



## 1997 ASSEMBLY BILL 799

February 19, 1998 - Introduced by Representatives OWENS, GROTHMAN, AINSWORTH, LADWIG, F. LASEE, NASS, SCHAFER and SERATTI, cosponsored by Senator WELCH. Referred to Committee on Labor and Employment.

1     **AN ACT to renumber** 59.52 (29) (a) and 60.47 (1) (a); **to renumber and amend**  
2           61.55; **to amend** 13.48 (19), 16.854 (3), 59.52 (29) (b), 66.949 (3), 84.06 (2) (a),  
3           86.31 (2) (b), 119.04 (1), 229.44 (4) (d) and 229.68 (4) (d); and **to create** 16.855  
4           (14m), 20.931, 59.52 (29) (ac), 59.52 (29) (c) and (d), 60.47 (1) (ac), 60.47 (5m),  
5           61.55 (title), 61.55 (1), 61.55 (3), 62.15 (1e), 62.15 (15), 66.20 (3s), 66.24 (5m),  
6           66.88 (5s), 66.904 (6), 85.017, 118.265, 229.41 (8m), 229.46 (8), 229.65 (6m) and  
7           229.682 (9) of the statutes; **relating to:** requirements concerning participation  
8           by labor organizations in public construction contracts and the expenditure of  
9           public grant moneys.

---

### *Analysis by the Legislative Reference Bureau*

This bill requires the department of administration, or the secretary of transportation with respect to transportation-related projects, to ensure that the specifications for bids and contracts for state construction projects and construction projects of local professional baseball park districts do not:

1. Require any bidder, contractor or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

2. Discriminate against any bidder, contractor or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

3. Require any bidder, contractor or subcontractor to enter into or continue to adhere to or enforce any agreement that requires its employees, as a condition of employment, to:

a. Become members of or become affiliated with a labor organization.

b. Make payments to a labor organization, without the authorization of the employes, exceeding the employes' proportionate share of the cost of collective bargaining, contract administration and grievance adjustment.

The bill permits any taxpayer of this state or any other person who enters into contracts or subcontracts for building construction services or transportation-related construction services to bring a lawsuit to require compliance with these requirements. If that person prevails in his or her lawsuit, the bill provides that the court shall award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.

The bill also prohibits any state agency from conditioning the award of any state grant upon any agreement by the recipient:

1. To enter into or continue to adhere to an agreement with any labor organization concerning services to be funded under the grant.

2. To enter into or continue to adhere to or enforce any agreement that requires services that are funded under the grant to be performed by employes who must:

a. Become members of or become affiliated with a labor organization.

b. Make payments to a labor organization, without the authorization of the employes, exceeding the employes' proportionate share of the cost of collective bargaining, contract administration and grievance adjustment.

The bill similarly permits any taxpayer of this state or any other person who applies for a state grant to bring a lawsuit to require compliance with these requirements and provides that, if that person prevails in his or her lawsuit, the court shall award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.

Under current law, state agencies have only the powers given to them by law or necessarily implied therefrom. These powers do not include the authority to condition the award of state contracts or grants upon agreements with labor organizations, representation by labor organizations or making of payments to labor organizations. With certain exceptions, state construction contracts are generally required to be awarded to the lowest responsible bidder. With certain exceptions, contractor for a state building project is required to pay employes who perform work under the contract the prevailing wage for similar work in the area where the project is located. State grants are subject to the specific requirements of various laws under which the grants are made. Currently, state law prohibits any employer from entering into a contract with an employe or prospective employe concerning membership or nonmembership in a labor organization.

This bill also requires a school board, the governing body of a political subdivision of this state (a city, village, town or county), a metropolitan sewerage district, local exposition district and local professional baseball park district to ensure that the specifications for bids and contracts for public works projects conducted by the school board, political subdivision, metropolitan sewerage district,

local exposition district or local professional baseball park district including highway projects, do not:

1. Require any bidder, contractor or subcontractor to enter into or to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

2. Discriminate against any bidder, contractor or subcontractor for refusing to enter into or continue to adhere to an agreement with any labor organization concerning services to be performed in relation to the project or a related project.

3. Require any bidder, contractor or subcontractor to enter into or continue to adhere to or enforce any agreement that requires its employees, as a condition of employment, to:

a. Become members of or become affiliated with a labor organization.

b. Make payments to a labor organization, without the authorization of the employees, exceeding the employees' proportionate share of the cost of collective bargaining, contract administration and grievance adjustment.

The bill also permits any taxpayer of this state or any other person who enters into contracts or subcontracts for building construction services to bring a lawsuit to require compliance with these requirements. If that person prevails in his or her lawsuit, the bill provides that the court shall award to that person reasonable actual attorney fees in addition to other costs that are currently allowed to prevailing parties in lawsuits against nonstate entities.

With certain exceptions, public works contracts with a political subdivision, metropolitan sewerage district and local exposition district are generally required to be awarded to the lowest responsible bidder. With certain exceptions, persons who contract with a political subdivision, metropolitan sewerage district, local exposition district and local professional baseball park district for public works projects are required to pay employees who perform work under such a contract the prevailing wage for similar work in the area where the project is located.

Under current law, towns and counties have only the powers given to them by law or necessarily implied therefrom. These powers do not include the authority to condition the award of public works contracts upon agreements with labor organizations, representation by labor organizations or making of payments to labor organizations. To the extent that the lowest responsible bidder requirements or other exceptions do not apply, cities and villages, under their current law home rule authority, could condition the award of public works contracts upon agreements with labor organizations.

For further information see the *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:***

1           **SECTION 1.** 13.48 (19) of the statutes is amended to read:

1           13.48 **(19)** ALTERNATIVES TO STATE CONSTRUCTION. Whenever the building  
2 commission determines that the use of innovative types of design and construction  
3 processes will make better use of the resources and technology available in the  
4 building industry, the building commission may waive any ~~or all~~ provision of s.  
5 16.855 except s. 16.855 (14m) if such action is in the best interest of the state and if  
6 the waiver is accomplished through formal action of the building commission. The  
7 building commission may authorize the lease, lease purchase or acquisition of such  
8 facilities constructed in the manner authorized by the building commission. The  
9 building commission may also authorize the lease, lease purchase or acquisition of  
10 existing facilities in lieu of state construction of any project enumerated in the  
11 authorized state building program.

12           **SECTION 2.** 16.854 (3) of the statutes is amended to read:

13           16.854 **(3)** It shall be a goal of the department, with regard to each of the  
14 contracts described under sub. (2) (a), (b) and (c), to award at least 25% of the dollar  
15 value of such contracts to minority businesses and at least 5% of the dollar value of  
16 such contracts to women's businesses.

17           **(4)** Sections 16.85, 16.855 (1) to (14) and (15) to (23) and 16.87 do not apply to  
18 services provided or contracted by the department under this section.

19           **SECTION 3.** 16.855 (14m) of the statutes is created to read:

20           16.855 **(14m)** (a) In this subsection, "labor organization" has the meaning given  
21 in s. 5.02 (8m).

22           (b) The department shall ensure that the specifications for bids and contracts  
23 for construction projects entered into under this section do not do any of the  
24 following:

1           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
2 an agreement with any labor organization concerning services to be performed in  
3 relation to the project or a related project.

4           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
5 enter into or continue to adhere to an agreement with any labor organization  
6 concerning services to be performed in relation to the project or a related project.

7           3. Require any bidder, contractor or subcontractor to enter into or continue to  
8 adhere to or enforce any agreement that requires its employees, as a condition of  
9 employment, to do any of the following:

10           a. Become members of or become affiliated with a labor organization.

11           b. Make payments to a labor organization, without the authorization of the  
12 employees, exceeding the employees' proportionate share of the cost of collective  
13 bargaining, contract administration and grievance adjustment.

14           (c) Any taxpayer of this state or any other person who enters into contracts or  
15 subcontracts for building construction services may bring an action to require  
16 compliance with this subsection. If that person prevails in his or her action, the court  
17 shall award to that person reasonable actual attorney fees in addition to other costs  
18 allowed to prevailing parties under ch. 814.

19           **SECTION 4.** 20.931 of the statutes is created to read:

20           **20.931 Conditions upon state grants prohibited.** (1) In this section,  
21 "labor organization" has the meaning given in s. 5.02 (8m).

22           (2) No state agency may condition the award of any grant made by the agency  
23 from moneys appropriated under this chapter upon any agreement by the recipient  
24 to do any of the following:

1 (a) Enter into or continue to adhere to an agreement with any labor  
2 organization concerning services to be funded under the grant.

3 (b) Enter into or continue to adhere to or enforce any agreement that requires  
4 services that are funded under the grant to be performed by employees who must do  
5 any of the following:

6 1. Become members of or become affiliated with a labor organization.

7 2. Make payments to a labor organization, without the authorization of the  
8 employees, exceeding the employees' proportionate share of the cost of collective  
9 bargaining, contract administration and grievance adjustment.

10 **(3)** Any taxpayer of this state or any other person who applies for a grant to be  
11 made from moneys appropriated under this chapter may bring an action to require  
12 compliance with this section. If that person prevails in his or her action, the court  
13 shall award to that person reasonable actual attorney fees in addition to other costs  
14 allowed to prevailing parties under ch. 814.

15 **SECTION 5.** 59.52 (29) (a) of the statutes is renumbered 59.52 (29) (am).

16 **SECTION 6.** 59.52 (29) (ac) of the statutes is created to read:

17 59.52 **(29)** (ac) In this subsection, "labor organization" has the meaning given  
18 in s. 5.02 (8m).

19 **SECTION 7.** 59.52 (29) (b) of the statutes is amended to read:

20 59.52 **(29)** (b) The provisions of par. (a) (am) are not mandatory for the repair  
21 or reconstruction of public facilities when damage or threatened damage thereto  
22 creates an emergency, as determined by resolution of the board, in which the public  
23 health or welfare of the county is endangered. Whenever the board by majority vote  
24 at a regular or special meeting determines that an emergency no longer exists, this  
25 paragraph no longer applies.

1           **SECTION 8.** 59.52 (29) (c) and (d) of the statutes are created to read:

2           59.52 **(29)** (c) The board shall ensure that the specifications for bids and  
3 contracts for construction projects entered into under this subsection do not do any  
4 of the following:

5           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
6 an agreement with any labor organization concerning services to be performed in  
7 relation to the project or a related project.

8           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
9 enter into or continue to adhere to an agreement with any labor organization  
10 concerning services to be performed in relation to the project or a related project.

11           3. Require any bidder, contractor or subcontractor to enter into or continue to  
12 adhere to or enforce any agreement that requires its employees, as a condition of  
13 employment, to do any of the following:

14           a. Become members of or become affiliated with a labor organization.

15           b. Make payments to a labor organization, without the authorization of the  
16 employees, exceeding the employees' proportionate share of the cost of collective  
17 bargaining, contract administration and grievance adjustment.

18           (d) Any taxpayer of this state or any other person who enters into contracts or  
19 subcontracts for building construction services may bring an action to require  
20 compliance with par (c). If that person prevails in his or her action, the court shall  
21 award to that person reasonable actual attorney fees in addition to other costs  
22 allowed to prevailing parties under ch. 814.

23           **SECTION 9.** 60.47 (1) (a) of the statutes is renumbered 60.47 (1) (am).

24           **SECTION 10.** 60.47 (1) (ac) of the statutes is created to read:

25           60.47 **(1)** (ac) "Labor organization" has the meaning given in s. 5.02 (8m).

1           **SECTION 11.** 60.47 (5m) of the statutes is created to read:

2           60.47 **(5m)** CONTRACTS WITH LABOR ORGANIZATIONS. (a) The town board shall  
3 ensure that the specifications for bids and contracts for construction projects entered  
4 into under this section do not do any of the following:

5           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
6 an agreement with any labor organization concerning services to be performed in  
7 relation to the project or a related project.

8           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
9 enter into or continue to adhere to an agreement with any labor organization  
10 concerning services to be performed in relation to the project or a related project.

11           3. Require any bidder, contractor or subcontractor to enter into or continue to  
12 adhere to or enforce any agreement that requires its employes, as a condition of  
13 employment, to do any of the following:

14           a. Become members of or become affiliated with a labor organization.

15           b. Make payments to a labor organization, without the authorization of the  
16 employes, exceeding the employes' proportionate share of the cost of collective  
17 bargaining, contract administration and grievance adjustment.

18           (b) Any taxpayer of this state or any other person who enters into contracts or  
19 subcontracts for building construction services may bring an action to require  
20 compliance with par (a). If that person prevails in his or her action, the court shall  
21 award to that person reasonable actual attorney fees in addition to other costs  
22 allowed to prevailing parties under ch. 814.

23           **SECTION 12.** 61.55 (title) of the statutes is created to read:

24           **61.55 (title) Public contracts and competitive bidding.**

25           **SECTION 13.** 61.55 of the statutes is renumbered 61.55 (2) and amended to read:



1           61.55 (2) CONTRACTS INVOLVING OVER \$10,000; HOW LET; EXCEPTION. All contracts  
2 for public construction, in any such village, exceeding \$10,000, shall be let by the  
3 village board to the lowest responsible bidder in accordance with s. 66.29 insofar as  
4 said that section may be applicable. If the estimated cost of any public construction  
5 exceeds \$5,000, but is not greater than \$10,000, the village board shall give a class  
6 1 notice, under ch. 985, of the proposed construction before the contract for the  
7 construction is executed. This provision and s. 281.41 are not mandatory for the  
8 repair and reconstruction of public facilities when damage or threatened damage  
9 thereto creates an emergency, as determined by resolution of the village board, in  
10 which the public health or welfare of the village is endangered. Whenever the village  
11 board by majority vote at a regular or special meeting declares that an emergency  
12 no longer exists, this exemption no longer applies.

13           **SECTION 14.** 61.55 (1) of the statutes is created to read:

14           61.55 (1) DEFINITION. In this section “labor organization” has the meaning  
15 given in s. 5.02 (8m).

16           **SECTION 15.** 61.55 (3) of the statutes is created to read:

17           61.55 (3) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The village board shall  
18 ensure that the specifications for bids and contracts for construction projects entered  
19 into under this section do not do any of the following:

20           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
21 an agreement with any labor organization concerning services to be performed in  
22 relation to the project or a related project.

23           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
24 enter into or continue to adhere to an agreement with any labor organization  
25 concerning services to be performed in relation to the project or a related project.

1           3. Require any bidder, contractor or subcontractor to enter into or continue to  
2 adhere to or enforce any agreement that requires its employes, as a condition of  
3 employment, to do any of the following:

4           a. Become members of or become affiliated with a labor organization.

5           b. Make payments to a labor organization, without the authorization of the  
6 employes, exceeding the employes' proportionate share of the cost of collective  
7 bargaining, contract administration and grievance adjustment.

8           (b) Any taxpayer of this state or any other person who enters into contracts or  
9 subcontracts for building construction services may bring an action to require  
10 compliance with par. (a). If that person prevails in his or her action, the court shall  
11 award to that person reasonable actual attorney fees in addition to other costs  
12 allowed to prevailing parties under ch. 814.

13           **SECTION 16.** 62.15 (1e) of the statutes is created to read:

14           62.15 (1e) DEFINITION. In this section "labor organization" has the meaning  
15 given in s. 5.02 (8m).

16           **SECTION 17.** 62.15 (15) of the statutes is created to read:

17           62.15 (15) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The common council shall  
18 ensure that the specifications for bids and contracts for construction projects entered  
19 into under this section do not do any of the following:

20           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
21 an agreement with any labor organization concerning services to be performed in  
22 relation to the project or a related project.

23           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
24 enter into or continue to adhere to an agreement with any labor organization  
25 concerning services to be performed in relation to the project or a related project.

1           3. Require any bidder, contractor or subcontractor to enter into or continue to  
2 adhere to or enforce any agreement that requires its employes, as a condition of  
3 employment, to do any of the following:

4           a. Become members of or become affiliated with a labor organization.

5           b. Make payments to a labor organization, without the authorization of the  
6 employes, exceeding the employes' proportionate share of the cost of collective  
7 bargaining, contract administration and grievance adjustment.

8           (b) Any taxpayer of this state or any other person who enters into contracts or  
9 subcontracts for building construction services may bring an action to require  
10 compliance with par. (a). If that person prevails in his or her action, the court shall  
11 award to that person reasonable actual attorney fees in addition to other costs  
12 allowed to prevailing parties under ch. 814.

13           **SECTION 18.** 66.20 (3s) of the statutes is created to read:

14           66.20 (3s) "Labor organization" has the meaning given in s. 5.02 (8m).

15           **SECTION 19.** 66.24 (5m) of the statutes is created to read:

16           66.24 (5m) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall  
17 ensure that the specifications for bids and contracts for construction projects entered  
18 into under sub. (5) do not do any of the following:

19           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
20 an agreement with any labor organization concerning services to be performed in  
21 relation to the project or a related project.

22           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
23 enter into or continue to adhere to an agreement with any labor organization  
24 concerning services to be performed in relation to the project or a related project.

1           3. Require any bidder, contractor or subcontractor to enter into or continue to  
2 adhere to or enforce any agreement that requires its employes, as a condition of  
3 employment, to do any of the following:

4           a. Become members of or become affiliated with a labor organization.

5           b. Make payments to a labor organization, without the authorization of the  
6 employes, exceeding the employes' proportionate share of the cost of collective  
7 bargaining, contract administration and grievance adjustment.

8           (b) Any taxpayer of this state or any other person who enters into contracts or  
9 subcontracts for building construction services may bring an action to require  
10 compliance with par (a). If that person prevails in his or her action, the court shall  
11 award to that person reasonable actual attorney fees in addition to other costs  
12 allowed to prevailing parties under ch. 814.

13           **SECTION 20.** 66.88 (5s) of the statutes is created to read:

14           66.88 (5s) "Labor organization" has the meaning given in s. 5.02 (8m).

15           **SECTION 21.** 66.904 (6) of the statutes is created to read:

16           66.904 (6) CONTRACTS WITH LABOR ORGANIZATIONS. (a) The commission shall  
17 ensure that the specifications for bids and contracts for construction projects entered  
18 into under this section do not do any of the following:

19           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
20 an agreement with any labor organization concerning services to be performed in  
21 relation to the project or a related project.

22           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
23 enter into or continue to adhere to an agreement with any labor organization  
24 concerning services to be performed in relation to the project or a related project.

1           3. Require any bidder, contractor or subcontractor to enter into or continue to  
2 adhere to or enforce any agreement that requires its employes, as a condition of  
3 employment, to do any of the following:

4           a. Become members of or become affiliated with a labor organization.

5           b. Make payments to a labor organization, without the authorization of the  
6 employes, exceeding the employes' proportionate share of the cost of collective  
7 bargaining, contract administration and grievance adjustment.

8           (b) Any taxpayer of this state or any other person who enters into contracts or  
9 subcontracts for building construction services may bring an action to require  
10 compliance with par (a). If that person prevails in his or her action, the court shall  
11 award to that person reasonable actual attorney fees in addition to other costs  
12 allowed to prevailing parties under ch. 814.

13           **SECTION 22.** 66.949 (3) of the statutes is amended to read:

14           66.949 (3) NOTICE. Notwithstanding ss. 27.065 (5) (a), 30.32, 38.18, 43.17 (9)  
15 (a), 59.52 (29) (a) (am), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.55, 61.56, 61.57,  
16 62.15 (1), 62.155, 66.24 (5) (d), 66.299 (2), 66.431 (5) (a) 2., 66.47 (11), 66.505 (10),  
17 66.508 (10) and 66.904 (2), before entering into a performance contract under this  
18 section, a local governmental unit shall solicit bids or competitive sealed proposals  
19 from qualified providers. A local governmental unit may only enter into a  
20 performance contract if the contract is awarded by the governing body of the local  
21 governmental unit. The governing body shall give at least 10 days' notice of the  
22 meeting at which the body intends to award a performance contract. The notice shall  
23 include a statement of the intent of the governing body to award the performance  
24 contract, the names of all potential parties to the proposed performance contract, and  
25 a description of the energy conservation and facility improvement measures

1 included in the performance contract. At the meeting, the governing body shall  
2 review and evaluate the bids or proposals submitted by all qualified providers and  
3 may thereafter award the performance contract to the qualified provider that best  
4 meets the needs of the local governmental unit, which need not be the lowest cost  
5 provider.

6 **SECTION 23.** 84.06 (2) (a) of the statutes is amended to read:

7 84.06 (2) (a) All such highway improvements shall be executed by contract  
8 based on bids unless the department finds that another method as provided in sub.  
9 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in  
10 the manner determined by the department. Except as provided in s. 84.075, the  
11 contract shall be awarded to the lowest competent and responsible bidder as  
12 determined by the department. If the bid of the lowest competent bidder is  
13 determined by the department to be in excess of the estimated reasonable value of  
14 the work or not in the public interest, all bids may be rejected. The department shall,  
15 so far as reasonable, follow uniform methods of advertising for bids and may  
16 prescribe and require uniform forms of bids and contracts. Except as provided in par.  
17 (b), the secretary shall enter into the contract on behalf of the state. Every such  
18 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but  
19 ss. 16.528, 16.752 and 16.754 apply to the contract. Contracts under this section are  
20 subject to s. 85.017. Any such contract involving an expenditure of \$1,000 or more  
21 shall not be valid until approved by the governor. The secretary may require the  
22 attorney general to examine any contract and any bond submitted in connection with  
23 the contract and report on its sufficiency of form and execution. The bond required  
24 by s. 779.14 (1m) (b) for any such contract involving an expenditure of less than  
25 \$1,000 is exempt from approval by the governor and shall be subject to approval by

1 the secretary. This subsection also applies to contracts with private contractors  
2 based on bids for maintenance under s. 84.07.

3 **SECTION 24.** 85.017 of the statutes is created to read:

4 **85.017 Contracts conditioned on use of labor organizations**  
5 **prohibited.** (1) In this section, "labor organization" has the meaning given in s.  
6 5.02 (8m).

7 (2) The secretary shall ensure that the specifications for bids, contracts for  
8 construction or maintenance projects entered into by the secretary or the  
9 department do not do any of the following:

10 (a) Require any bidder, contractor or subcontractor to enter into or to adhere  
11 to an agreement with any labor organization concerning services to be performed in  
12 relation to the project or a related project.

13 (b) Discriminate against any bidder, contractor or subcontractor for refusing  
14 to enter into or continue to adhere to an agreement with any labor organization  
15 concerning services to be performed in relation to the project or a related project.

16 (c) Require any bidder, contractor or subcontractor to enter into or continue to  
17 adhere to or enforce any agreement that requires its employees, as a condition of  
18 employment, to do any of the following:

19 1. Become members of or become affiliated with a labor organization.

20 2. Make payments to a labor organization, without the authorization of the  
21 employees, exceeding the employees' proportionate share of the cost of collective  
22 bargaining, contract administration and grievance adjustment.

23 (3) Any taxpayer of this state or any other person who enters into contracts or  
24 subcontracts for construction services subject to sub. (2) may bring an action against  
25 the secretary to require compliance with this section. If that person prevails in his

1 or her action, the court shall award to that person reasonable actual attorney fees  
2 in addition to other costs allowed to prevailing parties under ch. 814.

3 **SECTION 25.** 86.31 (2) (b) of the statutes is amended to read:

4 86.31 (2) (b) Except as provided in par. (d), improvements for highway  
5 construction projects funded under the program shall be under contracts. Such  
6 contracts are subject to ss. 59.52 (29) (c), 60.47 (5m), 61.55 (3) and 62.15 (15) and shall  
7 be awarded on the basis of competitive bids and shall be awarded to the lowest  
8 responsible bidder. If a city, village or town does not receive a responsible bid for an  
9 improvement, the city, village or town may contract with a county for the  
10 improvement.

11 **SECTION 26.** 118.265 of the statutes is created to read:

12 **118.265 Contracts with labor organizations.** (1) In this section, "labor  
13 organization" has the meaning given in s. 5.02 (8m).

14 (2) The school board shall ensure that the specifications for bids and contracts  
15 for construction projects entered into by the school board do not do any of the  
16 following:

17 (a) Require any bidder, contractor or subcontractor to enter into or to adhere  
18 to an agreement with any labor organization concerning services to be performed in  
19 relation to the project or a related project.

20 (b) Discriminate against any bidder, contractor or subcontractor for refusing  
21 to enter into or continue to adhere to an agreement with any labor organization  
22 concerning services to be performed in relation to the project or a related project.

23 (c) Require any bidder, contractor or subcontractor to enter into or continue to  
24 adhere to or enforce any agreement that requires its employees, as a condition of  
25 employment, to do any of the following:



1           1. Become members of or become affiliated with a labor organization.

2           2. Make payments to a labor organization, without the authorization of the  
3 employes, exceeding the employes' proportionate share of the cost of collective  
4 bargaining, contract administration and grievance adjustment.

5           **(3)** Any taxpayer of this state or any other person who enters into contracts or  
6 subcontracts for building construction services may bring an action to require  
7 compliance with sub. (2). If that person prevails in his or her action, the court shall  
8 award to that person reasonable actual attorney fees in addition to other costs  
9 allowed to prevailing parties under ch. 814.

10           **SECTION 27.** 119.04 (1) of the statutes, as affected by 1997 Wisconsin Act 27,  
11 is amended to read:

12           119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c),  
13 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38  
14 (2), 115.40, 115.45, 118.001 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to  
15 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.18, 118.19, 118.20,  
16 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.265, 118.30 to  
17 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (24), 120.125, 120.13 (1), (2) (b)  
18 to (g), (3), (14), (17) to (19), (26), (34) and (35) and 120.14 are applicable to a 1st class  
19 city school district and board.

20           **SECTION 28.** 229.41 (8m) of the statutes is created to read:

21           229.41 (8m) "Labor organization" has the meaning given in s. 5.02 (8m).

22           **SECTION 29.** 229.44 (4) (d) of the statutes is amended to read:

23           229.44 (4) (d) Enter into contracts. All contracts, the estimated costs of which  
24 exceed \$30,000 are subject to s. 229.46 (8), except contracts subject to s. 229.46 (5)  
25 and contracts for personal or professional services, and shall be subject to bid and

1 shall be awarded to the lowest qualified and competent bidder. The district may  
2 reject any bid that is submitted under this paragraph.

3 **SECTION 30.** 229.46 (8) of the statutes is created to read:

4 229.46 (8) (a) The district shall ensure that the specifications for bids and  
5 contracts for construction projects entered into under this subchapter do not do any  
6 of the following:

7 1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
8 an agreement with any labor organization concerning services to be performed in  
9 relation to the project or a related project.

10 2. Discriminate against any bidder, contractor or subcontractor for refusing to  
11 enter into or continue to adhere to an agreement with any labor organization  
12 concerning services to be performed in relation to the project or a related project.

13 3. Require any bidder, contractor or subcontractor to enter into or continue to  
14 adhere to or enforce any agreement that requires its employes, as a condition of  
15 employment, to do any of the following:

16 a. Become members of or become affiliated with a labor organization.

17 b. Make payments to a labor organization, without the authorization of the  
18 employes, exceeding the employes' proportionate share of the cost of collective  
19 bargaining, contract administration and grievance adjustment.

20 (b) Any taxpayer of this state or any other person who enters into contracts or  
21 subcontracts for building construction services may bring an action to require  
22 compliance with par (a). If that person prevails in his or her action, the court shall  
23 award to that person reasonable actual attorney fees in addition to other costs  
24 allowed to prevailing parties under ch. 814.

25 **SECTION 31.** 229.65 (6m) of the statutes is created to read:

1           229.65 **(6m)** “Labor organization” has the meaning given in s. 5.02 (8m).

2           **SECTION 32.** 229.68 (4) (d) of the statutes is amended to read:

3           229.68 **(4)** (d) Enter into contracts, subject to s. 229.682 (9) and to such  
4 standards as may be established by the district board. The district board may award  
5 any such contract for any combination or division of work it designates and, subject  
6 to s. 229.682 (9), may consider any factors in awarding a contract, including price,  
7 time for completion of work and qualifications and past performance of a contractor.

8           **SECTION 33.** 229.682 (9) of the statutes is created to read:

9           229.682 **(9)** CONTRACTS WITH LABOR ORGANIZATIONS. (a) The district shall ensure  
10 that the specifications for bids and contracts for construction projects entered into  
11 under this subchapter do not do any of the following:

12           1. Require any bidder, contractor or subcontractor to enter into or to adhere to  
13 an agreement with any labor organization concerning services to be performed in  
14 relation to the project or a related project.

15           2. Discriminate against any bidder, contractor or subcontractor for refusing to  
16 enter into or continue to adhere to an agreement with any labor organization  
17 concerning services to be performed in relation to the project or a related project.

18           3. Require any bidder, contractor or subcontractor to enter into or continue to  
19 adhere to or enforce any agreement that requires its employees, as a condition of  
20 employment, to do any of the following:

21           a. Become members of or become affiliated with a labor organization.

22           b. Make payments to a labor organization, without the authorization of the  
23 employees, exceeding the employees’ proportionate share of the cost of collective  
24 bargaining, contract administration and grievance adjustment.

