



2023 ASSEMBLY BILL 483

October 12, 2023 - Introduced by Representative DALLMAN. Referred to Committee on State Affairs.

- 1 **AN ACT relating to:** expenditure of \$927,428.70 from the general fund in
2 payment of a claim against the state made by Zenith Tech, Inc.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$927,428.70 from the general fund in payment of a claim against the Department of Transportation by Zenith Tech, Inc. The claimant entered into a contract with DOT to remove and reconstruct the West Milwaukee Street Stock River Bridge in Janesville, Wisconsin. The claimant asserts that the water levels on site were dangerously high throughout much of the project and created site conditions materially different than those indicated in the contract documents and that the changed conditions resulted in delays and additional expenses. Due to site conditions, the claimant requested DOT delay the start of the project which DOT refused. DOT maintains that the claimant should not have relied on the hydraulic information in the project specification, that the claimant should not have relied on specific river conditions that were subject to change, and that the claimant was responsible for choosing the means and methods for performing its work. The claimant asserted it is entitled to an equitable adjustment in the contract price and requested \$471,926.70 for additional costs, \$276,902.00 for winter inefficiency costs, and reversal of \$165,600.00 in liquidated damages imposed by DOT. On September 7, 2021, the claims board denied the claim because it concluded that the claimant did not demonstrate the criteria necessary to justify a change in work order under the contract, and that the claimant has raised questions of fact regarding its request to delay the project's start date that are better evaluated by a court of law (see 2021 *Assembly Journal*, p. 488).

