

Fiscal Estimate Narratives

DOT 2/10/2020

LRB Number	19-5513/1	Introduction Number	AB-0820	Estimate Type	Original
Description requirements for design-build transportation projects, providing an exemption from emergency rule procedures, and granting rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

STATE FISCAL EFFECT

2019 Wisconsin Act 9 (Act 9) made numerous optional changes to highway construction contracting methods. The department is committed to creating a design-build or alternative contracting process, including creating a manual and piloting one or more projects. This bill modifies those provisions to require the department to award 6 design-build projects over 6 years. The department currently uses a design-bid-build process, where a firm is hired to design the project and the construction contract is awarded through the department's bid letting process, which may not be the same firm. This bill will require 6 projects to be let using design-build, where a single firm is hired to both design and construct a project. It is unknown whether the final cost to deliver projects using a design-build method will be higher or lower than might have occurred under the current design-bid-build process. The department estimates the net fiscal effect for this bill to be the difference between 1) the cost of the current contracting method; 2) the cost to contract under Act 9; and 3) the cost required under this bill. As such, the difference in costs is up to \$1,547,000, as detailed below.

The bill requires the department to create a technical review committee, staffed by 3 department employees and 2 outside individuals. The 2 outside individuals are chosen in compliance with relevant credentials pursuant to a memorandum of understanding. Assuming meetings will be held during normal business hours and no fees are required pursuant to the memorandum of understanding, no additional costs are anticipated.

The bill requires the department to solicit design-build proposals in 2 phases: 1) requests for qualifications and requests for proposals; 2) technical and cost proposals. The department currently prequalifies bidders, who are able to bid on projects. The department anticipates the new 2 phase process will require more time up front, as each bidder must be vetted and certified by the technical review committee before moving on to the second phase, requiring the technical review committee to review and score the technical and cost proposals before issuing a notice of intent to award contract. There will be no additional time costs.

The bill adds three new reporting requirements: 1) for each completed design-build project, 2) at the end of the six-year period, and 3) one after 9 months for the program structure.

1) The report requires consultation with the design-builder and technical review committee detailing project processes. The cost to compile, coordinate review and submit the report is 40 hours per project. The department assumes \$50 per hour (department employee cost with fringe) x 40 hours = \$2000 per report; or \$12,000 for 6 projects.

2) The report requires summarizing observations of the process utilized for alternative project delivery methods and describing the effectiveness of the alternative project delivery methods contracting procedures. The report shall include discussion on scope of work, history of projects selected, evaluation criteria, selection process, contract administration, work progression and time and cost comparisons between traditional contracting method and alternative delivery methods, claims and changes. The department assumes \$50 per hour (department employee cost with fringe) x 500 hours = \$25,000.

3) No later than 9 months the department shall prepared a report that establishes a program structure for delivering projects and specify the types of highway improvement projects to be considered and procedures and timelines for the bid process. The department assumes \$50 per hour (department employee cost with fringe) x 200 hours = \$10,000.

The bill requires the department to pay a stipulated fee, in certain circumstances, to qualified bidders. The fee

must not be less than 3/10 of 1 percent of the department's estimated cost of design and construction, and a qualified bidder may waive payment of the stipulated fee. If the department assumes the 6 projects under the bill total the maximum contracting amount allowed of \$250 million, then each project has a maximum average cost of \$41,666,666.

It cannot be known how the stipulated payment might affect the number of proposals received, but if we assume there are 3 qualified proposals for each project, the department could be required pay 2 stipulated fees for each of the 6 projects for the proposals that were not selected. If the department paid the minimum required of three-tenths of one percent (0.003) then the fee payable for each proposal would be \$125,000, or \$250,000 per project, or \$1,500,000 in total stipulated fees paid under the bill.

The bill creates a judicial appeals process for persons aggrieved by a department decision regarding a request for qualifications, request for proposals, or intent to award a contract. It also specifies the grounds required for a person to bring a cause of action. Under the current design-bid-build process, grievances are handled through an internal review process, which does not usually impact project timelines. Assuming the new judicial process may proceed concurrently with the project in question, project delays would likely be minimal.

Overall, the department anticipates a net cost up to \$1,547,000 to implement the design-build changes in the proposed bill.

LOCAL FISCAL EFFECT

It is unknown whether the Department would let contracts under this bill for local projects or, if it did, how that might affect costs.

Long-Range Fiscal Implications

Stipulated fee payments are required whenever the department utilizes a design-build process.

Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-5513/1	Introduction Number AB-0820	
Description requirements for design-build transportation projects, providing an exemption from emergency rule procedures, and granting rule-making authority		
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): The bill requires contracting over a 6-year period having a total cost of \$1.547 million, which represents annual expenditures of \$257,833 for each of the next six years.		
II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$	\$
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$	\$
NET CHANGE IN REVENUE	\$	\$

Agency/Prepared By

DOT/ Sarah Simonson (608) 267-6978

Authorized Signature

Joan Meier (608) 267-6978

Date

2/10/2020