



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3884/1
ZDW/EVM/RAC/MED:all

2017 ASSEMBLY BILL 456

July 26, 2017 - Introduced by Representatives SANFELIPPO, HUTTON, ALLEN, AUGUST, BERNIER, BORN, BRANDTJEN, E. BROOKS, R. BROOKS, DUCHOW, FELZKOWSKI, GANNON, JACQUE, JAGLER, JARCHOW, KATZMA, KLEEFISCH, KNODL, KOOYENGA, KREMER, KUGLITSCH, KULP, MURPHY, NEYLON, OTT, PETERSEN, QUINN, SCHRAA, SKOWRONSKI, STAFSHOLT, TAUCHEN, TITTL, TUSLER, VORPAGEL, WEATHERSTON, WICHGERS and ZIMMERMAN, cosponsored by Senators KAPENGA, CRAIG, DARLING, FEYEN, LASEE, LEMAHIEU, NASS, STROEBEL, TIFFANY, WANGGAARD and VUKMIR. Referred to Committee on Transportation.

1 **AN ACT to repeal** 16.856, 19.36 (12), 84.062, 84.41 (3), 106.04, 111.322 (2m) (c)
2 and 946.15; **to renumber** 84.06 (1) (b); **to renumber and amend** 84.06 (1) (a);
3 **to amend** 19.36 (3), 20.395 (2) (fx), 20.395 (3) (cq), 20.395 (3) (cx), 20.765 (3)
4 (ka), 43.17 (9) (a), 59.20 (3) (a), 59.52 (29) (a), 62.03 (1), 62.15 (1), 66.0903 (1)
5 (c), 66.0903 (1) (f), 66.0903 (1) (g), 66.0903 (1) (j), 66.0907 (3) (d), 66.1103 (11)
6 (b) 1., 84.06 (2) (a), 103.503 (1) (a), 103.503 (1) (c), 103.503 (1) (e), 103.503 (1)
7 (g), 103.503 (2), 103.503 (3) (a) 2., 109.09 (1), 111.322 (2m) (d), 230.13 (1) (intro.),
8 233.13 (intro.), 341.35 (1) and 978.05 (6) (a); and **to create** 13.94 (3m), 20.395
9 (2) (fq), 59.52 (29) (c), 60.47 (2m), 62.15 (1m), 66.0901 (1m) (c), 84.06 (1) (c), 84.06
10 (1) (d), 84.06 (1) (e), 84.06 (1) (f), 84.06 (1) (g), 84.06 (2m), 84.54, 86.35, 103.503
11 (1) (fm), 103.503 (1) (j) and 341.35 (1m) of the statutes; **relating to:** alternative
12 highway project delivery methods; prevailing wage for public works projects;
13 municipal approval of highway roundabouts; local referendum imposing a

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- 1 wheel tax; funding for and audit of the Department of Transportation; granting
2 rule-making authority; and making appropriations.
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Analysis by the Legislative Reference Bureau***Alternative project delivery methods***

This bill authorizes the Department of Transportation and cities, villages, towns, counties, and technical colleges (governmental units) to use alternate methods for delivering projects.

Under current law, the design and construction of projects are generally two distinct phases. Under this method, often referred to as “design-bid-build,” governmental units have broad authority to accomplish the design of a project. The construction of a project must be executed by contract based on bids, with a governmental unit awarding the contract to the lowest responsible bidder.

Under the bill, in addition to the design-bid-build method, governmental units are authorized to deliver projects with four alternative methods:

1. “Design-build,” in which architectural, surveying, engineering, construction, and related services for a project are provided by a single contractor.

2. “Design-build-finance,” in which the design and construction services for a project are provided by a single entity and financing is provided in whole or in part by the same entity.

3. “Construction manager-general contractor,” a two-phase method in which all services unrelated to construction are provided in the first phase by a contractor who, subject to approval by the governmental unit, also provides construction services in the second phase.

4. “Fixed-price variable-scope,” in which a contractor provides the maximum amount of work at a cost not to exceed the price fixed by the governmental unit.

The bill creates requirements for soliciting and evaluating proposals using these methods and awarding contracts to the most qualified bidders. The bill requires DOT to use these methods to deliver not less than 5 percent of construction costs of improvement projects by June 30, 2019, not less than 10 percent of construction costs of improvement projects by June 30, 2021, and not less than 20 percent of construction costs of improvement projects by June 30, 2023.

Prevailing wage

The bill eliminates the state prevailing wage law and the highway prevailing wage law.

Generally, under the current prevailing wage laws, laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works 1) must be paid the prevailing wage rate, as determined by the U.S. Department of Labor under the federal Davis-Bacon Act; and 2) may not be required or permitted to work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. The prevailing wage laws

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include two separate laws: one that applies to certain projects of public works to which the state or any state agency is a party (state prevailing wage law) and one that applies to projects under a contract based on bids to which the state is a party for the construction or improvement of highways (highway prevailing wage law). Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance. The bill retains this prohibition.

Local authority

The bill provides that a county or municipal vehicle registration fee, commonly known as a wheel tax, may be imposed only if approved by a majority of electors voting in a referendum at a regularly scheduled election. Under current law, the governing body of a municipality or county may enact an ordinance imposing an annual flat municipal or county registration fee on all motor vehicles registered in this state which are customarily kept in the municipality or county. The fees collected are required to be used for transportation-related purposes only.

The bill provides that no roundabout may be constructed as part of a highway project unless the authority in charge of the highway project obtains approval for the roundabout from the governing body of the municipality where the proposed roundabout would be located.

Transportation funding

The bill requires DOT to transfer state moneys appropriated to DOT for state highway rehabilitation to an appropriation account for local transportation assistance programs. The bill also requires DOT to transfer an equivalent amount of federal moneys appropriated for local transportation assistance programs to an appropriation account for state highway rehabilitation. The bill also requires the Legislative Fiscal Bureau to adjust the appropriation schedule in chapter 20 of the statutes to reflect the amounts in the state highway rehabilitation and local transportation assistance program appropriation accounts immediately following the transfers.

Audit of the Department of Transportation

The bill requires the state auditor to appoint within the Legislative Audit Bureau an inspector general who is assigned to and housed at DOT headquarters and whose services are paid for by DOT. The bill provides that the inspector general may examine the accounts and other financial records of DOT and may review the performance and program accomplishments of DOT.

Under the bill, the inspector general must investigate fraud in DOT programs or activities and report any finding of fraud to the Department of Justice, as well as investigate waste, abuse, or inefficiency in DOT programs or activities. The inspector general must report any finding of waste, abuse, or inefficiency to the speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations. In addition, in investigating waste, abuse, or inefficiency, the inspector general must endeavor to identify savings for DOT that would pay at least the costs incurred by the inspector general in carrying out the investigations.

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The bill also provides that the inspector general may review claims by any person whose substantial interest has been adversely affected by a DOT action or order. If the inspector general elects to review a claim, the inspector general must determine whether the DOT action or order was inconsistent with any law or administrative rule and report all such determinations to the speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations.

Reports

The bill requires DOT to report to the appropriate standing committees of the legislature on the progress of highway improvements using alternative project delivery methods.

The bill requires DOT to submit to the governor and the Joint Committee on Finance a plan for developing a funding formula for regions that is based on need rather than baseline funding.

The bill requires the Department of Administration to develop a plan for conducting an audit of DOT to be completed no later than August 31, 2018.

The bill requires the inspector general assigned to DOT to submit an annual report of inspector general activities to the Speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 13.94 (3m) of the statutes is created to read:
- 2 13.94 **(3m)** INSPECTOR GENERAL. (a) In this subsection, “department” means the
- 3 department of transportation.
- 4 (b) The state auditor shall appoint an inspector general who is assigned to and
- 5 housed at the headquarters of the department. The state auditor shall appoint the
- 6 inspector general for a 6-year term expiring on March 1 of the odd-numbered year.

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1 (c) The inspector general shall be housed at the department headquarters. The
2 department shall provide office space for the inspector general. The department
3 shall pay for all services provided by the inspector general and shall credit the
4 payments to the appropriation account under s. 20.765 (3) (ka).

5 (d) The inspector general shall be strictly nonpartisan and shall at all times
6 observe the confidential nature of any investigation currently being performed.

7 (e) The inspector general may examine the accounts and other financial records
8 of the department to assure that all financial transactions have been made in a legal
9 and proper manner. The inspector general may review the performance and program
10 accomplishments of the department during the fiscal period for which the
11 examination is being conducted to determine whether the department carried out
12 the policy of the legislature and the governor during the period for which the
13 appropriations were made. The department shall at all times with or without notice
14 provide the inspector general access to any books, records, or other documents
15 maintained by the department relating to its expenditures, revenues, operations,
16 and structure, including specifically any such books, records, or other documents
17 that are confidential by law.

18 (f) The inspector general shall do all of the following:

19 1. At his or her discretion, review claims by any person whose substantial
20 interest has been adversely affected by a department action or order. A person
21 requesting such a review must do so before the commencement of a contested case
22 under s. 227.44 or other similar state agency review process. If the inspector general
23 elects to review a claim, the inspector general shall determine whether the
24 department action or order was inconsistent with any law or administrative rule.
25 The inspector general shall report all such determinations to the speaker of the

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1 assembly, the senate majority leader, the joint legislative audit committee, the
2 assembly and senate committees on transportation, and the chairpersons of
3 standing committees whose committee jurisdiction includes oversight and
4 accountability of government operations.

5 2. Investigate fraud in department programs or activities and report any
6 finding of fraud to the department of justice.

7 3. Investigate waste, abuse, or inefficiency in department programs or
8 activities and report any finding of waste, abuse, or inefficiency to the speaker of the
9 assembly, the senate majority leader, the joint legislative audit committee, the
10 assembly and senate committees on transportation, and the chairpersons of
11 standing committees whose committee jurisdiction includes oversight and
12 accountability of government operations. In investigating waste, abuse, or
13 inefficiency in department programs, the inspector general shall endeavor to identify
14 savings for the department that would pay at least the costs incurred by the inspector
15 general in carrying out the investigations.

16 4. Submit an annual report of inspector general activities to the chief clerk of
17 each house of the legislature, for distribution to the legislature under s. 13.172 (2),
18 and to the speaker of the assembly, the senate majority leader, the joint legislative
19 audit committee, the assembly and senate committees on transportation, and the
20 chairpersons of standing committees whose committee jurisdiction includes
21 oversight and accountability of government operations.

22 (g) Before the department may expend on its programs and activities any
23 moneys saved as a result of inspector general investigations under par. (f) 2. and 3.,
24 the department must first use the moneys to pay all costs incurred by the inspector
25 general in carrying out the investigations.

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1 (h) The speaker of the assembly and the senate majority leader, jointly, may
2 direct the inspector general to examine the records or programs of the department.
3 The inspector general shall submit the investigation report to the chief clerk of each
4 house of the legislature, for distribution to the legislature under s. 13.172 (2), and
5 to the speaker of the assembly, the senate majority leader, the joint legislative audit
6 committee, the assembly and senate committees on transportation, and the
7 chairpersons of standing committees whose committee jurisdiction includes
8 oversight and accountability of government operations.

9 (i) The chairpersons of the joint legislative audit committee, the assembly and
10 senate committees on transportation, and the chairpersons of standing committees
11 whose committee jurisdiction includes oversight and accountability of government
12 operations may direct the inspector general to examine the records or programs of
13 the department. The inspector general shall submit the investigation report to the
14 chief clerk of each house of the legislature, for distribution to the legislature under
15 s. 13.172 (2), and to the speaker of the assembly, the senate majority leader, the joint
16 legislative audit committee, the assembly and senate committees on transportation,
17 and the chairpersons of standing committees whose committee jurisdiction includes
18 oversight and accountability of government operations.

19 (j) Upon request of the inspector general, the legislative service agencies shall
20 assist the inspector general in performing any duty or exercising any power under
21 this subsection.

22 **SECTION 2.** 16.856 of the statutes is repealed.

23 **SECTION 3.** 19.36 (3) of the statutes is amended to read:

24 19.36 (3) CONTRACTORS' RECORDS. ~~Subject to sub. (12), each~~ Each authority shall
25 make available for inspection and copying under s. 19.35 (1) any record produced or

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1 collected under a contract entered into by the authority with a person other than an
2 authority to the same extent as if the record were maintained by the authority. This
3 subsection does not apply to the inspection or copying of a record under s. 19.35 (1)
4 (am).

5 **SECTION 4.** 19.36 (12) of the statutes is repealed.

6 **SECTION 5.** 20.395 (2) (fq) of the statutes is created to read:

7 20.395 (2) (fq) *Local transportation facility improvement assistance, state*
8 *funds.* All moneys transferred under s. 84.54 (2) for providing public access roads
9 to navigable waters and for the purposes of ss. 84.27 and 84.28 and for improving
10 transportation facilities, including facilities funded under applicable federal acts or
11 programs, that are not state trunk or connecting highways.

12 **SECTION 6.** 20.395 (2) (fx) of the statutes is amended to read:

13 20.395 (2) (fx) *Local transportation facility improvement assistance, federal*
14 *funds.* All moneys received from the federal government for providing public access
15 roads to navigable waters and for the purposes of ss. 84.27 and 84.28 and for
16 improving transportation facilities, including facilities funded under applicable
17 federal acts or programs, that are not state trunk or connecting highways, for such
18 purposes and to make the transfers under s. 84.54 (1).

19 **SECTION 7.** 20.395 (3) (cq) of the statutes is amended to read:

20 20.395 (3) (cq) *State highway rehabilitation, state funds.* As a continuing
21 appropriation, the amounts in the schedule for improvement of existing state trunk
22 and connecting highways; for improvement of bridges on state trunk or connecting
23 highways and other bridges for which improvement is a state responsibility, for
24 necessary approach work for such bridges and for replacement of such bridges with
25 at-grade crossing improvements; for the construction and rehabilitation of the

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1 national system of interstate and defense highways and bridges and related
2 appurtenances; for activities under s. 84.04 on roadside improvements; for bridges
3 under s. 84.10; for the bridge project under s. 84.115; for payment to a local unit of
4 government for a jurisdictional transfer under s. 84.02 (8); for the disadvantaged
5 business demonstration and training program under s. 84.076; for the purpose
6 specified in s. 84.017 (3); for the transfers required under 1999 Wisconsin Act 9,
7 section 9250 (1) and 2003 Wisconsin Act 33, section 9153 (4q); ~~and~~ for the purposes
8 described under 1999 Wisconsin Act 9, section 9150 (8g), 2001 Wisconsin Act 16,
9 section 9152 (4e), and 2007 Wisconsin Act 20, section 9148 (9i) (b) and (9x); and to
10 make the transfers under s. 84.54 (2). This paragraph does not apply to any
11 southeast Wisconsin freeway megaprojects under s. 84.0145, to any southeast
12 Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major
13 highway projects under s. 84.013, or to the installation, replacement, rehabilitation,
14 or maintenance of highway signs, traffic control signals, highway lighting, pavement
15 markings, or intelligent transportation systems, unless incidental to the
16 improvement of existing state trunk and connecting highways.

17 **SECTION 8.** 20.395 (3) (cx) of the statutes is amended to read:

18 20.395 (3) (cx) *State highway rehabilitation, federal funds.* All moneys
19 received from the federal government for improvement of existing state trunk and
20 connecting highways; for improvement of bridges on state trunk or connecting
21 highways and other bridges for which improvement is a state responsibility, for
22 necessary approach work for such bridges and for replacement of such bridges with
23 at-grade crossing improvements; for the construction and rehabilitation of the
24 national system of interstate and defense highways and bridges and related
25 appurtenances; for activities under s. 84.04 on roadside improvements; for the bridge

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1 project under s. 84.115; for the purpose specified in s. 84.017 (3); and for the
2 disadvantaged business demonstration and training program under s. 84.076; and
3 all moneys received under 2003 Wisconsin Act 33, section 9153 (4q); and all moneys
4 transferred under s. 84.54 (1) for such purposes. This paragraph does not apply to
5 any southeast Wisconsin freeway megaprojects under s. 84.0145 or to any southeast
6 Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major
7 highway projects under s. 84.013.

8 **SECTION 9.** 20.765 (3) (ka) of the statutes is amended to read:

9 20.765 (3) (ka) *Audit bureau reimbursable audits.* The amounts in the
10 schedule for the provision of auditing services requested by state agencies or by the
11 federal government, for audits specified in s. 13.94 (1s) (c) ~~and~~, for audits of the
12 department of revenue relating to the state lottery and verifications of the odds of
13 winning a lottery game under s. 565.37 (5), and for services provided by the inspector
14 general under s. 13.94 (3m). All moneys received by the legislative audit bureau from
15 charges assessed to departments under s. 13.94 (1s) and (3m) shall be credited to this
16 appropriation account.

17 **SECTION 10.** 43.17 (9) (a) of the statutes is amended to read:

18 43.17 (9) (a) All contracts for public construction made by a federated public
19 library system whose territory lies within 2 or more counties or by a federated public
20 library system whose territory lies within a single county with a population of at least
21 500,000 shall be let by the public library system board to the lowest responsible
22 bidder in accordance with s. 62.15 (1) to (11) and (14). For purposes of this section,
23 the system board possesses the powers conferred by s. 62.15 on the board of public
24 works and the common council, except that s. 62.15 (1m) does not apply to any
25 contract made by the system board for public construction. All contracts made under

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1 this section shall be made in the name of the federated public library system and
2 shall be executed by the system board president and such other board officer as the
3 system board designates.

4 **SECTION 11.** 59.20 (3) (a) of the statutes is amended to read:

5 59.20 (3) (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer,
6 comptroller, register of probate, clerk, and county surveyor shall keep his or her office
7 at the county seat in the offices provided by the county or by special provision of law;
8 or if there is none, then at such place as the board directs. The board may also require
9 any elective or appointive county official to keep his or her office at the county seat
10 in an office to be provided by the county. All such officers shall keep their offices open
11 during the usual business hours of any day except Sunday, as the board directs. With
12 proper care, the officers shall open to the examination of any person all books and
13 papers required to be kept in his or her office and permit any person so examining
14 to take notes and copies of such books, records, papers, or minutes therefrom except
15 as authorized in par. (c) and ss. 19.36 (10) ~~to (12)~~ and (11) and 19.59 (3) (d) or under
16 ch. 69.

17 **SECTION 12.** 59.52 (29) (a) of the statutes is amended to read:

18 59.52 (29) (a) ~~All~~ Except as provided in par. (c), all public work, including any
19 contract for the construction, repair, remodeling or improvement of any public work,
20 building, or furnishing of supplies or material of any kind where the estimated cost
21 of such work will exceed \$25,000 shall be let by contract to the lowest responsible
22 bidder. Any public work, the estimated cost of which does not exceed \$25,000, shall
23 be let as the board may direct. If the estimated cost of any public work is between
24 \$5,000 and \$25,000, the board shall give a class 1 notice under ch. 985 before it
25 contracts for the work or shall contract with a person qualified as a bidder under s.

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1 66.0901 (2). A contract, the estimated cost of which exceeds \$25,000, shall be let and
2 entered into under s. 66.0901, except as provided in par. (c) and except that the board
3 may by a three-fourths vote of all the members entitled to a seat provide that any
4 class of public work or any part thereof may be done directly by the county without
5 submitting the same for bids. This subsection does not apply to public construction
6 if the materials for such a project are donated or if the labor for such a project is
7 provided by volunteers. This subsection does not apply to highway contracts which
8 the county highway committee or the county highway commissioner is authorized by
9 law to let or make.

10 **SECTION 13.** 59.52 (29) (c) of the statutes is created to read:

11 59.52 (29) (c) 1. In this paragraph:

12 a. "Alternative technical concepts" means a proposed alternative to the
13 technical requirements provided by the county in the request for proposals for a
14 project.

15 b. "Construction manager-general contractor project" means a two-phase
16 project for which all services unrelated to construction are provided in the first phase
17 by a contractor who, subject to county approval, also provides construction services
18 in the second phase.

19 c. "Design-build-finance project" means a project for which the design and
20 construction services are provided by a single entity and financing is provided in
21 whole or in part by the same entity.

22 d. "Design-build project" means a project for which architectural, surveying,
23 engineering, construction, and related services for a project are provided by a single
24 contractor.

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1 e. "Fixed-price variable-scope project" means a project with a broad scope for
2 which a contractor provides the maximum amount of work at a cost not to exceed the
3 price fixed by the county.

4 2. A county may designate any project as a design-build, design-build-finance,
5 construction manager-general contractor, or fixed-price variable-scope project if
6 the county conducts an analysis of the project and makes a written determination
7 that it is in the best interests of the county to designate the project. The analysis and
8 determination shall include the impact of the selected project delivery method on the
9 anticipated schedule, completion date, and cost of the project.

10 3. A county may not solicit proposals for a project under this paragraph unless
11 the county does one of the following:

12 a. Not later than 30 days before issuing the request for qualifications, issues
13 a notice of intent to receive qualifications that includes a description of the project.

14 b. For a single-phase project delivery, not later than 30 days before issuing the
15 request for proposals, issues a notice of intent to receive proposals that includes a
16 description of the project.

17 4. a. Subject to subd. 4. b., a county may solicit proposals for design-build,
18 design-build-finance, construction manager-general contractor, and fixed-price
19 variable-scope projects by using one or more requests for qualifications,
20 short-listing of qualified bidders, requests for proposals, and negotiations.

21 b. Except as provided in subd. 4. c., a county shall use a two-phase process for
22 a design-build project. In the first phase, the county shall evaluate the qualifications
23 of the bidders, create a short list of the most highly qualified bidders, and request
24 proposals from those bidders. The county may not consider projected cost in its

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1 creation of the short list. In the second phase, the county shall evaluate and select
2 from among the responsive proposals.

3 c. For a design-build project with an estimated cost of less than \$100,000, a
4 county may solicit proposals and evaluate and select from among the responsive
5 proposals.

6 5. If a county issues a request for qualifications under this paragraph, the
7 county shall evaluate responses based on the evaluation criteria provided in the
8 request for qualifications and create a short list of the most qualified bidders. The
9 county shall short-list not more than 5 bidders and, unless the county finds that it
10 is justified by an emergency, not less than 2 bidders. A request for qualifications
11 issued under this paragraph may contain any of the following information:

12 a. The scope of work for the project.

13 b. A requirement that the bidder identify certain personnel and describe the
14 experience of the personnel and the conditions under which personnel may be
15 replaced.

16 c. The evaluation criteria for the qualifications and the relative importance of
17 those criteria. The evaluation criteria may address the bidder's technical and
18 financial qualifications.

19 d. The county's prequalification, licensing, and registration requirements.

20 e. The maximum number of bidders the county will short-list to submit
21 proposals.

22 f. Any other relevant information the county determines is appropriate.

23 6. a. A request for proposals issued under this paragraph may contain the form
24 and amount of required bid security; the terms of the contract, including scope and
25 performance requirements, schedule or completion date requirements,

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1 subcontractor requirements, payment and performance security requirements, and
2 insurance requirements; the requirements for the technical component of the
3 proposal, including a description of the level of design, scope and type of renderings,
4 drawings, and specifications to be provided in the proposal; the requirements for the
5 price component of the proposal; the evaluation criteria for the proposals, including
6 technical criteria, innovation, and schedule, and the relative importance of those
7 criteria; a process for the county to review and accept alternative technical concepts;
8 requirements regarding the bidder's qualifications; and any other relevant
9 information the county determines is appropriate. For a construction
10 manager-general contractor project, the county may require the bidder to submit a
11 lump sum price for the direct costs to perform the required preconstruction services
12 and a percentage markup on those direct costs.

13 b. Prior to receiving proposals, the county may conduct confidential meetings
14 and exchange confidential information with bidders to promote understanding of the
15 request for proposals, review alternative technical concepts, or discuss other issues
16 related to the procurement.

17 c. The county shall establish a due date for proposals that is not more than 120
18 days after the date on which the county issues the request for proposals.

19 7. a. The county shall appoint a technical review committee to review, evaluate,
20 score, and rank proposals. The county shall appoint to the committee not fewer than
21 5 individuals, the majority of whom are design professionals. Each member of a
22 technical review committee must certify that no conflict of interest exists between
23 the member and the bidders. If the county determines a conflict exists with a
24 member, the county shall remove the member from the committee and substitute a
25 replacement member.

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1 b. Except as provided in subd. 7. c., the technical review committee shall
2 evaluate and assign a technical score to each proposal. The committee shall award
3 not less than 70 percent of available points to each proposal that is responsive to the
4 request for proposals, not less than 5 percent of available points to each proposal that
5 uses contractors based in this state for not less than 50 percent of the dollar value
6 of the contract, and not more than 25 percent of available points based on any criteria
7 in the project scope that the county determines is critical to the improvement project.
8 The committee shall divide the bid price for a proposal by the technical score to
9 produce an overall score for each proposal. Notwithstanding s. 66.0901, the county
10 shall award the contract to the bidder with the proposal with the lowest overall score.

11 c. For a fixed-price variable-scope project, notwithstanding s. 66.0901, the
12 technical review committee shall award the contract to the bidder that proposes the
13 largest volume of work within the price that the county fixed for the project.

14 d. If the bidder awarded the contract is unable or unwilling to execute the
15 contract, the county may award the contract to the bidder whose proposal has the
16 next lowest overall score. For a fixed-price variable-scope project, if the bidder
17 awarded the contract is unable or unwilling to execute the contract, the county may
18 award the contract to the bidder whose proposal has the next largest volume of work
19 within the price that the county fixed for the project.

20 8. A contract for a design-build, design-build-finance, construction
21 manager-general contractor, or fixed-price variable-scope project may include
22 provisions regarding all of the following:

23 a. Compensation of or payments to the contractor.

24 b. Grounds for termination of the contract, including the county's right to
25 terminate for convenience.

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- 1 c. Liability for damages and nonperformance.
- 2 d. Events of default and the rights and remedies available to the contractor and
3 the county in the event of a default or delay.
- 4 e. The identification of any technical specifications that the contractor must
5 comply with when developing plans or performing construction work.
- 6 f. The procedures for review and approval of the contractor's plans.
- 7 g. Required performance and payment security.
- 8 h. Terms and conditions of indemnification and minimum insurance
9 requirements.
- 10 i. Any other terms and conditions the county determines are appropriate.
- 11 9. a. The county shall divide the services provided under a contract for a
12 construction manager-general contractor project into one phase that addresses
13 preconstruction services and a subsequent phase that addresses the construction of
14 the project for a lump sum or a guaranteed maximum price. The price may not exceed
15 9 percent of the independent cost estimate.
- 16 b. A contract for a construction manager-general contractor project shall
17 include provisions regarding the provision of and compensation for preconstruction
18 services during the first phase of the contract; a requirement that, during the first
19 phase of the contract, the contractor use a competitive bidding process to procure
20 subcontracts for at least the minimum percentage of construction work specified in
21 the request for proposals, which percentage shall be based on an estimated cost for
22 the construction work approved by the county prior to the start of the competitive
23 bidding process; a requirement that the contractor may not use subcontracts with its
24 wholly or partially owned subsidiaries, parent companies, or affiliates; the process
25 the county and the contractor shall use to determine a lump sum or guaranteed

ASSEMBLY BILL 456**SECTION 13**

1 maximum price for the construction work, including a requirement that the county
2 conduct an independent cost estimate for the construction work; and grounds for
3 termination of the contract.

4 c. If a contract for a construction manager-general contractor project is
5 terminated for any reason, the county may re-advertise the project using any
6 authorized process to complete the project. The county may use any work product
7 developed by the contractor to complete the project.

8 10. a. The county shall establish procedures for the bidding and selection of
9 proposals for design-build, design-build-finance, construction manager-general
10 contractor, and fixed-price variable-scope projects that ensure an open,
11 transparent, and efficient process.

12 b. The county shall employ or retain a professional engineer licensed in this
13 state or a licensed architect, or both, to prepare the scope of a design-build,
14 design-build-finance, construction manager-general contractor, or fixed-price
15 variable-scope project and assist in the evaluation of the technical portions of
16 proposals for those projects. An engineer or architect evaluating proposals may not
17 be a member of a team that is bidding on the project.

18 c. The county shall allow bidders to submit alternative technical concepts in
19 their proposals by describing the process for submission and evaluation of
20 alternative technical concepts in the request for proposals for that project.

21 d. The county may offer to pay a stipend to all short-listed bidders, if the county
22 ends the process before the due date for proposals, and to each unsuccessful bidder
23 that submits a responsive proposal who grants to the county the right to use any work
24 product contained in the proposal.

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1 e. The county may reject any submitted qualifications or proposals that the
2 county determines are nonresponsive. The county shall consider nonresponsive any
3 proposal that fails to include the required bid security or fails to comply with county
4 requirements relating to using business enterprises.

5 f. The county and a contractor may enter into leases, licenses, easements, and
6 other grants of property interests that the county determines are necessary to deliver
7 a project under this paragraph.

8 g. The county shall maintain all written decisions, qualification and proposal
9 evaluations, scoring documents, selection evaluations, proposals, and procurement
10 documents in a procurement file maintained by the county. A bidder may clearly
11 identify those portions of a proposal or other submission that the bidder considers
12 to be trade secrets or confidential, commercial, financial, or proprietary information
13 and request that those portions be exempt from disclosure. The qualifications,
14 proposals, and other information and documents submitted by bidders and the
15 county's evaluation records shall not be subject to release or disclosure by the county
16 until execution of the contract. If the county ends the process prior to entering into
17 a contract for a project, the exemption from release or disclosure shall remain in place
18 until the county has entered into a contract for the project or until 5 years after
19 ending the initial process, whichever occurs first.

20 **SECTION 14.** 60.47 (2m) of the statutes is created to read:

21 60.47 (2m) ALTERNATIVE PROJECT DELIVERY. Notwithstanding sub. (3), any
22 public contract under sub. (2) may be let using the alternative project delivery
23 methods under s. 59.52 (29) (c). Section 59.52 (29) (c), as it applies to counties, applies
24 to towns.

25 **SECTION 15.** 62.03 (1) of the statutes is amended to read:

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1 62.03 (1) This subchapter, except ss. 62.071, 62.08 (1), 62.09 (1) (e) and (11) (j)
2 and (k), 62.15 (1m) (b), 62.175, 62.23 (7) (em) and (he) and 62.237, does not apply to
3 1st class cities under special charter.

4 **SECTION 16.** 62.15 (1) of the statutes is amended to read:

5 62.15 (1) CONTRACTS; HOW LET; EXCEPTION FOR DONATED MATERIALS AND LABOR. ~~All~~
6 Except as provided in sub. (1m), all public construction, the estimated cost of which
7 exceeds \$25,000, shall be let by contract to the lowest responsible bidder; all other
8 public construction shall be let as the council may direct. If the estimated cost of any
9 public construction exceeds \$5,000 but is not greater than \$25,000, the board of
10 public works shall give a class 1 notice, under ch. 985, of the proposed construction
11 before the contract for the construction is executed. This provision does not apply to
12 public construction if the materials for such a project are donated or if the labor for
13 such a project is provided by volunteers. The council may also by a vote of
14 three-fourths of all the members-elect provide by ordinance that any class of public
15 construction or any part thereof may be done directly by the city without submitting
16 the same for bids.

17 **SECTION 17.** 62.15 (1m) of the statutes is created to read:

18 62.15 (1m) ALTERNATIVE PROJECT DELIVERY. (a) Any contract for public
19 construction under sub. (1) may be let using the alternative project delivery methods
20 under s. 59.52 (29) (c). Section 59.52 (29) (c), as it applies to counties, applies to cities.

21 (b) Any contract for public construction let by a 1st class city may be let using
22 the alternative project delivery methods under s. 59.52 (29) (c). Section 59.52 (29)
23 (c), as it applies to counties, applies to 1st class cities.

24 **SECTION 18.** 66.0901 (1m) (c) of the statutes is created to read:

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1 66.0901 (1m) (c) This subsection does not apply to a public works project
2 performed under an alternative project delivery method under s. 59.52 (29) (c), 60.47
3 (2m), or 62.15 (1m).

4 **SECTION 19.** 66.0903 (1) (c) of the statutes is amended to read:

5 66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. 16.856
6 (1) (b), 2015 stats.

7 **SECTION 20.** 66.0903 (1) (f) of the statutes is amended to read:

8 66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. 16.856
9 (1) (e), 2015 stats.

10 **SECTION 21.** 66.0903 (1) (g) of the statutes is amended to read:

11 66.0903 (1) (g) “Prevailing wage rate” includes the meanings given under s.
12 66.0903 (1) (g), 2013 stats., and s. 16.856 (1) (f), 2015 stats.

13 **SECTION 22.** 66.0903 (1) (j) of the statutes is amended to read:

14 66.0903 (1) (j) “Truck driver” ~~has the meaning given in s. 16.856 (1) (j)~~ includes
15 an owner-operator of a truck.

16 **SECTION 23.** 66.0907 (3) (d) of the statutes is amended to read:

17 66.0907 (3) (d) *Default of owner.* If the owner neglects for a period of 20 days
18 after service of notice under par. (c) to lay, remove, replace or repair the sidewalk the
19 city may cause the work to be done at the expense of the owner. All work for the
20 construction of sidewalks shall be let by contract to the lowest responsible bidder
21 except as provided in s. 62.15 (1) or (1m).

22 **SECTION 24.** 66.1103 (11) (b) 1. of the statutes is amended to read:

23 66.1103 (11) (b) 1. Except as provided by subd. 2. and except as provided under
24 ss. 59.52 (29) (c), 60.47 (2m), and 62.15 (1m), construction work which is let by
25 contract and which has an estimated cost exceeding \$5,000 may be financed with

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1 bonds only if the contract is let to the lowest responsible bidder and proposals for the
2 contract are advertised by publishing a class 2 notice under ch. 985.

3 **SECTION 25.** 84.06 (1) (a) of the statutes is renumbered 84.06 (1) (h), and 84.06
4 (1) (h) (intro.), as renumbered, is amended to read:

5 84.06 (1) (h) (intro.) Subject to par. ~~(b)~~ (i), “improvement” or “highway
6 improvement” includes all of the following:

7 **SECTION 26.** 84.06 (1) (b) of the statutes is renumbered 84.06 (1) (i).

8 **SECTION 27.** 84.06 (1) (c) of the statutes is created to read:

9 84.06 (1) (c) “Alternative technical concepts” means a proposed alternative to
10 the technical requirements provided by the department in the request for proposals
11 for an improvement project.

12 **SECTION 28.** 84.06 (1) (d) of the statutes is created to read:

13 84.06 (1) (d) “Construction manager-general contractor project” means a
14 two-phase improvement project for which all services unrelated to construction are
15 provided in the first phase by a contractor who, subject to department approval, also
16 provides construction services in the second phase.

17 **SECTION 29.** 84.06 (1) (e) of the statutes is created to read:

18 84.06 (1) (e) “Design-build-finance project” means a project for which the
19 design and construction services are provided by a single entity and financing is
20 provided in whole or in part by the same entity.

21 **SECTION 30.** 84.06 (1) (f) of the statutes is created to read:

22 84.06 (1) (f) “Design-build project” means an improvement project for which
23 architectural, surveying, engineering, construction, and related services for an
24 improvement project are provided by a single contractor.

25 **SECTION 31.** 84.06 (1) (g) of the statutes is created to read:

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1 84.06 (1) (g) “Fixed-price variable-scope project” means an improvement
2 project with a broad scope for which a contractor provides the maximum amount of
3 work at a cost not to exceed the price fixed by the department.

4 **SECTION 32.** 84.06 (2) (a) of the statutes is amended to read:

5 84.06 (2) (a) All such highway improvements shall be executed by contract
6 based on bids unless the department finds that another method as provided in sub.
7 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
8 the manner determined by the department. Except as provided in s. 84.075, the
9 contract shall be awarded to the lowest competent and responsible bidder as
10 determined by the department. If the bid of the lowest competent bidder is
11 determined by the department to be in excess of the estimated reasonable value of
12 the work or not in the public interest, all bids may be rejected. The department shall,
13 so far as reasonable, follow uniform methods of advertising for bids and may
14 prescribe and require uniform forms of bids and contracts. The department shall
15 allow bidders to submit alternative technical concepts in their bids by describing the
16 process for submission and evaluation of alternative technical concepts in
17 advertisements for bids. Except as provided in par. (b), the secretary shall enter into
18 the contract on behalf of the state. Every such contract is exempted from ss. 16.70
19 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but ss. 16.528, 16.752, 16.753, and 16.754
20 apply to the contract. Any such contract involving an expenditure of \$1,000 or more
21 shall not be valid until approved by the governor. The secretary may require the
22 attorney general to examine any contract and any bond submitted in connection with
23 the contract and report on its sufficiency of form and execution. The bond required
24 by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to

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

3 **SECTION 33.** 84.06 (2m) of the statutes is created to read:

4 84.06 (2m) ALTERNATIVE PROJECT DELIVERY METHODS. (a) The department may
5 designate any improvement project as a design-build, design-build-finance,
6 construction manager-general contractor, or fixed-price variable-scope project if
7 the department conducts an analysis of the project and makes a written
8 determination that it is in the best interests of the state to designate the project. The
9 analysis and determination shall include the selected project delivery method's
10 impact on the anticipated schedule, completion date, and cost of the project. The
11 department shall make every reasonable effort to ensure the improvement project
12 is consistent with any regional plan that exists for the area where the improvement
13 project will be located.

14 (b) The department may not solicit proposals for an improvement project under
15 this subsection until the department does one of the following:

16 1. Designates the improvement project as a design-build,
17 design-build-finance, construction manager-general contractor, or fixed-price
18 variable-scope project in the department's multi-year highway improvement
19 program.

20 2. Issues a notice of intent to receive qualifications that includes a description
21 of the improvement project no later than 30 days before issuing the request for
22 qualifications.

23 3. For a single-phase project delivery, issues a notice of intent to receive
24 proposals that includes a description of the improvement project no later than 30
25 days before issuing the request for proposals.

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1 (c) 1. Subject to subd. 2., the department may solicit proposals for design-build,
2 design-build-finance, construction manager-general contractor, and fixed-price
3 variable-scope projects by using one or more requests for qualifications,
4 short-listing of qualified bidders, requests for proposals, and negotiations.

5 2. Except as provided in subd. 3., the department shall use a two-phase process
6 for a design-build project. In the first phase, the department shall evaluate the
7 qualifications of the bidders, create a short list of the most highly qualified bidders,
8 and request proposals from those bidders. The department may not consider
9 projected cost in its creation of the short list. In the second phase, the department
10 shall evaluate and select from among the responsive proposals.

11 3. For a design-build project with an estimated cost of less than \$100,000, the
12 department may solicit proposals and evaluate and select from among the responsive
13 proposals.

14 (d) If the department issues a request for qualifications under this subsection,
15 the department shall evaluate responses based on the evaluation criteria provided
16 in the request for qualifications and create a short list of the most qualified bidders.
17 The department shall short-list not more than 5 bidders and, unless the secretary
18 finds that it is justified by an emergency, not less than 2 bidders. A request for
19 qualifications issued under this subsection may contain any of the following
20 information:

21 1. The scope of work for the improvement project.

22 2. A requirement that the bidder identify certain personnel and describe the
23 experience of the personnel and the conditions under which personnel may be
24 replaced.

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1 3. The evaluation criteria for the qualifications and the relative importance of
2 those criteria. The evaluation criteria may address the bidder's technical and
3 financial qualifications.

4 4. The department's prequalification, licensing, and registration requirements.

5 5. The maximum number of bidders the department will short-list to submit
6 proposals.

7 6. Any other relevant information the department determines is appropriate.

8 (e) 1. A request for proposals issued under this subsection may contain any of
9 the following information:

10 a. The form and amount of required bid security.

11 b. The terms of the contract, including scope and performance requirements,
12 schedule or completion date requirements, subcontractor requirements, payment
13 and performance security requirements, and insurance requirements.

14 c. The requirements for the technical component of the proposal, including a
15 description of the level of design, scope and type of renderings, drawings, and
16 specifications to be provided in the proposal.

17 d. The requirements for the price component of the proposal. For a construction
18 manager-general contractor project, the department may require the bidder to
19 submit a lump sum price for the direct costs to perform the required preconstruction
20 services and a percentage markup on those direct costs.

21 e. The evaluation criteria for the proposals, including technical criteria,
22 innovation, and schedule, and the relative importance of those criteria.

23 f. A process for the department to review and accept alternative technical
24 concepts.

25 g. Requirements regarding the bidder's qualifications.

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1 h. Any other relevant information the department determines is appropriate.

2 2. Prior to receiving proposals, the department may conduct confidential
3 meetings and exchange confidential information with bidders to promote
4 understanding of the request for proposals, review alternative technical concepts, or
5 discuss other issues related to the procurement.

6 3. The department shall establish a due date for proposals that is not more than
7 120 days after the date on which the department issues the request for proposals.

8 (f) 1. The secretary shall appoint a technical review committee to review,
9 evaluate, score, and rank proposals. The secretary shall appoint to the committee
10 not less than 5 individuals, the majority of whom are design professionals, including
11 a representative of this state's largest transportation builders group. Each member
12 of a technical review committee must certify that no conflict of interest exists
13 between the member and the bidders. If the secretary determines a conflict exists
14 with a member, the secretary shall remove the member from the committee and
15 substitute a replacement member.

16 2. Except as provided in subd. 3., the technical review committee shall evaluate
17 and assign a technical score to each proposal. The committee shall award not less
18 than 70 percent of available points to each proposal that is responsive to the request
19 for proposals, not less than 5 percent of available points to each proposal that uses
20 contractors based in this state for not less than 50 percent of the dollar value of the
21 contract, and not more than 25 percent of available points based on any criteria in
22 the project scope that the department determines is critical to the improvement
23 project. The committee shall divide the bid price for a proposal by the technical score
24 to produce an overall score for each proposal. Notwithstanding sub. (2) and s.

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1 66.0901, the department shall award the contract to the bidder with the proposal
2 with the lowest overall score.

3 3. For a fixed-price variable-scope project, notwithstanding sub. (2) and s.
4 66.0901, the technical review committee shall award the contract to the bidder that
5 proposes the largest volume of work within the price that the department fixed for
6 the project.

7 4. If the bidder awarded the contract is unable or unwilling to execute the
8 contract, the department may award the contract to the bidder whose proposal has
9 the next lowest overall score. For a fixed-price variable-scope project, if the bidder
10 awarded the contract is unable or unwilling to execute the contract, the department
11 may award the contract to the bidder whose proposal has the next largest volume of
12 work within the price that the department fixed for the project.

13 (g) A contract for a design-build, design-build-finance, construction
14 manager-general contractor, or fixed-price variable-scope project may include
15 provisions regarding all of the following:

16 1. Compensation of or payments to the contractor.

17 2. Grounds for termination of the contract, including the department's right to
18 terminate for convenience.

19 3. Liability for damages and nonperformance.

20 4. Events of default and the rights and remedies available to the contractor and
21 the department in the event of a default or delay.

22 5. The identification of any technical specifications that the contractor must
23 comply with when developing plans or performing construction work.

24 6. The procedures for review and approval of the contractor's plans.

25 7. Required performance and payment security.

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1 8. Terms and conditions of indemnification and minimum insurance
2 requirements.

3 9. Any other terms and conditions the department determines are appropriate.

4 (h) 1. The department shall divide the services provided under a contract for
5 a construction manager-general contractor project into one phase that addresses
6 preconstruction services and a subsequent phase that addresses the construction of
7 the improvement project for a lump sum or a guaranteed maximum price. The price
8 may not exceed 9 percent of the independent cost estimate.

9 2. A contract for a construction manager-general contractor project shall
10 include provisions regarding all of the following:

11 a. The provision of and compensation for preconstruction services during the
12 first phase of the contract.

13 b. A requirement that, during the first phase of the contract, the contractor use
14 a competitive bidding process to procure subcontracts for at least the minimum
15 percentage of construction work specified in the request for proposals. The
16 percentage shall be based on an estimated cost for the construction work approved
17 by the department prior to the start of the competitive bidding process. The
18 contractor may not use subcontracts with its wholly or partially owned subsidiaries,
19 parent companies, or affiliates.

20 c. The process the department and the contractor shall use to determine a lump
21 sum or guaranteed maximum price for the construction work, including a
22 requirement that the department conduct an independent cost estimate for the
23 construction work.

24 d. Grounds for termination of the contract.

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1 3. If a contract for a construction manager-general contractor project is
2 terminated for any reason, the department may re-advertise the project using any
3 authorized process to complete the project. The department may use any work
4 product developed by the contractor to complete the improvement project.

5 (i) 1. The department shall establish procedures for the bidding and selection
6 of proposals for design-build, design-build-finance, construction manager-general
7 contractor, and fixed-price variable-scope projects that ensure an open,
8 transparent, and efficient process. The department shall submit its proposed
9 procedures to the governor and to the relevant standing committees of the legislature
10 for passive review.

11 2. The department shall employ or retain a professional engineer licensed in
12 this state or a licensed architect, or both, to prepare the scope of a design-build,
13 design-build-finance, construction manager-general contractor, or fixed-price
14 variable-scope project and assist in the evaluation of the technical portions of
15 proposals for those projects. An engineer or architect evaluating proposals may not
16 be a member of a team that is bidding on the project. The department may not use
17 engineers or architects directly employed by the department for more than 20
18 percent of the delivery cost of work required by this subdivision in a calendar year.

19 3. The department shall allow bidders to submit alternative technical concepts
20 in their proposals by describing the process for submission and evaluation of
21 alternative technical concepts in the request for proposals for that project.

22 4. The department may offer to pay a stipend to any of the following:

23 a. All short-listed bidders, if the department ends the process before the due
24 date for proposals.

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1 b. Each unsuccessful bidder that submits a responsive proposal who grants to
2 the department the right to use any work product contained in the proposal.

3 5. The department may reject any submitted qualifications or proposals that
4 the department determines are nonresponsive. The department shall consider
5 nonresponsive any proposal that fails to include the required bid security or fails to
6 comply with department requirements relating to using business enterprises.

7 6. The department may use any authorized source of funding and financing to
8 compensate a contractor for work and services performed under a contract for a
9 design-build, design-build-finance, construction manager-general contractor, or
10 fixed-price variable-scope project and may combine federal, state, local, and private
11 funds to finance the project. Subject to appropriation by the joint committee on
12 finance or the transportation projects commission, the department may obligate and
13 make expenditures of funds as and when needed to satisfy its payment obligations
14 under a contract for a design-build, design-build-finance, construction
15 manager-general contractor, or fixed-price variable-scope project.

16 7. The department and a contractor may enter into leases, licenses, easements,
17 and other grants of property interests that the department determines are necessary
18 to deliver an improvement project under this subsection.

19 8. a. The department shall maintain all written decisions, qualification and
20 proposal evaluations, scoring documents, selection evaluations, proposals, and
21 procurement documents in a procurement file maintained by the department.

22 b. A bidder may clearly identify those portions of a proposal or other submission
23 that the bidder considers to be trade secrets or confidential, commercial, financial,
24 or proprietary information and request that those portions be exempt from
25 disclosure.

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1 c. The qualifications, proposals, and other information and documents
2 submitted by bidders and the department's evaluation records shall not be subject
3 to release or disclosure by the department until execution of the contract. If the
4 department ends the process prior to entering into a contract for an improvement
5 project, the exemption from release or disclosure shall remain in place until the
6 department has entered into a contract for the improvement project or until 5 years
7 after ending the initial process, whichever occurs first.

8 (j) The department shall use project delivery methods under this subsection to
9 deliver not less than 5 percent of construction costs of improvement projects by June
10 30, 2019, not less than 10 percent of construction costs of improvement projects by
11 June 30, 2021, and not less than 20 percent of construction costs of improvement
12 projects by June 30, 2023.

13 (k) Beginning with the completion of the first improvement project procured
14 under this subsection, the department shall report to the appropriate standing
15 committees of the legislature annually for 5 years on the progress of procurements
16 and transportation facilities procured under this subsection.

17 (L) The department may promulgate rules as necessary to implement this
18 subsection.

19 **SECTION 34.** 84.062 of the statutes is repealed.

20 **SECTION 35.** 84.41 (3) of the statutes is repealed.

21 **SECTION 36.** 84.54 of the statutes is created to read:

22 **84.54 Transfers of state and federal funding.** (1) From the appropriation
23 account under s. 20.395 (2) (fx), the department shall transfer to the appropriation
24 account under s. 20.395 (3) (cx) \$23,829,800 in fiscal year 2018-19, \$24,551,700 in
25 fiscal year 2019-20, and \$23,829,800 in fiscal year 2020-21.

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1 **(2)** From the appropriation account under s. 20.395 (3) (cq), the department
2 shall transfer to the appropriation account under s. 20.395 (2) (fq) \$23,829,800 in
3 fiscal year 2018-19, \$24,551,700 in fiscal year 2019-20, and \$23,829,800 in fiscal
4 year 2020-21.

5 **(3)** In each fiscal year that the department makes the transfers required under
6 subs. (1) and (2), the legislative fiscal bureau shall adjust the amounts in the
7 schedule for s. 20.395 (2) (fq) and (fx) and (3) (cq) and (cx) to reflect the amounts in
8 those appropriation accounts immediately following the transfers.

9 **SECTION 37.** 86.35 of the statutes is created to read:

10 **86.35 Approval of municipal governing body required before**
11 **construction of roundabouts.** **(1)** In this section, “municipality” means a city,
12 village, or town.

13 **(2)** After the effective date of this subsection ... [LRB inserts date], no
14 roundabout may be constructed as part of any highway project unless the authority
15 in charge of the highway project seeks and obtains approval, by a majority vote, for
16 the roundabout from the governing body of the municipality where the proposed
17 roundabout would be located.

18 **SECTION 38.** 103.503 (1) (a) of the statutes is amended to read:

19 103.503 **(1)** (a) “Accident” means an incident caused, contributed to, or
20 otherwise involving an employee that resulted or could have resulted in death,
21 personal injury, or property damage and that occurred while the employee was
22 performing the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015
23 stats., on a project of public works or while the employee was performing work on a
24 public utility project.

25 **SECTION 39.** 103.503 (1) (c) of the statutes is amended to read:

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1 103.503 (1) (c) “Contracting agency” means a local governmental unit, as
2 defined in s. 66.0903 (1) (d), or a state agency, as defined in s. 16.856 (1) (h), that has
3 contracted for the performance of work on a project of public works or a public utility
4 that has contracted for the performance of work on a public utility project.

5 **SECTION 40.** 103.503 (1) (e) of the statutes is amended to read:

6 103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver
7 who performs the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015
8 stats., on a project of public works or on a public utility project.

9 **SECTION 41.** 103.503 (1) (fm) of the statutes is created to read:

10 103.503 (1) (fm) “Local governmental unit” means a political subdivision of this
11 state, a special purpose district in this state, an instrumentality or corporation of
12 such a political subdivision or special purpose district, a combination or subunit of
13 any of the foregoing, or an instrumentality of the state and any of the foregoing.

14 **SECTION 42.** 103.503 (1) (g) of the statutes is amended to read:

15 103.503 (1) (g) “Project of public works” means a project of public works that
16 ~~is subject to s. 16.856 or that would be subject to s. 66.0903, 2013 stats., if the project~~
17 ~~were erected, constructed, repaired, remodeled, or demolished prior to January 1,~~
18 ~~2017, or that would be subject to s. 16.856, 2015 stats., if the project were erected,~~
19 ~~constructed, repaired, remodeled, or demolished prior to the effective date of this~~
20 ~~paragraph [LRB inserts date].~~

21 **SECTION 43.** 103.503 (1) (j) of the statutes is created to read:

22 103.503 (1) (j) “State agency” means any office, department, independent
23 agency, institution of higher education, association, society, or other body in state
24 government created or authorized to be created by the constitution or any law,
25 including the legislature and the courts. “State agency” also includes the University

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1 of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
2 Authority, and the Wisconsin Aerospace Authority.

3 **SECTION 44.** 103.503 (2) of the statutes is amended to read:

4 103.503 (2) SUBSTANCE ABUSE PROHIBITED. No employee may use, possess,
5 attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
6 be under the influence of alcohol, while performing the work described in s. 66.0903
7 (4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works or while
8 performing work on a public utility project. An employee is considered to be under
9 the influence of alcohol for purposes of this subsection if he or she has an alcohol
10 concentration that is equal to or greater than the amount specified in s. 885.235 (1g)
11 (d).

12 **SECTION 45.** 103.503 (3) (a) 2. of the statutes is amended to read:

13 103.503 (3) (a) 2. A requirement that employees performing the work described
14 in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works
15 or performing work on a public utility project submit to random, reasonable
16 suspicion, and post-accident drug and alcohol testing and to drug and alcohol testing
17 before commencing work on the project, except that testing of an employee before
18 commencing work on a project is not required if the employee has been participating
19 in a random testing program during the 90 days preceding the date on which the
20 employee commenced work on the project.

21 **SECTION 46.** 106.04 of the statutes is repealed.

22 **SECTION 47.** 109.09 (1) of the statutes is amended to read:

23 109.09 (1) The department shall investigate and attempt equitably to adjust
24 controversies between employers and employees as to alleged wage claims. The
25 department may receive and investigate any wage claim that is filed with the

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1 department, or received by the department under s. 109.10 (4), no later than 2 years
2 after the date the wages are due. The department may, after receiving a wage claim,
3 investigate any wages due from the employer against whom the claim is filed to any
4 employee during the period commencing 2 years before the date the claim is filed.
5 The department shall enforce this chapter and s. 66.0903, 2013 stats., s. 103.49, 2013
6 stats., and s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ~~ss. 16.856, 103.02,~~
7 ~~103.82, and 104.12.~~ In pursuance of this duty, the department may sue the employer
8 on behalf of the employee to collect any wage claim or wage deficiency and ss. 109.03
9 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions under s.
10 109.10, the department may refer such an action to the district attorney of the county
11 in which the violation occurs for prosecution and collection and the district attorney
12 shall commence an action in the circuit court having appropriate jurisdiction. Any
13 number of wage claims or wage deficiencies against the same employer may be joined
14 in a single proceeding, but the court may order separate trials or hearings. In actions
15 that are referred to a district attorney under this subsection, any taxable costs
16 recovered by the district attorney shall be paid into the general fund of the county
17 in which the violation occurs and used by that county to meet its financial
18 responsibility under s. 978.13 (2) (b) for the operation of the office of the district
19 attorney who prosecuted the action.

20 **SECTION 48.** 111.322 (2m) (c) of the statutes is repealed.

21 **SECTION 49.** 111.322 (2m) (d) of the statutes is amended to read:

22 111.322 **(2m)** (d) The individual's employer believes that the individual
23 engaged or may engage in any activity described in pars. (a) to (e) (bm).

24 **SECTION 50.** 230.13 (1) (intro.) of the statutes is amended to read:

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1 230.13 (1) (intro.) Except as provided in sub. (3) and ss. 19.36 (10) ~~to (12)~~ and
2 (11) and 103.13, the director and the administrator may keep records of the following
3 personnel matters closed to the public:

4 **SECTION 51.** 233.13 (intro.) of the statutes is amended to read:

5 **233.13 Closed records.** (intro.) Except as provided in ss. 19.36 (10) ~~to (12)~~
6 and (11) and 103.13, the authority may keep records of the following personnel
7 matters closed to the public:

8 **SECTION 52.** 341.35 (1) of the statutes is amended to read:

9 341.35 (1) ANNUAL REGISTRATION FEE. In this section “municipality” means a
10 town, village, or city and “motor vehicle” means an automobile or motor truck
11 registered under s. 341.25 (1) (c) at a gross weight of not more than 8,000 pounds.
12 The Subject to sub. (1m), the governing body of a municipality or county may enact
13 an ordinance imposing an annual flat municipal or county registration fee on all
14 motor vehicles registered in this state which are customarily kept in the municipality
15 or county. A registration fee imposed under this section shall be in addition to state
16 registration fees.

17 **SECTION 53.** 341.35 (1m) of the statutes is created to read:

18 341.35 (1m) REFERENDUM REQUIRED. (a) A municipality or county that proposes
19 to impose a registration fee under sub. (1) shall hold a referendum at a regularly
20 scheduled election. The referendum question shall be substantially as follows:
21 “Shall [name of municipality or county] impose an annual registration fee of [amount
22 of registration fee] on all motor vehicles registered in this state that are customarily
23 kept in [name of municipality or county]?” If the question submitted at the
24 referendum is approved by a majority of the electors who vote in the referendum, the

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1 municipality or county may impose the registration fee. If the referendum question
2 is not approved, the municipality or county may not impose any registration fee.

3 (b) A municipality or county that imposes a registration fee prior to the effective
4 date of this paragraph [LRB inserts date], shall hold a referendum at a regularly
5 scheduled election occurring not later than the first day of the 18th month beginning
6 after the effective date of this paragraph [LRB inserts date]. The referendum
7 question shall be substantially as follows: "Shall [name of municipality or county]
8 continue to impose an annual registration fee of [amount of registration fee] on all
9 motor vehicles registered in this state that are customarily kept in [name of
10 municipality or county]?" If the question submitted at the referendum is approved
11 by a majority of the electors who vote in the referendum, the municipality or county
12 may continue imposing the registration fee. If the referendum question is not
13 approved, the municipality or county may not impose any registration fee.

14 **SECTION 54.** 946.15 of the statutes is repealed.

15 **SECTION 55.** 978.05 (6) (a) of the statutes is amended to read:

16 978.05 (6) (a) Institute, commence or appear in all civil actions or special
17 proceedings under and perform the duties set forth for the district attorney under ch.
18 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, ~~84.062 (8)~~, 89.08,
19 103.92 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
20 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
21 connection with court proceedings in a court assigned to exercise jurisdiction under
22 chs. 48 and 938 as the judge may request and perform all appropriate duties and
23 appear if the district attorney is designated in specific statutes, including matters
24 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
25 the authority of the county board to designate, under s. 48.09 (5), that the corporation

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1 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
2 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
3 interests of the public under s. 48.14 or 938.14.

SECTION 56. Nonstatutory provisions.

4
5 (1) AUDIT OF THE DEPARTMENT OF TRANSPORTATION. No later than September 30,
6 2017, the department of administration shall submit to the joint legislative audit
7 committee and the senate and assembly standing committees having jurisdiction
8 over transportation matters a plan for issuing a request for proposals to conduct a
9 complete and thorough operational and financial audit of the department of
10 transportation. No later than December 1, 2017, the department of administration
11 shall issue the request for proposals, which shall include an audit completion date
12 of no later than August 31, 2018.

13 (2) DEVELOPMENT OF A NEW FUNDING FORMULA. No later than January 1, 2018,
14 the department of transportation shall submit to the governor and the joint
15 committee on finance a plan for developing a funding formula for regions that is
16 based on need rather than baseline funding.

17 (3) APPOINTMENT OF INSPECTOR GENERAL. The initial inspector general appointed
18 under section 13.94 (3m) shall serve for a term expiring on March 1, 2023.

19 (4) INSPECTOR GENERAL POSITION AUTHORIZATION. There is authorized for the
20 legislative audit bureau 1.0 FTE PR inspector general position to be funded from the
21 appropriation under section 20.765 (3) (ka) of the statutes.

SECTION 57. Initial applicability.

22
23 (1) ELIMINATION OF PREVAILING WAGE LAW. The treatment of sections 16.856,
24 19.36 (3) and (12), 59.20 (3) (a), 66.0903 (1) (c), (f), (g), and (j), 84.062, 84.41 (3),
25 103.503 (1) (a), (c), (e), (fm), (g), and (j), (2), and (3) (a) 2., 106.04, 109.09 (1), 111.322

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1 (2m) (c) and (d), 230.13 (1) (intro.), 233.13 (intro.), 946.15, and 978.05 (6) (a) of the
2 statutes first applies, with respect to a project of public works that is subject to
3 bidding, to a project for which the request for bids is issued on the effective date of
4 this subsection and, with respect to a project of public works that is not subject to
5 bidding, to a project the contract for which is entered into on the effective date of this
6 subsection.

7 **SECTION 58. Effective dates.** This act takes effect on the day after publication,
8 except as follows:

9 (1) APPOINTMENT OF INSPECTOR GENERAL. The treatment of sections 13.94 (3m)
10 and 20.765 (3) (ka) of the statutes and SECTION 56 (3) and (4) of this act take effect
11 on January 1, 2018.

12 (END)