



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1005/1
MGD:cmh&wlj&jlg:km

**SENATE AMENDMENT 6,
TO 1999 SENATE BILL 277**

November 9, 1999 – Offered by Senator JAUCH.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 7: after “the” insert “construction of correctional facilities by
3 private persons; the”.

4 **2.** Page 1, line 11: delete “and”.

5 **3.** Page 2, line 1: after “cases” insert “; and providing penalties”.

6 **4.** Page 7, line 23: delete lines 23 and 24 and substitute:

7 “**SECTION 3m.** 13.48 (19) of the statutes is renumbered 13.48 (19) (a) and
8 amended to read:

9 13.48 (19) (a) Whenever the building commission determines that the use of”.

10 **5.** Page 8, line 4: delete “s. 20.924 (1) (i)” and substitute “par. (b) and s. 20.924
11 (1) (i) and (j)”.

1 **6.** Page 8, line 6: delete “s. 20.924 (1) (i)” and substitute “par. (b) and s. 20.924
2 (1) (i) and (j)”.

3 **7.** Page 8, line 10: delete lines 10 and 11 and substitute:

4 “**SECTION 5g.** 13.48 (19) (b) of the statutes is created to read:

5 13.48 **(19)** (b) The building commission may not lease or acquire a building,
6 structure or facility for the purpose of confining persons serving a sentence of
7 imprisonment to the Wisconsin state prisons under ch. 973 unless the person who
8 undertakes construction or conversion of the building, facility or structure has met
9 the requirements of s. 301.19 (2).

10 **SECTION 5m.** 13.48 (27) of the statutes is amended to read:

11 13.48 **(27)** LEASE OF CORRECTIONAL FACILITIES. ~~The~~ Subject to sub. (19) (b) and
12 s. 20.924 (1) (i) and (j), the building commission may lease any facility meeting the
13 requirements of s. 301.19 (2) for use of the department of corrections as a part of the
14 authorized state building program, with an option to purchase the facility by the
15 state. Any lease shall provide for the facility to be constructed in accordance with
16 requirements and specifications approved by the department of administration and
17 shall permit inspection of the site and facility by agents of the department.”.

18 **8.** Page 8, line 15: delete the material beginning with “confining” and ending
19 with “purpose of” on line 16.

20 **9.** Page 8, line 18: before “correctional” insert “juvenile”.

21 **10.** Page 8, line 19: after that line insert:

22 “**SECTION 7d.** 20.924 (1) (j) of the statutes is created to read:

23 20.924 **(1)** (j) May not authorize the leasing or acquisition of a building,
24 structure or facility or portion thereof under s. 301.19 (2) (a) or approve the

1 construction or conversion of any building, structure or facility under s. 301.19 (2)
2 (a) for initial occupancy by the department of corrections for the purpose of confining
3 persons serving a sentence of imprisonment to the Wisconsin state prisons under ch.
4 973 unless the lessor or seller has agreed to comply with all of the following
5 requirements:

6 1. The lessor or seller may not permit any employe working on the building,
7 structure or facility, or portion thereof, who would be entitled to receive the
8 prevailing wage rate under s. 103.49 and who would not be required or permitted to
9 work more than the prevailing hours of labor, if the building, structure or facility, or
10 portion thereof, were a project of public works subject to s. 103.49, to be paid less than
11 the prevailing wage rate or to be required or permitted to work more than the
12 prevailing hours of labor, except as permitted under s. 103.49 (2).

13 2. The lessor or seller shall require each contractor, subcontractor or agent
14 thereof performing work on the building, structure or facility, or portion thereof, to
15 keep and permit inspection of records in the same manner as a contractor,
16 subcontractor or agent thereof performing work on a project of public works that is
17 subject to s. 103.49 is required to keep and permit inspection of records under s.
18 103.49 (5).

19 3. The lessor or seller shall otherwise comply with s. 103.49 in the same manner
20 as a state agency contracting for the erection, construction, remodeling, repairing or
21 demolition of a project of public works is required to comply with s. 103.49 and to
22 require any contractor, subcontractor or agent thereof performing work on the
23 building, structure or facility, or portion thereof, to comply with s. 103.49 in the same
24 manner as a contractor, subcontractor or agent thereof performing work on a project
25 of public works that is subject to s. 103.49 is required to comply with s. 103.49.

1 **SECTION 7g.** 109.09 (1) of the statutes is amended to read:

2 109.09 (1) The department shall investigate and attempt equitably to adjust
3 controversies between employers and employes as to alleged wage claims. The
4 department may receive and investigate any wage claim which is filed with the
5 department, or received by the department under s. 109.10 (4), no later than 2 years
6 after the date the wages are due. The department may, after receiving a wage claim,
7 investigate any wages due from the employer against whom the claim is filed to any
8 employe during the period commencing 2 years before the date the claim is filed. The
9 department shall enforce this chapter and ss. 20.924 (1) (j) 1., 2. and 3., 66.293,
10 103.02, 103.49, 103.82 and 104.12. In pursuance of this duty, the department may
11 sue the employer on behalf of the employe to collect any wage claim or wage
12 deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except
13 for actions under s. 109.10, the department may refer such an action to the district
14 attorney of the county in which the violation occurs for prosecution and collection and
15 the district attorney shall commence an action in the circuit court having appropriate
16 jurisdiction. Any number of wage claims or wage deficiencies against the same
17 employer may be joined in a single proceeding, but the court may order separate
18 trials or hearings. In actions that are referred to a district attorney under this
19 subsection, any taxable costs recovered by the district attorney shall be paid into the
20 general fund of the county in which the violation occurs and used by that county to
21 meet its financial responsibility under s. 978.13 (2) for the operation of the office of
22 the district attorney who prosecuted the action.

23 **SECTION 7m.** 111.322 (2m) (c) of the statutes is amended to read:

1 111.322 **(2m)** (c) The individual files a complaint or attempts to enforce a right
2 under s. 20.924 (1) (j) 1., 2. or 3., 66.293 or 103.49 or testifies or assists in any action
3 or proceeding under s. 20.924 (1) (j) 1., 2. or 3., 66.293 or 103.49.

4 **SECTION 7r.** 227.01 (13) (t) of the statutes is amended to read:

5 227.01 **(13)** (t) Ascertains and determines prevailing wage rates and prevailing
6 hours of labor under ~~ss.~~ s. 20.924 (1) (j), 66.293, 103.49 ~~and or~~ 103.50, except that any
7 action or inaction which ascertains and determines prevailing wage rates and
8 prevailing hours of labor under ~~ss.~~ s. 20.924 (1) (j), 66.293, 103.49 ~~and or~~ 103.50 is
9 subject to judicial review under s. 227.40.”

10 **11.** Page 9, line 18: after that line insert:

11 “**SECTION 10m.** 301.19 of the statutes is created to read:

12 **301.19 Construction of correctional facilities by private persons. (1)**

13 In this section:

14 (a) “Authorized jurisdiction” means a county, a group of counties acting under
15 s. 302.44, the United States or a federally recognized American Indian tribe or band
16 in this state.

17 (b) “Correctional facility” means a prison, jail, house of correction or lockup
18 facility but does not include an institution or facility or a portion of an institution or
19 facility that is used solely to confine juveniles alleged or found to be delinquent under
20 ch. 48, 1993 stats., or ch. 938.

21 **(2)** No private person may commence construction of a correctional facility or
22 commence conversion of an existing building, structure or facility into a correctional
23 facility unless all of the following requirements are met:

1 (a) The building commission has authorized the lease or acquisition of the
2 building, structure or facility by the state upon the completion of the construction or
3 conversion or has approved the construction or conversion of the building, structure
4 or facility.

5 (b) The private person agrees to comply with s. 20.924 (j) 1., 2. and 3.

6 **(3)** Subsection (2) does not apply to buildings, structures or facilities that are
7 constructed or converted under a contract with and for use by an authorized
8 jurisdiction.”.

9 **12. 13.** Page 9, line 21: delete the material beginning with “construction”
10 and ending with “1999” on line 22 and substitute “seller or lessor has met the
11 requirements of s. 301.19 (2) and the requirements of s. 20.924 (1) (j) that would apply
12 if the building or the portion of the building were being acquired or leased by the
13 building commission”.

14 **14.** Page 11, line 20: after that line insert:

15 **“SECTION 16g.** 946.15 (1) of the statutes is amended to read:

16 946.15 (1) Any employer, or any agent or employe of an employer, who induces
17 any person who seeks to be or is employed pursuant to a public contract as defined
18 in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing
19 wage rate determination has been issued by the department of workforce
20 development under s. 20.924 (1) (j), 66.293 (3), 103.49 (3) or 103.50 (3) or by a local
21 governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive
22 or return any part of the compensation to which that person is entitled under his or
23 her contract of employment or under the prevailing wage rate determination issued
24 by the department or local governmental unit, or who reduces the hourly basic rate

1 of pay normally paid to an employe for work on a project on which a prevailing wage
2 rate determination has not been issued under s. 20.924 (1) (j), 66.293 (3) or (6), 103.49
3 (3) or 103.50 (3) during a week in which the employe works both on a project on which
4 a prevailing wage rate determination has been issued and on a project on which a
5 prevailing wage rate determination has not been issued, is guilty of a Class E felony.

6 **SECTION 16j.** 946.15 (2) of the statutes is amended to read:

7 946.15 (2) Any person employed pursuant to a public contract as defined in s.
8 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination
9 has been issued by the department of workforce development under s. 20.924 (1) (j),
10 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s.
11 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer or
12 agent of the employer any part of the compensation to which the employe is entitled
13 under his or her contract of employment or under the prevailing wage determination
14 issued by the department or local governmental unit, or who gives up any part of the
15 compensation to which he or she is normally entitled for work on a project on which
16 a prevailing wage rate determination has not been issued under s. 20.924 (1) (j),
17 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the person works
18 part-time on a project on which a prevailing wage rate determination has been
19 issued and part-time on a project on which a prevailing wage rate determination has
20 not been issued, is guilty of a Class C misdemeanor.

21 **SECTION 16m.** 946.15 (3) of the statutes is amended to read:

22 946.15 (3) Any employer or labor organization, or any agent or employe of an
23 employer or labor organization, who induces any person who seeks to be or is
24 employed on a project on which a prevailing wage rate determination has been issued
25 by the department of workforce development under s. 20.924 (1) (j), 66.293 (3), 103.49

1 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under
2 s. 66.293 (6) to permit any part of the wages to which that person is entitled under
3 the prevailing wage rate determination issued by the department or local
4 governmental unit to be deducted from the person’s pay is guilty of a Class E felony,
5 unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who
6 is working on a project that is subject to 40 USC 276c.

7 **SECTION 16q.** 946.15 (4) of the statutes is amended to read:

8 946.15 (4) Any person employed on a project on which a prevailing wage rate
9 determination has been issued by the department of workforce development under
10 s. 20.924 (1) (j), 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit,
11 as defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part of the wages
12 to which that person is entitled under the prevailing wage rate determination issued
13 by the department or local governmental unit to be deducted from his or her pay is
14 guilty of a Class C misdemeanor, unless the deduction would be permitted under 29
15 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC
16 276c.”.

17 **15.** Page 15, line 24: after that line insert:

18 “(4) PRECONSTRUCTION APPROVAL NOT REQUIRED. Section 13.48 (19) (b) of the
19 statutes, as created by this act, does not apply to the lease of a private correctional
20 facility under this SECTION.

21 **SECTION 27m. Initial applicability.**

22 (1) Unless the construction or conversion commences without a contract, the
23 treatment of section 20.924 (1) (j) of the statutes first applies to an authorization to
24 lease or acquire a correctional facility constructed or converted from an existing

1 building, structure or facility pursuant to contracts entered into, extended or
2 modified on October 1, 1999.

3 (2) If the construction or conversion commences without a contract, the
4 treatment of section 20.924 (1) (j) of the statutes first applies to an authorization to
5 lease or acquire a correctional facility, the construction or conversion from an
6 existing building, structure or facility of which begins on October 1, 1999.”.

7 (END)