

2009 DRAFTING REQUEST

Bill

Received: 11/12/2008

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing:

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Schneider@legis.wisconsin.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Denying benefits to companies that employ illegal aliens

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>
/?	jkreye 11/12/2008	nmatzke 12/05/2008		_____			
/1			jfrantze 12/05/2008	_____	sbasford 12/05/2008	sbasford 12/11/2008	

FE Sent For: none

<END>

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1?	jkreye	1 ^{nwn} 11/17	J 12/5	J/mcl 12/5			

FE Sent For:

<END>

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 101

P.W.F.

in 11-12-08

D-2

SACPV
09V
X-refV

March 12, 2007 - Offered by Representative SCHNEIDER.

Regen. - re gen

1 AN ACT *to amend* 16.75 (6) (e), 16.855 (18), 16.855 (21) and 16.855 (22); and *to*
2 *create* 16.756, 16.855 (23) and 560.29 of the statutes; **relating to:** making
3 companies that employ illegal ^{unauthorized} aliens ineligible for certain tax exemptions,
4 governmental contracts, grants, and loans, granting rule-making authority,
5 and providing penalties.

Analysis by the Legislative Reference Bureau bill

Under this substitute amendment, any company that employs illegal aliens in violation of federal law is, for a period of seven years, ineligible to: 1) receive any income or franchise tax credit or property tax exemption; 2) enter into a contract with the state or a local governmental unit for the construction, remodeling, or repair of a public work or building, or for the furnishing of supplies, services, equipment, or material of any kind; and 3) receive any grants or loans from a local governmental unit.

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

6 SECTION 1. 16.75 (6) (e) of the statutes is amended to read:

Under the bill, any company that employs an unauthorized alien is subject to a \$10,000 fine for each unauthorized alien the company employs. → FE-5 unauthorized alien alien employso

1 16.75 (6) (e) The governor or his or her designee may waive any requirement
 2 of this subchapter if the governor or his or her designee finds that there exists an
 3 emergency which threatens the public health, safety or welfare and the waiver is
 4 necessary to meet the emergency. The governor or his or her designee shall require
 5 the award of each contract under this paragraph to be made with such competition
 6 as is practicable under the circumstances. The governor or his or her designee shall
 7 file with the department a statement of facts constituting the emergency for each
 8 waiver issued under this paragraph, and a statement of the basis for selection of each
 9 contractor under the emergency procedure. This paragraph does not apply to the
 10 requirement requirements specified in sub. (7) and s. 16.756.

unauthorized

11 SECTION 2. 16.756 of the statutes is created to read:

unauthorized (P)

12 **16.756 Companies employing illegal aliens.** No company that employs an
 13 illegal alien is eligible to enter into any contract with an agency for the purchase of
 14 materials, supplies, equipment, or contractual services for a period of 7 years
 15 beginning with the year in which a final order is issued against the company under
 16 8 USC 1324a (e) (4), (5), or (6) or a penalty or injunction is issued against the company
 17 under 8 USC 1324a (f).

(12)

18 SECTION 3. 16.855 (18) of the statutes is amended to read:

19 16.855 (18) This Except as provided in sub. (23), this section shall not apply
 20 to restoration or reconstruction of the state capitol building, historic structures at the
 21 old world Wisconsin site and at Heritage Hill state park when the department
 22 determines that a waiver of this section would serve the best interests of this state.

23 SECTION 4. 16.855 (21) of the statutes is amended to read:

24 16.855 (21) This Except as provided in sub. (23), this section does not apply to
 25 contracts by the department of natural resources for construction work related to

111

1 hazardous substance spill response under s. 292.11 or environmental repair under
2 s. 292.31.

3 **SECTION 5.** 16.855 (22) of the statutes is amended to read:

4 16.855 (22) The provisions of this section, except sub. subs. (10m) and (23), do
5 not apply to construction work for any project that does not require the prior approval
6 of the building commission under s. 13.48 (10) (a) if the project is constructed in
7 accordance with policies and procedures prescribed by the building commission
8 under s. 13.48 (29). If the estimated construction cost of any project is at least
9 \$40,000, and the building commission elects to utilize the procedures prescribed
10 under s. 13.48 (29) to construct the project, the department shall provide adequate
11 public notice of the project and the procedures to be utilized to construct the project
12 on a publicly accessible computer site.

13 **SECTION 6.** 16.855 (23) of the statutes is created to read:

14 16.855 (23) No company that employs an illegal alien is eligible to enter into
15 any contract with an agency for engineering or architectural services or for
16 construction work, as defined in s. 16.87 (1) (a) for a period of 7 years beginning with
17 the year in which a final order is issued against the company under 8 USC 1324a (e)
18 (4), (5) or (6) or a penalty or injunction is issued against the company under 8 USC
19 1324a (f).

20 **SECTION 7.** 560.29 of the statutes is created to read:

21 **560.29 Employing illegal aliens. (1) DEFINITIONS.** In this section:

22 (a) "Company" means any organization or enterprise operated for profit,
23 including a proprietorship, partnership, firm, business trust, joint venture,
24 syndicate, corporation, limited liability company, or association.

25 (b) "Local governmental unit" has the meaning given in s. 66.0131 (1) (a).

unauthorized

unauthorized

560.30

560.30

1 (c) "Public contract" means a contract for the construction, execution, repair,
2 remodeling, or improvement of a public work or building or for the furnishing of
3 supplies, services, equipment, or material of any kind.

4 (2) PENALTIES. (a) Notwithstanding ~~the provisions of any tax exemption under~~ *other law*
5 ~~ch. 70 or tax credit under ch. 71 for which a company would otherwise be eligible,~~ any
6 company that employs an ~~illegal~~ *unauthorized* alien in violation of 8 USC 1324a (a) shall be
7 ineligible to do any of the following for a period of 7 years beginning with the year
8 in which a final order is issued against the company under 8 USC 1324a (e) (4), (5),
9 or (6) or a penalty or injunction is issued against the company under 8 USC 1324a
10 (f):

- 11 1. Receive any tax exemption under ch. 70 or any tax credit *deduction, or exclusion* under ch. 71.
- 12 2. Enter into a public contract with a local governmental unit.
- 13 3. Receive any grants or loans from a local governmental unit.
- 14 4. Enter into a contract for the purchase of materials, supplies, equipment, or
15 contractual services with any agency, as defined in s. 16.70 (1e).
- 16 5. Enter into a contract for engineering or architectural services or for
17 construction work, as defined in s. 16.87 (1) (a), with any agency, as defined in s. 16.70
18 (1e).

19 (b) Any company that employs an ~~illegal~~ *unauthorized* alien is subject to a \$10,000 fine for
20 each ~~illegal~~ alien the company employs.

21 (3) RULES. The department shall promulgate rules to implement and
22 administer this section.

23 (4) REVIEW. A determination of ineligibility under sub. (2) (a) and the
24 imposition of any penalty under sub. (2) (b) are subject to review under subch. III of
25 ch. 227.

unauthorized

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Date

- 0734/10lu
JK: nwn+

Representative Schneider:

This draft is based on 2007 Assembly Bill 101,
as amended by Assembly Substitute Amendment 1.

JK

Please note, however, that I ^{removed} removed the chapter 16
provisions because they were redundant.

I also changed the term "illegal alien" to
"unauthorized alien" because "unauthorized alien"
is the term used under federal law.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0734/1dn
JK:nwn&cjs:jf

December 5, 2008

Representative Schneider:

This draft is based on 2007 Assembly Bill 101, as amended by Assembly Substitute Amendment 1. Please note, however, that I removed the chapter 16 provisions because they were redundant. I also changed the term "illegal alien" to "unauthorized alien" because "unauthorized alien" is the term used under federal law.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
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Basford, Sarah

From: Schneider, Marlin
Sent: Wednesday, December 10, 2008 8:46 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0734/1 Topic: Denying benefits to companies that employ illegal aliens

Please Jacket LRB 09-0734/1 for the ASSEMBLY.