



2011 SENATE BILL 137

June 27, 2011 – Introduced by Senators HANSEN, WIRCH, HOLPERIN, ERPENBACH and CARPENTER, cosponsored by Representative STASKUNAS. Referred to Committee on Labor, Public Safety, and Urban Affairs.

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 560.286 of the statutes; **relating to:** making
3 companies that hire persons who are not legally in the United States ineligible
4 for certain tax exemptions, governmental contracts, grants, and loans,
5 granting rule-making authority, and providing penalties.

Analysis by the Legislative Reference Bureau

Under this bill, any company that has hired a person who is not legally in the United States 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.

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:

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

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1 16.75 (6) (e) The governor or his or her designee may waive any requirement
2 of this subchapter, except s. 16.705 (1r), if the governor or his or her designee finds
3 that there exists an emergency which threatens the public health, safety or welfare
4 and the waiver is necessary to meet the emergency. The governor or his or her
5 designee shall require the award of each contract under this paragraph to be made
6 with such competition as is practicable under the circumstances. The governor or
7 his or her designee shall file with the department a statement of facts constituting
8 the emergency for each waiver issued under this paragraph, and a statement of the
9 basis for selection of each contractor under the emergency procedure. This
10 paragraph does not apply to the ~~requirement~~ requirements specified in sub. (7) and
11 s. 16.756.

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

13 **16.756 Companies hiring illegal persons.** No company that hires a person
14 who is not legally in the United States is eligible to enter into any contract with an
15 agency for the purchase of materials, supplies, equipment, or contractual services for
16 a period of 7 years beginning with the year in which the company hires such a person.

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

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

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

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

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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 hires a person who is not legally in the United
15 States is eligible to enter into any contract with an agency for engineering or
16 architectural services or for construction work, as defined in s. 16.87 (1) (a), for a
17 period of 7 years beginning with the year in which the company hires an illegal alien.

18 **SECTION 7.** 560.286 of the statutes is created to read:

19 **560.286 Hiring illegal persons. (1) DEFINITIONS.** In this section:

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

23 (b) “Local governmental unit” has the meaning given in s. 66.0131 (1) (a).

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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
5 ch. 70 or tax credit under ch. 71 for which a company would otherwise be eligible, any
6 company that has hired a person who is not legally in the United States, in violation
7 of 8 USC 1324a (a), shall, for a period of 7 years beginning with the year in which the
8 company hired such a person, be ineligible to:

9 1. Receive any tax exemption under ch. 70 or any tax credit under ch. 71.

10 2. Enter into a public contract with a local governmental unit.

11 3. Receive any grants or loans from a local governmental unit.

12 4. Enter into a contract for the purchase of materials, supplies, equipment, or
13 contractual services with any agency, as defined in s. 16.70 (1e).

14 5. Enter into a contract for engineering or architectural services or for
15 construction work, as defined in s. 16.87 (1) (a), with any agency, as defined in s. 16.70
16 (1e).

17 (b) Any company that has hired a person who is not legally in the United States
18 is subject to a \$10,000 fine for each such person the company hires.

19 (c) Paragraphs (a) and (b) do not apply to any company that makes a good faith
20 effort to determine whether any person the company hires is legally in the United
21 States, except that this paragraph does not apply to a company that receives notice
22 from the federal government that an employee has provided a false or incorrect social
23 security number, unless the company addresses the problem described in the notice,
24 in the manner prescribed under federal law. An entity doing business in this state
25 that receives a notice described in this paragraph shall keep the notice for the period

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1 prescribed by the department and shall submit the notice to the department at the
2 department's request. An entity that fails to submit the notice is subject to the
3 penalties under pars. (a) and (b).

4 **(3) RULES.** The department shall promulgate rules to implement and
5 administer this section.

6 **(4) REVIEW.** A determination of ineligibility under sub. (2) (a) and the
7 imposition of any penalty under sub. (2) (b) are subject to review under subch. III of
8 ch. 227.

9 **(END)**