



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4650/1  
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## 2023 ASSEMBLY BILL 913

January 4, 2024 - Introduced by Representative WITTKÉ, cosponsored by Senator WANGGAARD. Referred to Committee on State Affairs.

- 1     **AN ACT relating to:** expenditure of \$8,630,650.62 from the general fund for  
2             payment of a claim against the state made by Walsh Construction.

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### *Analysis by the Legislative Reference Bureau*

This bill directs the expenditure of \$8,630,650.62 from the general fund in payment of a claim against the Department of Transportation by Walsh Construction. The claimant entered into a contract with DOT to perform work on the I-94 Freeway North Package Project associated with DOT project 1030-20-84. The claimant asserted that the topsoil was significantly thicker than what was shown in the contract documents, that several topographical errors in the project plans necessitated the purchase of additional fill material, and that these differing site conditions comprised an excusable, compensable delay under the contract. The claimant asserted that it provided DOT with written notice of the differing site conditions and that the Dispute Resolution Board unanimously recommended that the claimant receive additional compensation for the differing site conditions and for acceleration costs associated with 83 days of delay. DOT agreed to compensate the claimant for the direct costs associated with the differing site conditions but refused to provide additional compensation for the cost of acceleration, relief from liquidated damages and disincentive pay, or additional time to complete the project. DOT maintains that there is no language in the contract allowing for acceleration and that DOT neither accepted the claimant's claim for acceleration nor directed the claimant to accelerate at any stage. DOT asserted that acceleration was unnecessary because DOT allowed numerous time and efficiency modifications to the contract. Further, DOT disagreed with the Dispute Resolution Board's finding that the claimant was

