

2001 DRAFTING REQUEST

Bill

Received: **01/10/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Kimber**

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

Drafter: **shoveme**

May Contact: **Rex Loker**
6-1796

Addl. Drafters:

Subject: **Munis - miscellaneous**
Counties - miscellaneous
State Government - miscellaneous

Extra Copies: **GMM**

Pre Topic:

No specific pre topic given

Topic:

Public contracts; prohibit contractors from discriminating against non-union sub-contractors

Instructions:

See Attached. Kimber says primary contractors can't discriminate against non-union subcontractors, but that general contractors may do so. Rep. Pettis wants to ensure that general contractors can't discriminate against non-union subcontractors.

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>
/1	shoveme 01/18/2001	gilfokm 03/15/2001	jfrantze 03/16/2001	_____	lrb_docadmin 03/16/2001	lrb_docadminLocal 03/23/2001	
	kuesejt 03/10/2001			_____			
	grantpr 03/12/2001			_____			
	phurley			_____			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

03/12/2001

FE Sent For:

↳ At Intro

<END>

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/1	shoveme 01/18/2001 kucsejt	1-3/KMG 15-01					S&L

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<END>

Kimberly from Rep. Pettis 7-2-366

Primary K couldn't discriminate

between union & non-union subcontractors

But the general contractor

picked by the primary K may

discriminate -- Pettis wants a bill
to prohibit gen contractor from
discriminating

is this a start?



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1957/1
MES&JTK&... PJH 8/06
Kmg

2001 BILL

1 ~~AN ACT ...; relating to: prohibiting discrimination by the state, local~~
2 ~~governmental units, and principal contractors in public contracts on the basis~~
3 ~~of whether a contractor's or subcontractor's employees are covered under a~~
4 ~~collective bargaining agreement.~~

Analysis by the Legislative Reference Bureau

In awarding a public contract, this bill prohibits a municipality from discriminating against a principal contractor or a subcontractor on the basis of whether the contractor's or subcontractor's employees are covered under a collective bargaining agreement. The bill also prohibits a principal contractor from discriminating in a similar way in the hiring of subcontractors.

Under current law, a public contract means a contract for the construction or repair of a public work or building or for the furnishing of supplies or material of any kind, proposals for which are required to be advertised for by law. Also under current law, in the area of public contracts, the definition of municipality includes the state or a city, village, town, county, school district, sewer district, technical college district or other public or quasi-public corporation or other public body charged with the duty of receiving bids for and awarding any public contracts.

BILL

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:

SECTION 1. 66.0901 (10) of the statutes is created to read:

66.0901 (10) DISCRIMINATION ON THE BASIS OF COLLECTIVE BARGAINING STATUS. (a)

In awarding a public contract, no municipality may discriminate against a principal contractor or a subcontractor on the basis of whether the contractor's or subcontractor's employees are covered under a collective bargaining agreement.

(b) When hiring a subcontractor for work on a public contract, no principal contractor may discriminate on the basis of whether the subcontractor's employees are covered under a collective bargaining agreement.

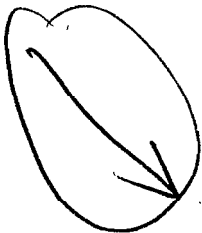
SECTION 2. Initial applicability.

(1) This act first applies to public contracts that are awarded on the effective date of this subsection.

(END)



2001 BILL



repen

1 **AN ACT** *to renumber* 59.52 (29) (a) and 60.47 (1) (a); *to renumber and amend*
2 61.55; *to amend* 13.48 (19), 16.854 (3), 59.52 (29) (b), 66.0133 (3), 84.06 (2) (a),
3 86.31 (2) (b), 119.04 (1), 229.44 (4) (d), 229.68 (4) (d) and 229.824 (4) (d); and *to*
4 **create** 16.855 (14m), 20.931, 59.52 (29) (ae), 59.52 (29) (c) and (d), 60.47 (1) (ae),
5 60.47 (5m), 61.55 (title), 61.55 (1), 61.55 (3), 62.15 (1e), 62.15 (15), 85.017,
6 118.265, 200.01 (3s), 200.11 (5m), 200.21 (5s), 200.47 (6), 229.41 (8m), 229.46
7 (8), 229.65 (6m), 229.682 (9), 229.821 (8m) and 229.827 (4) of the statutes;
8 **relating to:** requirements concerning participation by labor organizations in
9 public construction contracts and the expenditure of public grant moneys.

Analysis by the Legislative Reference Bureau

This bill requires the department of administration, or the secretary of transportation with respect to transportation-related projects, to ensure that the specifications for bids and contracts for state construction projects and construction projects of local professional baseball park districts, do not:

1. Require any bidder, contractor, or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

BILL

2. Discriminate against any bidder, contractor, or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

3. Require any bidder, contractor, or subcontractor to enter into, continue to adhere to, or enforce any agreement that requires its employees, as a condition of employment, to

NO#

- a. ~~Become members of or become affiliated with a labor organization.~~
- b. ~~Make payments to a labor organization, without the authorization of the employees, exceeding the employees' proportionate share of the cost of collective bargaining, contract administration, and grievance adjustment.~~

~~The bill permits any taxpayer of this state or any other person who enters into contracts or subcontracts for building construction services or transportation-related construction services to bring a lawsuit to require compliance with these requirements. If that person prevails in his or her lawsuit, the bill provides that the court must award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.~~

The bill also prohibits any state agency from conditioning the award of any state grant upon any agreement by the recipient:

to,

1. To enter into or continue to adhere to an agreement with any labor organization concerning services to be funded under the grant.

2. To enter into, continue to adhere to or enforce any agreement that requires services that are funded under the grant to be performed by employees who must

✓

NO#

- a. ~~Become members of or become affiliated with a labor organization.~~
- b. ~~Make payments to a labor organization, without the authorization of the employees, exceeding the employees' proportionate share of the cost of collective bargaining, contract administration, and grievance adjustment.~~

~~The bill permits any taxpayer of this state or any other person who applies for a state grant to bring a lawsuit to require compliance with these requirements and provides that if that person prevails in his or her lawsuit the court must award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.~~

The bill also requires a school board, the governing body of a political subdivision of this state (a city, village, town, or county), a metropolitan sewerage district, a local exposition district, a local professional baseball park district, or a local professional football stadium district to ensure that the specifications for bids and contracts for public works projects conducted by the school board, political subdivision, metropolitan sewerage district, local exposition district, or local professional baseball park district, including highway projects, do not:

✓

1. Require any bidder, contractor, or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

2. Discriminate against any bidder, contractor, or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

BILL

3. Require any bidder, contractor or subcontractor to enter into, continue to adhere to, or enforce any agreement that requires its employees, as a condition of employment, to

NO # → a. ~~Become~~ members of or become affiliated with a labor organization.

b. ~~Make payments to a labor organization, without the authorization of the employees, exceeding the employees' proportionate share of the cost of collective bargaining, contract administration, and grievance adjustment.~~

~~In addition, the bill permits any taxpayer of this state or any other person who enters into contracts or subcontracts for building construction services to bring a lawsuit to require compliance with these requirements. If that person prevails in his or her lawsuit, the bill provides that the court must award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.~~

Under current law, state agencies have only the powers given to them by law or necessarily inferred therefrom. These powers do not include the authority to condition the award of state contracts or grants upon agreements with labor organizations, representation by labor organizations, or making of payments to labor organizations. With certain exceptions, state construction contracts are generally required to be awarded to the lowest responsible bidder. With certain exceptions, the contractor for a state building project is required to pay employees who perform work under the contract the prevailing wage for similar work in the area where the project is located. State grants are subject to the specific requirements of various laws under which the grants are made. Currently, state law prohibits any employer from entering into a contract with an employee or prospective employee concerning membership or nonmembership in a labor organization.

Currently, with certain exceptions, public works contracts with a political subdivision, metropolitan sewerage district, or local exposition district are generally required to be awarded to the lowest responsible bidder. With certain exceptions, persons who contract with a political subdivision, metropolitan sewerage district, local exposition district, or local professional baseball park district for public works projects are required to pay employees who perform work under such a contract the prevailing wage for similar work in the area where the project is located.

Under current law, towns and counties have only the powers given to them by law or necessarily inferred therefrom. These powers do not include the authority to condition the award of public works contracts upon agreements with labor organizations, representation by labor organizations, or making of payments to labor organizations. To the extent that the lowest responsible bidder requirements or other exceptions do not apply, cities and villages, under their current law home rule authority, could condition the award of public works contracts upon agreements with labor organizations.

BILL

For further information see the *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.** 13.48 (19) of the statutes is amended to read:

2 **13.48 (19) ALTERNATIVES TO STATE CONSTRUCTION.** Whenever the building
3 commission determines that the use of innovative types of design and construction
4 processes will make better use of the resources and technology available in the
5 building industry, the building commission may waive any ~~or all~~ provision of s.
6 16.855, except s. 16.855 (14m), if such action is in the best interest of the state and
7 if the waiver is accomplished through formal action of the building commission. The
8 building commission may authorize the lease, lease purchase or acquisition of such
9 facilities constructed in the manner authorized by the building commission. The
10 building commission may also authorize the lease, lease purchase or acquisition of
11 existing facilities in lieu of state construction of any project enumerated in the
12 authorized state building program.

13 **SECTION 2.** 16.854 (3) of the statutes is amended to read:

14 **16.854 (3)** It shall be a goal of the department, with regard to each of the
15 contracts described under sub. (2) (a), (b), and (c), to award at least 25% of the dollar
16 value of such contracts to minority businesses and at least 5% of the dollar value of
17 such contracts to women's businesses.

18 **(4)** Sections 16.85, 16.855 (1) to (14) and (15) to (22), and 16.87 do not apply to
19 services provided or contracted by the department under this section.

20 **SECTION 3.** 16.855 (14m) of the statutes is created to read:

BILL

1 16.855 (14m) (a) In this subsection, "labor organization" has the meaning given
2 in s. 5.02 (8m).

3 (b) The department shall ensure that the specifications for bids and contracts
4 for construction projects entered into under this section do not do any of the
5 following:

6 1. Require any bidder, contractor, or subcontractor to enter into or to adhere to
7 an agreement with any labor organization concerning services to be performed in
8 relation to the project or a related project.

9 2. Discriminate against any bidder, contractor, or subcontractor for refusing to
10 enter into or continue to adhere to an agreement with any labor organization
11 concerning services to be performed in relation to the project or a related project.

12 3. Require any bidder, contractor, or subcontractor to enter into, continue to
13 adhere to, or enforce any agreement that requires its employees, as a condition of
14 employment, to do any of the following:

15 NOX a. Become members of or become affiliated with a labor organization.

16 b. Make payments to a labor organization, without the authorization of the
17 employees, exceeding the employees' proportionate share of the cost of collective
18 bargaining, contract administration, and grievance adjustment.

19 (c) Any taxpayer of this state or any other person who enters into contracts or
20 subcontracts for building construction services may bring an action to require
21 compliance with this subsection. If that person prevails in his or her action, the court
22 shall award to that person reasonable actual attorney fees in addition to other costs
23 allowed to prevailing parties under ch. 814.

24 **SECTION 4.** 20.931 of the statutes is created to read:

BILL

1 **20.931 Conditions upon state grants prohibited.** (1) In this section,
2 “labor organization” has the meaning given in s. 5.02 (8m).

3 (2) No state agency may condition the award of any grant made by the agency
4 from moneys appropriated under this chapter upon any agreement by the recipient
5 to do any of the following:

6 (a) Enter into or continue to adhere to an agreement with any labor
7 organization concerning services to be funded under the grant.

8 (b) Enter into, continue to adhere to, or enforce any agreement that requires
9 services that are funded under the grant to be performed by employees who must
10 ~~any of the following.~~

11 ~~1. Become members of or become affiliated with a labor organization.~~

12 ~~2. Make payments to a labor organization, without the authorization of the~~
13 ~~employees, exceeding the employees’ proportionate share of the cost of collective~~
14 ~~bargaining, contract administration, and grievance adjustment.~~

15 (3) Any taxpayer of this state or any other person who applies for a grant to be
16 made from moneys appropriated under this chapter may bring an action to require
17 compliance with this section. If that person prevails in his or her action, the court
18 shall award to that person reasonable actual attorney fees in addition to other costs
19 allowed to prevailing parties under ch. 814.

20 **SECTION 5.** 59.52 (29) (a) of the statutes is renumbered 59.52 (29) (am).

21 **SECTION 6.** 59.52 (29) (ae) of the statutes is created to read:

22 59.52 (29) (ae) In this subsection, “labor organization” has the meaning given
23 in s. 5.02 (8m).

24 **SECTION 7.** 59.52 (29) (b) of the statutes is amended to read:

BILL

1 59.52 (29) (b) The provisions of par. (a) (am) are not mandatory for the repair
2 or reconstruction of public facilities when damage or threatened damage thereto
3 creates an emergency, as determined by resolution of the board, in which the public
4 health or welfare of the county is endangered. Whenever the board by majority vote
5 at a regular or special meeting determines that an emergency no longer exists, this
6 paragraph no longer applies.

7 **SECTION 8.** 59.52 (29) (c) ~~and (d)~~ of the statutes ~~are~~^{is} created to read:

8 59.52 (29) (c) The board shall ensure that the specifications for bids and
9 contracts for construction projects entered into under this subsection do not do any
10 of the following:

11 1. Require any bidder, contractor, or subcontractor to enter into or to adhere to
12 an agreement with any labor organization concerning services to be performed in
13 relation to the project or a related project.

14 2. Discriminate against any bidder, contractor, or subcontractor for refusing to
15 enter into or continue to adhere to an agreement with any labor organization
16 concerning services to be performed in relation to the project or a related project.

17 3. Require any bidder, contractor, or subcontractor to enter into, continue to
18 adhere to, or enforce any agreement that requires its employees, as a condition of
19 employment, to ~~do any of the following:~~

20 (NO)

~~a. Become members of or become affiliated with a labor organization.~~

~~b. Make payments to a labor organization, without the authorization of the
22 employees, exceeding the employees' proportionate share of the cost of collective
23 bargaining, contract administration, and grievance adjustment.~~

~~(d) Any taxpayer of this state or any other person who enters into contracts or
25 subcontracts for building construction services may bring an action to require~~

BILL

1 compliance with par. (c). If that person prevails in his or her action, the court shall
2 award to that person reasonable ~~actual~~ attorney fees in addition to other costs
3 allowed to prevailing parties under ch. 814.

4 SECTION 9. 60.47 (1) (a) of the statutes is renumbered 60.47 (1) (am).

5 SECTION 10. 60.47 (1) (ae) of the statutes is created to read:

6 60.47 (1) (ae) "Labor organization" has the meaning given in s. 5.02 (8m).

7 SECTION 11. 60.47 (5m) of the statutes is created to read:

8 60.47 (5m) CONTRACTS WITH LABOR ORGANIZATIONS. ~~§~~ The town board shall
9 ensure that the specifications for bids and contracts for construction projects entered
10 into under this section do not do any of the following:

11 (a) ~~§~~ Require any bidder, contractor, or subcontractor to enter into or to adhere to
12 an agreement with any labor organization concerning services to be performed in
13 relation to the project or a related project.

14 (b) ~~§~~ Discriminate against any bidder, contractor, or subcontractor for refusing to
15 enter into or continue to adhere to an agreement with any labor organization
16 concerning services to be performed in relation to the project or a related project.

17 (c) ~~§~~ Require any bidder, contractor, or subcontractor to enter into, continue to
18 adhere to, or enforce any agreement that requires its employees, as a condition of
19 employment, to ~~do any of the following:~~

20 ~~a. Become members of or become affiliated with a labor organization.~~

21 ~~b. Make payments to a labor organization, without the authorization of the
22 employees, exceeding the employees' proportionate share of the cost of collective
23 bargaining, contract administration, and grievance adjustment.~~

24 ~~(b) Any taxpayer of this state or any other person who enters into contracts or
25 subcontracts for building construction services may bring an action to require~~

NOX

BILL

1 ~~compliance with par. (a). If that person prevails in his or her action, the court shall~~
2 ~~award to that person reasonable actual attorney fees in addition to other costs~~
3 ~~allowed to prevailing parties under ch. 814.~~

4 **SECTION 12.** 61.55 (title) of the statutes is created to read:

5 **61.55 (title) Public contracts and competitive bidding.**

6 **SECTION 13.** 61.55 of the statutes is renumbered 61.55 (2) and amended to read:

7 **61.55 (2) CONTRACTS INVOLVING OVER \$15,000; HOW LET; EXCEPTION.** All contracts
8 for public construction, in any such village, exceeding \$15,000, shall be let by the
9 village board to the lowest responsible bidder in accordance with s. 66.0901 insofar
10 as ~~said~~ that section may be applicable. If the estimated cost of any public
11 construction exceeds \$5,000, but is not greater than \$15,000, the village board shall
12 give a class 1 notice, under ch. 985, of the proposed construction before the contract
13 for the construction is executed. This provision does not apply to public construction
14 if the materials for such a project are donated or if the labor for such a project is
15 provided by volunteers, and this provision and s. 281.41 are not mandatory for the
16 repair and reconstruction of public facilities when damage or threatened damage
17 thereto creates an emergency, as determined by resolution of the village board, in
18 which the public health or welfare of the village is endangered. Whenever the village
19 board by majority vote at a regular or special meeting declares that an emergency
20 no longer exists, this exemption no longer applies.

21 **SECTION 14.** 61.55 (1) of the statutes is created to read:

22 **61.55 (1) DEFINITION.** In this section, "labor organization" has the meaning
23 given in s. 5.02 (8m).

24 **SECTION 15.** 61.55 (3) of the statutes is created to read:

BILL**SECTION 15**

1 61.55 (3) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The village board shall
2 ensure that the specifications for bids and contracts for construction projects entered
3 into under this section do not do any of the following:

4 (a) ~~Require~~ Require any bidder, contractor, or subcontractor to enter into or to adhere to
5 an agreement with any labor organization concerning services to be performed in
6 relation to the project or a related project.

7 (b) ~~Discriminate~~ Discriminate against any bidder, contractor, or subcontractor for refusing to
8 enter into or continue to adhere to an agreement with any labor organization
9 concerning services to be performed in relation to the project or a related project.

10 (c) ~~Require~~ Require any bidder, contractor, or subcontractor to enter into, continue to
11 adhere to, or enforce any agreement that requires its employees, as a condition of
12 employment, to do any of the following:

13 (a) ~~Become~~ Become members of or become affiliated with a labor organization.

14 b. ~~Make~~ Make payments to a labor organization, without the authorization of the
15 employees, exceeding the employees' proportionate share of the cost of collective
16 bargaining, contract administration, and grievance adjustment.

17 (b) Any taxpayer of this state or any other person who enters into contracts or
18 subcontracts for building construction services may bring an action to require
19 compliance with par. (a). If that person prevails in his or her action, the court shall
20 award to that person reasonable actual attorney fees in addition to other costs
21 allowed to prevailing parties under ch. 814.

22 **SECTION 16.** 62.15 (1e) of the statutes is created to read:

23 62.15 (1e) DEFINITION. In this section, "labor organization" has the meaning
24 given in s. 5.02 (8m).

25 **SECTION 17.** 62.15 (15) of the statutes is created to read:

BILL

1 62.15 (15) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The common council shall
2 ensure that the specifications for bids and contracts for construction projects entered
3 into under this section do not do any of the following:

4 (a) Require any bidder, contractor, or subcontractor to enter into or to adhere to
5 an agreement with any labor organization concerning services to be performed in
6 relation to the project or a related project.

7 (b) Discriminate against any bidder, contractor, or subcontractor for refusing to
8 enter into or continue to adhere to an agreement with any labor organization
9 concerning services to be performed in relation to the project or a related project.

10 (c) Require any bidder, contractor, or subcontractor to enter into, continue to
11 adhere to, or enforce any agreement that requires its employees, as a condition of
12 employment, to do any of the following:

13 (a) Become members of or become affiliated with a labor organization.

14 ~~b. Make payments to a labor organization, without the authorization of the~~
15 ~~employees, exceeding the employees' proportionate share of the cost of collective~~
16 ~~bargaining, contract administration, and grievance adjustment.~~

17 (b) Any taxpayer of this state or any other person who enters into contracts or
18 subcontracts for building construction services may bring an action to require
19 compliance with par. (a). If that person prevails in his or her action, the court shall
20 award to that person reasonable actual attorney fees in addition to other costs
21 allowed to prevailing parties under ch. 814.

22 **SECTION 18.** 66.0133 (3) of the statutes is amended to read:

23 66.0133 (3) NOTICE. Notwithstanding ss. 27.065 (5) (a), 30.32, 38.18, 43.17 (9)
24 (a), 59.52 (29) (a) (am), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.55, 61.56, 61.57,
25 62.15 (1), 62.155, 66.0131 (2), 66.0923 (10), 66.0925 (10), 66.0927 (11), 66.1333 (5) (a)

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1 2., 200.11 (5) (d), and 200.47 (2), before entering into a performance contract under
2 this section, a local governmental unit shall solicit bids or competitive sealed
3 proposals from qualified providers. A local governmental unit may only enter into
4 a performance contract if the contract is awarded by the governing body of the local
5 governmental unit. The governing body shall give at least 10 days' notice of the
6 meeting at which the body intends to award a performance contract. The notice shall
7 include a statement of the intent of the governing body to award the performance
8 contract, the names of all potential parties to the proposed performance contract, and
9 a description of the energy conservation and facility improvement measures
10 included in the performance contract. At the meeting, the governing body shall
11 review and evaluate the bids or proposals submitted by all qualified providers and
12 may award the performance contract to the qualified provider that best meets the
13 needs of the local governmental unit, which need not be the lowest cost provider.

14 **SECTION 19.** 84.06 (2) (a) of the statutes is amended to read:

15 84.06 (2) (a) All such highway improvements shall be executed by contract
16 based on bids unless the department finds that another method as provided in sub.
17 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
18 the manner determined by the department. Except as provided in s. 84.075, the
19 contract shall be awarded to the lowest competent and responsible bidder as
20 determined by the department. If the bid of the lowest competent bidder is
21 determined by the department to be in excess of the estimated reasonable value of
22 the work or not in the public interest, all bids may be rejected. The department shall,
23 so far as reasonable, follow uniform methods of advertising for bids and may
24 prescribe and require uniform forms of bids and contracts. Except as provided in par.
25 (b), the secretary shall enter into the contract on behalf of the state. Every such

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1 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87, and 16.89, but
2 ss. 16.528, 16.752, and 16.754 apply to the contract. Contracts under this section are
3 subject to s. 85.017. Any such contract involving an expenditure of \$1,000 or more
4 shall not be valid until approved by the governor. The secretary may require the
5 attorney general to examine any contract and any bond submitted in connection with
6 the contract and report on its sufficiency of form and execution. The bond required
7 by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to
8 approval by the secretary. This subsection also applies to contracts with private
9 contractors based on bids for maintenance under s. 84.07.

10 **SECTION 20.** 85.017 of the statutes is created to read:

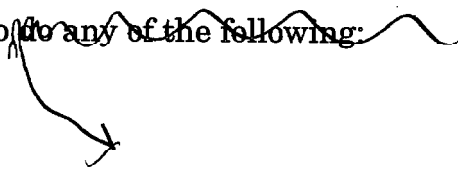
11 **85.017 Contracts conditioned on use of labor organizations**
12 **prohibited.** (1) In this section, “labor organization” has the meaning given in s.
13 5.02 (8m).

14 (2) The secretary shall ensure that the specifications for bids and contracts for
15 construction or maintenance projects entered into by the secretary or the
16 department do not do any of the following:

17 (a) Require any bidder, contractor, or subcontractor to enter into or to adhere
18 to an agreement with any labor organization concerning services to be performed in
19 relation to the project or a related project.

20 (b) Discriminate against any bidder, contractor, or subcontractor for refusing
21 to enter into or continue to adhere to an agreement with any labor organization
22 concerning services to be performed in relation to the project or a related project.

23 (c) Require any bidder, contractor, or subcontractor to enter into, continue to
24 adhere to, or enforce any agreement that requires its employees, as a condition of
25 employment, to ~~to any of the following:~~



BILL

NO \$

1 ~~(1) Become members of or become affiliated with a labor organization.~~

2 ~~2. Make payments to a labor organization, without the authorization of the~~
3 ~~employees, exceeding the employees' proportionate share of the cost of collective~~
4 ~~bargaining, contract administration, and grievance adjustment.~~

5 ~~(3) Any taxpayer of this state or any other person who enters into contracts or~~
6 ~~subcontracts for construction services subject to sub. (2) may bring an action against~~
7 ~~the secretary to require compliance with this section. If that person prevails in his~~
8 ~~or her action, the court shall award to that person reasonable actual attorney fees~~
9 ~~in addition to other costs allowed to prevailing parties under ch. 814.~~

10 **SECTION 21.** 86.31 (2) (b) of the statutes is amended to read:

11 86.31 (2) (b) Except as provided in par. (d), improvements for highway
12 construction projects funded under the program shall be under contracts. ~~Such~~ The
13 contracts are subject to ss. 59.52 (29) (c), 60.47 (5m), 61.55 (3), and 62.15 (15). The
14 contracts shall be awarded on the basis of competitive bids and shall be awarded to
15 the lowest responsible bidder. If a city or village does not receive a responsible bid
16 for an improvement, the city or village may contract with a county for the
17 improvement. A town may contract with a county for the improvement subject to the
18 criteria and procedures promulgated as rules under sub. (6) (h).

19 **SECTION 22.** 118.265 of the statutes is created to read:

20 **118.265 Contracts with labor organizations.** (1) In this section, "labor
21 organization" has the meaning given in s. 5.02 (8m).

22 (2) The school board shall ensure that the specifications for bids and contracts
23 for construction projects entered into by the school board do not do any of the
24 following:

BILL

1 (a) Require any bidder, contractor, or subcontractor to enter into or to adhere
2 to an agreement with any labor organization concerning services to be performed in
3 relation to the project or a related project.

4 (b) Discriminate against any bidder, contractor, or subcontractor for refusing
5 to enter into or continue to adhere to an agreement with any labor organization
6 concerning services to be performed in relation to the project or a related project.

7 (c) Require any bidder, contractor, or subcontractor to enter into, continue to
8 adhere to, or enforce any agreement that requires its employees, as a condition of
9 employment, to ~~do any of the following:~~

10 ~~(1) Become members of or become affiliated with a labor organization.~~

11 ~~(2) Make payments to a labor organization, without the authorization of the~~
12 ~~employees, exceeding the employees' proportionate share of the cost of collective~~
13 ~~bargaining, contract administration, and grievance adjustment.~~

14 ~~(3) Any taxpayer of this state or any other person who enters into contracts or~~
15 ~~subcontracts for building construction services may bring an action to require~~
16 ~~compliance with sub. (2). If that person prevails in his or her action, the court shall~~
17 ~~award to that person reasonable actual attorney fees in addition to other costs~~
18 ~~allowed to prevailing parties under ch. 814.~~

19 **SECTION 23.** 119.04 (1) of the statutes is amended to read:

20 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
21 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
22 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to
23 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,
24 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.265,
25 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125,

BILL

1 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and
2 120.25 are applicable to a 1st class city school district and board.

3 SECTION 24. 200.01 (3s) of the statutes is created to read:

4 200.01 (3s) "Labor organization" has the meaning given in s. 5.02 (8m).

5 SECTION 25. 200.11 (5m) of the statutes is created to read:

6 200.11 (5m) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall
7 ensure that the specifications for bids and contracts for construction projects entered
8 into under sub. (5) do not do any of the following:

9 (a) Require any bidder, contractor, or subcontractor to enter into or to adhere to
10 an agreement with any labor organization concerning services to be performed in
11 relation to the project or a related project.

12 (b) Discriminate against any bidder, contractor, or subcontractor for refusing to
13 enter into or continue to adhere to an agreement with any labor organization
14 concerning services to be performed in relation to the project or a related project.

15 (c) Require any bidder, contractor, or subcontractor to enter into, continue to
16 adhere to, or enforce any agreement that requires its employees, as a condition of
17 employment, to do any of the following:

18 (a) Become members of or become affiliated with a labor organization.

19 ~~b. Make payments to a labor organization, without the authorization of the~~
20 ~~employees, exceeding the employees' proportionate share of the cost of collective~~
21 ~~bargaining, contract administration, and grievance adjustment.~~

22 (b) Any taxpayer of this state or any other person who enters into contracts or
23 subcontracts for building construction services may bring an action to require
24 compliance with par. (a). If that person prevails in his or her action, the court shall

BILL

award to that person reasonable-actual attorney fees in addition to other costs allowed to prevailing parties under ch. 814.

SECTION 26. 200.21 (5s) of the statutes is created to read:

200.21 (5s) "Labor organization" has the meaning given in s. 5.02 (8m).

SECTION 27. 200.47 (6) of the statutes is created to read:

200.47 (6) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall

ensure that the specifications for bids and contracts for construction projects entered into under this section do not do any of the following:

(a) Require any bidder, contractor, or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

(b) Discriminate against any bidder, contractor, or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

(c) Require any bidder, contractor, or subcontractor to enter into, continue to adhere to, or enforce any agreement that requires its employees, as a condition of employment, to do any of the following:

~~a. Become members of or become affiliated with a labor organization.~~

~~b. Make payments to a labor organization, without the authorization of the employees, exceeding the employees' proportionate share of the cost of collective bargaining, contract administration, and grievance adjustment.~~

~~(b) Any taxpayer of this state or any other person who enters into contracts or subcontracts for building construction services may bring an action to require compliance with par. (a). If that person prevails in his or her action, the court shall~~

NO

BILL

award to that person reasonable actual attorney fees in addition to other costs allowed to prevailing parties under ch. 814.

SECTION 28. 229.41 (8m) of the statutes is created to read:

229.41 (8m) "Labor organization" has the meaning given in s. 5.02 (8m).

SECTION 29. 229.44 (4) (d) of the statutes is amended to read:

229.44 (4) (d) Enter into contracts. All contracts, the estimated costs of which exceed \$30,000, are subject to s. 229.46 (8), except contracts subject to s. 229.46 (5) and contracts for personal or professional services. The contracts shall be subject to bid and shall be awarded to the lowest qualified and competent bidder. The district may reject any bid that is submitted under this paragraph.

SECTION 30. 229.46 (8) of the statutes is created to read:

229.46 (8) (a) The district shall ensure that the specifications for bids and contracts for construction projects entered into under this subchapter do not do any of the following:

(a) Require any bidder, contractor, or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

(b) Discriminate against any bidder, contractor, or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

(c) Require any bidder, contractor, or subcontractor to enter into, continue to adhere to, or enforce any agreement that requires its employees, as a condition of employment, to do any of the following:

(a) Become members of or become affiliated with a labor organization.

BILL

1 b. Make payments to a labor organization, without the authorization of the
2 employees, exceeding the employees' proportionate share of the cost of collective
3 bargaining, contract administration, and grievance adjustment.

4 (b) Any taxpayer of this state or any other person who enters into contracts or
5 subcontracts for building construction services may bring an action to require
6 compliance with par. (a). If that person prevails in his or her action, the court shall
7 award to that person reasonable actual attorney fees in addition to other costs
8 allowed to prevailing parties under ch. 814.

9 **SECTION 31.** 229.65 (6m) of the statutes is created to read:

10 229.65 (6m) "Labor organization" has the meaning given in s. 5.02 (8m).

11 **SECTION 32.** 229.68 (4) (d) of the statutes is amended to read:

12 229.68 (4) (d) Enter into contracts, subject to s. 229.682 (9) and to such
13 standards as may be established by the district board. The district board may award
14 any such contract for any combination or division of work it designates and, subject
15 to s. 229.682 (9), may consider any factors in awarding a contract, including price,
16 time for completion of work and qualifications and past performance of a contractor.

17 **SECTION 33.** 229.682 (9) of the statutes is created to read:

18 229.682 (9) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The district shall ensure
19 that the specifications for bids and contracts for construction projects entered into
20 under this subchapter do not do any of the following:

21 (a) ~~1~~ Require any bidder, contractor, or subcontractor to enter into or to adhere to
22 an agreement with any labor organization concerning services to be performed in
23 relation to the project or a related project.

BILL

1 (b) ~~§~~ Discriminate against any bidder, contractor, or subcontractor for refusing to
 2 enter into or continue to adhere to an agreement with any labor organization
 3 concerning services to be performed in relation to the project or a related project.

4 (c) ~~§~~ Require any bidder, contractor, or subcontractor to enter into, continue to
 5 adhere to, or enforce any agreement that requires its employees, as a condition of
 6 employment, to ~~do any of the following:~~

7 ~~1~~ ~~§~~ Become members of or become affiliated with a labor organization.

8 ~~b. Make payments to a labor organization, without the authorization of the~~
 9 ~~employees, exceeding the employees' proportionate share of the cost of collective~~
 10 ~~bargaining, contract administration, and grievance adjustment.~~

11 ~~(b) Any taxpayer of this state or any other person who enters into contracts or~~
 12 ~~subcontracts for building construction services may bring an action to require~~
 13 ~~compliance with par. (a). If that person prevails in his or her action, the court shall~~
 14 ~~award to that person reasonable actual attorney fees in addition to other costs~~
 15 ~~allowed to prevailing parties under ch. 814.~~

16 SECTION 34. 229.821 (8m) of the statutes is created to read:

17 229.821 (8m) "Labor organization" has the meaning given in s. 5.02 (8m).

18 SECTION 35. 229.824 (4) (d) of the statutes is amended to read:

19 229.824 (4) (d) Enter into contracts, subject to s. 229.827 (4) and to such
 20 standards as may be established by the district board. The district board may award
 21 any such contract for any combination or division of work it designates and, subject
 22 to s. 229.827 (4), may consider any factors in awarding a contract, including price,
 23 time for completion of work and qualifications and past performance of a contractor.

24 SECTION 36. 229.827 (4) of the statutes is created to read:

BILL

1 229.827 (4)(a) The district shall ensure that the specifications for bids and
2 contracts for construction projects entered into under this subchapter do not do any
3 of the following:

4 (a) Require any bidder, contractor, or subcontractor to enter into or to adhere to
5 an agreement with any labor organization concerning services to be performed in
6 relation to the project or a related project.

7 (b) Discriminate against any bidder, contractor, or subcontractor for refusing to
8 enter into or continue to adhere to an agreement with any labor organization
9 concerning services to be performed in relation to the project or a related project.

10 (c) Require any bidder, contractor, or subcontractor to enter into, continue to
11 adhere to, or enforce any agreement that requires its employees, as a condition of
12 employment, to do any of the following:

13 No ~~a~~ Become members of or become affiliated with a labor organization.

14 ~~b. Make payments to a labor organization, without the authorization of the~~
15 ~~employees, exceeding the employees' proportionate share of the cost of collective~~
16 ~~bargaining, contract administration, and grievance adjustment.~~

17 (b) Any taxpayer of this state or any other person who enters into contracts or
18 subcontracts for building construction services may bring an action to require
19 compliance with par. (a). If that person prevails in his or her action, the court shall
20 award to that person reasonable actual attorney fees in addition to other costs
21 allowed to prevailing parties under ch. 814.

SECTION 37. Initial applicability.

23 This Act

23 (1) ~~The treatment of sections 16.855 (14m), 20.931, 61.55 (title), (1), and (3),~~
24 ~~62.15 (1e) and (15), 84.06 (2) (a), 85.017, 86.31 (2) (b), 118.265, 200.01 (3s), 200.11~~
25 ~~(5m), 200.21 (5s), 200.47 (6), 229.41 (8m), 229.44 (4) (d), 229.46 (8), 229.65 (6m),~~

BILL**SECTION 37**

1 ~~229.68 (4) (d), 229.682 (9), 229.821 (8m), 229.824 (4) (d) and 229.827 (4) of the~~
2 ~~statutes and the renumbering and amendment of section 61.55 of the statutes first~~
3 ~~apply~~ ^{applies} to grants that are made and bids and contracts that are let, entered into,
4 extended, modified, or renewed on the effective date of this subsection.

5

(END)



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

March 16, 2001

MEMORANDUM

To: Representative Pettis

From: Marc E. Shovers, Senior Legislative Attorney

Re: LRB-1957 Public contracts; prohibit contractors from discriminating against non-union sub-contractors

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

~~X~~ JACKET FOR ASSEMBLY _____ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0129 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.