

2013 DRAFTING REQUEST

Bill

Received: 2/12/2013 Received By: eshea
Wanted: As time permits Same as LRB: -1726
For: Julie Lassa (608) 266-3123 By/Representing: Jessica Ford Kelly
May Contact: Drafter: eshea
Subject: State Govt - procurement Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Lassa@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Timely notice of intent to protest, protest, or appeal prohibits award of contract.

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	eshea 2/25/2013			_____			State
/1		wjackson 2/27/2013	rschluet 2/27/2013	_____	sbasford 2/27/2013	sbasford 3/12/2013	State

FE Sent For:

atintro
3/14/13

<END>

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/P1 eshea

FE Sent For:

22713

JF

<END>

Shea, Elisabeth

From: Ford-Kelly, Jessica
Sent: Tuesday, February 12, 2013 1:13 PM
To: Shea, Elisabeth
Subject: Procurement draft

Senator Lassa would like to draft legislation to change this Administrative Rule to PROHIBIT an agency from awarding a contract if there is a timely notice of intent to protest, protest or appeal unless it is necessary to preserve or protect health or safety.

(6) STATE OF PROCUREMENTS DURING PROTESTS. In the event of the filing of a timely notice of intent to protest, protest or appeal under sub. (1), the state shall not proceed further with the solicitation or with the award of the contract until a decision is rendered in response to the protest or appeal, or unless the secretary, after consultation with the head of the contracting agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 126 South
P.O. Box 7882
Madison, WI 53708
1-800-925-7491 tollfree
608-266-3123 local
608-282-3564 fax

Shea, Elisabeth

From: Ford-Kelly, Jessica
Sent: Friday, February 15, 2013 10:34 AM
To: Shea, Elisabeth
Cc: Petty, Annika
Subject: FW: Co-sponsorship dealing with appeals or protests of state procurement decisions
FYI so you have more background on our drafting request. Thank you!

Jessica Ford Kelly

Office of Senator Julie Lassa
State Capitol, Room 126 South
P.O. Box 7882
Madison, WI 53708
1-800-925-7491 tollfree
608-266-3123 local
608-282-3564 fax

From: Sen.Lassa
Sent: Friday, February 15, 2013 10:33 AM
To: *Legislative Senate Democrats; *Legislative Senate Republicans; *Legislative Assembly Republicans;
*Legislative Assembly Democrats
Subject: Co-sponsorship dealing with appeals or protests of state procurement decisions

Date: February 15, 2013

To: All Legislators

From: Senator Julie Lassa & Representatives Katrina Shankland and Amy Sue Vruwink

DEADLINE: Friday, February 22, 2013 by 5 p.m.

Re: Co-sponsorship dealing with appeals or protests of state procurement decisions

Currently, administrative rules prohibit the state from proceeding with the solicitation or awarding of a procurement contract if a timely notice of intent to protest or appeal is filed. This prohibition is removed if the Department of Administration secretary, in consultation with the head of the contracting agency, "makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state." This administrative rules language is extremely vague, and would do little to prevent the state from proceeding to sign a procurement contract even if a notice of intent to appeal or an appeal has been filed with the state. All that is necessary under the administrative rules is a determination that "substantial interests" are involved. State statutes are presently silent regarding this area of procurement law.

We are introducing companion bills that will statutorily require that the procurement appeals process be completed before the DOA secretary and contracting agency head may sign a contract unless the DOA secretary finds that proceeding is necessary to preserve or protect public health or safety. This change will ensure that due process regarding the appeal of procurement contract decisions is followed, and that

2/15/2013

only a true emergency can be used as justification for circumventing that process.

If you are interested in co-sponsoring these bills, please respond to this email or contact Jessica in Senator Lassa's office at 6-3123 by February 22, 2013 by 5pm.

Analysis by the Legislative Reference Bureau will be forwarded when the LRB is received.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1594/1

EHS:f...

WJ

In 2/25/13

2013 BILL

WED.
(per
requester)

Gen Cat

1 AN ACT **relating to:** an appeal or protest of a service contract award.

Analysis by the Legislative Reference Bureau

contracts agent

Under current law, the Department of Administration (DOA) is required to promulgate rules for the procurement of contractual services by DOA and its designated agents. This bill requires that, if those rules allow bidders to protest or appeal decisions regarding the award of a service contract, DOA or its agent is prohibited from proceeding with contractual services if it receives a timely notice of intent to protest or appeal a decision or a timely protest or appeal. Under the bill, this prohibition does not apply if the secretary of DOA provides a written determination that proceeding with the contractual services without delay is necessary to protect public health or safety.

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

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

2 SECTION 1. 16.705 (3) of the statutes is created to read:

3 16.705 (3) If the department promulgates rules that allow a bidder to protest
4 or appeal the department or its agent's decision regarding the award of a service
5 contract, and if the department or its agent receives a timely notice of intent to

under sub. (2)

BILL

SECTION 1

1 protest or appeal a decision, or a timely protest or appeal of a decision, the
2 department or its agent may not proceed with the contractual services until a
3 decision is made on the protest or appeal, unless the secretary makes a written
4 determination that proceeding with the contractual services without delay is
5 necessary to protect public health or safety.

6 (END)

Basford, Sarah

From: Ford-Kelly, Jessica
Sent: Tuesday, March 12, 2013 11:53 AM
To: LRB.Legal
Subject: Draft Review: LRB -1594/1 Topic: Timely notice of intent to protest, protest, or appeal prohibits award of contract.

Please Jacket LRB -1594/1 for the SENATE.