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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection (SC-SBEPTCCP)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection

Senate Bill 600

Relating to: making companies that hire illegal aliens ineligible for certain tax exemptions, governmental contracts, grants, and loans, granting rule-making authority, and providing penalties.

By Senators Hansen, Lehman, Decker, Sullivan, Holperin, Schultz and Erpenbach; cosponsored by Representatives Schneider, Staskunas and Suder.

April 08, 2010 Referred to Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection.

April 14, 2010 **PUBLIC HEARING HELD**

Present: (5) Senators Wirch, Plale, Holperin, Hopper and Lazich.
Absent: (0) None.

Appearances For

- Dave Hansen, Green Bay — Senator, 30th Senate District

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- None.

Registrations Against

- None.

Registrations for Information Only

- None.

April 21, 2010 **EXECUTIVE SESSION HELD**

Present: (5) Senators Wirch, Plale, Holperin, Hopper and Lazich.
Absent: (0) None.

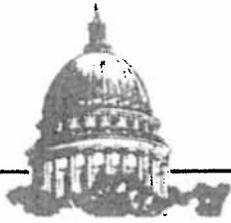
Moved by Senator Holperin, seconded by Senator Wirch that **Senate Bill 600** be recommended for passage.

Ayes: (3) Senators Wirch, Plale and Holperin.

Noes: (2) Senators Hopper and Lazich.

PASSAGE RECOMMENDED, Ayes 3, Noes 2

Michael Tierney
Committee Clerk



WISCONSIN STATE SENATOR

DAVE HANSEN

SENATOR – 30TH DISTRICT

ASSISTANT MAJORITY LEADER

**TESTIMONY: SB-600 Hiring of Illegal Workers
Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and
Consumer Protection
4/14/10**

Thank you, Chairman Wirch and members of the committee, for the opportunity to testify today in support of Senate Bill 600 which would provide penalties for those businesses who hire illegal workers.

In the immigration debate the argument has always been about the people who come here looking for work and to have a better life. There is rarely ever any discussion of holding those businesses and corporations who hire illegal workers accountable for their actions.

People who are hired illegally are at risk of being exploited and taken advantage of by unscrupulous employers who are more interested in increasing their profits than they are paying fair wages and running safe operations.

Hiring workers illegally regardless of where they're from causes harm to our unemployment and workers compensation programs, artificially holds down wages and forces other people to pay higher taxes.

Equally important but less talked about is that by allowing these types of businesses to continue we continue to make it more difficult for legitimate businesses to compete. It is not fair to the vast majority of businesses in Wisconsin who care about doing the right thing and who are playing by the rules that we do not hold those who violate the law accountable for their actions.

This is not a new bill. Senator Breske was the author last session. It's been debated in both this committee and the Senate and even received a vote by the full Senate.

Essentially this bill would prohibit a company that hires illegal workers from:

- 1) receiving any income or franchise tax credit or property tax exemption;
- 2) entering 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) receiving any grants or loans from a local governmental unit.

Under the bill the prohibition would last for seven years.

Committees

Joint Committee on Finance, Senate Vice Chair
Education
Transportation, Tourism, Forestry and Natural Resources
Special Committee on State-Tribal Relations
Senate Organization
Joint Committee on Legislative Organization

State Capitol

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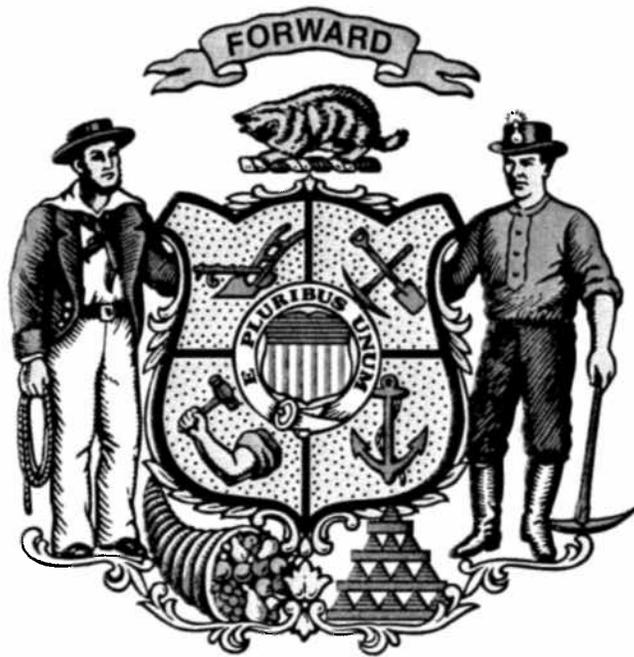
A business that violates this law could also be subject to fines up to \$10,000 for each violation.

This bill is not aimed at law abiding businesses. This bill is aimed at those few who make it a practice to hire illegal workers. As a result the prohibitions and penalties in the bill do not apply to those employers who make a good faith effort to determine that the person they are hiring is a legal citizen.

This bill also incorporates changes that were made through an amendment last session based upon comments and concerns raised at the public hearing on 2007 SB-404.

Those changes put the bill in line with federal law and as I said recognize that those employers who are making a good faith effort to follow the law are not penalized.

Thank you.



MEMORANDUM

To: Brad Boycks, Wisconsin Builders Association
Jim Boullion, Associated General Contractors of Wisconsin
John Mielke, Associated Builders and Contractors of Wisconsin
John Metcalf, Wisconsin Manufacturers & Commerce

From: Krukowski & Costello, S.C.

Re: Executive Summary – Analysis of 2009 Senate Bill 600

Date: April 19, 2010

The following is an Executive Summary of the legal and pragmatic impact of 2009 Senate Bill 600.

LEGAL Issues

- The language of Senate Bill 600 will likely be deemed unenforceable based on federal preemption grounds. Specifically, both implied preemption and preemption based on statutory text.
- Implied preemption would likely exist based on the grant in the United States Constitution to the Congress to enact legislation on immigration and the federal government's extensive regulation of the immigration field. Senate Bill 600 would be an intrusion into that field.
- Preemption based on statutory text would also likely render this legislation unenforceable. Specifically, the Immigration Reform and Control Act states that it preempts "any state or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit, or refer for a fee for employment, unauthorized aliens."

PRAGMATIC Issues

- Senate Bill 600 would not appear to address the common scenario in which an individual is not authorized to be employed in the United States. Specifically, the employer hires the individual with proper documentation but that documentation is not that individual's actual identity.
- The language of Senate Bill 600 does not appear to have any immunity for employers who terminate employees or refuse to hire applicants that cannot "fix" their mismatch information in a timely manner. This policy, although facially neutral, may fall more harshly on specific populations due to flaws in the federal government database and would potentially create liability for employers under Title VII of the Civil Rights Act of 1964, as amended, and the Wisconsin Fair Employment Act.

- In attempting to comply with Senate Bill 600, some employers will be exposed to additional claims under Title VII of the Civil Rights Act of 1964 as amended, the Wisconsin Fair Employment Act, and the Immigration Reform and Control Act. An employer who demands too much verification of the right to work in the United States from an employee or applicant may also face an investigation and/or prosecution from the federal government based on that action.
- Substantial costs related to litigation over the enforceability of this Act are inevitable which may result in certain provisions of the legislation being enjoined on a temporary or permanent basis.

STATUS OF A SIMILAR LAW IN OKLAHOMA

- A law in Oklahoma that made it unlawful for an employer to employ an individual not authorized to work in the United States if that resulted in a job loss to someone authorized to work in the United States was recently enjoined by a District Court and affirmed by the Tenth Circuit on February 2, 2010. See Chamber of Commerce of the United States of America v. Edmondson, 594 F.3d 742 (10th Cir. 2010) (courtesy copy attached).
- The Oklahoma law is analogous to Senate Bill 600 in many ways. For example, the Oklahoma law and Senate Bill 600 do not attempt to define when an individual is authorized to work in the United States. Rather, both pieces of legislation adopt the federal definition and would provide for additional sanctions and penalties against offending employers that are above and beyond what the federal government provides under existing laws that regulate authorization for individuals working in the United States.

NEXT STEPS

- Litigation on state or local laws, which attempt to address the immigration problem as Senate Bill 600 attempts to do, appears to be headed to the United States Supreme Court in the next couple of years unless Congress intervenes on this subject before then.