

2005 Assembly Bill 788

Date of enactment: **May 18, 2006**
Date of publication*: **June 1, 2006**

2005 WISCONSIN ACT 410

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

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

SECTION 1. 16.753 of the statutes is created to read:

16.753 Information relating to pending contracts and orders. (1) In this section, "major expenditure" means an expenditure of \$10,000 or more or, if a contract or order is for continuing purchases, an expenditure of \$10,000 or more in the current fiscal biennium.

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

(3) An agency shall post the information under sub. (2) within 24 hours of the time of initial solicitation or commencement of negotiations, or the time that the information becomes available, if the information is not available at the time of solicitation or commencement of negotiations, and shall maintain the posting until at least 90 days following the time of award of the contract or placement of the order or 90 days following the date of any change order, whichever is later. The agency shall also post any change order to a listed order or contract.

If an original order or contract that did not involve a major expenditure, together with a change order, aggregates to a contract or order that involves a major expenditure, the agency shall post the information under sub. (1) with respect to that order or contract.

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

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

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

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

23.41 (5) Each contract for construction work entered into by the department under this section shall be awarded on the basis of bids or competitive sealed proposals in accordance with procedures established by the department. Each contract for construction work shall be awarded to the lowest responsible bidder or the person submitting the most advantageous competitive sealed proposal as determined by the department. If the bid of the lowest responsible bidder or the proposal of the person submitting the most advantageous competitive sealed proposal is determined by the department to be in excess of the estimated reasonable value of the work or not in the public interest, the department may reject all bids or competitive sealed proposals. Every such contract is exempted from ss. 16.70 to 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. 16.528, 16.753, 16.754, and 16.765 apply to the contract. Every such contract involving an expenditure of more than \$60,000 is not valid until the contract is approved by the governor.

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

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

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

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

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

25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16, except s. 16.753, employ professionals, contractors or other agents necessary to evaluate or operate any property if a fund managed by the board has an interest in, or is considering purchasing or lending money based upon the value of, that property. Section 16.753 does not apply to the employment of any person for the purpose of assisting the board with investments. Costs under this paragraph shall be paid by the fund and charged to the appropriate account under s. 40.04 (3).

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

84.01 (13) ENGINEERING SERVICES. The department may engage such engineering, consulting, surveying, or other specialized services as it deems advisable. Any engagement of services under this subsection is exempt from ss. 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 16.754 apply to such engagement. Any engagement involving an expenditure of \$3,000 or more shall be by formal contract approved by the governor.

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

84.06 (2) (a) All such highway improvements shall be executed by contract based on bids unless the department finds that another method as provided in sub. (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in the manner determined by the department. Except as provided in s. 84.075, the contract shall be awarded to the lowest competent and responsible bidder as determined by the department. If the bid of the lowest competent bidder is determined by the department to be in excess of the estimated reasonable value of the work or not in the public interest, all bids may be rejected. The department shall, so far as reasonable, follow uniform methods of advertising for bids and may prescribe and require uniform forms of bids and contracts. Except as provided in par. (b), the secretary shall enter into the contract on behalf of the state. Every such contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract. Any such contract involving an expenditure of \$1,000 or more shall not be valid until approved by the governor. The secretary may require the attorney general to examine any contract and any bond submitted in connection with the contract and report on its sufficiency of form and execution. The bond required by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to approval by the secretary. This subsection also applies to contracts with private contractors based on bids for maintenance under s. 84.07.

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

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

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

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

duty, or responsibility otherwise provided by law relative to such property.

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

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

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

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

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

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

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

655.27 (2) **FUND ADMINISTRATION AND OPERATION.** Management of the fund shall be vested with the board of governors. The commissioner shall either provide staff services necessary for the operation of the fund or, with the approval of the board of governors, contract for all or part of these services. Such a contract is subject to s. ss. 16.753 and 16.765, but is otherwise exempt from subch. IV of ch. 16. The commissioner shall adopt rules governing the procedures for creating and implementing these contracts before entering into the contracts. At least annually, the contractor shall report to the commissioner

and to the board of governors regarding all expenses incurred and subcontracting arrangements. If the board of governors approves, the contractor may hire legal counsel as needed to provide staff services. The cost of contracting for staff services shall be funded from the appropriation under s. 20.145 (2) (u).

SECTION 15. Initial applicability.

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