned businesses in connection  
10 with proposed purchases, the total amount of money it has expended for contracts  
11 and orders awarded to veteran-owned businesses and the number of contacts with  
12 veteran-owned businesses in connection with proposed purchases, and the total  
13 amount of money it has expended for contracts and orders awarded to small  
14 businesses and the number of contacts with small businesses in connection with  
15 proposed purchases.

16       3. The department shall maintain and annually publish data on state  
17 purchases from minority businesses, woman-owned businesses, veteran-owned  
18 businesses, and small businesses, including amounts expended and the percentage  
19 of total expenditures awarded to minority businesses each type of business.

20       **SECTION 10.** 16.75 (3m) (c) 4. of the statutes is renumbered 16.75 (3m) (c) 4.  
21 (intro.) and amended to read:

22       16.75 (3m) (c) 4. (intro.) The department shall annually prepare and submit  
23 a report to the governor and to the chief clerk of each house of the legislature, for  
24 distribution to the appropriate standing committees under s. 13.172 (3), on all of the  
25 following:

1           a. With regard to minority businesses, the total amount of money paid to and  
2 of indebtedness or other obligations underwritten by minority businesses, minority  
3 financial advisers and minority investment firms under the requirements of this  
4 subsection and ss. 16.855 (10m), 16.87 (2), 25.185, 84.075 and 565.25 (2) (a) 3. and  
5 on this state's progress toward achieving compliance with par. (b) and ss. 16.855  
6 (10m) (a) and (10n), 16.87 (2), 25.185 and 84.075 (1).

7           **SECTION 11.** 16.75 (3m) (c) 4. b. of the statutes is created to read:

8           16.75 (3m) (c) 4. b. With regard to small businesses, woman-owned businesses,  
9 and veteran-owned businesses, this state's progress toward achieving compliance  
10 with par. (b) and s. 16.855 (10L) (a).

11           **SECTION 12.** 16.75 (3m) (c) 5. of the statutes is renumbered 16.75 (3m) (c) 5. a.  
12 and amended to read:

13           16.75 (3m) (c) 5. a. In determining whether a purchase, contract, or subcontract  
14 complies with the goal established under par. (b) or s. 16.855 (10m), 16.87 (2), or  
15 25.185, the department shall include only amounts paid directly to minority  
16 businesses, minority financial advisers, and minority investment firms certified by  
17 the department of commerce under s. 560.036 (2).

18           **SECTION 13.** 16.75 (3m) (c) 5. b. of the statutes is created to read:

19           16.75 (3m) (c) 5. b. In determining whether a purchase, contract, or subcontract  
20 complies with the goal established under par. (b) or s. 16.855 (10L), the department  
21 may include only amounts paid directly to woman-owned businesses,  
22 veteran-owned businesses, and small businesses.

23           **SECTION 14.** 16.75 (4) (a) of the statutes is renumbered 16.75 (3m) (d) and 16.75  
24 (3m) (d) (intro.), 1., 2., 3. and 5., as renumbered, are amended to read:

1           16.75 (3m) (d) (intro.) The department shall encourage the participation of  
2           minority businesses, woman-owned businesses, small businesses, and  
3           veteran-owned businesses in the statewide purchasing program by ensuring that  
4           there are no undue impediments to such participation and by actively encouraging  
5           minority businesses, woman-owned businesses, small businesses, and  
6           veteran-owned businesses to play an active role in the solicitation of purchasing  
7           business by agencies. To that end the department shall:

8           1. Maintain comprehensive lists of minority businesses, woman-owned  
9           businesses, small businesses, and of veteran-owned businesses located in this state  
10          which have indicated a willingness to provide materials, supplies, equipment, or  
11          contractual services to the state.

12          2. Develop ways of simplifying specifications and terms so that they will not  
13          impose unnecessary administrative burdens on minority businesses, woman-owned  
14          businesses, small businesses, and veteran-owned businesses located in this state  
15          which submit bids or proposals to the state.

16          3. Assist minority businesses, woman-owned businesses, small businesses,  
17          and veteran-owned businesses located in this state in complying with the state's  
18          competitive bidding and competitive proposal procedures.

19          5. By October 1 of each year, submit a report to the council on small business,  
20          veteran-owned business, woman-owned business, and minority business  
21          opportunities which evaluates the performance of small businesses located in this  
22          state in submitting bids or proposals to the state and makes recommendations for  
23          increased involvement of such businesses in submitting competitive bids and  
24          proposals under this section.

1           **SECTION 15.** 16.75 (4) (b) of the statutes is renumbered 16.75 (3m) (e) and  
2 amended to read:

3           16.75 (3m) (e) The department shall seek the cooperation and assistance of the  
4 department of commerce in the performance of its duties under par. (a) (d).

5           **SECTION 16.** 16.75 (4) (c) of the statutes is renumbered 16.75 (3m) (a) 2. and  
6 amended to read:

7           16.75 (3m) (a) 2. ~~In this section and s. 16.755, “small~~ “Small business” means  
8 a business which has had less than ~~\$1.5~~ \$2.5 million in gross annual sales, or had  
9 fewer than 25 full-time employees, in the most recent calendar or fiscal year.

10           **SECTION 17.** 16.75 (4) (d) of the statutes is renumbered 16.75 (3m) (a) 3. and  
11 amended to read:

12           16.75 (3m) (a) 3. ~~In this subsection and s. 16.755, “veteran-owned~~  
13 “Veteran-owned business” means a small business, ~~as defined in par. (e),~~ that is  
14 certified by the department of veterans affairs as being at least 51% owned by one  
15 or more veterans, as defined in s. 45.01 (12).

16           **SECTION 18.** 16.755 (intro.), (1) and (4) of the statutes are amended to read:

17           **16.755 Council on small business, veteran-owned business,**  
18 **woman-owned business, and minority business opportunities.** (intro.) The  
19 council on small business, veteran-owned business, woman-owned business, and  
20 minority business opportunities shall:

21           (1) Review the extent of small business, veteran-owned business,  
22 woman-owned business, and minority business participation, as required under s.  
23 16.75 (3m) (d), in purchasing by this state and its agencies.

24           (4) Advise the department concerning methods of improved compliance with  
25 any aspect of its duties under s. 16.75 (4) (a) (3m) (d).

1           **SECTION 19.** 16.755 (4m) of the statutes is created to read:

2           16.755 (4m) Promote the awareness and consumption of locally produced  
3 products.

4           **SECTION 20.** 16.755 (5) of the statutes is renumbered 16.755 (5) (intro.) and  
5 amended to read:

6           16.755 (5) (intro.) Annually, submit ~~a report containing any recommendations~~  
7 ~~regarding the matters described in subs. (1) to (4)~~ to the governor and the chief clerk  
8 of each house of the legislature, for distribution to the legislature under s. 13.172 (2),  
9 a report containing all of the following:

10          **SECTION 21.** 16.755 (5) (a), (b), (c), (d) and (e) of the statutes are created to read:

11          16.755 (5) (a) Any recommendations regarding the matters described in subs.  
12 (1) to (4).

13          (b) Evaluation of compliance with the requirements of s. 16.75 (3m) (b).

14          (c) Any recommendations related to bidding procedures to meet or exceed the  
15 requirements under s. 16.75 (3m) (b).

16          (d) Evaluation of how vendor payments interact with 31 USC 3902.

17          (e) Evaluation of any impact VendorNet has on the competitive bidding of state  
18 contracts.

\*\*\*\*NOTE: Please review pars. (d) and (e) closely.

19          **SECTION 22.** 16.855 (1) of the statutes is amended to read:

20          16.855 (1) The department shall let by contract to the lowest qualified  
21 responsible bidder all construction work when the estimated construction cost of the  
22 project exceeds \$40,000, except for construction work authorized under s. 16.858 and  
23 except as provided in sub. (10L) or (10m) or s. 13.48 (19). If a bidder is not a Wisconsin  
24 firm and the department determines that the state, foreign nation or subdivision

1       thereof in which the bidder is domiciled grants a preference to bidders domiciled in  
2       that state, nation or subdivision in making governmental purchases, the department  
3       shall give a preference over that bidder to Wisconsin firms, if any, when awarding the  
4       contract, in the absence of compelling reasons to the contrary. The department may  
5       enter into agreements with states, foreign nations and subdivisions thereof for the  
6       purpose of implementing this subsection.

7               **SECTION 23.** 16.855 (10L) of the statutes is created to read:

8               16.855 (10L) (a) In awarding a construction contract when the estimated  
9       construction cost of the project exceeds \$40,000 but is less than \$100,000, the  
10       department shall attempt to ensure all of the following:

11              1. That 5 percent of the total amount expended in each fiscal year is awarded  
12       to contractors and subcontractors that are veteran-owned businesses, as defined in  
13       s. 16.75 (3m) (a) 3.

14              2. That 5 percent of the total amount expended in each fiscal year is awarded  
15       to contractors and subcontractors that are woman-owned businesses, as defined in  
16       s. 16.75 (3m) (a) 4.

17              3. That 5 percent of the total amount expended in each fiscal year is awarded  
18       to contractors and subcontractors that are small businesses, as defined in s. 16.75  
19       (3m) (a) 2.

20              (b) The department may award any contract to a business under par. (a) that  
21       submits a qualified responsible bid that is no more than 5 percent higher than the  
22       apparent low bid.

23              (c) Upon completion of any contract, the contractor shall report to the  
24       department any amount of the contract that was subcontracted to a business under  
25       par. (a).

1 (d) The department shall maintain and annually publish data on contracts  
2 awarded to businesses under par. (a).

3 **SECTION 24.** 16.855 (22) of the statutes is amended to read:

4 16.855 (22) The provisions of this section, except sub. subs. (10L) and (10m),  
5 do not apply to construction work for any project that does not require the prior  
6 approval of the building commission under s. 13.48 (10) (a) if the project is  
7 constructed in accordance with policies and procedures prescribed by the building  
8 commission under s. 13.48 (29). If the estimated construction cost of any project is  
9 at least \$40,000, and the building commission elects to utilize the procedures  
10 prescribed under s. 13.48 (29) to construct the project, the department shall provide  
11 adequate public notice of the project and the procedures to be utilized to construct  
12 the project on a publicly accessible computer site.

13 **SECTION 25.** 560.0345 of the statutes is created to read:

14 **560.0345 Listing of designated businesses for state procurement.** The  
15 department shall maintain a Web site to help the department of administration and  
16 any agency making purchases under s. 16.74 comply with the requirements of s.  
17 16.75 (3m) (b). The Web site shall include all of the following:

18 (1) An up-to-date listing of veteran-owned businesses, as defined under s.  
19 16.75 (3m) (a) 3., the locations of each business, and the products and services each  
20 business offers.

21 (2) An up-to-date listing of woman-owned businesses, as defined under s.  
22 16.75 (3m) (a) 4., the locations of each business, and the products and services each  
23 business offers. The department may use the same Web site to comply with the  
24 requirement in this subsection and the Internet-listing requirement under s.  
25 560.035 (1) (b).



1

Insert A

Currently, minority-owned businesses that are certified by the Department of Commerce receive certain preferences in governmental procurement. State agencies must attempt to ensure that 5 percent of the total amount expended for state procurements in each fiscal year is paid to minority-owned businesses. ~~With the exception of non-highway construction work and certain other limited exceptions,~~ state agencies that are subject to requirements to make purchases through competitive bidding or competitive sealed proposals may accept a bid or proposal from a minority-owned business that is no more than 5 percent higher than the apparent low bid or most advantageous proposal.

This bill creates similar preferences of 25 percent of state procurements for small businesses, 5 percent for woman-owned businesses certified by the Department of Commerce, and 5 percent for veteran-owned businesses certified by the Department of Veterans Affairs. Under the bill, the current authorization to accept bids or proposals that are no more than 5 percent higher than the apparent low bid or most advantageous proposal is extended to apply to bids or proposals submitted by small businesses, woman-owned businesses, and veteran-owned businesses.

This bill also requires the Department of Administration to maintain a Web site agencies making purchases comply with the procurement preferences by listing veteran-owned businesses, woman-owned businesses, minority businesses, and small businesses, the locations of each business, and the products and services offered by each business.

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

*under which state agencies must attempt to ensure that 5 percent of the total amount expended for state procurements in each fiscal year*

*with certain limited exceptions*

*to help*

*is paid to*

*submitted by minority-owned businesses*

④ Under current law, in the Department of Administration, there is a council on small businesses, veteran-owned businesses and minority business opportunities. This bill adds woman-owned business owners to the council and adds other requirements to its duties including the promotion of locally produced products.



Stays

Now

2007 BILL

see aff'd

refer cat

1 AN ACT *to renumber and amend* 16.75 (3m) (a), 16.75 (3m) (b), 16.75 (3m) (c)  
 2 4., 16.75 (3m) (c) 5., 16.75 (4) (a), 16.75 (4) (b), 16.75 (4) (c), 16.75 (4) (d) and  
 3 16.755 (5); *to amend* 13.48 (29), 15.107 (2), 16.701 (1), 16.75 (3m) (c) 1., 2. and  
 4 3., 16.755 (intro.), (1) and (4), 16.855 (1), 16.855 (22) and 560.035 (1) (b); and *to*  
 5 *create* 16.75 (3m) (a) 1., 16.75 (3m) (a) 4., 16.75 (3m) (b) 2. and 3., 16.75 (3m)  
 6 (c) 4. b., 16.75 (3m) (c) 5. b., 16.755 (4m), 16.755 (5) (a), (b), (c), (d) and (e), 16.855  
 7 (10L) and 560.0345 of the statutes; **relating to:** awarding procurements to  
 8 woman-owned businesses, veteran-owned businesses, minority businesses,  
 9 and small businesses.

**Analysis by the Legislative Reference Bureau**

Currently, minority-owned businesses that are certified by the Department of Commerce receive certain preferences in governmental procurement. State agencies must attempt to ensure that 5 percent of the total amount expended for state procurements in each fiscal year is paid to minority-owned businesses. With certain limited exceptions, state agencies that are subject to requirements to make purchases through competitive bidding or competitive sealed proposals may accept a bid or proposal from a minority-owned business that is no more than 5 percent higher than the apparent low bid or most advantageous proposal.

This bill expands the definition of minority-owned businesses for this purpose to include

a business that is owned by a person with a disability.

**BILL**

*also*  
This bill creates similar preferences, under which state agencies must attempt to ensure that, of the total amount expended for state procurements in each fiscal year, 25 percent is paid to small businesses, 5 percent is paid to woman-owned businesses certified by the Department of Commerce, and 5 percent is paid to veteran-owned businesses certified by the Department of Veterans Affairs. Under the bill, with certain limited exceptions, the current authorization to accept bids or proposals submitted by minority-owned businesses that are no more than 5 percent higher than the apparent low bid or most advantageous proposal is extended to apply to bids or proposals submitted by small businesses, woman-owned businesses, and veteran-owned businesses.

Under current law, in the Department of Administration, there is a Counsel on Small Business, Veteran-Owned Business and Minority Business Opportunities. This bill adds woman-owned business owners to the council and adds other requirements to its duties including the promotion of locally produced products.

This bill also requires the Department of Commerce to maintain a Web site to help agencies making purchases comply with the procurement preferences by listing veteran-owned businesses, woman-owned businesses, minority businesses, and small businesses, the locations of each business, and the products and services offered by each business.

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

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

1           **SECTION 1.** 13.48 (29) of the statutes is amended to read:

2           13.48 (29) SMALL PROJECTS. Except as otherwise required under s. 16.855 (10L)  
3           or (10m), the building commission may prescribe simplified policies and procedures  
4           to be used in lieu of the procedures provided in s. 16.855 for any project that does not  
5           require prior approval of the building commission under sub. (10) (a).

6           **SECTION 2.** 15.107 (2) of the statutes is amended to read:

7           15.107 (2) COUNCIL ON SMALL BUSINESS, VETERAN-OWNED BUSINESS, WOMAN-OWNED  
8           BUSINESS, AND MINORITY BUSINESS OPPORTUNITIES. There is created in the department  
9           of administration a council on small business, veteran-owned business,  
10           woman-owned business, and minority business opportunities consisting of 13 7  
11           members, appointed ~~nominated~~ by the ~~secretary of administration~~ governor, and

**BILL**

1 ~~with the advise and consent of the senate appointed,~~ for 3-year terms, with  
2 representation as follows: ~~at least 2 shall be owners or employees of small businesses~~  
3 ~~at least 51% owned by one or more members of a racial minority group; at least one~~  
4 ~~shall be an owner or employee of a small business at least 51% owned by one or more~~  
5 ~~handicapped persons; at least one shall be an owner or employee of a small business~~  
6 ~~operated on a nonprofit basis for the rehabilitation of disabled persons; at least 2, as~~  
7 ~~defined in s. 16.75 (3m) (a) 2.; one shall be owners or employees~~ an owner of a  
8 veteran-owned businesses business, as defined in s. 16.75 (4) (d); ~~at least one shall~~  
9 ~~be a representative of the department of commerce; and at least one shall be a~~  
10 ~~consumer member~~ (3m) (a) 3.; 2 shall be owners of woman-owned businesses, as  
11 defined in s. 16.75 (3m) (a) 4.; and 2 shall be owners of minority businesses, as defined  
12 in s. 16.75 (3m) (a) 1m. No member may serve for more than 2 consecutive full terms.  
13 The secretary of administration, or a department employee who is the secretary's  
14 designee, shall serve as the council's nonvoting secretary.

15 **SECTION 3.** 16.701 (1) of the statutes is amended to read:

16 16.701 (1) The department ~~may~~ shall provide a subscription service containing  
17 current information of interest to prospective vendors concerning state procurement  
18 opportunities. ~~If the department provides the service, the department and~~ and shall  
19 assist small businesses, as defined in s. 16.75 (4) (e) (3m) (a) 2., who are prospective  
20 vendors in accessing and using the service by providing facilities or services to the  
21 businesses. The department may charge a fee for any such service. The department  
22 shall prescribe the amount of any fee by rule.

23 **SECTION 4.** 16.75 (3m) (a) of the statutes is renumbered 16.75 (3m) (a) (intro.)  
24 and amended to read:

25 16.75 (3m) (a) (intro.) In this subsection, ~~“minority;~~

*percent*

**BILL**

1           1m. "Minority business" means a business certified by the department of  
2 commerce under s. 560.036 (2) *or a business that is at least 51% owned*  
*by a person with a disability*

3           **SECTION 5.** 16.75 (3m) (a) 1. of the statutes is created to read:

4           16.75 (3m) (a) 1. "Designated business" means a minority business, small  
5 business, woman-owned business, or veteran-owned business.

6           **SECTION 6.** 16.75 (3m) (a) 4. of the statutes is created to read:

7           16.75 (3m) (a) 4. "Woman-owned business" means a business certified by the  
8 department of commerce under s. 560.035.

9           **SECTION 7.** 16.75 (3m) (b) of the statutes is renumbered 16.75 (3m) (b) 1. and  
10 amended to read:

11           16.75 (3m) (b) 1. The department and any agency making purchases under s.  
12 16.74 shall ~~attempt to ensure that 5% of the total amount expended under this~~  
13 ~~subchapter in each fiscal year is paid to minority~~ give preference to designated  
14 businesses. Except as provided under subd. 3. and sub. (7), the department or agency  
15 may purchase materials, supplies, equipment and contractual services from any  
16 minority designated business submitting a qualified responsible competitive bid  
17 that is no more than 5% higher than the apparent low bid or competitive proposal  
18 that is no more than 5% higher than the most advantageous offer proposal. In  
19 administering the preference for minority designated businesses established in this  
20 paragraph, the department and any agency making purchases under s. 16.74 shall  
21 maximize the use of minority designated businesses which are incorporated under  
22 ch. 180 or which have their principal place of business in this state.

23           **SECTION 8.** 16.75 (3m) (b) 2. and 3. of the statutes are created to read:

24           16.75 (3m) (b) 2. The department and any agency making purchases under s.  
25 16.74 shall attempt to ensure that of the total amount expended under this

**BILL**

1 subchapter in each fiscal year, 25 percent is paid to small businesses, 5 percent is  
2 paid to minority businesses, 5 percent is paid to woman-owned businesses, and 5  
3 percent is paid to veteran-owned businesses.

4 3. The department and any agency making purchases under s. 16.74 may  
5 purchase materials, supplies, equipment, and contractual services from any  
6 designated business submitting a qualified responsible competitive bid that is no  
7 more than 10 percent higher than the apparent low bid or competitive proposal that  
8 is no more than 10 percent higher than the most advantageous proposal if not more  
9 than 3 years have passed since the designated business was certified, if the  
10 designated business is a woman-owned or veteran-owned business, or since the  
11 designated business qualified as a minority business or small business.

12 **SECTION 9.** 16.75 (3m) (c) 1., 2. and 3. of the statutes are amended to read:

13 16.75 (3m) (c) 1. After completing any contract under this subchapter, the  
14 contractor shall report to the agency that awarded the contract any amount of the  
15 contract that was subcontracted to minority businesses, any amount of the contract  
16 that was subcontracted to woman-owned businesses, any amount of the contract  
17 that was subcontracted to veteran-owned businesses, and any amount of the  
18 contract that was subcontracted to small businesses.

19 2. Each agency shall report to the department at least semiannually, or more  
20 often if required by the department, the total amount of money it has expended for  
21 contracts and orders awarded to minority businesses and the number of contacts  
22 with minority businesses in connection with proposed purchases, the total amount  
23 of money it has expended for contracts and orders awarded to woman-owned  
24 businesses and the number of contacts with woman-owned businesses in connection  
25 with proposed purchases, the total amount of money it has expended for contracts

**BILL****SECTION 9**

1 and orders awarded to veteran-owned businesses and the number of contacts with  
2 veteran-owned businesses in connection with proposed purchases, and the total  
3 amount of money it has expended for contracts and orders awarded to small  
4 businesses and the number of contacts with small businesses in connection with  
5 proposed purchases.

6 3. The department shall maintain and annually publish data on state  
7 purchases from minority businesses, woman-owned businesses, veteran-owned  
8 businesses, and small businesses, including amounts expended and the percentage  
9 of total expenditures awarded to minority businesses each type of business.

10 **SECTION 10.** 16.75 (3m) (c) 4. of the statutes is renumbered 16.75 (3m) (c) 4.  
11 (intro.) and amended to read:

12 16.75 (3m) (c) 4. (intro.) The department shall annually prepare and submit  
13 a report to the governor and to the chief clerk of each house of the legislature, for  
14 distribution to the appropriate standing committees under s. 13.172 (3), on all of the  
15 following:

16 a. With regard to minority businesses, the total amount of money paid to and  
17 of indebtedness or other obligations underwritten by minority businesses, minority  
18 financial advisers and minority investment firms under the requirements of this  
19 subsection and ss. 16.855 (10m), 16.87 (2), 25.185, 84.075 and 565.25 (2) (a) 3. and  
20 on this state's progress toward achieving compliance with par. (b) and ss. 16.855  
21 (10m) (a) and (10n), 16.87 (2), 25.185 and 84.075 (1).

22 **SECTION 11.** 16.75 (3m) (c) 4. b. of the statutes is created to read:

23 16.75 (3m) (c) 4. b. With regard to small businesses, woman-owned businesses,  
24 and veteran-owned businesses, this state's progress toward achieving compliance  
25 with par. (b) and s. 16.855 (10L) (a).

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1           **SECTION 12.** 16.75 (3m) (c) 5. of the statutes is renumbered 16.75 (3m) (c) 5. a.  
2 and amended to read:

3           16.75 (3m) (c) 5. a. In determining whether a purchase, contract, or subcontract  
4 complies with the goal established under par. (b) or s. 16.855 (10m), 16.87 (2), or  
5 25.185, the department shall include only amounts paid directly to minority  
6 businesses, minority financial advisers, and minority investment firms certified by  
7 the department of commerce under s. 560.036 (2).

8           **SECTION 13.** 16.75 (3m) (c) 5. b. of the statutes is created to read:

9           16.75 (3m) (c) 5. b. In determining whether a purchase, contract, or subcontract  
10 complies with the goal established under par. (b) or s. 16.855 (10L), the department  
11 may include only amounts paid directly to woman-owned businesses,  
12 veteran-owned businesses, and small businesses.

13           **SECTION 14.** 16.75 (4) (a) of the statutes is renumbered 16.75 (3m) (d) and 16.75  
14 (3m) (d) (intro.), 1., 2., 3. and 5., as renumbered, are amended to read:

15           16.75 (3m) (d) (intro.) The department shall encourage the participation of  
16 minority businesses, woman-owned businesses, small businesses, and  
17 veteran-owned businesses in the statewide purchasing program by ensuring that  
18 there are no undue impediments to such participation and by actively encouraging  
19 minority businesses, woman-owned businesses, small businesses, and  
20 veteran-owned businesses to play an active role in the solicitation of purchasing  
21 business by agencies. To that end the department shall:

22           1. Maintain comprehensive lists of minority businesses, woman-owned  
23 businesses, small businesses, and of veteran-owned businesses located in this state  
24 which have indicated a willingness to provide materials, supplies, equipment, or  
25 contractual services to the state.

**BILL**

1           2. Develop ways of simplifying specifications and terms so that they will not  
2 impose unnecessary administrative burdens on minority businesses, woman-owned  
3 businesses, small businesses, and veteran-owned businesses located in this state  
4 which submit bids or proposals to the state.

5           3. Assist minority businesses, woman-owned businesses, small businesses,  
6 and veteran-owned businesses located in this state in complying with the state's  
7 competitive bidding and competitive proposal procedures.

8           5. By October 1 of each year, submit a report to the council on small business,  
9 veteran-owned business, woman-owned business, and minority business  
10 opportunities which evaluates the performance of small businesses located in this  
11 state in submitting bids or proposals to the state and makes recommendations for  
12 increased involvement of such businesses in submitting competitive bids and  
13 proposals under this section.

14           **SECTION 15.** 16.75 (4) (b) of the statutes is renumbered 16.75 (3m) (e) and  
15 amended to read:

16           16.75 (3m) (e) The department shall seek the cooperation and assistance of the  
17 department of commerce in the performance of its duties under par. (a) (d).

18           **SECTION 16.** 16.75 (4) (c) of the statutes is renumbered 16.75 (3m) (a) 2. and  
19 amended to read:

20           16.75 (3m) (a) 2. ~~In this section and s. 16.755, "small~~ Small business means  
21 a business which has had less than ~~\$1.5~~ \$2.5 million in gross annual sales, or had  
22 fewer than 25 full-time employees, in the most recent calendar or fiscal year.

23           **SECTION 17.** 16.75 (4) (d) of the statutes is renumbered 16.75 (3m) (a) 3. and  
24 amended to read:

**BILL**

1           16.75 (3m) (a) 3. ~~In this subsection and s. 16.755, “veteran-owned~~  
2           ~~“Veteran-owned business” means a small business, as defined in par. (c), that is~~  
3           certified by the department of veterans affairs as being at least 51% owned by one  
4           or more veterans, as defined in s. 45.01 (12).

5           **SECTION 18.** 16.755 (intro.), (1) and (4) of the statutes are amended to read:

6           **16.755 Council on small business, veteran-owned business,**  
7           **woman-owned business, and minority business opportunities.** (intro.) The  
8           council on small business, veteran-owned business, woman-owned business, and  
9           minority business opportunities shall:

10           (1) Review the extent of small business, veteran-owned business,  
11           woman-owned business, and minority business participation, as required under s.  
12           16.75 (3m) (d), in purchasing by this state and its agencies.

13           (4) Advise the department concerning methods of improved compliance with  
14           any aspect of its duties under s. 16.75 ~~(4) (a)~~ (3m) (d).

15           **SECTION 19.** 16.755 (4m) of the statutes is created to read:

16           **16.755 (4m)** Promote the awareness and consumption of locally produced  
17           products.

18           **SECTION 20.** 16.755 (5) of the statutes is renumbered 16.755 (5) (intro.) and  
19           amended to read:

20           16.755 (5) (intro.) Annually, submit ~~a report containing any recommendations~~  
21           ~~regarding the matters described in subs. (1) to (4) to the governor and the chief clerk~~  
22           of each house of the legislature, for distribution to the legislature under s. 13.172 (2),  
23           a report containing all of the following:

24           **SECTION 21.** 16.755 (5) (a), (b), (c), (d) and (e) of the statutes are created to read:

**BILL**

1           16.755 (5) (a) Any recommendations regarding the matters described in subs.  
2 (1) to (4).

3           (b) Evaluation of compliance with the requirements of s. 16.75 (3m) (b).

4           (c) Any recommendations related to bidding procedures to meet or exceed the  
5 requirements under s. 16.75 (3m) (b).

6           (d) Evaluation of how vendor payments interact with 31 USC 3902.

7           (e) Evaluation of any impact VendorNet has on the competitive bidding of state  
8 contracts.

9           **SECTION 22.** 16.855 (1) of the statutes is amended to read:

10           16.855 (1) The department shall let by contract to the lowest qualified  
11 responsible bidder all construction work when the estimated construction cost of the  
12 project exceeds \$40,000, except for construction work authorized under s. 16.858 and  
13 except as provided in sub. (10L) or (10m) or s. 13.48 (19). If a bidder is not a Wisconsin  
14 firm and the department determines that the state, foreign nation or subdivision  
15 thereof in which the bidder is domiciled grants a preference to bidders domiciled in  
16 that state, nation or subdivision in making governmental purchases, the department  
17 shall give a preference over that bidder to Wisconsin firms, if any, when awarding the  
18 contract, in the absence of compelling reasons to the contrary. The department may  
19 enter into agreements with states, foreign nations and subdivisions thereof for the  
20 purpose of implementing this subsection.

21           **SECTION 23.** 16.855 (10L) of the statutes is created to read:

22           16.855 (10L) (a) In awarding a construction contract when the estimated  
23 construction cost of the project exceeds \$40,000 but is less than \$100,000, the  
24 department shall attempt to ensure all of the following:

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1           1. That 5 percent of the total amount expended in each fiscal year is awarded  
2 to contractors and subcontractors that are veteran-owned businesses, as defined in  
3 s. 16.75 (3m) (a) 3.

4           2. That 5 percent of the total amount expended in each fiscal year is awarded  
5 to contractors and subcontractors that are woman-owned businesses, as defined in  
6 s. 16.75 (3m) (a) 4.

7           3. That 5 percent of the total amount expended in each fiscal year is awarded  
8 to contractors and subcontractors that are small businesses, as defined in s. 16.75  
9 (3m) (a) 2.

10           (b) The department may award any contract to a business under par. (a) that  
11 submits a qualified responsible bid that is no more than 5 percent higher than the  
12 apparent low bid.

13           (c) Upon completion of any contract, the contractor shall report to the  
14 department any amount of the contract that was subcontracted to a business under  
15 par. (a).

16           (d) The department shall maintain and annually publish data on contracts  
17 awarded to businesses under par. (a).

18           **SECTION 24.** 16.855 (22) of the statutes is amended to read:

19           16.855 (22) The provisions of this section, except sub. subs. (10L) and (10m),  
20 do not apply to construction work for any project that does not require the prior  
21 approval of the building commission under s. 13.48 (10) (a) if the project is  
22 constructed in accordance with policies and procedures prescribed by the building  
23 commission under s. 13.48 (29). If the estimated construction cost of any project is  
24 at least \$40,000, and the building commission elects to utilize the procedures  
25 prescribed under s. 13.48 (29) to construct the project, the department shall provide

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1 adequate public notice of the project and the procedures to be utilized to construct  
2 the project on a publicly accessible computer site.

3 **SECTION 25.** 560.0345 of the statutes is created to read:

4 **560.0345 Listing of designated businesses for state procurement.** The  
5 department shall maintain a Web site to help the department of administration and  
6 any agency making purchases under s. 16.74 comply with the requirements of s.  
7 16.75 (3m) (b). The Web site shall include all of the following:

8 (1) An up-to-date listing of veteran-owned businesses, as defined under s.  
9 16.75 (3m) (a) 3., the locations of each business, and the products and services each  
10 business offers.

11 (2) An up-to-date listing of woman-owned businesses, as defined under s.  
12 16.75 (3m) (a) 4., the locations of each business, and the products and services each  
13 business offers. The department may use the same Web site to comply with the  
14 requirement in this subsection and the Internet-listing requirement under s.  
15 560.035 (1) (b).

16 (3) An up-to-date listing of minority businesses, as defined under 16.75 (3m)  
17 (a) 1m., the locations of each business, and the products and services each business  
18 offers.

19 (4) An up-to-date listing of small businesses, as defined under s. 16.75 (3m)  
20 (a) 2., the locations of each business, and the products and services each business  
21 offers.

22 **SECTION 26.** 560.035 (1) (b) of the statutes is amended to read:

23 560.035 (1) (b) The department shall implement a program for the certification  
24 of woman-owned businesses. The department shall compile and periodically update  
25 a list of businesses certified under this section and shall make the list available to

**BILL**

1 the public on the Internet. The department may use the same Web site to comply  
2 with the requirement in this paragraph and with the requirement in s. 560.0345 (2).

**SECTION 27. Initial applicability.**

3  
4 (1) The treatment of sections 16.75 (4) (c) and (d) and 16.855 (10) (L) of the  
5 statutes, the renumbering and amendment of section 16.75 (3m) (b) of the statutes,  
6 and the creation of section 16.75 (3m) (b) 2. and 3. of the statutes first apply with  
7 respect to contracts entered into and orders placed on the effective date of this  
8 subsection.

**SECTION 28. Effective date.**

9  
10 (1) This act takes effect on the first day of the 7th month beginning after  
11 publication.

12

(END)

**Basford, Sarah**

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**From:** Seaholm, Matthew  
**Sent:** Thursday, February 07, 2008 10:09 AM  
**To:** lrb.legal@legis.wisconsin.gov  
**Subject:** Draft Review: LRB 07-3378/2 Topic: Small business preferences

Please Jacket LRB 07-3378/2 for the ASSEMBLY.