

1999 DRAFTING REQUEST

Senate Amendment (SA-SB277)

Received: 11/09/1999

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Robert Jauch (608) 266-3510

By/Representing: Dave

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Alt. Drafters:

Subject: Correctional System - prisons

Extra Copies: jeo

Pre Topic:

No specific pre topic given

Topic:

Construction of correctional facilities by private persons

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>
/?	mdsida 11/09/1999	jgeller 11/09/1999		_____			
/1			martykr 11/09/1999	_____	lrb_docadmin 11/09/1999	lrb_docadmin 11/09/1999	

FE Sent For:

<END>

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1/?	mdsida	11/9 jlg	kmj	HK 11/9 kmj			

FE Sent For:

<END>

Dave Jahn

Maintain existing lang. re jur. faulties

Delete 10/1/99 refs to adult faulties

Add prev. wage a la § 0523



State of Wisconsin
1999 - 2000 LEGISLATURE

NOW

a1005/1
~~LRBa09914~~
MGD:cmh&wlj:jf
↑ ↑ ↑
Stays + jlg

SENATE AMENDMENT ,
TO 1999 SENATE BILL 277

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)".

12 **6.** Page 8, line 6: delete "s. 20.924 (1)(i)" and substitute "par. (b) and s. 20.924
13 (1) (i) and (j)".

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

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

3 13.48 (19) (b) The building commission may not lease or acquire a building,
4 structure or facility for the purpose of confining persons serving a sentence of
5 imprisonment to the Wisconsin state prisons under ch. 973 unless the person who
6 undertakes construction or conversion of the building, facility or structure has met
7 the requirements of s. 301.19 (2).

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

9 13.48 (27) LEASE OF CORRECTIONAL FACILITIES. The Subject to sub. (19) (b) and
10 s. 20.924 (1) (i) and (j), the building commission may lease any facility meeting the
11 requirements of s. 301.19 (2) for use of the department of corrections as a part of the
12 authorized state building program, with an option to purchase the facility by the
13 state. Any lease shall provide for the facility to be constructed in accordance with
14 requirements and specifications approved by the department of administration and
15 shall permit inspection of the site and facility by agents of the department."

Insert 2/15

CHANGE
COM

16 **8.** Page 8, line 13: delete that line and substitute:

17 ~~"20.924 (1) (i) Unless otherwise permitted under par. (j), may not lease or~~
18 ~~acquire or authorize the leasing or acquisition".~~

19 **9.** Page 8, line 19: after that line insert:

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

21 ~~20.924 (1) (j) May not authorize the leasing or acquisition of a building,~~
22 ~~structure or facility or portion thereof under s. 301.19 (2) (a) or approve the~~
23 ~~construction or conversion of any building, structure or facility under s. 301.19 (2)~~
24 ~~(a) for initial occupancy by the department of corrections for the purpose of confining~~

1 persons serving a sentence of imprisonment to the Wisconsin state prisons under ch.
2 973 unless the lessor or seller has agreed to comply with all of the following
3 requirements:

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

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

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

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

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

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

23 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right
24 under s. 20.924 (1) (j) 1., 2. or 3., 66.293 or 103.49 or testifies or assists in any action
25 or proceeding under s. 20.924 (1) (j) 1., 2. or 3., 66.293 or 103.49.

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

2 227.01 (13) (t) Ascertains and determines prevailing wage rates and prevailing
3 hours of labor under ~~ss. s. 20.924 (1) (j), 66.293, 103.49 and or 103.50~~, except that any
4 action or inaction which ascertains and determines prevailing wage rates and
5 prevailing hours of labor under ~~ss. s. 20.924 (1) (j), 66.293, 103.49 and or 103.50~~ is
6 subject to judicial review under s. 227.40.”

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

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

9 **301.19 Construction of correctional facilities by private persons. (1)**

10 In this section:

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

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

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

21 (a) The building commission has authorized the lease or acquisition of the
22 building, structure or facility by the state upon the completion of the construction or
23 conversion or has approved the construction or conversion of the building, structure
24 or facility.

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

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

INSERT
6/4/5

~~11.~~ Page 9, line 22: after "1999" insert "or unless the seller or lessor has met the requirements of s. 301.19 (2) and the requirements of s. 20.924 (1) (j) that would apply if the building or the portion of the building were being acquired or leased by the building commission".

12. Page 11, line 20: after that line insert:

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

946.15 (1) Any employer, or any agent or employe of an employer, who induces any person who seeks to be or is employed pursuant to a public contract as defined in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing wage rate determination has been issued by the department of workforce development under s. 20.924 (1) (j), 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive or return any part of the compensation to which that person is entitled under his or her contract of employment or under the prevailing wage rate determination issued by the department or local governmental unit, or who reduces the hourly basic rate of pay normally paid to an employe for work on a project on which a prevailing wage rate determination has not been issued under s. 20.924 (1) (j), 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the employe works both on a project on which a prevailing wage rate determination has been issued and on a project on which a prevailing wage rate determination has not been issued, is guilty of a Class E felony.

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

2 946.15 (2) Any person employed pursuant to a public contract as defined in s.
3 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination
4 has been issued by the department of workforce development under s. 20.924 (1) (j),
5 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s.
6 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer or
7 agent of the employer any part of the compensation to which the employe is entitled
8 under his or her contract of employment or under the prevailing wage determination
9 issued by the department or local governmental unit, or who gives up any part of the
10 compensation to which he or she is normally entitled for work on a project on which
11 a prevailing wage rate determination has not been issued under s. 20.924 (1) (j),
12 66.293 (3) or (6), 103.49 (3) or 103.50 (3) during a week in which the person works
13 part-time on a project on which a prevailing wage rate determination has been
14 issued and part-time on a project on which a prevailing wage rate determination has
15 not been issued, is guilty of a Class C misdemeanor.

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

17 946.15 (3) Any employer or labor organization, or any agent or employe of an
18 employer or labor organization, who induces any person who seeks to be or is
19 employed on a project on which a prevailing wage rate determination has been issued
20 by the department of workforce development under s. 20.924 (1) (j), 66.293 (3), 103.49
21 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d), under
22 s. 66.293 (6) to permit any part of the wages to which that person is entitled under
23 the prevailing wage rate determination issued by the department or local
24 governmental unit to be deducted from the person's pay is guilty of a Class E felony,

1 unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who
2 is working on a project that is subject to 40 USC 276c.

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

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

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

14 **SECTION 27m. Initial applicability.**

15 (1) Unless the construction or conversion commences without a contract, the
16 treatment of section 20.924 (1) (j) of the statutes first applies to an authorization to
17 lease or acquire a correctional facility constructed or converted from an existing
18 building, structure or facility pursuant to contracts entered into, extended or
19 modified on October 1, 1999.

20 (2) If the construction or conversion commences without a contract, the
21 treatment of section 20.924 (1) (j) of the statutes first applies to an authorization to
22 lease or acquire a correctional facility, the construction or conversion from an
23 existing building, structure or facility of which begins on October 1, 1999."

24 nonstat
→ "
(4) Pre construction approval not required. Section 13.48(19)(b) does not apply to
the lease of a private correctional facility under this section.
(END) of the statutes
as created by this act,
(CS)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1005/lins
MGD:.....

1

INSERT 2/15

with "purpose of"

2

1. Page 8, line 15: delete the material beginning with "confining" and ending

3

on ~~page 8~~ line 16.

4

2. Page 8, line 18: before "correctional" insert "juvenile". ✓

5

INSERT 6/4

6

3. Page 9, line 21: delete the material beginning with "construction" and

7

ending on ~~page 9~~ line 22 and substitute NO
P

with "1999"