

2003 DRAFTING REQUEST

Assembly Amendment (AA-AB633)

Received: **11/11/2003**

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Glenn Grothman (608) 264-8486**

By/Representing: **Himself**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - minimum wage**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Grothman@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Preemption of local living wage ordinances; exceptions for employees of local government and contractors

Instructions:

See Attached--provide exception for employees of local government or of contractors of local government, e.g., Madison Ordinance 4.20.

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>
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1?	gmalaise	<i>11/15/03</i> <i>11/18/03</i>	<i>11/18/03</i> <i>PS</i>	<i>11/18/03</i> <i>selo</i>			

FE Sent For:

<END>

20 LIVING

(1) **Statement of Purpose.** The City contracts with many persons to provide services to the public, and provides financial assistance to developers for the purpose of promoting economic development and job growth. Such public expenditures should be spent to set a community standard that permits workers to live above the poverty line. The Common Council finds that the use of City funds to promote the creation of living wage jobs will increase consumer income, decrease poverty, invigorate neighborhood businesses and reduce the need for taxpayer-funded social services programs. The purpose of this ordinance is to improve the quality of services to beneficiaries of City-contracted agencies and to assure that City employees, employees of City service contractors and subcontractors, and employees and contractors of recipients of City financial assistance earn an hourly wage that is sufficient to enable a family of four to live at or above the federal poverty level.

(2) **Definitions.** In this

(a) "City financial assistance" means any grant, cooperative agreement, loan, contract or any other arrangement by which the City provides or otherwise makes available assistance in an amount equal to \$100,000 or more in the form of:

- 1.
2. Services of City
3. Real and personal property or any interest in or use of such property,
 - a. Transfers or leases of such property for less than the fair market value, or for reduced consideration; and
 - b. Proceeds from a subsequent transfer or lease of such property if the City's share of its fair market value is not returned to the City.
4. The sale and lease of, and the permission to use (on other than a casual or transient basis) City property or any interest in such property, the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale, lease or furnishing of services to the recipient;
5. "City financial assistance" includes, but is not limited to, capital revolving fund loans, redevelopment contracts, economic development agreements, revenue or loan agreements with an eligible participant or authorized developer under Sec. 66.521, Wis. Stats., contracts with developers or other entities authorized by Secs. 66.1333 (5) and 66.1105(3)(e), Wis. Stats.
6. "City financial assistance" does not include public works contracts, supply procurement contracts, professional service contracts, contracts of insurance or guaranty, collective bargaining agreements, or contracts with nonprofit corporations, unless the nonprofit corporation passes City financial assistance in an amount equal to \$100,000 or more through to a for-profit entity, in which case the for-profit entity shall be subject to this ordinance.

(b) "Employee" means any individual, except those excluded under Subsection (10), who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go to or work or be at any time in any place of employment. "Employee" includes individuals whose work is permanent or temporary, or on a full-time or part-time basis.

(c) "Person" means any individual, partnership, joint venture, corporation, limited liability company or partnership, trust, association, or other entity that may employ individuals or enter into contracts.

(d) "Professional service contract" means any contract in which the majority of employees engaged in the performance of the contract perform work which:

1. Is predominantly intellectual and varied in nature, as opposed to work which involves routine mental, manual, mechanical or physical labor; and
2. Requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.

(e) "Recipient of City financial assistance" means any person, including that person's subcontractors, successors, assignees and transferees.

(f) "Service contract" means any contract with the City for the provision of services to any City department or agency with a budget under the control of the Common Council, which has a value exceeding \$5,000. "Service contract" does not include any contract which involves the purchase of goods or which is a professional service contract, public works contract under Sec. 62.15, Wis. Stats., or a contract with another unit of government.

(g) "Service contractor" means any person, including that person's subcontractors, successors, assignees, or transferees.

(3) Living Wage

(a) All employees employed in work performed as part of a service contract, employed as City of Madison employees, employed in work performed under a contract funded by City financial assistance, employed by a contractor of a City financial assistance recipient and who expends at least twenty hours a week at the project site funded by City financial assistance, or employed by a recipient of City financial assistance in work performed at a project site funded by City financial assistance shall receive and be paid a City minimum hourly wage. The City minimum hourly wage shall be \$7.91 through December 31, 1999. Thereafter, the City minimum hourly wage shall be calculated as follows:

1. Effective January 1, 2000 and continuing for the remainder of 2000, an hourly rate equal to 105% of the poverty level divided by 2080.
2. Effective January 1, 2001 and continuing thereafter, an hourly rate equal to 110% of the poverty level divided by 2080.
3. As used in this section, "poverty level" means an annual income equal to the U.S. Department of Health and Human Services' then most recently published poverty guideline for a family of four.

(b) Compliance with this Section shall be required for the term of the contract between the City and the service contractor or recipient of City financial assistance.

(c) Tipped employees, employees paid on commission, employees who receive meals or lodging or both from their employers, and employees whose compensation consists of more than hourly wages shall be paid an hourly wage which, when combined with the other compensation, will at least equal the City minimum hourly wage. The value of such meals or lodging shall be calculated pursuant to Chapter DWD 272, Wis. Admin. Code.

(4) Maintenance of Effort. No service contractor or recipient of City financial assistance may use the living wage requirement of this section to reduce the wage paid to any person employed by the service contractor or recipient.

(5) Provisions in Contracts. For purposes of carrying out the intent of this section, all provisions of this section are made part of all service contracts and contracts for the provision of City financial assistance. Every service contractor and recipient of City financial assistance shall bind its contractors and subcontractors in writing, as applicable, to the provisions of this section.

(6) Contract Bid and Request-for-Proposal Specifications. A digest of the provisions of this section shall be included in all specifications for financial assistance projects and service contract work upon which the City calls for bids or issues requests for proposals.

(7) Specifications for Contracts. No service contract and no contract between the City and a recipient of City financial assistance shall be entered into by the City unless such contract contains the following stipulation or its equivalent:

"The contractor agrees to pay all employees employed by the contractor in the performance of this contract, whether on a full-time or part-time basis, a base wage of not less than the City minimum hourly wage as required by Section 4.20, Madison General Ordinances."

(8) Posting of Wage Rate. For every service contract and for every contract between the City and a recipient of City financial assistance the minimum hourly wage required by Subsec. (3) and the phone number of the City's Affirmative Action Department shall be kept posted by the contractor or recipient at the site of the work in a prominent place where it can be easily seen and read by persons employed in the performance of such contract. In addition, copies of the living wage requirement shall be supplied to any person employed by a recipient or employed in the performance of a service contract at the request of such person and within a reasonable period of time after the request.

(9) Enforcement.

Any person who has been found by the City to have submitted any false, misleading or fraudulent

information, or to have failed to comply with the provisions of this section, may be subject to any of the following sanctions, imposed by the City:

1. Withholding of payments under the
2. Termination, suspension or cancellation of the contract in whole or in
3. After a due process hearing, denial of the right of the person to bid on future City contracts, by herself or himself, partner or agent, or by a corporation of which she or he is a member, for a period of one year after the first violation is found and for a period of three years after a second violation is found.

(10) Exclusions. This section shall not apply to student learners, on-call employees, employees under the age of 18, or employees of sheltered workshops, as those terms are defined in Ch. 104, Wis. Stats., to City Special Workers as defined in Section 3.38(2)(b), Madison General Ordinances, or to laborers, workers or mechanics subject to either Section 4.23, Madison General Ordinances or to 40 U.S.C. 276a. (Am. by Ord. 12,594, 6-6-00)

(11) Collective Bargaining Agreements. This ordinance may be superseded and made inapplicable, in whole or in part, by an expressed declaration to such effect in any signed collective bargaining agreement between a service contractor or a recipient of City financial assistance and a labor organization.

(12) Applicability. The provisions of this section shall apply

- (a) A service contract or contract for the provision of City financial assistance consummated after the effective date of this ordinance;
- (b) A service contract amendment consummated after the effective date of this ordinance which itself meets the requirements of this section;
- (c) Supplemental financial assistance provided after the effective date of this ordinance which itself meets the requirements of this section.

(13) Penalty. In addition to the sanctions set forth in Subsection (9) above, any person, contractor, subcontractor, or recipient who violates this section or fails to comply with any of its requirements shall, upon conviction hereof, be subject to a forfeiture of not less than one dollar (\$1.00) and not more than two hundred dollars (\$200), and in addition shall pay all costs and expenses. Each day such violation continues shall be considered a separate offense.

(Sec. 4.20 Cr. by Ord. 12,363, 3-30-99)

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**ASSEMBLY AMENDMENT ,
TO 2003 ASSEMBLY BILL 633**

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

2 **1.** Page 3, line 5: delete that line and substitute:

3 “(5) This section does not affect any of the following:

4 (a) The requirement that employees employed on”.

5 **2.** Page 3, line 7: after that line insert:

6 “(b) An ordinance that requires an employee of a county, city, village, or town,
7 an employee who performs work under a contract for the provision of services to a
8 county, city, village, or town, or an employee who performs work that is funded by
9 financial assistance from a county, city, village, or town, to be paid at a minimum
10 wage rate specified in the ordinance.”.

11 (END)