



2001 ASSEMBLY BILL 886

March 4, 2002 - Introduced by Representatives RICHARDS, STASKUNAS, BLACK, TURNER, BERCEAU, MILLER, RYBA and ALBERS, cosponsored by Senators DARLING and HANSEN. Referred to Committee on Government Operations.

- 1 **AN ACT to amend** 16.75 (6) (c) and 16.75 (6) (d) and (e) of the statutes; **relating**
2 **to:** waiver of certain state purchasing requirements.

Analysis by the Legislative Reference Bureau

Currently, subject to numerous exceptions, state procurement laws impose various restrictions and procedural requirements for making state purchases. The requirements include a mandate to make purchases from the lowest responsible bidder or the person submitting the most advantageous competitive sealed proposal. The department of administration (DOA) and other state agencies making purchases must attempt to ensure that at least 5% of the total amount expended in each fiscal year is paid to minority-owned businesses. The department of corrections has a right of first refusal to provide certain materials, supplies, equipment, or services. DOA and the agencies must maximize the purchase of materials utilizing recycled or recovered materials. Contractual services may only be obtained in compliance with certain requirements designed to utilize these services only in appropriate situations, to avoid conflicts of interest, and to ensure that contractor performance is reviewed. Currently, the secretary of administration, with the approval of the governor, may waive requirements for competitive and minority purchasing for any specific purchase if the secretary determines that it is in the best interest of the state to do so. The governor may similarly waive these requirements generally for a period of up to one year if the governor determines that it is in the best interest of the state to do so. In addition, the governor or his or her designee may waive any requirement in the state procurement law if the governor or designee determines that there exists an emergency which threatens the public health, safety, or welfare and the waiver is necessary to meet the emergency.

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This bill provides that, if the secretary or the governor or his or her designee proposes to issue a waiver under any of these provisions, the secretary, governor, or designee must first provide written notification of the proposed waiver to the cochairpersons of the joint committee on finance. If, within 14 working days after the notification, the cochairpersons do not schedule a meeting of the committee for the purpose of reviewing the proposed waiver, the secretary, governor, or designee may implement the proposed waiver. If, within 14 working days after the notification, the cochairpersons schedule a meeting for the purpose of reviewing the proposed waiver, the proposed waiver does not take effect unless the committee approves the waiver.

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

1 **SECTION 1.** 16.75 (6) (c) of the statutes, as affected by 2001 Wisconsin Act 16,
2 is amended to read:

3 16.75 (6) (c) If Except as provided in this paragraph, if the secretary determines
4 that it is in the best interest of this state to do so, he or she may, with the approval
5 of the governor, waive the requirements of subs. (1) to (5) and may purchase supplies,
6 material, equipment, or contractual services, other than printing and stationery,
7 from a private source other than a source specified in par. (b). If the secretary
8 proposes to waive the requirements of subs. (1) to (5) under this paragraph, the
9 secretary shall provide written notice to the cochairpersons of the joint committee on
10 finance of the proposed waiver. If, within 14 working days after the date of the
11 secretary's notification, the cochairpersons of the committee do not notify the
12 secretary that the committee has scheduled a meeting for the purpose of reviewing
13 the proposed waiver, the secretary may implement the proposed waiver. If, within
14 14 working days after the date of the secretary's notification, the cochairpersons
15 notify the secretary that the committee has scheduled a meeting for the purpose of
16 reviewing the proposed waiver, the waiver does not take effect unless the committee
17 approves the waiver. Except as provided in sub. (2g) (c), if the cost of the purchase

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1 made under a waiver is expected to exceed \$25,000, the department shall first
2 publish a class 2 notice under ch. 985 or post a notice on the Internet at the site
3 determined or approved by the department under sub. (1) (b) describing the
4 materials, supplies, equipment, or contractual services to be purchased, stating the
5 intent to make the purchase from a private source without soliciting bids or
6 competitive sealed proposals and stating the date on which the contract or purchase
7 order will be awarded. The date of the award shall be at least 7 days after the date
8 of the last insertion or the date of posting on the Internet.

9 **SECTION 2.** 16.75 (6) (d) and (e) of the statutes are amended to read:

10 16.76 (6) (d) If Except as provided in this paragraph, if the governor determines
11 that it is in the best interest of this state to do so, he or she may issue a general waiver
12 of the requirements of subs. (1) to (5) permitting the purchase of specified materials,
13 supplies, equipment, or contractual services, except printing and stationery, from a
14 private source. If the governor proposes to waive the requirements of subs. (1) to (5)
15 under this paragraph, the governor shall provide written notice to the
16 cochairpersons of the joint committee on finance of the proposed waiver. If, within
17 14 working days after the date of the governor's notification, the cochairpersons of
18 the committee do not notify the governor that the committee has scheduled a meeting
19 for the purpose of reviewing the proposed waiver, the governor may implement the
20 proposed waiver. If, within 14 working days after the date of the governor's
21 notification, the cochairpersons of the committee notify the governor that the
22 committee has scheduled a meeting for the purpose of reviewing the proposed waiver,
23 the waiver does not take effect unless the committee approves the waiver. A general
24 waiver may be issued for any period up to one year. The governor may impose any
25 necessary or appropriate condition or restriction on the waiver.

