

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons

Extra Copies: rpn

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN9501,

Topic:

Private business prison employment

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 06/16/2001	jdyer 06/16/2001		_____			
/1		jdyer 06/18/2001	haugca 06/16/2001	_____	lrb_docadmin 06/16/2001		
/2			haugca 06/18/2001	_____	lrb_docadmin 06/19/2001		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons

Extra Copies: rpn

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN9501,

Topic:

Private business prison employment

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 06/16/2001	jdye 06/16/2001		_____			
/1		1/2 6/18 jld	haugca 06/16/2001	_____	lrb_docadmin 06/16/2001		

FE Sent For:

12 hmk
6/18/01

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons

Extra Copies: rpn

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN9501,

Topic:

Private business prison employment

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida	11/6/01 jld	CH 6-16	CH 6-16 KP			

FE Sent For:

<END>

DEPARTMENT OF CORRECTIONS

CN9501

Private Business/Prison Industries

JFC reduced program from 6 to 2 projects (JFC Shibilski motion #1276).

Senate must clarify that the 2 remaining allowed projects are the two with current DOC contracts (this applies to Fabry and Jorgenson) and that those contracts cannot be replaced by others.

This is a correction of the JFC motion suggested by AFL-CIO.

M&D

CORRECTIONS – ADULT CORRECTIONAL FACILITIES

Repeal of Private Business/Prison Employment Program

Motion:

Move to reduce the number of allowed private business/prison employment programs to two projects.

Dsida, Michael

From: Keckhaver, John
Sent: Saturday, June 16, 2001 2:38 PM
To: Dsida, Michael
Subject: RE: cn9501 - private business prison employment

The latter.

-----Original Message-----

From: Dsida, Michael
Sent: Saturday, June 16, 2001 1:17 PM
To: Keckhaver, John
Subject: cn9501 - private business prison employment

Is the intent of this motion to have the program end after the current contracts expire? Or is it only to prohibit DOC from entering into contracts with anyone other than Fabry or Jorgenson?

D-note

1
A
jld

SDC:.....Keckhaver – CN9501, Private business prison employment

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1

At the locations indicated, amend the ~~bill~~ as follows:

substitute amendment

2

1. Page ¹⁰⁸⁹ 2, line ¹⁶ 2: delete the material beginning with ~~the~~ and ending ~~with~~ ^{that line} ~~the~~ ^{with} ~~the~~

3

on page ¹⁰⁹⁰ 2, line ¹³ 2 and substitute:

4

SECTION ^{3389 gm} 303.01 (2) (em) of the statutes is amended to read:

5

303.01 (2) (em) Lease space, with or without equipment, within the precincts

6

of state prisons, as specified in s. 302.02, or within the confines of correctional

7

institutions operated by the department for holding in secure custody persons

8

adjudged delinquent, to not more than \$ ² private businesses to employ prison

9

inmates and institution residents to manufacture products or components or to

10

provide services for sale on the open market. The department shall comply with s.

1 16.75 in selecting businesses under this paragraph. The department may enter into
2 a contract under this paragraph only with the approval of the joint committee on
3 finance and only if the department is a party to a contract with the private business
4 under this paragraph on the effective date of this ~~act~~ ^{paragraph}.... [revisor inserts date]. The
5 department may not enter into or amend a contract under this paragraph unless the
6 contract or amendment specifies each state prison or juvenile correctional institution
7 at which the private business will employ inmates or institution residents. The
8 department shall consult with appropriate trade organizations and labor unions
9 ~~prior to issuing requests for proposals and prior to selecting proposals before~~
10 entering into or extending contracts ✓ under this paragraph. Each such private
11 business may conduct its operations as a private business, subject to the wage
12 standards under sub. (4), the disposition of earnings under sub. (8), the provisions
13 regarding displacement in sub. (11), the requirements for notification and hearing
14 under sub. (1) (c), the requirement for prison industries board approval under s.
15 303.015 (1) (b) and the authority of the department to maintain security and control
16 in its institutions. The private business and its operations are not a prison industry.
17 Inmates employed by the private business are not subject to the requirements of
18 inmates participating in prison industries, except as provided in this paragraph; ”.

History: 1975 c. 41 s. 52; 1975 c. 224, 396; 1977 c. 26 ss. 42, 75; 1983 a. 27; 1983 a. 189 s. 329 (28); 1983 a. 524; 1987 a. 27; 1989 a. 31 s. 1673c; Stats. 1989 s. 303.01; 1989 a. 283; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27, 36; 1999 a. 9, 32.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0782/4dn

MGD:.....

date

1
Jld

I eliminated the RFP requirement, since only the two private business prison employers currently under contract with the department of corrections could submit proposals that would warrant consideration by the department.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0782/1dn
MGD:jld:ch

June 16, 2001

I eliminated the RFP requirement, since only the two private business prison employers currently under contract with the department of corrections could submit proposals that would warrant consideration by the department.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

Dsida, Michael

From: Hanaman, Cathlene
Sent: Monday, June 18, 2001 12:37 PM
To: Dsida, Michael
Subject: FW: LRB 782/1 - CN 9501

Here are some redraft instructions.

-----Original Message-----

From: Keckhaver, John
Sent: Monday, June 18, 2001 12:28 PM
To: Hanaman, Cathlene; Ammerman, Fred
Subject: LRB 782/1 - CN 9501

I gave an incorrect answer to a question on this one. The intent is also to prevent DOC from extending the existing contracts. They are to be allowed to expire and then the program is to end.

2917 International Lane
Madison, WI 53704
608/246-7920

**Wisconsin Department of Corrections
Bureau of Correctional Enterprises**

Fax

Tel: C	Post-it® Fax Note 7671	Date 6/10/01	# of pages ▶
Fax:	To Mike Dsida	From Colleen Godfriaux	scemi
Phone:	Co./Dept. LRB	Co.	
Re: Der	Phone #	Phone # 240-5524	
	Fax # 262-8522	Fax #	

- Urgent For Review Please Comment Please Reply Please Recycle

● **Comments:**

Fabry, Jorgensen Contract extensions attached.

AMENDMENT TO THE CONTRACT BETWEEN
THE DEPARTMENT OF CORRECTIONS AND
JORGENSEN CONVEYORS, INCORPORATED,
FOR THE EMPLOYMENT OF PRISON INMATES

COPY

The contract entered into by the Department of Corrections, State of Wisconsin and Jorgensen Conveyors, Incorporated and effective on April 26, 1996 is amended as follows:

III. CONDITIONS OF EMPLOYMENT OF INMATES

- C. Wage Schedule: Inmate employee compensation shall be no less than the prevailing wage rate for the work performed as determined by the ~~Department of Industry, Labor and Human Relations~~ Department of Workforce Development.

VI. TERMINATION

Amended to read:

This agreement shall terminate ~~three~~ five years after the last date of signature of the parties hereto.

Notwithstanding the foregoing, either party may terminate this agreement for any reason after giving the other party ninety days written notice. The notice period shall begin to run upon receipt of the notice.

It is the intention of the parties to negotiate ~~two consecutive~~ one five year extensions to this contract, ~~for an additional total of 10 years.~~

XVI. NONDISPLACEMENT

The contractor agrees that during the period of this contract the employment of inmates under this contract will not result in the displacement of private sector workers. Displacement is defined by the following:

Displacement has occurred when an employee or employees in a business operation in the State of Wisconsin are laid off as a direct result of work being performed in a prison as part of the Wisconsin Department of Corrections' Private Sector Industries Program.

Displacement has also occurred when, through no fault of their own, an employee or employees in a business operation in the State of Wisconsin are permanently transferred to another job which reduces their base pay (excluding overtime, differentials, bonuses)

by more than 25% as a direct result of work performed in a prison as part of the Wisconsin Department of Corrections' Private Sector Industries Program.

Further the contractor agrees that the employment of inmates under this agreement will not be applied in skills in which there is a surplus of available labor in the locality of the contractor, nor will it jeopardize contracts held by the contractor, nor will it replace contractor's employees involved in a labor dispute.

The contractor agrees to post a notice provided by the Department in all of its work places describing the nature of this contract, the definition of displacement and a Department contact for employees who believe they may have been displaced by this contract.

IN WITNESS WHEREOF, the parties have executed this agreement amendment;

Jorgensen Conveyors, Inc.

Department of Corrections

By: Mara Jorgensen

By: Jon E. Ritscher

Date: 4.7.99

Date: 3/26/99

By: Christina

Date: 4/7/99

ORIGINAL

**AMENDMENT TO THE CONTRACT
BETWEEN THE DEPARTMENT
OF CORRECTIONS AND THE
FABRY GLOVE AND MITTEN
COMPANY FOR THE EMPLOYMENT
OF PRISON INMATES**

The contract entered into by the Department of Corrections, State of Wisconsin and the Fabry Glove and Mitten Company and effective May 10, 1996 is amended as follows:

VI. TERMINATION:

AMENDED TO READ:

This agreement shall terminate ~~three~~ on August 10, 1999.

XVI. NONDISPLACEMENT

THIS SECTION IS CREATED TO READ:

The Contractor agrees that during the period of this contract the employment of inmates under this contract will not result in the "displacement" of private sector workers.

"Displacement" is defined by the following:

"Displacement" has occurred when an employee or employees in a business operation in the State of Wisconsin are laid off as a direct result of work being performed in a prison as part of the Wisconsin Department of Corrections' Private Sector Industries Program.

"Displacement" has also occurred when, through no fault of their own, an employee or employees in a business operation in the State of Wisconsin are permanently transferred to another job which reduces their base pay (excluding overtime, differentials, bonuses) by more than 25% as a direct result of work performed in a prison as part of the Wisconsin Department of Corrections' Private Sector Industries Program.

Further the Contractor agrees that the employment of inmates under this agreement will not be applied in skills in which there is a surplus of available labor in the locality of the Contractor, nor will it jeopardize contracts held by the Contractor, nor will it replace Contractor's employees involved in a labor dispute.

The Contractor agrees to post a notice provided by the Department in all of its work places describing the nature of this contract, the definition of "displacement" and a Department contact for employees who believe they may have been displaced by this contract.

IN WITNESS WHEREOF, the parties have executed this agreement amendment:

FABRY GLOVE & MITTEN COMPANY

DEPARTMENT OF CORRECTIONS

By: John J. Fabry
Date: 5/3/99

By: J. E. Litscher
Date: 5/6/99

By: Dan [Signature]
Date: 5/3/99

ORIGINAL

**AMENDMENT TO THE CONTRACT
BETWEEN THE DEPARTMENT OF
CORRECTIONS AND THE
FABRY GLOVE AND MITTEN
COMPANY FOR EMPLOYMENT
OF PRISON INMATES**

The contract entered into by the Department of Corrections, State of Wisconsin and the Fabry Glove and Mitten Company and effective May 10, 1996 and amended May 6, 1999 is further amended:

III. CONDITIONS OF EMPLOYMENT

C. Wage Schedule

This section is amended to read:

The Department shall compensate the inmate employees engaged in the Industry Operation at no less than the prevailing entry wage rate for the work performed that paid for work of a similar nature in the locality in which the work is to be performed as determined by the Department of Industry, Labor and Human Relations Workforce Development or the Department of Corrections when not available from the Department of Workforce Development.

IV. PAYMENT

The section is repealed and recreated to read:

The Department shall bill Contractor monthly based on the standard production time established by the Contractor and agreed to by the Department at 125% of rates in place as of the effective date of this amendment as included in attachment one.

Indirect inmate operations involving inspection will be billed at the rate of \$.111 per standard allowable minute consistent with attachment two.

In the event that the Department of Workforce Development or the Department changes its determination of the wage rate for the work to be performed by the prison inmates as described in this agreement, the parties agree to renegotiate the above rates.

Contractor shall mail payment to the Department within 45 days of receipt of the bill.

The performance by the Department of the Industry Operation shall be evaluated on a calendar quarter basis by both parties and adjusted by mutual agreement.

V. **TERMINATION**

Amended to read:

This agreement shall terminate on ~~August 10, 1999~~ five years after the last date of the signature of the parties hereto. Either party may terminate this agreement for any reason after giving the other ~~by~~ 180 days' written notice. The notice period shall begin to run upon receipt of the notice. The Department agrees to give Contractor 180 days' written notice prior to terminating this agreement for failure of Contractor to comply with the terms, conditions and specifications of this agreement.

It is the intention of the parties to negotiate ~~two consecutive~~ one five year extensions to this contract.

XVI. **NONDISPLACEMENT**

Amended to read:

~~XVI. XVIII~~ **NONDISPLACEMENT**

IN WITNESS WHEREOF, the parties have executed this amendment:

FAHRY GLOVE & MITTEN COMPANY

DEPARTMENT OF CORRECTIONS

By: [Signature]

By: [Signature]

Date: 7/23/99

Date: 8/9/99

By: [Signature]

Date: 7/23/99



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0782/1
MGD:jld:ch

D - Note

(2)

SDC:.....Keckhaver – CN9501, Private business prison employment

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

*Retire
from hold*

Insert A

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1089, line 16: delete the material beginning with that line and ending
3 with page 1090, line 13, and substitute:

4 **"SECTION 3389gm.** 303.01 (2) (em) of the statutes is amended to read:

5 303.01 (2) (em) Lease space, with or without equipment, within the precincts
6 of state prisons, as specified in s. 302.02, or within the confines of correctional
7 institutions operated by the department for holding in secure custody persons
8 adjudged delinquent, to not more than 6 2 private businesses to employ prison
9 inmates and institution residents to manufacture products or components or to
10 provide services for sale on the open market. The department shall comply with s.

, extend, renew,

Beginning on the effective date of this act ... [reviser inserts date], the paragraph

1 16.75 in selecting businesses under this paragraph. ~~The department may enter into~~
2 ~~a contract under this paragraph only with the approval of the joint committee on~~
3 ~~finance and only if the department is a party to a contract with the private business~~
4 ~~under this paragraph on the effective date of this paragraph ... [reviser inserts date].~~

strike period

5 ~~The~~ department may not enter into or amend a contract under this paragraph unless
6 ~~the contract or amendment specifies each state prison or juvenile correctional~~
7 ~~institution at which the private business will employ inmates or institution~~
8 ~~residents. The department shall consult with appropriate trade organizations and~~
9 ~~labor unions~~ ^{strike} prior to issuing requests for proposals and prior to selecting proposals
10 ~~before entering into or extending contracts~~ under this paragraph. Each such private
11 business may conduct its operations as a private business, subject to the wage
12 standards under sub. (4), the disposition of earnings under sub. (8), the provisions
13 regarding displacement in sub. (11), the requirements for notification and hearing
14 under sub. (1) (c), the requirement for prison industries board approval under s.
15 303.015 (1) (b) and the authority of the department to maintain security and control
16 in its institutions. The private business and its operations are not a prison industry.
17 Inmates employed by the private business are not subject to the requirements of
18 inmates participating in prison industries, except as provided in this paragraph.

19

(END)

Insert B ✓



2

LFB:.....Bauer (DS) - Private business prison employment program

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1

At the locations indicated, amend the bill as follows:

2

1. Page ³⁵⁰ ~~414~~, line ²⁴ ~~10~~: after that line insert:

3

"SECTION ⁶⁷⁹ ~~359~~g. 20.410 (1) (gi) of the statutes is amended to read:

4

20.410 (1) (gi) *General operations.* The amounts in the schedule to operate institutions and provide field services and administrative services. All moneys received under s. 303.01 (8) that are attributable to moneys collected from earnings of inmates and residents under s. 303.01 (2) (em) and all moneys received under ss. 302.386 (2m) and (3) (d) and 303.065 (6) shall be credited to this appropriation account."

5

6

7

8

9

10

"SECTION ⁶⁸⁰ ~~359~~r. 20.410 (1) (hm) of the statutes is repealed."

11

2. Page ³⁵¹ ~~415~~, line ¹¹ ~~8~~: after that line insert:

Page 351, line 6: after that line insert:

(over)

10/25/01
A
PWF

IN SUTA (CID)
RWF

682
X
1 "SECTION ~~361m~~ 20.410 (1) (km) of the statutes is amended to read:

2 20.410 (1) (km) *Prison industries*. The amounts in the schedule for the
3 establishment and operation of prison industries, ~~but not including the program~~
4 ~~under s. 303.01 (2) (em)~~. All moneys received from prison industries sales shall be
5 credited to this appropriation. All moneys credited to this appropriation shall be
6 expended first for the purpose under par. (ko). No expenditure may be made from this
7 appropriation for the construction of buildings or purchase of equipment for new
8 prison industries, except upon approval of the joint committee on finance after a
9 determination that the moneys are needed and that no other appropriation is
10 available for that purpose."

11 3. Page ~~978~~ ⁹¹², line ~~11~~ ¹¹: after that line insert:
^{2604b}

12 "SECTION ~~2029m~~ 108.07 (8) (b) of the statutes is amended to read:

13 108.07 (8) (b) If a claimant is a prisoner of a state prison, as defined in s. 302.01,
14 and has employment with an employer other than the department of corrections or
15 ~~a private business leasing space within a state prison under s. 303.01 (2) (em)~~, and
16 the claimant's employment terminates because conditions of incarceration or
17 supervision make it impossible to continue the employment, the department shall
18 charge to the fund's balancing account any benefits based on the terminated
19 employment that are otherwise chargeable to the account of an employer that is
20 subject to the contribution requirements under ss. 108.17 and 108.18."

21 4. Page 1215, line 11: after that line insert:

22 "SECTION 2718e. 303.01 (2) (em) of the statutes is amended to read:

23 303.01 (2) (em) Lease space, with or without equipment, within the precincts
24 of state prisons, as specified in s. 302.02, or within the confines of correctional

RWF

(end ins A)

1 institutions operated by the department for holding in secure custody persons
 2 adjudged delinquent, to not more than 6 private businesses to employ prison inmates
 3 and institution residents to manufacture products or components or to provide
 4 services for sale on the open market. The department shall comply with s. 16.75 in
 5 selecting businesses under this paragraph. The department may enter into a
 6 contract under this paragraph only with the approval of the joint committee on
 7 finance. The department may not enter into or amend a contract under this
 8 paragraph unless the contract or amendment specifies each state prison or juvenile
 9 correctional institution at which the private business will employ inmates or
 10 institution residents. The private business may not employ inmates or institution
 11 residents at a state prison or juvenile correctional institution not specified in the
 12 contract without the approval of the joint committee on finance. The department
 13 shall consult with appropriate trade organizations and labor unions prior to issuing
 14 requests for proposals and prior to selecting proposals under this paragraph. Each
 15 such private business may conduct its operations as a private business, subject to the
 16 wage standards under sub. (4), the disposition of earnings under sub. (8), the
 17 provisions regarding displacement in sub. (11), the requirements for notification and
 18 hearing under sub. (1) (c), the requirement for prison industries board approval
 19 under s. 303.015 (1) (b) and the authority of the department to maintain security and
 20 control in its institutions. The private business and its operations are not a prison
 21 industry. Inmates employed by the private business are not subject to the
 22 requirements of inmates participating in prison industries, except as provided in this
 23 paragraph;

INS B

3389 gr

(24)

SECTION 303.01 (2) (em) of the statutes, as affected by 1999 Wisconsin

Act ... (this act), is repealed.

(COVER)
↓

2001

INSERT B
X cont

3389kb

RUF

SECTION ~~2718g~~ 303.01 (8) (b) of the statutes is amended to read:

303.01 (8) (b) The department shall distribute earnings of an inmate or resident, ~~other than an inmate or resident employed under sub. (2) (em)~~, for the crime victim and witness assistance surcharge under s. 973.045 (4), for the delinquency victim and witness assistance surcharge under s. 938.34 (8d) (c), for the deoxyribonucleic acid analysis surcharge under s. 973.046 (4) and for compliance with s. 303.06 (2) and may distribute earnings for the support of the inmate's or resident's dependents and for other obligations either acknowledged by the inmate or resident in writing or which have been reduced to judgment that may be satisfied according to law.

^{3389ks} SECTION ~~2718h~~ 303.01 (8) (c) of the statutes is repealed.

^{3389km} SECTION ~~2718l~~ 303.01 (8) (d) of the statutes is repealed.

^{3389kq} SECTION ~~2718p~~ 303.01 (8) (e) of the statutes is repealed.

~~SECTION 2718q. 303.01 (11) of the statutes is created to read:~~

~~303.01 (11) DISPLACEMENT. (a) In this subsection:~~

~~1. "Displace an employe" means to lay off an employe in this state as a direct result of work being performed in a state prison or juvenile correctional institution under a prison contract or to permanently transfer an employe in this state to another job that reduces the employe's base pay, excluding overtime, differentials and bonuses, by more than 25% as a direct result of work being performed in a state prison or juvenile correctional institution under a prison contract.~~

~~2. "Prison contract" means a contract entered into by the department under sub. (2) (em).~~

~~3. "Private employer" means a private business that is a party to a prison contract.~~



INSERT B
CONT

1 (b) A private employer may not displace an employe or cause another private
2 business to displace an employe.

3 (c) A private employer may not employ inmates or institution residents under
4 a prison contract if any of the following applies:

5 1. The inmates or institution residents are to be employed in a skill, craft or
6 trade in which there is a surplus of available labor in the locality of the private
7 employer.

8 2. The employment of the inmates or institution residents will impair the
9 performance of other contracts to which the private employer is a party.

10 3. The inmates or institution residents will replace employes who are on strike
11 against the private employer or locked out of work.

12 (d) A private employer shall post in all of its workplaces a notice provided by
13 the department containing a description of the nature of the prison contract and an
14 explanation of what it means for an employe of a private employer to be displaced
15 under this subsection and identifying a person at the department whom an employe
16 of a private employer may contact if the employe believes that he or she may have
17 been displaced by a prison contract.

18 SECTION ^{3389ks} ~~2718~~ ^X 303.01 (11) of the statutes, as created by 1999 Wisconsin Act

19 (this act), is repealed.

20 SECTION ^{3389kx} ~~2718~~ ^X 303.06 (3) of the statutes is repealed.

21 SECTION ^{3389kz} ~~2718~~ ^X 303.21 (1) (b) of the statutes is amended to read:

22 303.21 (1) (b) Inmates are included under par. (a) if they are participating in
23 a structured work program away from the institution grounds under s. 302.15 or a
24 secure work program under s. 303.063. Inmates are not included under par. (a) if
25 they are employed in a prison industry under s. 303.06 (2), participating in a work

↓ (OVER)

INSERT B
CONT

1 release program under s. 303.065 (2), ~~participating in employment with a private~~
2 ~~business under s. 303.01 (2) (em)~~ or participating in the transitional employment
3 program, but they are eligible for worker's compensation benefits under ch. 102.
4 Residents subject to s. 303.01 (1) (b) are not included under par. (a) but they are
5 eligible for worker's compensation benefits under ch. 102.".

6 ~~5. Page 1404, line 21: after that line insert:~~

7 ~~"(5d) PROFITABILITY REQUIREMENT.~~

8 ~~(a) In this subsection:~~

9 ~~1. "Prison contract" has the meaning given in section 303.01 (11) (a) 2. of the~~
10 ~~statutes.~~

11 ~~2. "Profitable" means earning a profit, as determined by the report described~~
12 ~~in paragraph (b), during at least three quarters of calendar year 2000.~~

13 ~~(b) The department of corrections and the department of administration shall~~
14 ~~submit a report to the joint committee on finance for each quarter of calendar year~~
15 ~~2000 providing the department of corrections' cash balance summary under each~~
16 ~~prison contract. Each report shall be prepared within 30 days after the end of the~~
17 ~~quarter. The report for the 4th quarter shall state whether the department's~~
18 ~~operations under at least two-thirds of its prison contracts were profitable during~~
19 ~~calendar year 2000. If less than two-thirds of its prison contracts were profitable,~~
20 ~~the department of corrections shall terminate its program for contracting with~~
21 ~~private employers under section 303.01 (2) (em) of the statutes.~~

22 ~~(c) If the report under paragraph (b) states that less than two-thirds of prison~~
23 ~~contracts were profitable during calendar year 2000, the joint committee on finance~~
24 ~~shall certify that fact to the revisor of statutes no later than March 1, 2001. Upon~~

↓

-7-
INSERT B
CONT

1 the certification, the revisor of statutes shall publish notice in the Wisconsin
 2 Administrative Register of the report and that, as of March 1, 2001, the treatment
 3 of sections 20.410 (1) (gi), (hm) and (km), 108.07 (8) (b), 303.01 (8) (b), (c), (d) and (e),
 4 303.06 (3) and 303.21 (1) (b) of the statutes and the repeal of section 303.01 (2) (em)
 5 and (11) of the statutes have taken effect. Section 13.10 (4) of the statutes does not
 6 apply to the certification by the joint committee on finance under this paragraph.

7 **6.** Page ¹⁴¹⁸~~1421~~, line ⁴~~17~~: after that line insert:

8 “(5d) SUNSET OF PRIVATE BUSINESS PRISON EMPLOYMENT PROGRAM. The treatment
 9 of sections 20.410 (1) (gi), (hm) and (km), 108.07 (8) (b), 303.01 (8) (b), (c), (d) and (e),
 10 303.06 (3) and 303.21 (1) (b) of the statutes and the repeal of section 303.01 (2) (em)
 11 and (11) of the statutes take effect on ^{September 1, 2004} ~~March 1, 2001~~, if the certification described in
 12 SECTION 911N(5d)(c) of this act occurs.”

~~(END)~~ (end ins B)

MOVE

Insert X into Insert A (inserted)

#, Page 379, line 18: after that line insert:

1 ~~SECTION 1. 20.410 (1) (gi) of the statutes is amended to read:~~
2 20.410 (1) (gi) *General operations.* The amounts in the schedule to operate
3 institutions and provide field services and administrative services. All moneys
4 received under s. 303.01 (8) ~~that are attributable to moneys collected from earnings~~
5 ~~of inmates and residents under s. 303.01 (2) (em) and all moneys received under ss.~~
6 302.386 (2m) and (3) (d) and 303.065 (6) shall be credited to this appropriation
7 account.

8 SECTION 2. 20.410 (1) (hm) of the statutes is repealed.

9 SECTION 3. 20.410 (1) (km) of the statutes is amended to read:

10 20.410 (1) (km) *Prison industries.* The amounts in the schedule for the
11 establishment and operation of prison industries, ~~but not including the program~~
12 ~~under s. 303.01 (2) (em).~~ All moneys received from prison industries sales shall be
13 credited to this appropriation. All moneys credited to this appropriation shall be
14 expended first for the purpose under par. (ko). No expenditure may be made from this
15 appropriation for the construction of buildings or purchase of equipment for new
16 prison industries, except upon approval of the joint committee on finance after a
17 determination that the moneys are needed and that no other appropriation is
18 available for that purpose.

Page

19 " SECTION 4. 20.455 (5) (i) of the statutes is amended to read:

20 20.455 (5) (i) ^{773g} *Victim compensation, inmate payments.* All moneys received
21 under s. 303.06 (2) and (3) for the administration of ch. 949 and for crime victim
22 compensation payments or services. " (end ins)

23 ~~SECTION 5. 108.07 (8) (b) of the statutes is amended to read:~~

24 108.07 (8) (b) If a claimant is a prisoner of a state prison, as defined in s. 302.01,
25 and has employment with an employer other than the department of corrections or

(end insert X into Insert A)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0782/2dn

MGD:.....

Jld

The department of corrections (DOC) currently has contracts under s. 303.01 (2) (em) with Fabry Glove and Mitten and with Jorgensen Conveyors. Under an amendment to the contract with Fabry, that contract terminates on August 9, 2004. Under an amendment to the contract with Jorgensen, that contract terminates on April 7, 2004. Therefore, I selected September 1, 2004 as the termination date of the private business prison employment program for this amendment.*

Please note that both of the contracts state that it is the intention of the parties to negotiate a five-year extension. Those statements alone should not pose any legal problem. Nevertheless, if DOC has made any other statements indicating a clearer intent to renew one of the contracts, this amendment may pose some constitutional problems. Specifically,

In addition, it is my understanding that because of certain layoffs of Jorgensen employees, DOC and Jorgensen have agreed to suspend their contract. It is also my understanding that they have agreed that they will reinstate the contract if Jorgensen rehires laid off employees. They have also apparently agreed that, if they reinstate the contract, the amount of time then remaining under the contract will be the same amount of time that was remaining when they agreed to suspend it. Thus, DOC and Jorgensen may have effectively extended the termination date of their contract beyond the September 1, 2004, termination date, which might lead to separate impairment of contract problems. (It is my understanding, however, that Jorgensen is unlikely to rehire the employees necessary to get their contract with DOC reinstated.)

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

Insert
Q

02/28/94

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

b5782/2
LRBs 0348/1 dn
MES:kg:ks

D-N
Insert Q
(into D-note)

This substitute amendment is drafted according to your instructions in that it includes a provision which prohibits the enforcement of certain restrictive covenants that restrict or prohibit the erection, maintenance or use of a television or radio antenna or satellite dish under certain circumstances.

Q

It is possible that a court could find that this provision violates the federal or state constitutional proscriptions against a legislative impairment of the obligation of contracts. [See article I, section 10, of the U.S. constitution and article * I, section 12, of the Wisconsin constitution.] It should be noted, however, that * "[t]he constitutional proscription against impairment of the obligation of contract is not absolute." *State ex rel. Cannon v. Moran*, 111 Wis. 2d 544, 553 (1983), citing, in part, *Home Building & Loan Assn. v. Blaisdell*, 290 U.S. 398, 428 (1934). "Under certain circumstances the obligation of contract may be 'obliged to yield to the compelling interest of the public — the exercise of the police power.'" *Cannon* at 554, citing *State ex rel. Building Owners v. Adamany*, 64 Wis. 2d 280, 292 (1974).

Typed
all

(end insert Q)

In general, when a court determines whether challenged legislation interferes with the constitutional protections afforded contracts, the court must determine whether the legislation impairs an existing contract, whether the impairment is substantial and whether the legislative purpose justifies the impairment. See *Laskaris v. City of Wisconsin Dells*, 131 Wis. 2d 525 (Ct. Apps., 1986) and *Energy Reserves Group, Inc. v. Kansas Power and Light Co.*, 459 U.S. 400, 103 S. Ct. 697 (1983).

I have not conducted exhaustive research on this topic and it is impossible to predict how a court would decide a challenge brought against created s. 847.10, should it become law, but I believe that you should at least be aware of this issue. Please let me know if you have any further questions on this topic.

Marc E. Shovers
Legislative Attorney
266-0129

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0782/2dn
MGD:jld.luml

June 18, 2001

The department of corrections (DOC) currently has contracts under s. 303.01 (2) (em) with Fabry Glove and Mitten and with Jorgensen Conveyors. Under an amendment to the contract with Fabry, that contract terminates on August 9, 2004. Under an amendment to the contract with Jorgensen, that contract terminates on April 7, 2004. Therefore, I selected September 1, 2004, as the termination date of the private business prison employment program for this amendment.

Please note that both of the contracts state that it is the intention of the parties to negotiate a five-year extension. Those statements alone should not pose any legal problem. Nevertheless, if DOC has made any other statements indicating a clearer intent to renew one of the contracts, this amendment may pose some constitutional problems. Specifically, it is possible that a court could find that this provision violates the federal or state constitutional proscriptions against a legislative impairment of the obligation of contracts. [See article I, section 10, U.S. Constitution and article I, section 12, of the Wisconsin Constitution.] It should be noted, however, that “[t]he constitutional proscription against impairment of the obligation of contract is not absolute.” *State ex rel. Cannon v. Moran*, 111 Wis. 2d 544, 553 (1983), citing, in part, *Home Building & Loan Assn. v. Blaisdell*, 290 U.S. 398, 428 (1934). “Under certain circumstances the obligation of contract may be ‘obliged to yield to the compelling interest of the public — the exercise of the police power.’” *Cannon* at 554, citing *State ex rel. Building Owners v. Adamany*, 64 Wis. 2d 280, 292 (1974).

In addition, it is my understanding that because of certain layoffs of Jorgensen employees, DOC and Jorgensen have agreed to suspend their contract. It is also my understanding that they have agreed that they will reinstate the contract if Jorgensen rehires laid off employees. They have also apparently agreed that, if they reinstate the contract, the amount of time then remaining under the contract will be the same amount of time that was remaining when they agreed to suspend it. Thus, DOC and Jorgensen may have effectively extended the termination date of their contract beyond the September 1, 2004, termination date, which might lead to separate impairment of contract problems. (It is my understanding, however, that Jorgensen is unlikely to rehire the employees necessary to get their contract with DOC reinstated.)

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

SDC:.....Keckhaver – CN9501, Private business prison employment
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION
CAUCUS SENATE AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 350, line 24: after that line insert:

3 “SECTION 679g. 20.410 (1) (gi) of the statutes is amended to read:

4 20.410 (1) (gi) *General operations.* The amounts in the schedule to operate
5 institutions and provide field services and administrative services. All moneys
6 received under s. 303.01 (8) that are attributable to moneys collected from earnings
7 of inmates and residents under s. 303.01 (2) (em) and all moneys received under ss.
8 302.386 (2m) and (3) (d) and 303.065 (6) shall be credited to this appropriation
9 account.”.

10 2. Page 351, line 6: after that line insert:

1 “SECTION 680r. 20.410 (1) (hm) of the statutes is repealed.”

2 **3.** Page 351, line 11: after that line insert:

3 “SECTION 682m. 20.410 (1) (km) of the statutes is amended to read:

4 20.410 (1) (km) *Prison industries.* The amounts in the schedule for the
5 establishment and operation of prison industries, ~~but not including the program~~
6 ~~under s. 303.01 (2) (em).~~ All moneys received from prison industries sales shall be
7 credited to this appropriation. All moneys credited to this appropriation shall be
8 expended first for the purpose under par. (ko). No expenditure may be made from this
9 appropriation for the construction of buildings or purchase of equipment for new
10 prison industries, except upon approval of the joint committee on finance after a
11 determination that the moneys are needed and that no other appropriation is
12 available for that purpose.”

13 **4.** Page 379, line 18: after that line insert:

14 “SECTION 773q. 20.455 (5) (i) of the statutes is amended to read:

15 20.455 (5) (i) *Victim compensation, inmate payments.* All moneys received
16 under s. 303.06 (2) ~~and (3)~~ for the administration of ch. 949 and for crime victim
17 compensation payments or services.”

18 **5.** Page 912, line 11: after that line insert:

19 “SECTION 2604b. 108.07 (8) (b) of the statutes is amended to read:

20 108.07 (8) (b) If a claimant is a prisoner of a state prison, as defined in s. 302.01,
21 and has employment with an employer other than the department of corrections or
22 ~~a private business leasing space within a state prison under s. 303.01 (2) (em), and~~
23 the claimant's employment terminates because conditions of incarceration or
24 supervision make it impossible to continue the employment, the department shall

1 charge to the fund's balancing account any benefits based on the terminated
2 employment that are otherwise chargeable to the account of an employer that is
3 subject to the contribution requirements under ss. 108.17 and 108.18.”

4 **6.** Page 1089, line 16: delete the material beginning with that line and ending
5 with page 1090, line 13, and substitute:

6 “**SECTION 3389gm.** 303.01 (2) (em) of the statutes is amended to read:

7 303.01 (2) (em) Lease space, with or without equipment, within the precincts
8 of state prisons, as specified in s. 302.02, or within the confines of correctional
9 institutions operated by the department for holding in secure custody persons
10 adjudged delinquent, to not more than ~~6~~ 2 private businesses to employ prison
11 inmates and institution residents to manufacture products or components or to
12 provide services for sale on the open market. The department shall comply with s.
13 16.75 in selecting businesses under this paragraph. ~~The department may enter into~~
14 ~~a contract under this paragraph only with the approval of the joint committee on~~
15 ~~finance. The Beginning on the effective date of this paragraph [revisor inserts~~
16 ~~date], the department may not enter into, extend, renew, or amend a contract under~~
17 ~~this paragraph unless the contract or amendment specifies each state prison or~~
18 ~~juvenile correctional institution at which the private business will employ inmates~~
19 ~~or institution residents. The department shall consult with appropriate trade~~
20 ~~organizations and labor unions prior to issuing requests for proposals and prior to~~
21 ~~selecting proposals under this paragraph. Each such private business may conduct~~
22 its operations as a private business, subject to the wage standards under sub. (4), the
23 disposition of earnings under sub. (8), the provisions regarding displacement in sub.
24 (11), the requirements for notification and hearing under sub. (1) (c), the requirement

1 for prison industries board approval under s. 303.015 (1) (b) and the authority of the
2 department to maintain security and control in its institutions. The private business
3 and its operations are not a prison industry. Inmates employed by the private
4 business are not subject to the requirements of inmates participating in prison
5 industries, except as provided in this paragraph;

6 **SECTION 3389gn.** 303.01 (2) (em) of the statutes, as affected by 2001 Wisconsin
7 Act (this act), is repealed.

8 **SECTION 3389kb.** 303.01 (8) (b) of the statutes is amended to read:

9 303.01 (8) (b) The department shall distribute earnings of an inmate or
10 resident, ~~other than an inmate or resident employed under sub. (2) (em)~~, for the crime
11 victim and witness assistance surcharge under s. 973.045 (4), for the delinquency
12 victim and witness assistance surcharge under s. 938.34 (8d) (c), for the
13 deoxyribonucleic acid analysis surcharge under s. 973.046 (4) and for compliance
14 with s. 303.06 (2) and may distribute earnings for the support of the inmate's or
15 resident's dependents and for other obligations either acknowledged by the inmate
16 or resident in writing or which have been reduced to judgment that may be satisfied
17 according to law.

18 **SECTION 3389kg.** 303.01 (8) (c) of the statutes is repealed.

19 **SECTION 3389km.** 303.01 (8) (d) of the statutes is repealed.

20 **SECTION 3389kq.** 303.01 (8) (e) of the statutes is repealed.

21 **SECTION 3389ks.** 303.01 (11) of the statutes is repealed.

22 **SECTION 3389kx.** 303.06 (3) of the statutes is repealed.

23 **SECTION 3389kz.** 303.21 (1) (b) of the statutes is amended to read:

24 303.21 (1) (b) Inmates are included under par. (a) if they are participating in
25 a structured work program away from the institution grounds under s. 302.15 or a

1 secure work program under s. 303.063. Inmates are not included under par. (a) if
2 they are employed in a prison industry under s. 303.06 (2), participating in a work
3 release program under s. 303.065 (2), ~~participating in employment with a private~~
4 ~~business under s. 303.01 (2) (em)~~ or participating in the transitional employment
5 program, but they are eligible for worker's compensation benefits under ch. 102.
6 Residents subject to s. 303.01 (1) (b) are not included under par. (a) but they are
7 eligible for worker's compensation benefits under ch. 102.”.

8 **7.** Page 1418, line 4: after that line insert:

9 “(1d) SUNSET OF PRIVATE BUSINESS PRISON EMPLOYMENT PROGRAM. The treatment
10 of sections 20.410 (1) (gi), (hm), and (km), 108.07 (8) (b), 303.01 (8) (b), (c), (d), and
11 (e) and (11), 303.06 (3), and 303.21 (1) (b) of the statutes and the repeal of section
12 303.01 (2) (em) of the statutes take effect on September 1, 2004.”.

13 (END)