

# WISCONSIN LABORERS' DISTRICT COUNCIL

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LABORERS' INTERNATIONAL UNION OF NORTH AMERICA  
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VICE-PRESIDENT

August 5, 1997

Rep. John Dobyms  
P.O. Box 8952  
State Capitol  
Madison, WI 53708

Dear Rep. Dobyms:

I regret that my schedule will prevent me from appearing before the Assembly Committee on Government Operations. I am writing to register my opposition to AB 420, relating to assessment of fees for the costs of locating public records.

I understand the bill is intended to curb frivolous open records requests. My concern is that the bill, as currently written, may also deter workers and third parties from pursuing legitimate complaints against employers suspected of violating state prevailing wage law.

One of the responsibilities of the Department of Workforce Development's Equal Rights Division is to enforce wage and hour laws on public works projects. The Division encourages individuals and third parties to gather and present strong evidence before asking the Department to investigate suspected wage and hour violations. This is especially true on public works projects, where the Division recommends individuals and third parties use Wisconsin open records law as the means to secure payroll information to substantiate their claims before an investigation is initiated.

Obtaining payroll information is not easy. Typically, a request for payroll records is made by an individual or third part through the awarding agency. Once the request is made, it is the contractor who must supply the information. At times, awarding agencies and contractors have challenged their responsibilities under the law and have complied only after the Equal Rights Division or the State Attorney General has instructed them to do so.

Given the time an awarding agency and/or contractor may spend "locating" these records, it will not be difficult for either to exceed the \$5 threshold established in this bill if they wanted to. It is hard enough to get workers to file complaints against their own employer when they suspect they are owed back-wages and benefits. The state should not be in the business of making it even more difficult for workers to substantiate suspected wage and hour violations by creating what amounts to a minimum \$5 fee for the privilege of gathering the "public" information they will need in order to make their case.

Clearly, this is not the intent of AB 420, nor should it be one of the results.

To protect workers and third parties gathering evidence to substantiate wage and hour violations under state prevailing wage law, AB 420 should be amended to exclude Chapter 19.36 paragraph 3 regarding "Contractor Records" under the state's Open Records law.

Again, I regret not being able to address the committee in person. Thank you for allowing me this opportunity to express my concerns and I look forward to hearing from you on this important issue.

Sincerely,



Michael R. Ryan  
President/Business Manager

MRR/jo

cc: Rep. David Brandemuehl

**Wisconsin Property Tax Consultants, Inc.**

10206 N. Port Washington Road, Mequon, WI 53092-5742 FAX: 414-241-1508 414-241-1500

**FACSIMILE TRANSMITTED**

State Representative John P. Dobyms  
Chairperson  
Government Operations Committee  
State Capitol  
Madison, WI 53708

August 12, 1997

Re: Strong Opposition To AB-420

Dear Representative Dobyms:

I am sending you this written communication because I am not able to attend the hearing scheduled for 10:00 a.m. Wednesday at the State Capitol concerning AB-420.

If this Assembly Bill is enacted it will have the effect of reversing the entire history of open public record law in the State of Wisconsin.

All government custodians of public records will very easily conclude most, if not all requests to view or photocopy specific public records cost them more than \$5.00. Once this position is taken the sky's the limit on how much will be charged for the "actual, necessary and direct cost of locating records."

Based on personal experience making public record requests throughout Wisconsin, I have found many local and State government officials consider the files and records in their office as their "personal" agency records, and do not as a matter of course like or want them to be considered public records. AB-420 will give them the tools to effectively not only discourage public record requests, but penalize the people who make the requests.

The public access to all government records at all levels of government should be unrestricted, except as provided by current statutory provisions. AB-420 is bad legislation that will have a negative impact on Wisconsin's open and honest government.

I strongly urge you and the members of your committee not vote for the passage of AB-420. Enclosed is a summary of reasons why AB-420 should not be enacted.

Sincerely,



William B. Ardern II

WBA/jr  
Enclosure

cc: Steve Wieckert	Carol Kelso	Leon Young
Alvin Ott	Bob Ziegelbauer	Jeffery Plale
Frank Urban	Marlin Schneider	

**Reasons Why Assembly Bill 420  
Should Not Become Wisconsin Law**

**1. It Effectively Restricts Public Access To Records**

It will be very simple for government agencies to take the position that any public request costs at least \$5.00 to locate a record. They can charge "search fees" to discourage certain public record requests. This bill provides them with the tools to regulate who can have access to their records.

**2. Custodians Will Charge Excessive Fees For Public Access To Records**

The cost charged for photocopies of public records is currently to be based on the actual, necessary and direct cost of photocopying. Various local government agencies charge from 5 cents to \$10.00 per page for photocopies of public records, based on their interpretation of the current "actual, necessary and direct costs" statutory language.

If these and other government officials are given the opportunity to determine record locating fees, they will be inclined to charge excessive fees as a method of generating revenue for their offices.

**3. This Bill Will Have The Effect Of Discouraging Open, Honest Government In Wisconsin**

Currently, one force that has the effect of policing all levels of government in Wisconsin against dishonesty is the fact that most documents maintained in all government offices are public records available for public inspection.

AB-420 provides every government official with the tools to hide documents by making it prohibitively costly to gain access to them. Once a government official has established a cost barrier to provide secrecy, the potential exists for improper actions or behavior to be hidden from discovery.

**4. Public Records Will No Longer Be Public**

The "cost to locate the records" will only be available to the companies or individuals with enough money that can afford the "search fees" charged by the public record custodians.

**5. Public Records Should Not Be A Profit Center For Government Agencies**

The local and State taxes that support the operation of Wisconsin government pay for the creation, maintenance, and access of public records.

AB-420 will provide custodians the incentive to generate revenue from public records "search fees."

**Testimony: AB 420**

**Representative David A. Brandemuehl**

**August 13, 1997**

Chairman Dobyms, members of the committee, good morning. Thank you for providing me the opportunity to testify on Assembly Bill 420.

The intent of this bill is to discourage routine abuse of the open records law. AB 420 lowers the threshold for assessing a fee for the location of requested records to \$5. Currently, the custodian of the records may charge the requester for the actual, necessary and direct cost of locating the records, if the cost is \$50 or more. By lowering the threshold to \$5, individuals would be discouraged from filing unnecessary open records requests and public officials will be able to cover the expense of locating requested records.

Last session, the Legislature established a criteria to limit frivolous requests from prisoners. However, we are quickly learning that they are not the only ones guilty of filing such requests.

Recently, one of the school administrators in my district received an extensive, detailed request from an individual who is not in any way connected to this particular school district (a copy of his letter is attached to the testimony). My constituent was told that he must comply at no cost or

be subject to a \$100 forfeiture, liability for legal fees, and potential litigation. It is my understanding that this same individual has made similar requests and threats to school districts across the state.

There is no doubt that this was a frivolous request made simply to collect the \$100 forfeiture from districts that failed to comply. With today's technology, it is becoming increasingly easier for individuals to generate requests faster than public officials can respond. This is an easy way to make \$100 at the expense of taxpayers. By lowering the threshold and discouraging unnecessary requests, public officials can conduct their own business and respond to legitimate requests more efficiently.

While AB 420 will affect those with legitimate requests as well, I do not believe that it is unreasonable to expect individuals to reimburse school districts or other municipal entities for the costs incurred on their behalf.

I urge your support of AB 420. I would be happy to answer any questions you may have at this time.

Monday 10 March 1997

Edgar E Ryun, District Administrator  
Fennimore Community Schools  
1397 9th St  
Fennimore WI 53809

Dear Edgar E Ryun:

This request is offered to you in your official capacity as legal custodian.

**WITHIN SEVEN DAYS PLEASE MAIL THE BELOW RECORDS:**

1. Send me a record of your school board acting to hire you for the position you now occupy. In accordance with universally accepted board actions having legal standing, I assume that your hiring is found in **APPROVED** School District Board minutes understandable to an ordinary competent attorney.
2. Send me a record of the last **APPROVED** (again in your board minutes) hiring of a full-time teacher where there was a legitimate expectation of permanent employment upon completion of teacher's probation period.
3. Send me a record of the last **APPROVED** (again in your board minutes) termination of a full-time teacher wherein there had been an expectation of permanent employment after the successful probationary period.
4. Mail a copy of the notice and agenda for your last §118.22(3) mandated meeting run by your board wherein a firing of one or more teachers was **CONTEMPLATED**. Neglect mere **Reduction In Force** board actions.
5. Send a copy of your last communication to the State Historical Society. Please see §19.21(6) applicable to destruction of your district records.

This letter is provided in duplicate. Keeping one copy for your records, please attach the second copy to the above records to be mailed to the below address:

**THANKS.**

*G. J. Steinke*

Gerhardt Steinke

6415 Bridge Road 204

Madison

WI 53713-1808