

2005 ASSEMBLY BILL 788

1 **AN ACT** *to amend* 23.41 (5), 25.18 (1) (a), 25.18 (1) (f), 25.18 (1) (m), 84.01 (13),
2 84.06 (2) (a), 84.06 (3), 84.06 (4), 85.015, 102.81 (2), 221.0903 (4) (b) and 655.27
3 (2); and *to create* 16.753 and 19.48 (11) of the statutes; **relating to:** posting of
4 information relating to certain pending state contracts and orders on the
5 Internet.

Analysis by the Legislative Reference Bureau

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

6 **SECTION 1.** 16.753 of the statutes is created to read:
7 **16.753 Information relating to pending contracts and orders. (1)** In
8 this section, “major expenditure” means an expenditure of \$10,000 or more or, if a
9 contract or order is for continuing purchases, an expenditure of \$10,000 or more in
10 the current fiscal biennium.

ASSEMBLY BILL 788**SECTION 1**

1 **(2)** Except as otherwise expressly provided, each agency shall provide to the
2 ethics board for posting on the Internet a list identifying each solicitation for bids or
3 competitive sealed proposals and each proposed order or contract of the agency for
4 which bids or competitive sealed proposals will not be solicited that involves a major
5 expenditure, together with all information required under sub. (4).

6 **(3)** An agency shall post the information under sub. (2) within 24 hours of the
7 time of initial solicitation or commencement of negotiations, or the time that the
8 information becomes available, if the information is not available at the time of
9 solicitation or commencement of negotiations, and shall maintain the posting until
10 at least 90 days following the time of award of the contract or placement of the order
11 or 90 days following the date of any change order, whichever is later. The agency
12 shall also post any change order to a listed order or contract. If an original order or
13 contract that did not involve a major expenditure, together with a change order,
14 aggregates to a contract or order that involves a major expenditure, the agency shall
15 post the information under sub. (1) with respect to that order or contract.

16 **(4)** For each solicitation, contract, or order, the posting shall include:

17 (a) A brief description of the purpose of the solicitation, contract, or order.

18 (b) The name of the agency to which the materials, supplies, equipment, or
19 contractual services are to be provided.

20 (c) A contact person within the agency under par. (b) from whom further
21 information may be obtained.

22 (d) The date of the solicitation and, if the contract has been entered into or the
23 order has been placed, the date of that action.

24 (e) A brief description and the date of any change order.

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1 (f) The estimated expenditures to be made under the contract or order,
2 including any changes thereto, or if the contract or order is for continuing purchases
3 the estimated expenditures to be made under the contract or order in the current
4 fiscal biennium.

5 **SECTION 2.** 19.48 (11) of the statutes is created to read:

6 19.48 (11) Maintain an Internet site on which the information required to be
7 posted by agencies under s. 16.753 (4) can be posted and accessed. The information
8 on the site shall be accessible directly or by linkage from a single page on the Internet.

9 **SECTION 3.** 23.41 (5) of the statutes is amended to read:

10 23.41 (5) Each contract for construction work entered into by the department
11 under this section shall be awarded on the basis of bids or competitive sealed
12 proposals in accordance with procedures established by the department. Each
13 contract for construction work shall be awarded to the lowest responsible bidder or
14 the person submitting the most advantageous competitive sealed proposal as
15 determined by the department. If the bid of the lowest responsible bidder or the
16 proposal of the person submitting the most advantageous competitive sealed
17 proposal is determined by the department to be in excess of the estimated reasonable
18 value of the work or not in the public interest, the department may reject all bids or
19 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to
20 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss.
21 16.528, 16.753, 16.754, and 16.765 apply to the contract. Every such contract
22 involving an expenditure of more than \$60,000 is not valid until the contract is
23 approved by the governor.

24 **SECTION 4.** 25.18 (1) (a) of the statutes is amended to read:

ASSEMBLY BILL 788**SECTION 4**

1 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.
2 16 and s. 20.930, except s. 16.753, employ special legal or investment counsel in any
3 matters arising out of the scope of its investment authority. Section 16.753 does not
4 apply to the employment of legal or investment counsel for the purpose of assisting
5 the board with investments. The employment of special legal counsel shall be with
6 the advice and consent of the attorney general whenever such special counsel is to
7 be compensated by the board. Any expense of counsel so employed shall be borne by
8 the fund for which the services shall be furnished.

9 **SECTION 5.** 25.18 (1) (f) of the statutes is amended to read:

10 25.18 (1) (f) Maintain and repair any building or other structure or premises
11 which it owns in fee or in which it owns the beneficial interest and, notwithstanding
12 all provisions of subch. IV or V of ch. 16, except s. 16.753, it shall have exclusive
13 authority to make such agreements and enter into such contracts as it deems
14 necessary for such purpose. Section 16.753 does not apply to agreements and
15 contracts entered into by the board for the purpose of assisting the board with
16 investments. All noncapital costs under this paragraph shall be charged to the
17 current income accounts of the funds having an interest in the building, structure
18 or premises.

19 **SECTION 6.** 25.18 (1) (m) of the statutes is amended to read:

20 25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,
21 except s. 16.753, employ professionals, contractors or other agents necessary to
22 evaluate or operate any property if a fund managed by the board has an interest in,
23 or is considering purchasing or lending money based upon the value of, that property.
24 Section 16.753 does not apply to the employment of any person for the purpose of

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1 assisting the board with investments. Costs under this paragraph shall be paid by
2 the fund and charged to the appropriate account under s. 40.04 (3).

3 **SECTION 7.** 84.01 (13) of the statutes is amended to read:

4 **84.01 (13) ENGINEERING SERVICES.** The department may engage such
5 engineering, consulting, surveying, or other specialized services as it deems
6 advisable. Any engagement of services under this subsection is exempt from ss.
7 16.70 to 16.75, 16.755 to 16.82, and 16.85 to 16.89, but ss. 16.528, 16.752, 16.753, and
8 16.754 apply to such engagement. Any engagement involving an expenditure of
9 \$3,000 or more shall be by formal contract approved by the governor.

10 **SECTION 8.** 84.06 (2) (a) of the statutes is amended to read:

11 **84.06 (2) (a)** All such highway improvements shall be executed by contract
12 based on bids unless the department finds that another method as provided in sub.
13 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
14 the manner determined by the department. Except as provided in s. 84.075, the
15 contract shall be awarded to the lowest competent and responsible bidder as
16 determined by the department. If the bid of the lowest competent bidder is
17 determined by the department to be in excess of the estimated reasonable value of
18 the work or not in the public interest, all bids may be rejected. The department shall,
19 so far as reasonable, follow uniform methods of advertising for bids and may
20 prescribe and require uniform forms of bids and contracts. Except as provided in par.
21 (b), the secretary shall enter into the contract on behalf of the state. Every such
22 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
23 ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract. Any such contract
24 involving an expenditure of \$1,000 or more shall not be valid until approved by the
25 governor. The secretary may require the attorney general to examine any contract

ASSEMBLY BILL 788**SECTION 8**

1 and any bond submitted in connection with the contract and report on its sufficiency
2 of form and execution. The bond required by s. 779.14 (1m) is exempt from approval
3 by the governor and shall be subject to approval by the secretary. This subsection
4 also applies to contracts with private contractors based on bids for maintenance
5 under s. 84.07.

6 **SECTION 9.** 84.06 (3) of the statutes is amended to read:

7 **84.06 (3)** CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If
8 the department finds that it would be more feasible and advantageous to have the
9 improvement performed by the county in which the proposed improvement is located
10 and without bids, the department may, by arrangement with the county highway
11 committee of the county, enter into a contract satisfactory to the department to have
12 the work done by the county forces and equipment. In such contract the department
13 may authorize the county to purchase, deliver, and store materials and may fix the
14 rental rates of small tools and equipment. The contract shall be between the county
15 and the state and shall not be based on bids, and may be entered into on behalf of the
16 county by the county highway committee and on behalf of the state by the secretary.
17 Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230,
18 except s. ss. 16.753 and 16.754. If the total estimated indebtedness to be incurred
19 exceeds \$5,000 the contract shall not be valid until approved by the governor. The
20 provisions of this subsection relating to agreements between a county and the state
21 shall also authorize and apply to such arrangements between a city, town, or a village
22 and the state. In such cases, the governing body of the city, town, or village shall
23 enter into the agreement on behalf of the municipality.

24 **SECTION 10.** 84.06 (4) of the statutes is amended to read:

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1 **84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES.** If an improvement
2 undertaken by the department will cross or affect the property or facilities of a
3 railroad or public utility company, the department may, upon finding that it is
4 feasible and advantageous to the state, arrange to perform portions of the
5 improvement work affecting such facilities or property or perform work of altering,
6 rearranging, or relocating such facilities by contract with the railroad or public
7 utility. Such contract shall be between the railroad company or public utility and the
8 state and need not be based on bids. The contract may be entered into on behalf of
9 the state by the secretary. Every such contract is exempted from s. 779.14 and from
10 all provisions of chs. 16 and 230, except ss. 16.528, 16.752, 16.753, and 16.754. No
11 such contract in which the total estimated debt to be incurred exceeds \$5,000 shall
12 be valid until approved by the governor. As used in this subsection, “public utility”
13 means the same as in s. 196.01 (5), and includes a telecommunications carrier as
14 defined in s. 196.01 (8m), and “railroad” means the same as in s. 195.02. “Property”
15 as used in this subsection includes but is not limited to tracks, trestles, signals, grade
16 crossings, rights-of-way, stations, pole lines, plants, substations, and other
17 facilities. Nothing in this subsection shall be construed to relieve any railroad or
18 public utility from any financial obligation, expense, duty, or responsibility
19 otherwise provided by law relative to such property.

20 **SECTION 11.** 85.015 of the statutes is amended to read:

21 **85.015 Transportation assistance contracts.** All contracts entered into
22 under this chapter to provide financial assistance in the areas of railroads, urban
23 mass transit, specialized transportation, and harbors are subject to ss. 16.528 and,
24 16.752, and 16.753 but are exempt from ss. 16.70 to 16.75, 16.755 to 16.82 and, 16.85
25 to 16.87, and 16.875 to 16.89.

ASSEMBLY BILL 788**SECTION 12**

1 **SECTION 12.** 102.81 (2) of the statutes is amended to read:

2 102.81 (2) The department may retain an insurance carrier or insurance
3 service organization to process, investigate and pay claims under this section and
4 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to
5 do business in this state in an amount that the secretary determines is necessary for
6 the sound operation of the uninsured employers fund. In cases involving disputed
7 claims, the department may retain an attorney to represent the interests of the
8 uninsured employers fund and to make appearances on behalf of the uninsured
9 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.918 and all
10 provisions of subch. IV of ch. 16, except s. 16.753, do not apply to an attorney hired
11 under this subsection. The charges for the services retained under this subsection
12 shall be paid from the appropriation under s. 20.445 (1) (hp). The cost of any
13 reinsurance obtained under this subsection shall be paid from the appropriation
14 under s. 20.445 (1) (sm).

15 **SECTION 13.** 221.0903 (4) (b) of the statutes is amended to read:

16 221.0903 (4) (b) *Contracts for examination services.* The division may enter
17 into contracts with any bank supervisory agency with concurrent jurisdiction over
18 a state bank or an in-state branch of an out-of-state state bank to engage the
19 services of the agency's examiners at a reasonable rate of compensation, or to provide
20 the services of the division's examiners to the agency at a reasonable rate of
21 compensation. Contracts entered into under this paragraph are exempt from ss.
22 16.70 to 16.752, 16.754 to 16.76, and 16.767 to 16.82.

23 **SECTION 14.** 655.27 (2) of the statutes is amended to read:

24 655.27 (2) **FUND ADMINISTRATION AND OPERATION.** Management of the fund shall
25 be vested with the board of governors. The commissioner shall either provide staff

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1 services necessary for the operation of the fund or, with the approval of the board of
2 governors, contract for all or part of these services. Such a contract is subject to s.
3 ss. 16.753 and 16.765, but is otherwise exempt from subch. IV of ch. 16. The
4 commissioner shall adopt rules governing the procedures for creating and
5 implementing these contracts before entering into the contracts. At least annually,
6 the contractor shall report to the commissioner and to the board of governors
7 regarding all expenses incurred and subcontracting arrangements. If the board of
8 governors approves, the contractor may hire legal counsel as needed to provide staff
9 services. The cost of contracting for staff services shall be funded from the
10 appropriation under s. 20.145 (2) (u).

11 **SECTION 15. Initial applicability.**

12 (1) This act first applies with respect to solicitations made, negotiations for
13 proposed contracts commenced, and orders placed, whichever first occurs, on the
14 effective date of this subsection.

15 (END)