



State of Wisconsin
2017 - 2018 LEGISLATURE

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CMH&MPG:ahe/klm/amn

**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 64**

September 13, 2017 - Offered by Representatives OHNSTAD, SINICKI, ANDERSON, BARCA, BERCEAU, BILLINGS, BOWEN, BROSTOFF, CONSIDINE, CROWLEY, DOYLE, FIELDS, GENRICH, GOYKE, HEBL, HESSELBEIN, HINTZ, KESSLER, KOLSTE, MASON, MEYERS, MILROY, POPE, RIEMER, SARGENT, SHANKLAND, SPREITZER, STUCK, SUBECK, C. TAYLOR, VRUWINK, WACHS, YOUNG, ZAMARRIPA and ZEPNICK.

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

2 **1.** At the appropriate places, insert all of the following:

3 **“SECTION 2p.** 16.855 (1q) of the statutes is created to read:

4 16.855 (1q) (a) 1. A bid submitted by a qualified responsible bidder shall be
5 considered as if the bid amount submitted was reduced as follows:

6 a. By 1 percent if the bidder participates in an apprenticeship program under
7 ch. 106 and ch. DWD 295, Wis. Adm. Code, or under 29 USC 50 and 29 CFR part 29.

8 b. By 1 percent if the bidder contributes at least 75 percent of the premium cost
9 for individual health insurance coverage for each employee that is to perform work
10 under the contract.

1 c. By 1 percent if the bidder submits a written plan meeting the requirements
2 of s. 103.503 (3) and proof that at least 5 percent of the employees that are to perform
3 work under the contract are subject to random annual drug and alcohol testing.

4 d. By 1 percent if the bidder is a tier I or tier II participant under s. 299.83.

5 2. The department may request and receive information from the department
6 of workforce development or the department of natural resources when determining
7 if a bidder qualifies for reduction under subd. 1.

8 (b) 1. In this paragraph:

9 a. "First tier subcontractor" means a person who is awarded a subcontract
10 directly by the bidder for the purposes of acquiring supplies or services for
11 performance of the contract.

12 b. "Resident" means a person domiciled in Wisconsin for not less than 12
13 consecutive months preceding the submission of a bid.

14 2. A submitted bid by a qualified responsible bidder shall be considered as if
15 the bid amount submitted was reduced as follows:

16 a. By 6 percent if at least 75 percent of the bidder's employees performing work
17 on the contract are residents.

18 b. By 3 percent if at least 50 percent but less than 75 percent of the bidder's
19 employees performing work on the contract are residents.

20 c. By 1 percent if at least 25 percent but less than 50 percent of the bidder's
21 employees performing work on the contract are residents.

22 3. The reduction under subd. 2. may not be applied unless all first tier
23 subcontractors working under the bidder also meet the criteria under subd. 2. a., b.,
24 or c., whichever is appropriate, unless the first tier contractor demonstrates that

1 there is a lack of journeymen in Wisconsin available and qualified to perform the
2 work required by the subcontract.

3 (c) A bid reduction under this subsection may not be applied if the reduction
4 would jeopardize the receipt of federal funds or would violate federal law. If a bid
5 reduction under par. (b) is prohibited under this paragraph, the remaining bid
6 reductions shall be increased proportionately so that the the available bid reductions
7 total 10 percent.

8 (d) The department shall do all of the following:

9 1. Enforce this subsection and enforce conforming bid reductions under ss.
10 59.52 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3., 84.06 (2) (a), 85.077 (1), and
11 86.31 (2) (b).

12 2. Promulgate rules necessary to do all of the following:

13 a. Establish criteria and procedures for determining if bidders are eligible for
14 bid reductions under this subsection and ss. 59.52 (29) (a), 60.47 (3), 62.15 (1),
15 66.0901 (1m) (a) 3., 84.06 (2) (a), 85.077 (1), and 86.31 (2) (b).

16 b. Establish procedures for bidders to certify their eligibility for bid reductions
17 under this subsection and ss. 59.52 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3.,
18 84.06 (2) (a), 85.077 (1), and 86.31 (2) (b).

19 c. Establish procedures to audit bids that make a claim for bid reductions under
20 this subsection or s. 59.52 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3., 84.06 (2)
21 (a), 85.077 (1), or 86.31 (2) (b).

22 3. Monitor awards that are based on bid reductions under this subsection or s.
23 59.52 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3., 84.06 (2) (a), 85.077 (1), or 86.31
24 (2) (b) to ensure that the person awarded the contract continues to meet the criteria
25 for the bid reduction until the completion of the contract. If the department

1 determines that the person no longer meets the criteria for the bid reduction, the
2 contract is void and the department shall assess a penalty against the person of not
3 more than 10 percent of the person's bid on the project.

4 **SECTION 14p.** 59.52 (29) (a) of the statutes is amended to read:

5 59.52 (29) (a) All public work, including any contract for the construction,
6 repair, remodeling or improvement of any public work, building, or furnishing of
7 supplies or material of any kind where the estimated cost of such work will exceed
8 \$25,000 shall be let by contract to the lowest responsible bidder. Each bid submitted
9 by a responsible bidder shall be considered as if the bid amount submitted was
10 reduced as provided under s. 16.855 (1q). Any public work, the estimated cost of
11 which does not exceed \$25,000, shall be let as the board may direct. If the estimated
12 cost of any public work is between \$5,000 and \$25,000, the board shall give a class
13 1 notice under ch. 985 before it contracts for the work or shall contract with a person
14 qualified as a bidder under s. 66.0901 (2). A contract, the estimated cost of which
15 exceeds \$25,000, shall be let and entered into under s. 66.0901, except that the board
16 may by a three-fourths vote of all the members entitled to a seat provide that any
17 class of public work or any part thereof may be done directly by the county without
18 submitting the same for bids. This subsection does not apply to public construction
19 if the materials for such a project are donated or if the labor for such a project is
20 provided by volunteers. This subsection does not apply to highway contracts which
21 the county highway committee or the county highway commissioner is authorized by
22 law to let or make.

23 **SECTION 14r.** 60.47 (3) of the statutes is amended to read:

24 60.47 (3) CONTRACTS TO LOWEST RESPONSIBLE BIDDER. The town board shall let
25 a public contract for which advertising for proposals is required under sub. (2) (b) to

1 the lowest responsible bidder. Each bid submitted by a responsible bidder shall be
2 considered as if the bid amount submitted was reduced as provided under s. 16.855
3 (1q). Section 66.0901 applies to public contracts let under sub. (2) (b).

4 **SECTION 16p.** 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 public construction, the estimated cost of which exceeds \$25,000, shall be let by
7 contract to the lowest responsible bidder; all other public construction shall be let as
8 the council may direct. If required to be let by contract, each bid submitted by a
9 responsible bidder shall be considered as if the bid amount submitted was reduced
10 as provided under s. 16.855 (1q). If the estimated cost of any public construction
11 exceeds \$5,000 but is not greater than \$25,000, the board of public works shall give
12 a class 1 notice, under ch. 985, of the proposed construction before the contract for
13 the construction is executed. This provision does not apply to public construction if
14 the materials for such a project are donated or if the labor for such a project is
15 provided by volunteers. The council may also by a vote of three-fourths of all the
16 members-elect provide by ordinance that any class of public construction or any part
17 thereof may be done directly by the city without submitting the same for bids.

18 **SECTION 18p.** 66.0901 (1m) (a) 3. of the statutes is created to read:

19 66.0901 (1m) (a) 3. Each bid submitted by a responsible bidder shall be
20 considered as if the bid amount submitted was reduced as provided under s. 16.855
21 (1q).

22 **SECTION 35p.** 84.06 (2) (a) of the statutes is amended to read:

23 84.06 (2) (a) All such highway improvements shall be executed by contract
24 based on bids unless the department finds that another method as provided in sub.
25 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in

1 the manner determined by the department. Except as provided in s. 84.075, the
2 contract shall be awarded to the lowest competent and responsible bidder as
3 determined by the department. Each bid submitted by a competent and responsible
4 bidder shall be considered as if the bid amount submitted was reduced as provided
5 under s. 16.855 (1q). If the bid of the lowest competent bidder is determined by the
6 department to be in excess of the estimated reasonable value of the work or not in
7 the public interest, all bids may be rejected. The department shall, so far as
8 reasonable, follow uniform methods of advertising for bids and may prescribe and
9 require uniform forms of bids and contracts. Except as provided in par. (b), the
10 secretary shall enter into the contract on behalf of the state. Every such contract is
11 exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but ss. 16.528,
12 16.752, 16.753, and 16.754 apply to the contract. Any such contract involving an
13 expenditure of \$1,000 or more shall not be valid until approved by the governor. The
14 secretary may require the attorney general to examine any contract and any bond
15 submitted in connection with the contract and report on its sufficiency of form and
16 execution. The bond required by s. 779.14 (1m) is exempt from approval by the
17 governor and shall be subject to approval by the secretary. This subsection also
18 applies to contracts with private contractors based on bids for maintenance under s.
19 84.07.

20 **SECTION 36d.** 85.077 (1) of the statutes is amended to read:

21 85.077 (1) Except as provided in subs. (2) and (4), if a project involving the
22 construction, rehabilitation, improvement, demolition, or repair of rail property or
23 rail property improvements is funded in any part with public funds, the department
24 or the recipient of the public funds shall let the project by contract on the basis of
25 competitive bids and shall award the contract to the lowest responsible bidder. Each

1 bid submitted by a responsible bidder shall be considered as if the bid amount
2 submitted was reduced as provided under s. 16.855 (1q).

3 **SECTION 36g.** 86.31 (2) (b) of the statutes is amended to read:

4 86.31 (2) (b) Except as provided in par. (d), improvements for highway
5 construction projects funded under the program shall be under contracts. Such
6 contracts shall be awarded on the basis of competitive bids and shall be awarded to
7 the lowest responsible bidder. Each bid submitted by a responsible bidder shall be
8 considered as if the bid amount submitted was reduced as provided under s. 16.855
9 (1q). If a city or village does not receive a responsible bid for an improvement, the
10 city or village may contract with a county for the improvement. Subject to s. 59.52
11 (30), a town may contract with a county for the improvement subject to the criteria
12 and procedures promulgated as rules under sub. (6) (h).”.

13 **2.** Page 1074, line 22: after that line insert:

14 “(2p) PREFERENCES IN PROCUREMENT. The treatment of sections 16.855 (1q), 59.52
15 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3., 84.06 (2) (a), 85.077 (1), and 86.31
16 (2) (b) of the statutes first applies to bids solicited on the effective date of this
17 subsection.”.

18 (END)