

OCT-24-1994 17:02

BRITISH CONSULATE

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Via fax



British
Consulate-General
Boston

24 October 1994

Ms G Campbell
Equality Division
Department of Economic Development
Belfast

25th Floor, Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210

Telephone: (617) 248-9555
Facsimile: (617) 248-9578

Dear Georgie

FINAL VERSION OF MACBRIDE VETO LANGUAGE - MASSACHUSETTS

1. I enclose the text of the preamble and amendment language which Governor Weld returned to the Legislature on Friday, 21 October. As you can see, little is changed from the original text, to some extent as a sop to the Legislature, I suspect. An additional paragraph regarding the Prime Minister's announcements on Friday was also added.
2. We have yet to see whether the Legislature will attempt an override, accept the proposed language, or simply let the veto stand. We will continue to monitor the situation and advise as developments occur.
3. I have enclosed the only press on the subject to date, buried in the 22 October Boston Herald, but no doubt the ethnic papers in New York will be chiming in on the subject in the next issue.

Yours sincerely,

Tema Evans

Teresa M Evans
Press and Public Affairs Officer

cc Mr Haine
Mr Davis
Mrs Glass
Mrs Chalmers
Etc.

Enclosures

cc:

Ms P Mitchison, BE Washington
Mr P Reid, BIS New York

Re *, Governor Weld hopes to travel to MI in December, however the dates have not yet been finalised. Cent. Sec. is not coordinating his programme but they will have some involvement and will keep us informed of developments. I understand that Mr Gibson will also be involved in relation to the US investment Conference. 1/11/94.

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WILLIAM F. WELD
GOVERNOR

AGEO PAUL CELLUCCI
DEPUTY GOVERNOR

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

(617) 727-3600

October 21, 1994

To the Honorable House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3, of the Amendments to the Constitution of the Commonwealth, I am returning to you for amendment House Bill 3120, entitled, "An Act Regarding State Contracts With Companies Doing Business in Northern Ireland."

This bill comes to my desk at a time of extraordinary progress in Northern Ireland. The Irish Republican Army and Protestant loyalist groups -- locked in a tragic civil war for twenty-five years -- have declared a cease fire. Where once terror lurked, a hopeful, if fragile, truce now exists.

This fall has seen the Taoiseach, Albert Reynolds; John Hume, leader of the Social Democratic Labor Party; and Gerry Adams of Sinn Fein issue a joint statement declaring, "We are at the beginning of a new era in which we are all totally and absolutely committed to democratic and peaceful methods of solving our political problems."

Loyalist groups, for their part, have said, "We are on the threshold of a new and exciting beginning, with our battles in future being political battles, fought on the side of honesty, decency and democracy against the negativity of mistrust, misunderstanding, and malevolence..."

And just today, British Prime Minister John Major traveled to Northern Ireland to announce his support for exploratory peace talks, to open all border crossings, and to lift travel restrictions on Sinn Fein leaders.

* Once unmovable parties in England and in Northern Ireland are now moving toward a framework for a peace that would uphold democracy and put a permanent end to the deadly violence in Northern Ireland.

It is in this mix that one must consider the effects of this proposed legislation. No one in this Commonwealth, certainly, disagrees with its goals: to help put an end to enduring economic discrimination against Catholics in Northern Ireland.

* *We had requested that this be removed.*

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As I said in a legislative message earlier this year, this has been a longstanding issue of special concern to many thousands of citizens in this Commonwealth. According to the Investor Responsibility Research Center, since the creation of the Northern Ireland province in 1921, Catholics have been more than twice as likely as Protestants to be unemployed. The deadly violence that has plagued Northern Ireland can trace many of its roots to the silent, economic discrimination against many of its citizens.

An important step toward ending job discrimination against Catholics took place in 1989, with passage of the Northern Ireland Fair Employment Act. Besides creating a Fair Employment Commission to monitor employers and to promote affirmative action and religious equality in the workplace, the Act also established statutory requirements concerning employment compositions and recruitment efforts by employers. Under the Act, employers are subject to fines and sanctions for discriminatory practices.

The British Government is conducting an open review of the Fair Employment Act to determine its effectiveness in deterring discriminatory employment practices in Northern Ireland; this process will continue into next year.

ref to
Irish Govt
removed as
requested.

As we lend our moral and spiritual support to the movement toward peace, we must simultaneously back economic development and job-creating investment. The United States government has already indicated its support for the peace process through continued economic assistance to the International Fund for Ireland, and in encouraging private investment in Northern Ireland. A trade mission I plan to join in December will be a further signal of Massachusetts' interest in investment in Northern Ireland.

Some Catholics agree that the MacBride Principles, despite their noble goal, are a disincentive to investment in Northern Ireland. Mr. Hume, himself, has said, "My advice to our friends in the United States was and is, if you really want to help us, then encourage investment in areas of high unemployment in Northern Ireland. That is a positive thing to do. The effect of the MacBride Principles Campaign, whether people like to admit it or not, is to stop investment coming in and that is bad for us."

For the Commonwealth to enact the literal application of the MacBride Principles at this delicate moment in history might not only discourage Massachusetts investment in Northern Ireland, but could possibly present an unhelpful distraction in the momentous move toward peace.

Still, I feel that there is a strong need for us to know that companies with which the Commonwealth does business and which employ people in Northern Ireland maintain fair employment practices. It is with concern for ending religious discrimination in Northern Ireland, while not impeding economic

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and political developments, that I respectfully submit amendments which will require companies doing business with the Commonwealth to adopt fair employment practices and promote religious tolerance among their employees in Northern Ireland, effective January 1, 1996.

I recommend that House Bill No. 3120 be amended by striking all text after the enacting clause and inserting in place thereof the following new text: -

"SECTION 1. Section 1 of chapter 7 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

... the purpose of this section clearly appears, the following words shall have the following meanings:

"Comparable low bid or offer", a responsive and responsible bid or offer which is no more than ten percent greater than the lowest bid or offer submitted for goods or a service.

"Essential", necessary in order that an agency or authority may perform its mission, there being no substitute, to avoid irreparable harm to agency or authority programs.

"Person", an individual, partnership, firm, association, corporation, or other entity, or a subsidiary thereof.

"Secretary", the secretary of administration and finance.

"State agency", awarding authorities of the commonwealth, including, but not limited to, executive offices, agencies, departments, commissions, and public institutions of higher education.

"State authority" shall include, but not be limited to: the Bay State Skills Corporation, Centers of Excellence, Community Economic Development Assistance Corporation, Community Development Finance Corporation, government land bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Capital Resource Company, Massachusetts Convention Center Authority, Massachusetts Corporation for Educational Telecommunications, Massachusetts Educational Loan Authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Higher Education Assistance Corporation, Massachusetts Housing Finance Agency, Massachusetts Racing Commission, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation, Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resource Authority, Nantucket Land Bank, New England Loan Marketing Corporation, Pension Reserves Investment Management Board, State College Building Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, Victim and Witness Assistance Board, and the Woods Hole, Martha's

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Vineyard and Nantucket Steamship Authority.

SECTION 2. Said chapter 7 is hereby further amended by inserting after section 22B the following four sections:-

Section 22C. (a) Except as otherwise provided in this section, a state agency, a state authority, the house of representatives or the state senate may not procure goods or services from any person employing ten or more employees in an office or other facility located in Northern Ireland; who fails to certify that:

(1) he does not discriminate in employment; compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and

(2) he promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination.

The certification shall also confirm that the certifying person is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

(b) A state agency, a state authority, or the house of representatives or the senate may procure goods or services from a person who employs ten or more employees in an office or other facility located in Northern Ireland and fails to provide the certification required by subsection (c) only after certifying, in writing, to the secretary or, in the case of a state authority, to the chief operating officer that:

(1) the procurement is essential; and

(2) compliance with this section would eliminate the only bid or offer or would result in inadequate competition.

(c) In any solicitation, a state agency, a state authority, the house of representatives or the senate shall provide notice of the requirements of this section. Prior to reviewing responses to bid documents for any procurements or, if there are none, prior to entering into any contractual arrangement, the awarding authority shall obtain from such person seeking a contract a statement under pains and penalties of perjury from an authorized representative, on a form to be provided by the awarding authority, that he does not employ ten or more employees in an office or other facility located in Northern Ireland or, if he does, certifying compliance with the principles listed in subsection (a) or declaring that he does not so certify.

(d) In any procurement that includes bidders or offerors who employ ten or more employees in an office or other facility located in Northern Ireland and do not certify compliance with the principles listed in subsection (a), the awarding authority may award the contract to a person who does not certify compliance with the principles listed in subsection (a) only if there is no comparable low bid or offer by a person who does so certify or who does not employ ten or more employees in an office or other facility located in Northern Ireland.

(e) A person who employs persons in Northern Ireland for

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the sole purpose of reporting the news, or solely for the purpose of providing goods or services for the provision of international telecommunications shall not be subject to the provisions of sections twenty-two C to twenty-two D, inclusive.

Section 22D. (a) Notwithstanding the provisions of section twenty-two C, a state agency may purchase medical supplies intended to preserve or prolong life or to cure, prevent, or ameliorate diseases, including hospital, nutritional, diagnostic, pharmaceutical and nonprescription products specifically manufactured to satisfy identified health care needs, for which there is no medical substitute. The determination of whether no medical substitute exists shall be made by the state agency requiring the supply, pursuant to general standards of good medical and professional practice. The state agency shall give notice to the state purchasing agent in writing, certifying compliance with this exemption, said notice and certification being sufficient to allow the purchase of medical supplies under this exemption.

(b) to the extent that a person doing business in Northern Ireland is providing only medical supplies, as described in subsection (a), to persons in Northern Ireland, then the supply of goods or equipment to the commonwealth by said person shall also be exempt from the preference requirements of these regulations. This exemption from the preference requirements shall not apply in any case in which the nature of any person's business dealings in Northern Ireland include both medical and nonmedical supplies.

Section 22E. Any contract entered into in violation of sections twenty-two C to twenty-two D, inclusive, shall be voidable.

Section 22F. The secretary is hereby authorized to promulgate regulations to assure the timely and effective implementation of sections twenty-two C to twenty-two E, inclusive.

Section 3. The provisions of this act shall apply to contracts entered into after the effective date of this act. A contract existing on the effective date of this act shall remain in full force and effect and shall not be subject to the provisions of this act until such time as such existing contract is renewed.

Section 4. This act shall be effective on January 1, 1996."

Respectfully submitted,

William F. Weld

William F. Weld
Governor