

1999 SENATE BILL 493

March 21, 2000 – Introduced by COMMITTEE ON LAMBEAU FIELD. Referred to Committee on Lambeau Field.

1 **AN ACT to amend** 19.32 (1), 19.32 (2), 66.293 (1) (d), 66.293 (1) (g), 66.293 (3) (am),
2 66.293 (6) and 67.045 (1) (intro.); and **to create** 67.045 (3) of the statutes;
3 **relating to:** the authority of certain counties to issue bonds or promissory notes
4 for the construction or renovation of football stadium facilities; application of
5 the prevailing wage law and the open records law to contracts for the
6 construction or renovation of football stadium facilities entered into by a
7 professional football team or a related party; and creating goals for the
8 participation of minority and women’s businesses in contracts related to the
9 construction or renovation of football stadium facilities.

Analysis by the Legislative Reference Bureau

Under current law, a county may issue general obligation bonds or promissory notes if one of several conditions apply, such as if the debt issuance is approved in a county referendum, the county board determines that issuance of the debt will not cause the county to increase the debt levy rate or the debt is issued for a regional project. The general obligation bonds or promissory notes that a county may issue are subject to a constitutional debt limit of 5% of the equalized value of the county’s property. Such debt must be repaid, in most cases, in 20 years. Generally, if the debt

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is incurred by a county with a population of at least 150,000 for the acquisition of land or for the construction of sewerage facilities, it must be repaid within 50 years. In any case, general obligation bonds or promissory notes must be backed by the property tax.

This bill limits the authority of a county with a population of at least 150,000 to issue general obligation bonds or promissory notes (debt) if the debt is issued for purposes related to football stadium facilities. Under the bill, no county may issue debt for purposes related to football stadium facilities unless the county board enacts an ordinance authorizing the issuance of the debt and the ordinance is approved by a county referendum to be held at the next September primary occurring not earlier than 45 days after enactment of the ordinance. If such debt is issued, the aggregate principal amount of the debt, other than refunding bonds, may not exceed \$160,000,000.

If a county issues debt for purposes related to the construction or renovation of football stadium facilities, the county must enter into a contract with a professional football team, or a related party, that requires the team or related party to construct or renovate the football stadium facilities, unless the county determines that it is not feasible to do so.

Any contract for the construction or renovation of football stadium facilities that is financed in whole or in part by debt issued by a county is subject to the prevailing wage and hours of labor law, that is, the law that requires certain laborers, workers, mechanics and truck drivers employed on a project of public works to be paid at the rate paid for a majority of the hours worked in the person's trade or occupation in the county in which the project is located and to be paid at a rate that is one and one-half times the person's hourly basic rate of pay for all hours worked in excess of ten hours per day and 40 hours per week and for all hours worked on Saturdays, Sundays and certain holidays. The prevailing wage and hours of labor law applies to such a contract without regard to whether the contract is entered into by the county, the professional football team or a related party. In addition, information maintained by a professional football team or a related party relating to such a contract is subject to the open records law, that is, the law that requires a state or local governmental agency and certain other entities, subject to certain exceptions, to permit a requester to inspect the records of the agency or entity.

Under the bill, "professional football team" is defined as a football team that is a member of a league of teams that have home stadiums in at least ten states and a collective average attendance for all league members of at least 40,000 per game over the five years immediately preceding the year in which bonds are issued for purposes related to the construction or renovation of football stadium facilities. "Football stadium facilities" is defined as football stadium property, including spectator seating of all types, practice facilities, parking lots and structures, garages, restaurants, parks, concession facilities, entertainment facilities, facilities for the display or sale of memorabilia, transportation facilities, and other functionally related or auxiliary facilities or structures.

Also under the bill, a county is required to ensure that, for construction or renovation work that relates to football stadium facilities that are financed by debt

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as limited under the bill, a person who is awarded a contract for such construction or renovation work shall agree that his or her goal shall be to ensure that at least 25% of the employees hired because of the contract will be minority group members and that at least 5% of the employees hired because of the contract will be women. It shall also be a goal of the county that at least 25% of the aggregate dollar value of such contracts shall be awarded to minority businesses and at least 5% of the aggregate dollar value of such contracts shall be awarded to women's businesses.

If the county cannot meet its dollar value goals for contracts or if the person who is awarded a contract for such construction or renovation work is unable to meet the minority and women hiring goals, the county and the contractor must make good faith efforts to contract with the technical college district in which the contracts are to be performed to develop training programs designed to increase the pool of minority group members and women who are qualified to perform such contracts. The county is also required to hire an independent person to monitor the county's compliance with the minority contracting goals. The independent person is required to assess whether the county or contractor made a good faith effort to meet the goals.

For further information see the *state and local* 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:

1 **SECTION 1.** 19.32 (1) of the statutes, as affected by 1999 Wisconsin Act 9, is
2 amended to read:
3 19.32 (1) "Authority" means any of the following having custody of a record: a
4 state or local office, elected official, agency, board, commission, committee, council,
5 department or public body corporate and politic created by constitution, law,
6 ordinance, rule or order; a governmental or quasi-governmental corporation except
7 for the Bradley center sports and entertainment corporation; a local exposition
8 district under subch. II of ch. 229; a family care district under s. 46.2895; any court
9 of law; the assembly or senate; a nonprofit corporation which receives more than 50%
10 of its funds from a county or a municipality, as defined in s. 59.001 (3), and which
11 provides services related to public health or safety to the county or municipality; a
12 nonprofit corporation operating the Olympic ice training center under s. 42.11 (3);

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1 a professional football team, as defined in s. 67.045 (3) (a) 5., or a related party, as
2 defined in s. 67.045 (3) (a) 6.; or a formally constituted subunit of any of the foregoing.

3 **SECTION 2.** 19.32 (2) of the statutes is amended to read:

4 19.32 (2) “Record” means any material on which written, drawn, printed,
5 spoken, visual or electromagnetic information is recorded or preserved, regardless
6 of physical form or characteristics, which has been created or is being kept by an
7 authority. “Record” includes, but is not limited to, handwritten, typed or printed
8 pages, maps, charts, photographs, films, recordings, tapes (including computer
9 tapes), computer printouts and optical disks. “Record” does not include drafts, notes,
10 preliminary computations and like materials prepared for the originator’s personal
11 use or prepared by the originator in the name of a person for whom the originator is
12 working; materials which are purely the personal property of the custodian and have
13 no relation to his or her office; materials to which access is limited by copyright,
14 patent or bequest; information maintained by a professional football team, as
15 defined in s. 67.045 (3) (a) 5., or a related party, as defined in s. 67.045 (3) (a) 6., that
16 does not relate to a contract entered into by the professional football team or related
17 party for the construction or renovation of football stadium facilities, as defined in
18 s. 67.045 (3) (a) 3., which is financed in whole or in part by the proceeds of bonds or
19 notes that are issued in accordance with s. 67.045 (3); and published materials in the
20 possession of an authority other than a public library which are available for sale,
21 or which are available for inspection at a public library.

22 **SECTION 3.** 66.293 (1) (d) of the statutes is amended to read:

23 66.293 (1) (d) “Local governmental unit” means a political subdivision of this
24 state, a special purpose district in this state, an instrumentality or corporation of
25 such a political subdivision or special purpose district, a combination or subunit of

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1 any of the foregoing or an instrumentality of the state and any of the foregoing.
2 “Local governmental unit” also means, for purposes of a contract under s. 67.045 (3)
3 (d) for the construction or renovation of football stadium facilities, as defined in s.
4 67.045 (3) (a) 3., a professional football team, as defined in s. 67.045 (3) (a) 5., or a
5 related party, as defined in s. 67.045 (3) (a) 6.

6 **SECTION 4.** 66.293 (1) (g) of the statutes is amended to read:

7 66.293 (1) (g) “Prevailing wage rate” for any trade or occupation engaged in the
8 erection, construction, remodeling, repairing, renovation or demolition of any project
9 of public works in any area means the hourly basic rate of pay, plus the hourly
10 contribution for health insurance benefits, vacation benefits, pension benefits and
11 any other bona fide economic benefit, paid directly or indirectly, for a majority of the
12 hours worked in the trade or occupation on projects in the area, or if there is no rate
13 at which a majority of the hours worked in the trade or occupation on projects in the
14 area is paid, then the prevailing wage rate for any trade or occupation engaged in the
15 erection, construction, remodeling, repairing, renovation or demolition of any project
16 of public works in any area shall be the average hourly basic rate of pay, weighted
17 by the number of hours worked, plus the average hourly contribution, weighted by
18 the number of hours worked, for health insurance benefits, vacation benefits,
19 pension benefits and any other bona fide economic benefit, paid directly or indirectly
20 for all hours worked at the hourly basic rate of pay of the highest-paid 51% of hours
21 worked in that trade or occupation on projects in that area.

22 **SECTION 5.** 66.293 (3) (am) of the statutes is amended to read:

23 66.293 (3) (am) Every local governmental unit, before making a contract by
24 direct negotiation or soliciting bids on a contract, for the erection, construction,
25 remodeling, repairing, renovation or demolition of any project of public works,

1 including a highway, street or bridge construction project, shall apply to the
2 department to determine the prevailing wage rate and prevailing hours of labor for
3 each trade or occupation required in the work contemplated. The department shall
4 make such investigations and hold such public hearings as may be necessary to
5 define the trades or occupations that are commonly employed on projects that are
6 subject to this section and to inform itself as to the prevailing wage rates and
7 prevailing hours of labor in all areas of the state for those trades or occupations with
8 a view to ascertaining the prevailing wage rate and prevailing hours of labor for each
9 such trade or occupation. The department shall issue its determination within 30
10 days after receiving the request and shall file the same with the local governmental
11 unit applying therefor.

12 **SECTION 6.** 66.293 (6) of the statutes is amended to read:

13 66.293 (6) EXEMPTIONS. The department, upon petition of any local
14 governmental unit, other than a professional football team, as defined in s. 67.045
15 (3) (a) 5., or a related party, as defined in s. 67.045 (3) (a) 6., shall issue an order
16 exempting the local governmental unit from applying to the department for a
17 determination under sub. (3) when it is shown that an ordinance or other enactment
18 of the local governmental unit sets forth standards, policy, procedure and practice
19 resulting in standards as high or higher than those under this section.

20 **SECTION 7.** 67.045 (1) (intro.) of the statutes is amended to read:

21 67.045 (1) (intro.) The Subject to sub. (3), the governing body of a county may
22 not issue bonds under s. 67.05 or promissory notes under s. 67.12 (12) unless one or
23 more of the following apply:

24 **SECTION 8.** 67.045 (3) of the statutes is created to read:

25 67.045 (3) (a) In this subsection:

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- 1 1. “County” means a county with a population of at least 150,000.
- 2 2. “Football stadium” means a stadium that is principally used as the home
3 stadium of a professional football team at the time that bonds are issued under s.
4 67.05 or promissory notes are issued under s. 67.12 (12), for purposes related to the
5 construction or renovation of football stadium facilities, or if no home stadium exists
6 at the time that such bonds or promissory notes are issued, “football stadium” means
7 a stadium that includes the site of a proposed home stadium of such a team.
- 8 3. “Football stadium facilities” means football stadium property, tangible or
9 intangible, including spectator seating of all types, practice facilities, parking lots
10 and structures, garages, restaurants, parks, concession facilities, entertainment
11 facilities, facilities for the display or sale of memorabilia, transportation facilities,
12 and other functionally related or auxiliary facilities or structures.
- 13 4. “Home stadium” means the principal site of a stadium that is home to a
14 professional football team and that is approved by a league to which a professional
15 football team belongs for use as a home stadium for that professional football team.
- 16 5. “Professional football team” means a team that is a member of a league of
17 professional football teams that have home stadiums in at least 10 states and a
18 collective average attendance for all league members of at least 40,000 persons per
19 game over the 5 years immediately preceding the year in which bonds are issued
20 under s. 67.05 or promissory notes are issued under s. 67.12 (12) for purposes related
21 to the construction or renovation of football stadium facilities.
- 22 6. “Related party” means a corporation or business entity that is owned,
23 controlled or operated by, or under common control with, a professional football team.
- 24 (b) No county may issue bonds under s. 67.05 or promissory notes under s. 67.12
25 (12) for purposes related to football stadium facilities unless the county board enacts

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1 an ordinance authorizing the issuance of the bonds or notes and unless the county
2 board's ordinance is approved by the majority of the electors in the county voting on
3 the ordinance at a referendum to be held at the next September primary occurring
4 not earlier than 45 days after enactment of the ordinance. The question to be
5 submitted shall be specified by the county board. A referendum held under this
6 paragraph satisfies the condition specified in sub. (1) (a) in lieu of the procedure
7 specified in this sub. (1) (a).

8 (c) If a county issues bonds under s. 67.05 or promissory notes under s. 67.12
9 (12), for purposes related to football stadium facilities, the aggregate principal
10 amount of all such bonds or promissory notes, other than refunding bonds, may not
11 exceed \$160,000,000.

12 (d) A county that issues bonds under s. 67.05 or promissory notes under s. 67.12
13 (12) for purposes related to the construction or renovation of football stadium
14 facilities shall enter into a contract with a professional football team or a related
15 party that requires the professional football team or related party to construct or
16 renovate the football stadium facilities, unless the county determines that it is not
17 feasible to do so. Any contract for the construction or renovation of football stadium
18 facilities that is financed in whole or in part by the proceeds of bonds or notes that
19 are issued in accordance with this subsection is subject to s. 66.293, without regard
20 to whether the contract is entered into by the county, the professional football team
21 or a related party.

22 (e) 1. In this paragraph:

23 a. "Minority business" has the meaning given in s. 560.036 (1) (e).

24 b. "Minority group member" has the meaning given in s. 560.036 (1) (f).

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1 c. “Women’s business” means a sole proprietorship, partnership, joint venture
2 or corporation that is at least 51% owned, controlled and actively managed by
3 women.

4 2. A county shall ensure that, for construction or renovation work and
5 professional services contracts that relate to the construction or renovation of
6 football stadium facilities that are financed by the proceeds of bonds issued under s.
7 67.05 or promissory notes issued under s. 67.12 (12), a person who is awarded such
8 a contract by the county shall agree, as a condition to receiving the contract, that his
9 or her goal shall be to ensure that at least 25% of the employees hired because of the
10 contract will be minority group members and at least 5% of the employees hired
11 because of the contract will be women.

12 3. It shall be a goal of the county to ensure that at least 25% of the aggregate
13 dollar value of contracts that relate to the construction or renovation of football
14 stadium facilities that are financed by the proceeds of bonds issued under s. 67.05
15 or promissory notes issued under s. 67.12 (12), shall be awarded to minority
16 businesses and at least 5% of the aggregate dollar value of contracts awarded by the
17 board shall be awarded to women’s businesses.

18 4. a. The county shall ensure that, for construction or renovation work and
19 professional services contracts described under subd. 2., a person who is awarded
20 such a contract by the county shall agree, as a condition to receiving the contract, that
21 if he or she is unable to meet the goal under subd. 2., he or she shall make a good faith
22 effort to contract with the technical college district board of the technical college
23 district in which the football stadium facilities are to be constructed or renovated, or
24 the professional services contract is to be performed, to develop appropriate training

1 programs designed to increase the pool of minority group members and women who
2 are qualified to perform the construction work or professional services.

3 b. If the county is unable to meet the goals under subd. 3., the county shall make
4 a good faith effort to contract with the technical college district board of the technical
5 college district in which the contracts described under subd. 3. are to be performed
6 to develop appropriate training programs designed to increase the pool of minority
7 group members and women who are qualified to perform the contracts described
8 under subd. 3.

9 5. a. The county shall hire an independent person to monitor the county's
10 compliance with minority contracting goals under subds. 2. and 3. The person hired
11 shall have previous experience working with minority group members. The county
12 shall develop a mechanism to receive regular reports from the person hired with
13 respect to the results of the person's studies of compliance with minority contracting
14 goals.

15 b. If the county or a contractor is unable to meet the goals under subd. 2. or 3.,
16 the person hired under this subd. 5. a. shall assess whether the county or contractor
17 made a good faith effort to reach the goals. In determining whether a good faith effort
18 was made to meet the goals, the person hired shall consider all of the factors listed
19 in subd. 6.

20 6. The factors to be considered under subd. 5. b. are:

21 a. The supply of eligible minority businesses and women's businesses that have
22 the financial capacity, technical capacity and previous experience in the areas in
23 which contracts were awarded.

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1 b. The competing demands for the services provided by eligible minority
2 businesses and women's businesses, as described in this subd. 6. a., in areas in which
3 contracts were awarded.

4 c. The extent to which the county or contractors advertised for and aggressively
5 solicited bids from eligible minority businesses and women's businesses, as described
6 in this subd. 6. a., and the extent to which eligible minority businesses and women's
7 businesses submitted bids.

8

(END)