

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: **06/26/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous  
Counties  
Education - MPS**

Extra Copies: **MJL, PG**

**Pre Topic:**

SDC:.....Walter - Caucus # 1735,

**Topic:**

Authorize design-build construction process for certain Milwaukee area governmental entities

**Instructions:**

See Attached. based on 1999 LRB -3201/1

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 06/27/99	wjackson 06/27/99		_____			
/1			kfollet 06/27/99	_____	lrb_docadmin 06/28/99		
/2	rmarchan 06/28/99	wjackson 06/28/99	kfollet 06/29/99	_____	lrb_docadmin 06/29/99		

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: **06/26/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous  
Counties  
Education - MPS**

Extra Copies: **MJL, PG**

**Pre Topic:**

SDC:.....Walter - Caucus # 1735,

**Topic:**

Authorize design-build construction process for certain Milwaukee area governmental entities

**Instructions:**

See Attached. based on 1999 LRB -3201/1

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 06/27/99	wjackson 06/27/99		_____			
/1		1/2 Wlj 6/28	kfollet 06/27/99	_____	lrb_docadmin 06/28/99		
			kjf 6/29	_____			
				_____			

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: 06/26/99

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous  
Counties  
Education - MPS**

Extra Copies: **MJL, PG**

**Pre Topic:**

SDC:.....Walter - Caucus # 1735,

**Topic:**

Authorize design-build construction process for certain Milwaukee area governmental entities

**Instructions:**

See Attached. based on 1999 LRB -3201/1

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	shoveme	1 WJ 6/27	KJF 6/27	KJF/15 6/27			
1/1	MFS 6/26						

FE Sent For:

<END>

modify

SDC

**Agency: Miscellaneous Appropriations**

caucus number 1735

duplicate flag:

duplicate with:

Other reference numbers:

LFB Sum #:

bill number/amendment number: SB 198

LRB draft # 0347/5

LRB P-draft:

description: Apply to Milw city, county and metro sewerage district. Allow design-build procurement process only for projects over \$3 mil.  
Remove changes to comp. bidding process in bill. Specify design-build projects subject to prev. wage & lien/bond requirements.

**other notes MODIFY TO: See attached changes**

drafting instructions: See above.

more instructions:

Agency: **Miscellaneous Appropriations**

Number of Amendments: 1

Design-Build [1999 Senate Bill 198 (LRB 0347/5) As Modified]

CN1735

Modify the provisions of the bill as follows:

Permit the use of design-build construction procurement process by the following Milwaukee area entities only: City of Milwaukee, Milwaukee County, Milwaukee Public Schools, Milwaukee Area Technical College, Milwaukee Metropolitan Sewerage District and Milwaukee Federated Library System. (Original draft would have applied statewide for all municipalities and counties.)

Allow the use of design build procurement process for only those projects with an estimated project cost of \$3 million or more.

Remove the changes/exemptions to competitive bidding requirements contained in the bill.

Specify that these design build contracts are subject to prevailing wage requirements and public works lien and performance bond requirements.

Require that projects that utilize the design-build procurement method be subject to the same minority and women's business enterprise participation goals that apply to the construction of Miller Park. (25% minority business enterprise participation, 5% women's business enterprise participation.)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1352/1  
MES .....  
WJ  
PMNA

SDC:.....Walter - Caucus # 1735, Authorize design-build construction process for certain Milwaukee area governmental entities

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

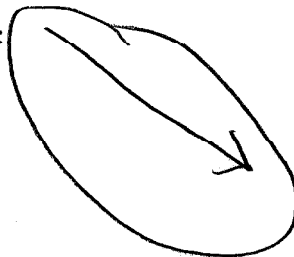
WPO:  
T2K wouldn't let  
me print w/ line #s--  
I got the popup that said  
an error occurred & I must either  
exit interleaf or cancel the  
operation -- Maybe the # is bad

D-note

At the locations indicated, amend the substitute amendment as follows:

- 1. Page 512, line 3: after that line insert:

(AND)





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3201/1  
MES:kg:ch

1999 BILL

1 **AN ACT to renumber and amend 38.18; to amend 43.17 (9) (a), 59.52 (29) (a),**  
2 **62.03 (1), 62.15 (1), 66.904 (2) (a), 66.904 (2) (e) and 281.41 (1); and to create**  
3 **38.18 (2), 43.17 (9) (c), 59.52 (29) (c) to (e), 62.15 (1m), 66.904 (2) (am), 119.18**  
4 **(24) and 281.01 (3e) of the statutes; relating to:** authorizing 1st class cities,  
5 counties with a population of at least 500,000, the Milwaukee metropolitan  
6 sewerage district, the Milwaukee area technical college, the Milwaukee  
7 federated public libraries and the Milwaukee Public School district to let public  
8 works contracts under the design-build construction process and changing  
9 certain threshold amounts that require competitive bidding under public works  
10 contracts.

---

***Analysis by the Legislative Reference Bureau***

In general, under current law, before a contract for public construction with a value that exceeds \$5,000 but does not exceed \$20,000 may be let by a county, a class 1 notice of the proposed construction must be given by the county board. Also under current law, before a contract for public construction with a value that exceeds \$5,000 but does not exceed \$10,000 may be let by a municipality (2nd, 3rd or 4th class city,

**BILL**

or a village or town), a class 1 notice of the proposed construction must be given by the municipality's governing body. Before a contract for public construction with a value that exceeds \$20,000 may be let by a county, or exceeds \$10,000 in the case of a municipality, certain other requirements, such as a lowest responsible bidder requirement, must be met. A county board, by a three-fourths vote of its membership, may also authorize the county itself to perform any class of public work if the estimated cost of the work exceeds \$20,000.

This bill authorizes 1st class cities (presently only Milwaukee), Milwaukee County, the Milwaukee metropolitan sewerage district, the Milwaukee area technical college and the Milwaukee federated public library system (local governmental units) to let a contract for public construction, the estimated cost of which exceeds \$3,000,000, using the design-build construction process, which is defined as a procurement process under which the engineering, design and construction services are provided by a single entity.

If a local governmental unit wishes to construct a public work using the design-build construction process, the local governmental unit must use a two-stage selection process. Under the first stage, the local governmental unit must publish a notice that includes a project statement that describes the space needs and design goals for the project, detailed submission requirements, selection procedures, the composition of the selection panel and whether the local governmental unit will offer a stipend to unsuccessful design-build teams and, if so, the amount of the stipend.

Following receipt of the bids, the local governmental unit must select five or less design-build teams to participate in the second stage of the selection process. The selection of the finalist teams in the first stage of the process must be based on factors that include the background, experience and qualifications of the members of the teams and the quality of the initial proposal.

In the second stage of the selection process, the local governmental unit must choose from among the five or less finalist teams if the unit determines that at least one of the finalists will be able to construct the public work in a way that is satisfactory to the unit. The local governmental unit must conduct interviews of each team, and each team must make a presentation. The criteria to be used in making a final selection may include the quality of the proposed design, the extent to which a proposal demonstrates compliance with the project statement, the estimated cost of the project and a guaranteed maximum price for the project. If the local governmental unit enters into a contract with one of the teams, that design-build team must obtain bonding to guarantee completion of the project.

The bill also increases the threshold amount that requires competitive bidding on public works contracts to \$20,000 for cities and metropolitan sewerage districts that contain a 1st class city.

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:*



**BILL**

1     " SECTION 1. 38.18 of the statutes is renumbered 38.18 (1) and amended to read:  
 2             38.18 (1) All contracts made by a district board for public construction in a  
 3     district, the estimated cost of which exceeds \$10,000, shall be let by the district board  
 4     to the lowest responsible bidder in accordance with s. 62.15 (1) to (11) and (14). For  
 5     purposes of this section and subject to sub. (2), the district board shall possess the  
 6     powers conferred by s. 62.15 on the board of public works and the common council.  
 7     All contracts made under this section shall be made in the name of the district and  
 8     shall be executed by the district board chairperson and district board secretary.

9             SECTION 2. 38.18 (2) of the statutes is created to read:  
 10            38.18 (2) Only a district board governing a district that includes a 1st class city  
 11     may let a contract using the design-build process under s. 62.15 (1m). "

#. Page 537, line 19, after that line insert:

12            " SECTION 3. 43.17 (9) (a) of the statutes is amended to read:  
 13            43.17 (9) (a) All contracts for public construction, the estimated cost of which  
 14     exceeds \$5,000, made by a federated public library system whose territory lies within  
 15     2 or more counties or by a federated public library system whose territory lies within  
 16     a single county with a population of at least 500,000 shall be let, subject to par. (c),  
 17     by the public library system board to the lowest responsible bidder in accordance  
 18     with s. 62.15 (1) to (11) and (14). For purposes of this section, the system board  
 19     possesses the powers conferred by s. 62.15 on the board of public works and the  
 20     common council. All contracts made under this section shall be made in the name  
 21     of the federated public library system and shall be executed by the system board  
 22     president and such other board officer as the system board designates.

23            SECTION 4. 43.17 (9) (c) of the statutes is created to read:

**BILL**

1           43.17 (9) (c) Only a federated public library system whose territory lies within  
2 a single county with a population of at least 500,000 may let a contract using the  
3 design-build process under s. 62.15 (1m). " .

line  
# Page 761, 21: after that line insert:

4           SECTION 59.52 (29) (a) of the statutes is amended to read:

5           59.52 (29) (a) All Except as provided in par. (c) 2., all public work, including any  
6 contract for the construction, repair, remodeling or improvement of any public work,  
7 building, or furnishing of supplies or material of any kind where the estimated cost  
8 of such work will exceed \$20,000 shall be let by contract to the lowest responsible  
9 bidder. Any public work, the estimated cost of which does not exceed \$20,000, shall  
10 be let as the board may direct. If the estimated cost of any public work is between  
11 \$5,000 and \$20,000, the board shall give a class 1 notice under ch. 985 before it  
12 contracts for the work or shall contract with a person qualified as a bidder under s.  
13 66.29 (2). A contract, the estimated cost of which exceeds \$20,000, shall be let and  
14 entered into under s. 66.29, except that the board may by a three-fourths vote of all  
15 the members entitled to a seat provide that any class of public work or any part  
16 thereof may be done directly by the county without submitting the same for bids.  
17 This subsection does not apply to highway contracts which the county highway  
18 committee or the county highway commissioner is authorized by law to let or make.

19           SECTION 59.52 (29) (c) to (f) of the statutes are created to read:

20           59.52 (29) (c) 1. In this subsection, "design-build construction process" means  
21 a procurement process under which the engineering, design and construction  
22 services are provided by a single entity under a process described under par. (d).

23           2. Any public works contract described in par. (a), the estimated cost of which  
24 exceeds \$3,000,000, may be let by a county with a population of at least 500,000 using  
25 the design-build construction process.

**BILL**

1 (d) If a county with a population of at least 500,000 wishes to construct a public  
2 work using the design-build construction process, the county shall use a selection  
3 process that contains the following procedures:

4 1. The county shall issue a request for proposals from design-build teams by  
5 publishing a class 1 notice under ch. 985. The notice shall include a project statement  
6 that describes the space needs and design goals for the project, detailed submission  
7 requirements, selection procedures, site information, an outline of specifications for  
8 the project, a budget for the project, a project schedule, the composition of the  
9 selection panel, the approximate amount of the bond that the county will require  
10 under par. (e) and whether the county will offer a stipend to unsuccessful  
11 design-build teams and, if so, the amount of the stipend.

12 2. Following receipt of the proposals, the county shall select 5 or less  
13 design-build teams to participate in the final stage of the selection process. The  
14 selection of teams under this subdivision shall be based on factors that include the  
15 background, experience and qualifications of the members of the teams; the financial  
16 strength and surety capacity of the teams; the quality of the initial proposal; and the  
17 past performance and current workload of the teams. The county selection panel  
18 that selects the teams under this subdivision for the final selection process under  
19 subd. 3. may include design and construction professionals who work for the county  
20 or are hired by the county to assist in the selection, members of the county board and  
21 representatives from the county entity that will use the facility that is to be  
22 constructed under the selection process described in this paragraph.

23 3. The county shall make a final selection from among the teams selected under  
24 subd. 2. if the county determines that at least one of the teams selected as a finalist  
25 under subd. 2. will be able to construct the public work in a way that is satisfactory

**BILL**

1 to the county. The final selection shall be made following interviews and  
 2 presentations from the finalists, based on criteria that are published as a class 1  
 3 notice under ch. 985. The notice shall state the weight that is given to each criterion.  
 4 The criteria to be used in making a final selection under this subdivision may include  
 5 the quality of the proposed design, the construction approach to be used to complete  
 6 the project, the extent to which a proposal demonstrates compliance with the project  
 7 statement described under subd. 1., the proposed management plan for the project,  
 8 the estimated cost of the project and a guaranteed maximum price for the project.

9 (e) If the county selects a design-build team under par. (d) 3. and enters into  
 10 a contract for the construction of the project, the design-build team shall obtain  
 11 bonding, in an amount specified by the county, to guarantee completion of the project  
 12 according to the terms of the contract.

INS  
6-12

*H Page 764, line 25; after that line insert;*  
 13 " SECTION 62.03 (1) of the statutes is amended to read:

14 62.03 (1) This subchapter, except ss. 62.071, 62.08 (1), 62.09 (1) (e) and (11) (j)  
 15 and (k), 62.15 (1m), 62.175 and 62.23 (7) (em) and (he), does not apply to 1st class  
 16 cities under special charter.

17 SECTION 62.15 (1) of the statutes is amended to read:

18 62.15 (1) CONTRACTS; HOW LET. All Except as provided in sub. (1m), all public  
 19 construction, the estimated cost of which exceeds \$10,000 \$20,000, shall be let by  
 20 contract to the lowest responsible bidder; all other public construction shall be let as  
 21 the council may direct. If the estimated cost of any public construction exceeds  
 22 \$5,000 but is not greater than \$10,000 \$20,000, the board of public works shall give  
 23 a class 1 notice, under ch. 985, of the proposed construction before the contract for  
 24 the construction is executed. The council may also by a vote of three-fourths of all

**BILL**

1 the members-elect provide by ordinance that any class of public construction or any  
2 part thereof may be done directly by the city without submitting the same for bids.

3 SECTION ~~71~~ <sup>15885</sup> 62.15 (1m) of the statutes is created to read:

4 62.15 (1m) DESIGN-BUILD CONTRACTS. Any contract for public construction  
5 under sub. (1) that is let by a 1st class city, the estimated cost of which exceeds  
6 \$3,000,000, may be let using the design-build construction process, as defined in s.  
7 59.52 (29) (c) 1. Section 59.52 (29) (d), ~~and (e)~~ <sup>and (f)</sup>, as it applies to counties with a  
8 population of at least 500,000, applies to 1st class cities. " "

(17) #. Page 806, line 20: after that line insert;

9 SECTION ~~71~~ <sup>1642n</sup> 66.904 (2) (a) of the statutes is amended to read:

10 66.904 (2) (a) Except for a contract awarded under par. (am) and except as  
11 provided in par. (b), all work done and all purchases of supplies and materials by the  
12 commission shall be by contract awarded to the lowest responsible bidder complying  
13 with the invitation to bid, if the work or purchase involves an expenditure of \$7,500  
14 \$20,000 or more. If the commission decides to proceed with construction of any sewer  
15 after plans and specifications for the sewer are completed and approved by the  
16 commission and by the department of natural resources under ch. 281, the  
17 commission shall advertise by a class 2 notice under ch. 985 for construction bids.  
18 All contracts and the awarding of contracts are subject to s. 66.29, except for a  
19 contract awarded under par. (am).

20 SECTION ~~71~~ <sup>1642n</sup> 66.904 (2) (am) of the statutes is created to read:

21 66.904 (2) (am) Any contract for public construction under sub. (1), the  
22 estimated cost of which exceeds \$3,000,000, may be let using the design-build <sup>and (f)</sup>  
23 construction process, as defined in s. 59.52 (29) (c) 1. Section 59.52 (29) (d), ~~and (e)~~  
24 as it applies to counties with a population of at least 500,000, applies to the district.

25 SECTION ~~71~~ <sup>1642p</sup> 66.904 (2) (e) of the statutes is amended to read:

**BILL**

1 66.904 (2) (e) Paragraphs (a) ~~to~~ and (b) to (d) do not apply to contracts awarded  
2 under s. 66.905. Paragraph (am) applies to contracts awarded under s. 66.905. "

#. Page 117, line 12: after that line insert:

3 SECTION ~~119~~ 119.18 (24) of the statutes is created to read:

4 119.18 (24) DESIGN-BUILD CONSTRUCTION. The board may let a public works  
5 contract, the estimated cost of which exceeds \$3,000,000, using the design-build  
6 construction process, as defined in s. 59.52 (29) (c) 1. Section 59.52 (29) (d), ~~and (e)~~ and (f)  
7 as it applies to counties with a population of at least 500,000, applies to the school  
8 district operating under this chapter. "

#. Page 123b, line 21: after that line insert:

9 SECTION ~~281~~ 281.01 (3e) of the statutes is created to read:

10 281.01 (3e) "Design-build construction process" has the meaning given in s.  
11 59.52 (29) (c) 1. "

#. Page 1238, line 10: after that line insert:

12 SECTION ~~281~~ 281.41 (1) of the statutes is amended to read:

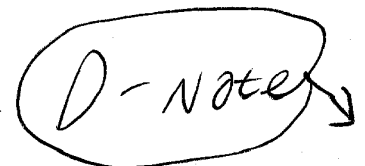
13 281.41 (1) Except as provided under sub. (2), every owner, within the time  
14 prescribed by the department, shall file with the department a certified copy of  
15 complete plans of a proposed system or plant or extension thereof, in scope and detail  
16 satisfactory to the department, and, if required, of existing systems or plants, and  
17 such other information concerning maintenance, operation and other details as the  
18 department requires, including the information specified under s. 281.35 (5) (a), if  
19 applicable. Owners contracting for a system, plant or extension under the  
20 design-build construction process may submit to the department performance  
21 objectives and preliminary designs in a form that is satisfactory to the department,  
22 rather than complete plans. Material changes with a statement of the reasons shall  
23 be likewise submitted. Before plans are drawn a statement concerning the  
24 improvement may be made to the department and the department may, if requested,  
25 outline generally what it will require. Upon receipt of such plans for approval, the

**BILL**

1 department or its duly authorized representative shall notify the owner of the date  
2 of receipt. Within 90 days from the time of receipt of complete plans or within the  
3 time specified in s. 281.35 (5) (c), if applicable, the department or its authorized  
4 representative shall examine and take action to approve, approve conditionally or  
5 reject the plans and shall state in writing any conditions of approval or reasons for  
6 rejection. Approval or disapproval of such plans and specifications shall not be  
7 contingent upon eligibility of such project for federal aid. The time period for review  
8 may be extended by agreement with the owner if the plans and specifications cannot  
9 be reviewed within the specified time limitation due to circumstances beyond the  
10 control of the department or in the case of extensive installation involving  
11 expenditures of \$350,000 or more. The extension shall not exceed 6 months. Failure  
12 of the department or its authorized representative to act before the expiration of the  
13 time period allowed for review shall constitute an approval of the plans, and upon  
14 demand a written certificate of approval shall be issued. Approval may be subject  
15 to modification by the department upon due notice. Construction or material change  
16 shall be according to approved plans only. The department may disapprove plans  
17 which are not in conformance with any existing approved areawide waste treatment  
18 management plan prepared pursuant to the federal water pollution control act, P.L.  
19 92-500, as amended, and shall disapprove plans that do not meet the grounds for  
20 approval specified under s. 281.35 (5) (d), if applicable. The department shall require  
21 each person whose plans are approved under this section to report that person's  
22 volume and rate of water withdrawal, as defined under s. 281.35 (1) (m), and that  
23 person's volume and rate of water loss, as defined under s. 281.35 (1) (L), if any, in  
24 the form and at the times specified by the department. "①

25

(END)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

61352/1  
LRB-3201/1dn  
MES: ~~lwg/gh~~  
Wlj

June 25, 1999

*amendment*

Please review this ~~bill~~ carefully to ensure that it meets your intent. I wasn't sure how much of the competitive bidding exemptions you wanted removed from SB-198, the bill on which this bill is based. As in SB-198, design-build contracts in this bill are not subject to the lowest responsible bidder requirements, and s. 66.29 does not apply to design-build contracts entered into by MMSD. Is this your intent? I also wasn't sure if you wanted the creation of s. 281.01 (3e) and the treatment of s. 281.41 (1) to remain in the bill. If you do want to keep s. 281.41 (1), you may want to exclude "towns" and the "state" from the definition of "owners". See s. 281.01 (8) for the definition of "owner". Let me know if those sections are no longer wanted.

Marc E. Shovers  
Senior Legislative Attorney  
Phone: (608) 266-0129  
E-mail: Marc.Shovers@legis.state.wi.us

*Also, current law provisions relating to  
~~prev~~ prevailing wage requirements and public works  
lien and performance bond requirements that apply  
to public works contracts, <sup>continue to</sup> apply to design-build  
contracts, which are just a variety of  
public works contracts.*



FNS 6-12

Section #. 229.70 of the statutes is amended to read:

(f) ~~229.70~~ Minority contracting goals. <sup>10</sup> In this ~~section~~ <sup>paragraph</sup>

- a. ~~(a)~~ "Minority business" has the meaning given in s. 560.036 (1) (e).<sup>✓</sup>
- b. ~~(b)~~ "Minority group member" has the meaning given in s. 560.036 (1) (f).<sup>✓</sup>
- c. ~~(c)~~ "Women's business" means a sole proprietorship, partnership, joint venture or corporation that is at least 51% owned, controlled and actively managed by women.

2. ~~(2)~~ The ~~district~~ <sup>board</sup> shall ensure that, for construction work and professional services contracts, a person who is awarded such a contract by a district shall agree, as a condition to receiving the contract, that his or her goal shall be to ensure that at least 25% of the employees hired because of the contract will be minority group members and at least 5% of the employees hired because of the contract will be women if the contract is for the construction of any part of baseball park facilities.

*a*  
that relate to public works contract for which the design-build construction process is used

3. ~~(3)~~ It shall be a goal of the ~~district~~ <sup>board</sup> to ensure that at least 25% of the aggregate dollar value of contracts awarded by the ~~district~~ <sup>board</sup> in the following areas shall be awarded to minority businesses and at least 5% of the aggregate dollar value of contracts awarded by the district in the following areas shall be awarded to women's businesses:

*that relate to a public works contract for which the design-build construction process is used*

- a. ~~(a)~~ ~~Contracts for the~~ construction of baseball park facilities. <sup>contracts</sup>
- b. ~~(b)~~ ~~Contracts for~~ professional services <sup>contracts</sup> related to the construction of baseball park facilities.
- ~~(c)~~ ~~Contracts for the development of~~ baseball park facilities.

4. ~~(4)~~ It shall be a goal of ~~the district~~ <sup>the board</sup> with regard to each of the contracts described under ~~subd. (3) (a) and (b)~~ <sup>subd. 3. a. and b.</sup> to award at least 25% of the dollar value of such contracts to minority businesses and at least 5% of the dollar value of such contracts to women's businesses.

~~(NOTE. The bracketed language is inserted to correct grammar. Corrective legislation is pending.~~

5. ~~(5)~~ <sup>a.</sup> The ~~district~~ <sup>board</sup> shall ensure that, for construction work and professional services contracts, a person who is awarded such a contract by ~~the district~~ <sup>the board</sup> shall agree, as a condition to receiving the con-



ins 6-12, cont



subd. 2.

tract, that if he or she is unable to meet the goal under ~~subd. 2.~~, he or she shall make a good faith effort to contract with the technical college district board of the technical college district in which the facilities are to be constructed or the professional services contract is to be performed, to develop appropriate training programs designed to increase the pool of minority group members and women who are qualified to perform the construction work or professional services.

b. ~~any~~ If the ~~district~~<sup>board</sup> is unable to meet the goals under ~~subd. 2.~~<sup>subds. 3, and 4.</sup> the ~~district~~<sup>board</sup> shall make a good faith effort to contract with the technical college district board of the technical college district in which the contracts described under ~~sub (3)(a), (b) and (c)~~<sup>subd. 3, a, and b.</sup> are to be performed, to develop appropriate training programs designed to increase the pool of minority group members and women who are qualified to perform the contracts described under ~~sub (3)(a), (b) and (c)~~.

b. ~~any~~<sup>a.</sup> The ~~district~~<sup>board</sup> shall hire an independent person to monitor the ~~district~~<sup>board's</sup> compliance with minority contracting goals under ~~sub (2), (3) and (4)~~<sup>subds 2, 3, and 4.</sup> and the department of administration's compliance with minority contracting goals under ~~s. 16.854(2) and (3)~~. The person hired shall have previous experience working with minority group members. The ~~district~~<sup>board</sup> shall develop a mechanism to receive regular reports from the person hired with respect to the results of the person's studies of compliance with minority contracting goals.

subd. 2, 3, or 4.

b. ~~any~~ If the ~~district~~<sup>board</sup> or a contractor is unable to meet the goals under ~~sub (2), (3) or (4)~~<sup>this subd. 6.a.</sup>, the person hired under ~~part (b)~~<sup>board</sup> shall assess whether the ~~district~~<sup>board</sup> or contractor made a good faith effort to reach the goals. In determining whether a good faith effort was made to meet the goals, the person hired shall consider all of the ~~following~~<sup>factors listed in subd. 7.</sup>

7. a. ~~any~~ The supply of eligible minority businesses and women's businesses that have the financial capacity, technical capacity and previous experience in the areas in which contracts were awarded.

b. ~~any~~ The competing demands for the services provided by eligible minority businesses and women's businesses, as described in ~~subd. 4.~~<sup>this 7.a.</sup> in areas in which contracts were awarded.



*board*  
C. ~~By~~ The extent to which the ~~district~~ or contractors advertised for and aggressively solicited bids from eligible minority businesses and women's businesses, as described in ~~subd. 4~~ <sup>this</sup> and the extent to which eligible minority businesses and women's businesses submitted bids. <sup>f.a.</sup>

~~D. <sup>board</sup> The ~~district~~ shall solicit from any major league baseball club to whom the district leases baseball park facilities its minority hiring goals in connection with the operation of a baseball stadium and its minority contracting goals in connection with vending contractors at a baseball stadium.~~

History: 1995 a. 56.

*end of ins 6-12*

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb1352/1dn  
MES:wlj:kjf

June 27, 1999

Please review this amendment carefully to ensure that it meets your intent. I wasn't sure how much of the competitive bidding exemptions you wanted removed from SB-198, the bill on which this bill is based. As in SB-198, design-build contracts in this bill are not subject to the lowest responsible bidder requirements, and s. 66.29 does not apply to design-build contracts entered into by MMSD. Is this your intent? I also wasn't sure if you wanted the creation of s. 281.01 (3e) and the treatment of s. 281.41 (1) to remain in the bill. If you do want to keep s. 281.41 (1), you may want to exclude "towns" and the "state" from the definition of "owners". See s. 281.01 (8) for the definition of "owner". Let me know if those sections are no longer wanted. Also, current law provisions relating to prevailing wage requirements and public works lien and performance bond requirements that apply to public works contracts continue to apply to design-build contracts, which are just a variety of public works contracts.

Marc E. Shovers  
Senior Legislative Attorney  
Phone: (608) 266-0129  
E-mail: Marc.Shovers@legis.state.wi.us



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb13524<sup>2</sup>  
MES:wlj:MM

SOON

PMP

SDC:.....Walter - Caucus # 1735, Authorize design-build construction process for certain Milwaukee area governmental entities

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 512, line 3: after that line insert:

3 "SECTION 897s. 38.18 of the statutes is renumbered 38.18 (1) and amended to  
4 read:

5 38.18 (1) All contracts made by a district board for public construction in a  
6 district, the estimated cost of which exceeds \$10,000, shall be let by the district board  
7 to the lowest responsible bidder in accordance with s. 62.15 (1) to (11) and (14). For  
8 purposes of this section and subject to sub. (2), the district board shall possess the  
9 powers conferred by s. 62.15 on the board of public works and the common council.

1 All contracts made under this section shall be made in the name of the district and  
2 shall be executed by the district board chairperson and district board secretary.

3 **SECTION 897t.** 38.18 (2) of the statutes is created to read:

4 38.18 (2) Only a district board governing a district that includes a 1st class city  
5 may let a contract using the design–build process under s. 62.15 (1m).”.

6 **2.** Page 537, line 19: after that line insert:

7 “**SECTION 945ds.** 43.17 (9) (a) of the statutes is amended to read:

8 43.17 (9) (a) All contracts for public construction, the estimated cost of which  
9 exceeds \$5,000, made by a federated public library system whose territory lies within  
10 2 or more counties or by a federated public library system whose territory lies within  
11 a single county with a population of at least 500,000 shall be let, subject to par. (c),  
12 by the public library system board to the lowest responsible bidder in accordance  
13 with s. 62.15 (1) to (11) and (14). For purposes of this section, the system board  
14 possesses the powers conferred by s. 62.15 on the board of public works and the  
15 common council. All contracts made under this section shall be made in the name  
16 of the federated public library system and shall be executed by the system board  
17 president and such other board officer as the system board designates.

18 **SECTION 945dt.** 43.17 (9) (c) of the statutes is created to read:

19 43.17 (9) (c) Only a federated public library system whose territory lies within  
20 a single county with a population of at least 500,000 may let a contract using the  
21 design–build process under s. 62.15 (1m).”.

22 **3.** Page 761, line 21: after that line insert:

23 “**SECTION 1577mm.** 59.52 (29) (a) of the statutes is amended to read:

1           59.52 (29) (a) All Except as provided in par. (c) 2., all public work, including any  
2 contract for the construction, repair, remodeling or improvement of any public work,  
3 building, or furnishing of supplies or material of any kind where the estimated cost  
4 of such work will exceed \$20,000 shall be let by contract to the lowest responsible  
5 bidder. Any public work, the estimated cost of which does not exceed \$20,000, shall  
6 be let as the board may direct. If the estimated cost of any public work is between  
7 \$5,000 and \$20,000, the board shall give a class 1 notice under ch. 985 before it  
8 contracts for the work or shall contract with a person qualified as a bidder under s.  
9 66.29 (2). A contract, the estimated cost of which exceeds \$20,000, shall be let and  
10 entered into under s. 66.29, except that the board may by a three-fourths vote of all  
11 the members entitled to a seat provide that any class of public work or any part  
12 thereof may be done directly by the county without submitting the same for bids.  
13 This subsection does not apply to highway contracts which the county highway  
14 committee or the county highway commissioner is authorized by law to let or make.

15           **SECTION 1577nm.** 59.52 (29) (c) to (f) of the statutes are created to read:

16           59.52 (29) (c) 1. In this subsection, “design–build construction process” means  
17 a procurement process under which the engineering, design and construction  
18 services are provided by a single entity under a process described under par. (d).

19           2. Any public works contract described in par. (a), the estimated cost of which  
20 exceeds \$3,000,000, may be let by a county with a population of at least 500,000 using  
21 the design–build construction process.

22           (d) If a county with a population of at least 500,000 wishes to construct a public  
23 work using the design–build construction process, the county shall use a selection  
24 process that contains the following procedures:

1           1. The county shall issue a request for proposals from design–build teams by  
2 publishing a class 1 notice under ch. 985. The notice shall include a project statement  
3 that describes the space needs and design goals for the project, detailed submission  
4 requirements, selection procedures, site information, an outline of specifications for  
5 the project, a budget for the project, a project schedule, the composition of the  
6 selection panel, the approximate amount of the bond that the county will require  
7 under par. (e) and whether the county will offer a stipend to unsuccessful  
8 design–build teams and, if so, the amount of the stipend.

9           2. Following receipt of the proposals, the county shall select 5 or less  
10 design–build teams to participate in the final stage of the selection process. The  
11 selection of teams under this subdivision shall be based on factors that include the  
12 background, experience and qualifications of the members of the teams; the financial  
13 strength and surety capacity of the teams; the quality of the initial proposal; and the  
14 past performance and current workload of the teams. The county selection panel  
15 that selects the teams under this subdivision for the final selection process under  
16 subd. 3. may include design and construction professionals who work for the county  
17 or are hired by the county to assist in the selection, members of the county board and  
18 representatives from the county entity that will use the facility that is to be  
19 constructed under the selection process described in this paragraph.

20           3. The county shall make a final selection from among the teams selected under  
21 subd. 2. if the county determines that at least one of the teams selected as a finalist  
22 under subd. 2. will be able to construct the public work in a way that is satisfactory  
23 to the county. The final selection shall be made following interviews and  
24 presentations from the finalists, based on criteria that are published as a class 1  
25 notice under ch. 985. The notice shall state the weight that is given to each criterion.



1 The criteria to be used in making a final selection under this subdivision may include  
2 the quality of the proposed design, the construction approach to be used to complete  
3 the project, the extent to which a proposal demonstrates compliance with the project  
4 statement described under subd. 1., the proposed management plan for the project,  
5 the estimated cost of the project and a guaranteed maximum price for the project.

6 (e) If the county selects a design–build team under par. (d) 3. and enters into  
7 a contract for the construction of the project, the design–build team shall obtain  
8 bonding, in an amount specified by the county, to guarantee completion of the project  
9 according to the terms of the contract.

10 (f) 1. In this paragraph:

11 a. “Minority business” has the meaning given in s. 560.036 (1) (e).

12 b. “Minority group member” has the meaning given in s. 560.036 (1) (f).

13 c. “Women’s business” means a sole proprietorship, partnership, joint venture  
14 or corporation that is at least 51% owned, controlled and actively managed by  
15 women.

16 2. The board shall ensure that, for construction work and professional services  
17 contracts that relate to a public works contract for which the design–build  
18 construction process is used, a person who is awarded such a contract by a district  
19 shall agree, as a condition to receiving the contract, that his or her goal shall be to  
20 ensure that at least 25% of the employees hired because of the contract will be  
21 minority group members and at least 5% of the employees hired because of the  
22 contract will be women if the contract is for the construction of any part of baseball  
23 park facilities.

24 3. It shall be a goal of the board to ensure that at least 25% of the aggregate  
25 dollar value of contracts awarded by the board in the following areas shall be

1 awarded to minority businesses and at least 5% of the aggregate dollar value of  
2 contracts awarded by the district in the following areas shall be awarded to women's  
3 businesses:

4 a. Construction contracts that relate to a public works contract for which the  
5 design-build construction process is used.

6 b. Professional services contracts that relate to a public works contract for  
7 which the design-build construction process is used.

8 4. It shall be a goal of the board, with regard to each of the contracts described  
9 under subd. 3. a. and b., to award at least 25% of the dollar value of such contracts  
10 to minority businesses and at least 5% of the dollar value of such contracts to  
11 women's businesses.

12 5. a. The board shall ensure that, for construction work and professional  
13 services contracts, a person who is awarded such a contract by the board shall agree,  
14 as a condition to receiving the contract, that if he or she is unable to meet the goal  
15 under subd. 2., he or she shall make a good faith effort to contract with the technical  
16 college district board of the technical college district in which the facilities are to be  
17 constructed or the professional services contract is to be performed, to develop  
18 appropriate training programs designed to increase the pool of minority group  
19 members and women who are qualified to perform the construction work or  
20 professional services.

21 b. If the board is unable to meet the goals under subds. 3. and 4., the board shall  
22 make a good faith effort to contract with the technical college district board of the  
23 technical college district in which the contracts described under subd. 3. a. and b. are  
24 to be performed, to develop appropriate training programs designed to increase the

1 pool of minority group members and women who are qualified to perform the  
2 contracts described under subd. 3. a., b. and c.

3 6. a. The board shall hire an independent person to monitor the board's  
4 compliance with minority contracting goals under subds. 2., 3. and 4. The person  
5 hired shall have previous experience working with minority group members. The  
6 board shall develop a mechanism to receive regular reports from the person hired  
7 with respect to the results of the person's studies of compliance with minority  
8 contracting goals.

9 b. If the board or a contractor is unable to meet the goals under subd. 2., 3. or  
10 4., the person hired under this subd. 6. a. shall assess whether the board or contractor  
11 made a good faith effort to reach the goals. In determining whether a good faith effort  
12 was made to meet the goals, the person hired shall consider all of the factors listed  
13 in subd. 7.

14 7. a. The supply of eligible minority businesses and women's businesses that  
15 have the financial capacity, technical capacity and previous experience in the areas  
16 in which contracts were awarded.

17 b. The competing demands for the services provided by eligible minority  
18 businesses and women's businesses, as described in this subd. 7. a., in areas in which  
19 contracts were awarded.

20 c. The extent to which the board or contractors advertised for and aggressively  
21 solicited bids from eligible minority businesses and women's businesses, as described  
22 in this subd. 7. a., and the extent to which eligible minority businesses and women's  
23 businesses submitted bids.”

24 4. Page 764, line 25: after that line insert:

1           “SECTION 1588m. 62.03 (1) of the statutes is amended to read:

2           62.03 (1) This subchapter, except ss. 62.071, 62.08 (1), 62.09 (1) (e) and (11) (j)  
3 and (k), 62.15 (1m), 62.175 and 62.23 (7) (em) and (he), does not apply to 1st class  
4 cities under special charter.

5           SECTION 1588r. 62.15 (1) of the statutes is amended to read:

6           62.15 (1) CONTRACTS; HOW LET. All Except as provided in sub. (1m), all public

7 construction, the estimated cost of which exceeds \$10,000 <sup>Plain</sup> ~~\$20,000~~, shall be let by  
8 contract to the lowest responsible bidder; all other public construction shall be let as

9 the council may direct. If the estimated cost of any public construction exceeds

10 \$5,000 but is not greater than \$10,000 <sup>Plain</sup> ~~\$20,000~~, the board of public works shall give

11 a class 1 notice, under ch. 985, of the proposed construction before the contract for

12 the construction is executed. The council may also by a vote of three-fourths of all

13 the members-elect provide by ordinance that any class of public construction or any

14 part thereof may be done directly by the city without submitting the same for bids.

15           SECTION 1588s. 62.15 (1m) of the statutes is created to read:

16           62.15 (1m) DESIGN-BUILD CONTRACTS. Any contract for public construction

17 under sub. (1) that is let by a 1st class city, the estimated cost of which exceeds

18 \$3,000,000, may be let using the design-build construction process, as defined in s.

19 59.52 (29) (c) 1. Section 59.52 (29) (d), (e) and (f), as it applies to counties with a

20 population of at least 500,000, applies to 1st class cities.”.

21           **5.** Page 806, line 20: after that line insert:

22           “SECTION 1642m. 66.904 (2) (a) of the statutes is amended to read:

23           66.904 (2) (a) Except for a contract awarded under par. (am) and except as

24 provided in par. (b), all work done and all purchases of supplies and materials by the

1 commission shall be by contract awarded to the lowest responsible bidder complying  
2 with the invitation to bid, if the work or purchase involves an expenditure of ~~\$7,500~~<sup>Plain</sup>  
3 ~~\$20,000~~ or more. If the commission decides to proceed with construction of any sewer  
4 after plans and specifications for the sewer are completed and approved by the  
5 commission and by the department of natural resources under ch. 281, the  
6 commission shall advertise by a class 2 notice under ch. 985 for construction bids.  
7 All contracts and the awarding of contracts are subject to s. 66.29, except for a  
8 contract awarded under par. (am).

9 **SECTION 1642n.** 66.904 (2) (am) of the statutes is created to read:

10 66.904 (2) (am) Any contract for public construction under sub. (1), the  
11 estimated cost of which exceeds \$3,000,000, may be let using the design-build  
12 construction process, as defined in s. 59.52(29) (c) 1. Section 59.52 (29) (d), (e) and  
13 (f), as it applies to counties with a population of at least 500,000, applies to the  
14 district.

15 **SECTION 1642p.** 66.904 (2) (e) of the statutes is amended to read:

16 66.904 (2) (e) Paragraphs (a) ~~to~~ and (b) to (d) do not apply to contracts awarded  
17 under s. 66.905. Paragraph (am) applies to contracts awarded under s. 66.905."

18 **6.** Page 1117, line 12: after that line insert:

19 "SECTION 2108m. 119.18 (24) of the statutes is created to read:

20 119.18 (24) DESIGN-BUILD CONSTRUCTION. The board may let a public works  
21 contract, the estimated cost of which exceeds \$3,000,000, using the design-build  
22 construction process, as defined in s. 59.52(29) (c) 1. Section 59.52 (29) (d), (e) and  
23 (f), as it applies to counties with a population of at least 500,000, applies to the school  
24 district operating under this chapter."

1           **7.** Page 1236, line 21: after that line insert:

2           “SECTION 2486u. 281.01 (3e) of the statutes is created to read:

3           281.01 (3e) “Design–build construction process” has the meaning given in s.  
4           59.52 (29) (c) 1.”.

5           **8.** Page 1238, line 10: after that line insert:

6           “SECTION 2489e. 281.41 (1) of the statutes is amended to read:

7           281.41 (1) Except as provided under sub. (2), every owner, within the time  
8           prescribed by the department, shall file with the department a certified copy of  
9           complete plans of a proposed system or plant or extension thereof, in scope and detail  
10          satisfactory to the department, and, if required, of existing systems or plants, and  
11          such other information concerning maintenance, operation and other details as the  
12          department requires, including the information specified under s. 281.35 (5) (a), if  
13          applicable. <sup>(An owner)</sup> ~~Owners~~ contracting for a system, plant or extension under the  
14          design–build construction process <sup>(other than an owner that is a town or the state)</sup> may submit to the department performance  
15          objectives and preliminary designs in a form that is satisfactory to the department,  
16          rather than complete plans. Material changes with a statement of the reasons shall  
17          be likewise submitted. Before plans are drawn a statement concerning the  
18          improvement may be made to the department and the department may, if requested,  
19          outline generally what it will require. Upon receipt of such plans for approval, the  
20          department or its duly authorized representative shall notify the owner of the date  
21          of receipt. Within 90 days from the time of receipt of complete plans or within the  
22          time specified in s. 281.35 (5) (c), if applicable, the department or its authorized  
23          representative shall examine and take action to approve, approve conditionally or  
24          reject the plans and shall state in writing any conditions of approval or reasons for

1 rejection. Approval or disapproval of such plans and specifications shall not be  
2 contingent upon eligibility of such project for federal aid. The time period for review  
3 may be extended by agreement with the owner if the plans and specifications cannot  
4 be reviewed within the specified time limitation due to circumstances beyond the  
5 control of the department or in the case of extensive installation involving  
6 expenditures of \$350,000 or more. The extension shall not exceed 6 months. Failure  
7 of the department or its authorized representative to act before the expiration of the  
8 time period allowed for review shall constitute an approval of the plans, and upon  
9 demand a written certificate of approval shall be issued. Approval may be subject  
10 to modification by the department upon due notice. Construction or material change  
11 shall be according to approved plans only. The department may disapprove plans  
12 which are not in conformance with any existing approved areawide waste treatment  
13 management plan prepared pursuant to the federal water pollution control act, P.L.  
14 92-500, as amended, and shall disapprove plans that do not meet the grounds for  
15 approval specified under s. 281.35 (5) (d), if applicable. The department shall require  
16 each person whose plans are approved under this section to report that person's  
17 volume and rate of water withdrawal, as defined under s. 281.35 (1) (m), and that  
18 person's volume and rate of water loss, as defined under s. 281.35 (1) (L), if any, in  
19 the form and at the times specified by the department.”.

20 (END)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1352/2  
MES:wlj:kjf

SDC:.....Walter - Caucus # 1735, Authorize design-build construction  
process for certain Milwaukee area governmental entities

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 512, line 3: after that line insert:

3 **“SECTION 897s.** 38.18 of the statutes is renumbered 38.18 (1) and amended to  
4 read:

5 38.18 (1) All contracts made by a district board for public construction in a  
6 district, the estimated cost of which exceeds \$10,000, shall be let by the district board  
7 to the lowest responsible bidder in accordance with s. 62.15 (1) to (11) and (14). For  
8 purposes of this section and subject to sub. (2), the district board shall possess the  
9 powers conferred by s. 62.15 on the board of public works and the common council.



1 All contracts made under this section shall be made in the name of the district and  
2 shall be executed by the district board chairperson and district board secretary.

3 **SECTION 897t.** 38.18 (2) of the statutes is created to read:

4 38.18 (2) Only a district board governing a district that includes a 1st class city  
5 may let a contract using the design–build process under s. 62.15 (1m).”.

6 **2.** Page 537, line 19: after that line insert:

7 **“SECTION 945ds.** 43.17 (9) (a) of the statutes is amended to read:

8 43.17 (9) (a) All contracts for public construction, the estimated cost of which  
9 exceeds \$5,000, made by a federated public library system whose territory lies within  
10 2 or more counties or by a federated public library system whose territory lies within  
11 a single county with a population of at least 500,000 shall be let, subject to par. (c),  
12 by the public library system board to the lowest responsible bidder in accordance  
13 with s. 62.15 (1) to (11) and (14). For purposes of this section, the system board  
14 possesses the powers conferred by s. 62.15 on the board of public works and the  
15 common council. All contracts made under this section shall be made in the name  
16 of the federated public library system and shall be executed by the system board  
17 president and such other board officer as the system board designates.

18 **SECTION 945dt.** 43.17 (9) (c) of the statutes is created to read:

19 43.17 (9) (c) Only a federated public library system whose territory lies within  
20 a single county with a population of at least 500,000 may let a contract using the  
21 design–build process under s. 62.15 (1m).”.

22 **3.** Page 761, line 21: after that line insert:

23 **“SECTION 1577mm.** 59.52 (29) (a) of the statutes is amended to read:

1           59.52 (29) (a) ~~All~~ Except as provided in par. (c) 2., all public work, including any  
2 contract for the construction, repair, remodeling or improvement of any public work,  
3 building, or furnishing of supplies or material of any kind where the estimated cost  
4 of such work will exceed \$20,000 shall be let by contract to the lowest responsible  
5 bidder. Any public work, the estimated cost of which does not exceed \$20,000, shall  
6 be let as the board may direct. If the estimated cost of any public work is between  
7 \$5,000 and \$20,000, the board shall give a class 1 notice under ch. 985 before it  
8 contracts for the work or shall contract with a person qualified as a bidder under s.  
9 66.29 (2). A contract, the estimated cost of which exceeds \$20,000, shall be let and  
10 entered into under s. 66.29, except that the board may by a three-fourths vote of all  
11 the members entitled to a seat provide that any class of public work or any part  
12 thereof may be done directly by the county without submitting the same for bids.  
13 This subsection does not apply to highway contracts which the county highway  
14 committee or the county highway commissioner is authorized by law to let or make.

15           **SECTION 1577nm.** 59.52 (29) (c) to (f) of the statutes are created to read:

16           59.52 (29) (c) 1. In this subsection, “design–build construction process” means  
17 a procurement process under which the engineering, design and construction  
18 services are provided by a single entity under a process described under par. (d).

19           2. Any public works contract described in par. (a), the estimated cost of which  
20 exceeds \$3,000,000, may be let by a county with a population of at least 500,000 using  
21 the design–build construction process.

22           (d) If a county with a population of at least 500,000 wishes to construct a public  
23 work using the design–build construction process, the county shall use a selection  
24 process that contains the following procedures:

1           1. The county shall issue a request for proposals from design–build teams by  
2 publishing a class 1 notice under ch. 985. The notice shall include a project statement  
3 that describes the space needs and design goals for the project, detailed submission  
4 requirements, selection procedures, site information, an outline of specifications for  
5 the project, a budget for the project, a project schedule, the composition of the  
6 selection panel, the approximate amount of the bond that the county will require  
7 under par. (e) and whether the county will offer a stipend to unsuccessful  
8 design–build teams and, if so, the amount of the stipend.

9           2. Following receipt of the proposals, the county shall select 5 or less  
10 design–build teams to participate in the final stage of the selection process. The  
11 selection of teams under this subdivision shall be based on factors that include the  
12 background, experience and qualifications of the members of the teams; the financial  
13 strength and surety capacity of the teams; the quality of the initial proposal; and the  
14 past performance and current workload of the teams. The county selection panel  
15 that selects the teams under this subdivision for the final selection process under  
16 subd. 3. may include design and construction professionals who work for the county  
17 or are hired by the county to assist in the selection, members of the county board and  
18 representatives from the county entity that will use the facility that is to be  
19 constructed under the selection process described in this paragraph.

20           3. The county shall make a final selection from among the teams selected under  
21 subd. 2. if the county determines that at least one of the teams selected as a finalist  
22 under subd. 2. will be able to construct the public work in a way that is satisfactory  
23 to the county. The final selection shall be made following interviews and  
24 presentations from the finalists, based on criteria that are published as a class 1  
25 notice under ch. 985. The notice shall state the weight that is given to each criterion.

1 The criteria to be used in making a final selection under this subdivision may include  
2 the quality of the proposed design, the construction approach to be used to complete  
3 the project, the extent to which a proposal demonstrates compliance with the project  
4 statement described under subd. 1., the proposed management plan for the project,  
5 the estimated cost of the project and a guaranteed maximum price for the project.

6 (e) If the county selects a design–build team under par. (d) 3. and enters into  
7 a contract for the construction of the project, the design–build team shall obtain  
8 bonding, in an amount specified by the county, to guarantee completion of the project  
9 according to the terms of the contract.

10 (f) 1. In this paragraph:

11 a. “Minority business” has the meaning given in s. 560.036 (1) (e).

12 b. “Minority group member” has the meaning given in s. 560.036 (1) (f).

13 c. “Women’s business” means a sole proprietorship, partnership, joint venture  
14 or corporation that is at least 51% owned, controlled and actively managed by  
15 women.

16 2. The board shall ensure that, for construction work and professional services  
17 contracts that relate to a public works contract for which the design–build  
18 construction process is used, a person who is awarded such a contract by a district  
19 shall agree, as a condition to receiving the contract, that his or her goal shall be to  
20 ensure that at least 25% of the employees hired because of the contract will be  
21 minority group members and at least 5% of the employees hired because of the  
22 contract will be women if the contract is for the construction of any part of baseball  
23 park facilities.

24 3. It shall be a goal of the board to ensure that at least 25% of the aggregate  
25 dollar value of contracts awarded by the board in the following areas shall be

1 awarded to minority businesses and at least 5% of the aggregate dollar value of  
2 contracts awarded by the district in the following areas shall be awarded to women's  
3 businesses:

4 a. Construction contracts that relate to a public works contract for which the  
5 design-build construction process is used.

6 b. Professional services contracts that relate to a public works contract for  
7 which the design-build construction process is used.

8 4. It shall be a goal of the board, with regard to each of the contracts described  
9 under subd. 3. a. and b., to award at least 25% of the dollar value of such contracts  
10 to minority businesses and at least 5% of the dollar value of such contracts to  
11 women's businesses.

12 5. a. The board shall ensure that, for construction work and professional  
13 services contracts, a person who is awarded such a contract by the board shall agree,  
14 as a condition to receiving the contract, that if he or she is unable to meet the goal  
15 under subd. 2., he or she shall make a good faith effort to contract with the technical  
16 college district board of the technical college district in which the facilities are to be  
17 constructed or the professional services contract is to be performed, to develop  
18 appropriate training programs designed to increase the pool of minority group  
19 members and women who are qualified to perform the construction work or  
20 professional services.

21 b. If the board is unable to meet the goals under subds. 3. and 4., the board shall  
22 make a good faith effort to contract with the technical college district board of the  
23 technical college district in which the contracts described under subd. 3. a. and b. are  
24 to be performed, to develop appropriate training programs designed to increase the

1 pool of minority group members and women who are qualified to perform the  
2 contracts described under subd. 3. a., b. and c.

3 6. a. The board shall hire an independent person to monitor the board's  
4 compliance with minority contracting goals under subds. 2., 3. and 4. The person  
5 hired shall have previous experience working with minority group members. The  
6 board shall develop a mechanism to receive regular reports from the person hired  
7 with respect to the results of the person's studies of compliance with minority  
8 contracting goals.

9 b. If the board or a contractor is unable to meet the goals under subd. 2., 3. or  
10 4., the person hired under this subd. 6. a. shall assess whether the board or contractor  
11 made a good faith effort to reach the goals. In determining whether a good faith effort  
12 was made to meet the goals, the person hired shall consider all of the factors listed  
13 in subd. 7.

14 7. a. The supply of eligible minority businesses and women's businesses that  
15 have the financial capacity, technical capacity and previous experience in the areas  
16 in which contracts were awarded.

17 b. The competing demands for the services provided by eligible minority  
18 businesses and women's businesses, as described in this subd. 7. a., in areas in which  
19 contracts were awarded.

20 c. The extent to which the board or contractors advertised for and aggressively  
21 solicited bids from eligible minority businesses and women's businesses, as described  
22 in this subd. 7. a., and the extent to which eligible minority businesses and women's  
23 businesses submitted bids.”.

24 4. Page 764, line 25: after that line insert:

1           **SECTION 1588m.** 62.03 (1) of the statutes is amended to read:

2           62.03 (1) This subchapter, except ss. 62.071, 62.08 (1), 62.09 (1) (e) and (11) (j)  
3 and (k), 62.15 (1m), 62.175 and 62.23 (7) (em) and (he), does not apply to 1st class  
4 cities under special charter.

5           **SECTION 1588r.** 62.15 (1) of the statutes is amended to read:

6           62.15 (1) CONTRACTS; HOW LET. All Except as provided in sub. (1m), all public  
7 construction, the estimated cost of which exceeds \$10,000, shall be let by contract to  
8 the lowest responsible bidder; all other public construction shall be let as the council  
9 may direct. If the estimated cost of any public construction exceeds \$5,000 but is not  
10 greater than \$10,000, the board of public works shall give a class 1 notice, under ch.  
11 985, of the proposed construction before the contract for the construction is executed.  
12 The council may also by a vote of three-fourths of all the members-elect provide by  
13 ordinance that any class of public construction or any part thereof may be done  
14 directly by the city without submitting the same for bids.

15           **SECTION 1588s.** 62.15 (1m) of the statutes is created to read:

16           62.15 (1m) DESIGN-BUILD CONTRACTS. Any contract for public construction  
17 under sub. (1) that is let by a 1st class city, the estimated cost of which exceeds  
18 \$3,000,000, may be let using the design-build construction process, as defined in s.  
19 59.52 (29) (c) 1. Section 59.52 (29) (d), (e) and (f), as it applies to counties with a  
20 population of at least 500,000, applies to 1st class cities.”

21           **5.** Page 806, line 20: after that line insert:

22           **SECTION 1642m.** 66.904 (2) (a) of the statutes is amended to read:

23           66.904 (2) (a) Except for a contract awarded under par. (am) and except as  
24 provided in par. (b), all work done and all purchases of supplies and materials by the

1 commission shall be by contract awarded to the lowest responsible bidder complying  
2 with the invitation to bid, if the work or purchase involves an expenditure of \$7,500  
3 or more. If the commission decides to proceed with construction of any sewer after  
4 plans and specifications for the sewer are completed and approved by the commission  
5 and by the department of natural resources under ch. 281, the commission shall  
6 advertise by a class 2 notice under ch. 985 for construction bids. All contracts and  
7 the awarding of contracts are subject to s. 66.29, except for a contract awarded under  
8 par. (am).

9 **SECTION 1642n.** 66.904 (2) (am) of the statutes is created to read:

10 66.904 (2) (am) Any contract for public construction under sub. (1), the  
11 estimated cost of which exceeds \$3,000,000, may be let using the design-build  
12 construction process, as defined in s. 59.52 (29) (c) 1. Section 59.52 (29) (d), (e) and  
13 (f), as it applies to counties with a population of at least 500,000, applies to the  
14 district.

15 **SECTION 1642p.** 66.904 (2) (e) of the statutes is amended to read:

16 66.904 (2) (e) Paragraphs (a) ~~to~~ and (b) to (d) do not apply to contracts awarded  
17 under s. 66.905. Paragraph (am) applies to contracts awarded under s. 66.905.

18 **6.** Page 1117, line 12: after that line insert:

19 **“SECTION 2108m.** 119.18 (24) of the statutes is created to read:

20 119.18 (24) DESIGN-BUILD CONSTRUCTION. The board may let a public works  
21 contract, the estimated cost of which exceeds \$3,000,000, using the design-build  
22 construction process, as defined in s. 59.52 (29) (c) 1. Section 59.52 (29) (d), (e) and  
23 (f), as it applies to counties with a population of at least 500,000, applies to the school  
24 district operating under this chapter.”



1           **7.** Page 1236, line 21: after that line insert:

2           “**SECTION 2486u.** 281.01 (3e) of the statutes is created to read:

3           281.01 (3e) “Design–build construction process” has the meaning given in s.  
4           59.52 (29) (c) 1.”.

5           **8.** Page 1238, line 10: after that line insert:

6           “**SECTION 2489e.** 281.41 (1) of the statutes is amended to read:

7           281.41 (1) Except as provided under sub. (2), every owner, within the time  
8           prescribed by the department, shall file with the department a certified copy of  
9           complete plans of a proposed system or plant or extension thereof, in scope and detail  
10          satisfactory to the department, and, if required, of existing systems or plants, and  
11          such other information concerning maintenance, operation and other details as the  
12          department requires, including the information specified under s. 281.35 (5) (a), if  
13          applicable. An owner contracting for a system, plant or extension under the  
14          design–build construction process, other than an owner that is a town or the state,  
15          may submit to the department performance objectives and preliminary designs in a  
16          form that is satisfactory to the department, rather than complete plans. Material  
17          changes with a statement of the reasons shall be likewise submitted. Before plans  
18          are drawn a statement concerning the improvement may be made to the department  
19          and the department may, if requested, outline generally what it will require. Upon  
20          receipt of such plans for approval, the department or its duly authorized  
21          representative shall notify the owner of the date of receipt. Within 90 days from the  
22          time of receipt of complete plans or within the time specified in s. 281.35 (5) (c), if  
23          applicable, the department or its authorized representative shall examine and take  
24          action to approve, approve conditionally or reject the plans and shall state in writing

1 any conditions of approval or reasons for rejection. Approval or disapproval of such  
2 plans and specifications shall not be contingent upon eligibility of such project for  
3 federal aid. The time period for review may be extended by agreement with the  
4 owner if the plans and specifications cannot be reviewed within the specified time  
5 limitation due to circumstances beyond the control of the department or in the case  
6 of extensive installation involving expenditures of \$350,000 or more. The extension  
7 shall not exceed 6 months. Failure of the department or its authorized  
8 representative to act before the expiration of the time period allowed for review shall  
9 constitute an approval of the plans, and upon demand a written certificate of  
10 approval shall be issued. Approval may be subject to modification by the department  
11 upon due notice. Construction or material change shall be according to approved  
12 plans only. The department may disapprove plans which are not in conformance  
13 with any existing approved areawide waste treatment management plan prepared  
14 pursuant to the federal water pollution control act, P.L. 92-500, as amended, and  
15 shall disapprove plans that do not meet the grounds for approval specified under s.  
16 281.35 (5) (d), if applicable. The department shall require each person whose plans  
17 are approved under this section to report that person's volume and rate of water  
18 withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of  
19 water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times  
20 specified by the department.”.

21

(END)