1999 DRAFTING REQUEST

Bill

Received: **10/14/98**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-7329**

By/Representing: **Justus**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Econ. Development - misc.**

Extra Copies:

Topic:

DOA:......Justus - Contract provisions related to conversion to Euro

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Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	kahlepj 11/2/98			_______ _______			
/1	champra 12/24/98	jgeller 12/25/98	martykr 12/28/98	_______ _______	lrb_docadmin 12/28/98		
/2	champra 01/13/99	jgeller 01/13/99	ismith 01/13/99	_______ _______	lrb_docadmin 01/13/99		

FE Sent For:

<END>

LRB-0583

1999 DRAFTING REQUEST

Bill

Received: **10/14/98**

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Wanted: **Soon**

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/1	champra 12/24/98	jgeller 12/25/98	martykr 12/28/98		lrb_docadmin 12/28/98		
		/2 1/13 jlg	IS 1/13/99	IS/LP 1/13/99			

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<END>

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Instructions:

See Attached

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	kahlepj	/1 12/25 jlg	km 12/28	HH 12/28 km			

FE Sent For:

<END>

the employee in question is technically the employee of the firm that the certified business contracts with for services, the certified employer is indeed creating the jobs and thus should be able to receive the benefits of the tax credits.

Proposed change: Amend § 71.07 (2dj) (am) 3., 71.28 (1dj) (am) 3., and 71.47 (1dj) (am) 3. as follows:

> 71.07 (2dj) (am) 3. Modify the rule for certification under section 51(d) (16) (A) of the internal revenue code to allow certification within the ~~90 day~~ period beginning with the first day of employment of the employe ~~by the claimant~~.

H. Development Zones -- Exception to Full-Time Jobs Requirement

Enable the department, by rule, to create exceptions to the full-time jobs requirement. Some development zones are in tourism areas, and employ people for less than a full year. Other businesses have a full-time work week of fewer than 40 hours. Under current law, these businesses cannot claim any jobs credits because they do not fulfill the requirements of the credit.

Proposed change: Create § 560.785 (2) (c):

(c) The requirement that jobs for which credits are allocated be full-time as defined in § 560.70 (2m).

PJK

V. Division of International Development

A. Conversion to the Euro.

On January 1, 1999, the euro will become the single currency for Austria, Belgium, France, Finland, Germany, Ireland, Luxembourg, Portugal, Spain, and the Netherlands. Until 2002, each member state's currency will continue to exist, but only as a denomination of the euro, and not as an independent currency.

Enforceability issues could arise concerning contracts entered into before the conversion date and stated in terms of currency that no longer exists after the conversion date. For contracts governed by the laws of the member states, a European Union regulation provides that the introduction of the euro does not give either party the right to terminate performance under the contract.

Contracts governed by the laws of non-member countries are not clearly valid. A party to such a contract could claim impossibility of performance (performance is no longer physically or legally possible) or frustration of purpose (the main purpose of the transaction is no longer attainable). The frustration of purpose would mainly come into play in a transaction such as a swap, which is a financial transaction in which the parties are betting that the value of a currency will move in a certain direction.

Proposed change: Language from California is attached.

RCT

VI. Division of Environmental and Regulatory Services

A. PECFA -- Remediation Service Providers.

Provide ERS with a waiver from the state bid process when selecting remediation service providers. This authority would make it easier for Commerce to use its bundling authority, which it received in the last biennial budget, to control PECFA costs.

Proposed change: Amend § 101.143 (4) (ce) to provide Commerce with a waiver from the state bid process when selecting remediation service providers.

B. PECFA -- Information Disclosure.

The existing language on information disclosure focuses on maintaining strict confidentiality of the name of the owner and the location of the tank. It is not practical in responding to reasonable inquiries from owners, inspection agencies, real estate firms, lenders, etc.

Proposed change: Delete § 101.09 (3) (b).

C. PECFA -- Hazardous Substance Regulatory Authority.

Wisconsin statutes and federal rules provide the Department with authority over underground storage tanks. Federal rules also provide the Department with authority over hazardous substance tanks; however, state law does not clearly define the Department's authority over and technical requirements for hazardous substance tanks. Wisconsin Act 410 and the Federal Rule 40 CFR 280 strengthened the regulatory control over underground storage tanks. Existing chapter 101 statutory language provides regulatory authority for the Act 410 requirements while a June 17, 1985 designation (by the Governor) assigned the qualify as a journeyman or master plumber and each willful violation of any plumbing regulation. It is difficult for the Department to determine whether local governments are complying with s.145.04 (3), Stats. To determine the level of compliance, the Department will need an additional plumbing consultant to audit local government programs. A preferred solution to this request is the deletion of s. 145.04 (3) of the statutes. This action will eliminate a statute that is difficult to enforce, and it will save local governments and the agency the expenses of implementing a reporting scheme needed to comply with this law.

PECFA: Information Disclosure. The existing language on information disclosure focuses on maintaining strict confidentiality of the name of the owner and the location of the tank. It is not practical in responding to reasonable inquiries from owners, inspection agencies, real estate firms, lenders, etc.

Euro Conversion. This change provides for continuity of contract language so that current contracts that Wisconsin businesses have with European businesses will continue without regard to the conversion to the euro. This will prevent possible problems for Wisconsin businesses involved in exporting.

Industrial Revenue Bonds Program. This change deletes the bond counsel fee letter requirement. Current law states that industrial revenue bonds may not be issued unless prior to the initial resolution, a good faith estimate of attorney fees is filed with the clerk of the municipality and the Department of Commerce. This requirement should be eliminated because it longer serves its original intent. The Department has not received requests for the estimates, the estimates do not necessarily reflect the final fees, and the provision simply delays the bond-issuance process.

MES

Pre-1995 Recycling Loan Repayments. This change will allow the Recycling Market Development Board (RMDB) to recoup the pre-1995 loan repayments. Currently, all loan repayments go to the Segregated Recycling Fund.

Statutory Reports. The Department, by statute, is required to prepare several reports that are either outdated or inappropriate for our current mission. For example, the WHEDA Report on Economic Development Lending is outdated because we no longer certify WHEDA economic development loans. The basis for the TIF Report is on data collected in the Department of Revenue. The reporting

AB 185 Interpretation of contracts: European currency.

BILL NUMBER: AB 185 AMENDED 08/29/97

AMENDED IN ASSEMBLY AUGUST 29, 1997
AMENDED IN ASSEMBLY AUGUST 25, 1997

California

INTRODUCED BY Assembly Member Papan

JANUARY 29, 1997

An act to add Section 1663 to the Civil Code, relating to contracts, *and declaring the urgency thereof, to take effect immediately*.

LEGISLATIVE COUNSEL'S DIGEST

AB 185, as amended, Papan. Interpretation of contracts: European currency.

Existing law sets forth various specified rules governing the interpretation of contracts.

This bill would provide for the interpretation of contracts, securities, and similar instruments with relation to mediums of payment replaced by the euro.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ *2/3*. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

SECTION 1. Section 1663 is added to the Civil Code, to read:

1663. (a) As used in this section, the following terms shall have the following meanings:

(1) "Euro" means the currency of participating member states of the European Union that adopt a single currency in accordance with the Treaty on European Union signed February 7, 1992, as amended from time to time.

(2) "Introduction of the euro" includes, but is not limited to, the implementation from time to time of economic and monetary union in member states of the European Union in accordance with the Treaty on European Union signed February 7, 1992, as amended from time to time.

(3) "ECU" or "European Currency Unit" means the currency basket that is from time to time used as the unit of account of the European community, as defined in European Council Regulation No. 3320/94. When the euro first becomes the monetary unit of participating member states of the European Union, references to the ECU in a contract, security, or instrument that also refers to that definition of the ECU shall be replaced by references to the euro at a rate of one euro to one ECU. References to the ECU in a contract, security, or instrument without such a definition of the ECU shall be presumed, unless either demonstrated or proven to the contrary by the intention of the parties, to be references to the currency basket that is from time to time used as the unit of account of the European community.

(b) (1) If a subject or medium of payment of a contract, security, or instrument is a currency that has been substituted or replaced by the euro, the euro shall be a commercially reasonable substitute and substantial equivalent that may be either tendered or used in determining the value of that currency, in each case at the conversion rate specified in, and otherwise calculated in accordance with, the regulations adopted by the Council of the European Union.

(2) If a subject or medium of payment of a contract, security, or instrument is the ECU, the euro will be a commercially reasonable substitute and substantial equivalent that may be either tendered or used in determining the value of the ECU, in each case at the conversion rate specified in, and otherwise calculated in accordance with, the regulations adopted by the Council of the European Union.

(3) Performance of any of the obligations described in paragraph (1) or (2) may be made in the currency or currencies originally designated in the contract, security, or instrument, as long as the currency or currencies remain legal tender, or in euro, but not in any other currency, whether or not that other currency has been substituted or replaced by the euro or is a currency that is considered a denomination of the euro and has a fixed conversion rate with respect to the euro.

(c) The introduction of the euro, the tendering of euros in connection with any obligation in compliance with paragraph (1) or (2) of subdivision (b), the determining of the value of any obligation in compliance with paragraph (1) or (2) of subdivision (b), or the calculating or determining of the subject or medium of payment of a contract, security, or instrument with reference to an interest rate or other basis that has been substituted or replaced due to the introduction of the euro and that is a commercially reasonable substitute and substantial equivalent, shall neither have the effect of discharging or excusing performance under any contract, security, or instrument, nor give a party the right unilaterally to alter or terminate any contract, security, or instrument.

(d) This section shall neither alter nor impair the introduction of the euro and shall be subject to any prior agreements between parties with specific reference to, or agreement regarding, the introduction of the euro.

(e) Notwithstanding the Commercial Code or any other law of this state, this section shall apply to all contracts, securities, and instruments, including contracts with respect to commercial transactions, and shall not be deemed to be displaced by any other law of this state.

(f) In circumstances of currency alteration other than the introduction of the euro, this title shall not be interpreted as creating any negative inference or negative presumption regarding the validity or enforceability of contracts, securities, or instruments denominated in whole or part in a currency affected by that alteration.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

On January 1, 1999, the euro, the proposed currency of the European Union, is scheduled to become the currency of the member nations and their individual currencies will cease to exist. International contracts that are expressed in terms of existing national currencies must not become unenforceable or their enforcement delayed because of an assertion of a defense that the designated currencies no longer exist. For these reasons, the amendments to contract law made by this act are required to take effect immediately in order to assure continuity of contract.

Senate Home Page Search Bill Text

Senate Rules Committee / California State Senate / WebMaster@sen.ca.gov

March 25, 1998

EU Selects 11 to Join Currency Bloc

By THE ASSOCIATED PRESS

BRUSSELS, Belgium -- Europe's quest for a continent-wide**currency** got a big boost Wednesday when 11 nations won the go-ahead for adopting the **euro** at the end of this year.

The choice of Germany, France, Italy, Spain, the Netherlands, Belgium, Portugal, Finland, Ireland, Austria and Luxembourg is expected to be confirmed by European Union leaders in a final decision at a summit May 2.

When the **euro** is launched Jan. 1, the 11 countries will form an economic powerhouse accounting for almost one-fifth of the world's economic output and trade.

When **euro** banknotes and coins hit the streets two years later, 290 million Europeans will be using the same **currency** -- meaning death for the German mark, the French franc and the Italian lira -- and a new rival to the U.S. dollar.

"It is the beginning of a new era," French President Jacques Chirac proclaimed in Paris after the EU's executive body, the European Commission, announced its selection in Brussels.

The only member of the 15-nation EU left out was Greece, which never stood a chance because of its shaky economic performance. Britain, Denmark and Sweden have thus far declined membership in the unified European monetary club for fear that ditching their currencies will erode their independence.

The **euro** will revolutionize the way Europe does business and create a global **currency** that could rival the American dollar as reserve holdings in the vaults of the world.

The nations will lock in their exchange rates with respect to the **euro**, which will become a tradable **currency**.

But the single European **currency** is much more than an economic exercise. It is a political act that may do more than anything else in the previous 46 years of the organization to unify continental Europe.

Euros will not go into circulation until 2002, but banks and governments will be adopting the **currency** on paper next year.

Under the current timetable, the **euro** will come into being Jan. 1, 1999. That will launch a three-year conversion period that will include the introduction of **euro** notes and coins by Jan. 1, 2002, and a final withdrawal of national currencies from circulation by July 1, 2002.

Italy made the list despite its huge national debt -- $1.327 trillion or 121 percent of gross domestic product -- which violated one of the EU's main criteria for eligibility.

While some EU nations see Italy as a potential threat to the **euro**'s stability, Rome's commitment to intensified debt-cutting was sufficient for it to sneak in.

"We can celebrate now, but we cannot drop our guard," Prime Minister Romano Prodi told reporters in Rome. "Forging a united Europe is the start of a grand historic process."

In a warning that Italy was not yet in the clear, the Dutch central bank released its own report on **euro** readiness.

"The current debt and deficit levels (in Italy) are very vulnerable," the Dutch bank said. It added Italy should make a special commitment at the summit in May to balance its budget and quickly slash debt.

In a separate report, the European Monetary Institute, which will become the **euro**-zone's central bank, endorsed the choice of 11 nations. But it cautioned the **euro**'s long-term stability was dependent on some countries -- notably Italy and Belgium -- cleaning up their finances.

There was also cautious reaction in Germany, the EU's strongest economic power. Finance Minister Theo Waigel said the Commission's decision was an "important basis" for the leaders' decision in May.

But he stressed nations must show the durability of their deficit and debt-cutting efforts so the **euro** can become as stable as the mark. Germany's influential central bank plans to issue its own **euro** readiness report on Friday.

With parliamentary elections scheduled for September, German politicians have to overcome deep public misgivings about giving up the rock-solid mark for the uncertainties of a **currency** shared with Italy and other nations that do not share Germany's postwar reputation of financial discipline.

The Commission's figures showed the EU economy continuing to pull out of the doldrums of the early 1990s, despite a slight damper caused by Asia's financial turmoil.

The forecasts showed the economy of the 15 EU nations will grow 2.8 percent next year and 3 percent in 1999.

The revival that started last year helped all the EU nations except Greece meet the key requirements of **euro**-zone membership that include budget deficits no higher than 3 percent of GDP; low inflation and interest rates; stable currencies and debt falling towards the 60 percent target.

(D-Note)

State of Wisconsin
1999 – 2000 LEGISLATURE

LRB–0583/1
RAC:...:...
jlg

Scan

DOA:......Justus – Contract provisions related to conversion to Euro

FOR 1999–01 BUDGET — NOT READY FOR INTRODUCTION

do not gen

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

COMMERCE AND ECONOMIC DEVELOPMENT

COMMERCE

On January 1, 1999, 11 participating members of the European Union (Germany, France, Italy, Spain, the Netherlands, Belgium, Portugal, Finland, Ireland, Austria and Luxembourg) adopted the euro as their single currency. From January 1, 1999, to January 1, 2002, there is a three-year period for the conversion of the member currencies to the euro. On January 1, 2002, euro notes and coins will be introduced and on July 1, 2002, the member currencies will be withdrawn from circulation.

This bill provides a general mechanism for interpreting contracts or other legal instruments that are entered into or executed in this state or that contain provisions that require the contract or other legal instrument to be interpreted according to the law of this state and that use currencies or other monetary units affected by the introduction of the euro. (The only other monetary unit specified in the bill is the European currency unit (ECU), which is the monetary unit of account of the European Economic Community.) Generally, under the bill, any contract or other legal instrument that uses a currency or other monetary unit that is affected by the euro, must use the euro as a commercially reasonable substitute for the currency or monetary unit. The bill provides that the valuation of the currencies and the ECU will be determined in accordance with applicable regulations adopted by the Council

of the European Union. The bill also provides that no person may discharge or otherwise excuse performance under any contract or other legal instrument, nor unilaterally alter the terms of, or terminate, any contract or other legal instrument, as a result the requirement that the euro be a commercially reasonable substitute for a member currency or ECU.

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

SECTION 1. 895.82 of the statutes is created to read:

895.82 Interpretation of contracts, ~~securities~~ and other legal instruments: European currency. **(1)** In this section:

(a) "Euro" means the currency of participating member states of the European Union who have adopted a single currency in accordance with the provisions of the 1992 Treaty on European Union.

(b) "European currency unit" means the currency basket that is the monetary unit of account of the European Economic Community.

(2) Unless otherwise required in a contract or other legal instrument, if a subject or medium of payment of a contract or other legal instrument is a currency that has been replaced by the euro, the euro shall be a commercially reasonable substitute for that currency. The valuation of the currency in euros shall be determined in accordance with any applicable regulations adopted by the Council of the European Union.

(3) Unless otherwise required in a contract or other legal instrument, if a subject or medium of payment of a contract or other legal instrument is the European currency unit, the euro shall be a commercially reasonable substitute for the European currency unit. The valuation of the European currency unit in euros shall

be determined in accordance with any applicable regulations adopted by the Council of the European Union.

(4) No person may discharge or otherwise excuse performance under any contract or other legal instrument, nor unilaterally alter the terms of, or terminate, any contract or other legal instrument, as a result of sub. (2) (a) and (b).

(5) This section shall apply only to a contract or other legal instrument entered into or executed in this state or that contains provisions requiring the contract or other legal instrument to be interpreted according to the law of this state.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–0583/1dn
RAC:.....
jg

In drafting this version of the California bill, I have simplified the language and omitted superfluous language. Please review the draft carefully to make certain that it fulfills your intent.

Also, it is not clear if this bill will have any appreciable legal effect on a contract or other legal instrument entered into or executed in this state or that contains provisions requiring the contract or other legal instrument to be interpreted according to the law of this state. On the one hand, it is entirely uncertain if a court would permit a party to unilaterally terminate, or excuse performance under, a contract or other legal instrument because of the adoption of a successor currency whose valuation is not in dispute. The introduction of the euro and the subsequent conversion of the member currencies to the euro is a well–known event and will be subject to careful regulation.

On the other hand, if the valuation of the successor currency is a matter of dispute, then this bill, which requires the substitution of euros for the member currencies and ECU, may very well result in an impairment of contract. If the impairment is substantial, then such action would obviously be prohibited under the Wisconsin Constitution (Art. I, sec. 12, Wis. Const.).

Richard A. Champagne
Legislative Attorney
266–9930

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–0583/1dn
RAC:jlg:km

December 28, 1998

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D-Note

State of Wisconsin
1999 – 2000 LEGISLATURE

LRB–0583/~~1~~ 2
RAC:jlg:km

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do not gen

AN ACT ...; **relating to:** the budget.

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(b) "European currency unit" means the currency basket that is the monetary unit of account of the European Economic Community.

(2) Unless otherwise required in a contract or other legal instrument, if a subject or medium of payment of a contract or other legal instrument is a currency that has been replaced by the euro, the euro shall be a commercially reasonable substitute for that currency. The valuation of the currency in euros shall be determined in accordance with any applicable regulations adopted by the council of the European Union.

(3) Unless otherwise required in a contract or other legal instrument, if a subject or medium of payment of a contract or other legal instrument is the European currency unit, the euro shall be a commercially reasonable substitute for the European currency unit. The valuation of the European currency unit in euros shall

be determined in accordance with any applicable regulations adopted by the council of the European Union.

(4) No person may discharge or otherwise excuse performance under any contract or other legal instrument, nor unilaterally alter the terms of, or terminate, any contract or other legal instrument, as a result of sub. (2) or (3).

(5) This section shall apply only to a contract or other legal instrument entered into or executed in this state or that contains provisions requiring the contract or other legal instrument to be interpreted according to the law of this state.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–0583/2dn
RAC:jlg:

Sarah:

This version of the draft includes in s. 895.82 (4) a cross–reference to s. 895.82 (3), which was not included in the earlier draft. Otherwise, the draft remains the same.

Richard A. Champagne
Legislative Attorney
266–9930

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–0583/2dn
RAC:jlg:ijs

January 13, 1999

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Richard A. Champagne
Legislative Attorney
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DOA:......Justus – Contract provisions related to conversion to Euro

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AN ACT ...; **relating to:** the budget.

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(5) This section shall apply only to a contract or other legal instrument entered into or executed in this state or that contains provisions requiring the contract or other legal instrument to be interpreted according to the law of this state.

(END)