

2005 ASSEMBLY BILL 788

October 27, 2005 – Introduced by Representatives GARD, HUEBSCH, J. FITZGERALD, FREESE, GOTTLIEB, WARD, STONE, JENSEN, MEYER, RHOADES, VAN ROY and KAUFERT, cosponsored by Senators STEPP and KANAVAS. Referred to Committee on State Affairs.

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

This bill directs every state agency in the executive, legislative, and judicial branches of government to post on the Internet a list identifying each solicitation for bids or proposals and each proposed order or contract of the agency for which bids or proposals will not be solicited that involves 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. The list must contain certain information concerning each solicitation, order, or contract. The information must be posted within 24 hours after the time of the initial solicitation or commencement of negotiations and must remain posted until at least 90 days following the time of award of the contract or placement of the order. Change orders must also be posted. Under the bill, the Ethics Board must maintain an Internet site on which the information that is required to be posted can be posted and accessed. All information required to be posted must be accessible from or by linkage from a single page on the Internet.

ASSEMBLY BILL 788

For further information see the *state* 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.** 16.753 of the statutes is created to read:

2 **16.753 Information relating to pending contracts and orders. (1)** In
3 this section, “major expenditure” means an expenditure of \$10,000 or more or, if a
4 contract or order is for continuing purchases, an expenditure of \$10,000 or more in
5 the current fiscal biennium.

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

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

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

ASSEMBLY BILL 788

- 1 (a) A brief description of the purpose of the solicitation, contract, or order.
- 2 (b) The name of the agency to which the materials, supplies, equipment, or
3 contractual services are to be provided.
- 4 (c) A contact person within the agency under par. (b) from whom further
5 information may be obtained.
- 6 (d) The date of the solicitation and, if the contract has been entered into or the
7 order has been placed, the date of that action.
- 8 (e) A brief description and the date of any change order.
- 9 (f) The estimated expenditures to be made under the contract or order,
10 including any changes thereto, or if the contract or order is for continuing purchases
11 the estimated expenditures to be made under the contract or order in the current
12 fiscal biennium.

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

14 19.48 (11) Maintain an Internet site on which the information required to be
15 posted by agencies under s. 16.753 (4) can be posted and accessed. The information
16 on the site shall be accessible directly or by linkage from a single page on the Internet.

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

18 23.41 (5) Each contract for construction work entered into by the department
19 under this section shall be awarded on the basis of bids or competitive sealed
20 proposals in accordance with procedures established by the department. Each
21 contract for construction work shall be awarded to the lowest responsible bidder or
22 the person submitting the most advantageous competitive sealed proposal as
23 determined by the department. If the bid of the lowest responsible bidder or the
24 proposal of the person submitting the most advantageous competitive sealed
25 proposal is determined by the department to be in excess of the estimated reasonable

ASSEMBLY BILL 788**SECTION 3**

1 value of the work or not in the public interest, the department may reject all bids or
2 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to
3 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.
4 16.528, 16.753, 16.754, and 16.765 apply to the contract. Every such contract
5 involving an expenditure of more than \$60,000 is not valid until the contract is
6 approved by the governor.

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

8 25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.
9 16 and s. 20.930, except s. 16.753, employ special legal or investment counsel in any
10 matters arising out of the scope of its investment authority. The employment of
11 special legal counsel shall be with the advice and consent of the attorney general
12 whenever such special counsel is to be compensated by the board. Any expense of
13 counsel so employed shall be borne by the fund for which the services shall be
14 furnished.

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

16 25.18 (1) (f) Maintain and repair any building or other structure or premises
17 which it owns in fee or in which it owns the beneficial interest and, notwithstanding
18 all provisions of subch. IV or V of ch. 16, except s. 16.753, it shall have exclusive
19 authority to make such agreements and enter into such contracts as it deems
20 necessary for such purpose. All noncapital costs under this paragraph shall be
21 charged to the current income accounts of the funds having an interest in the
22 building, structure or premises.

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

24 25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,
25 except s. 16.753, employ professionals, contractors or other agents necessary to

ASSEMBLY BILL 788

1 evaluate or operate any property if a fund managed by the board has an interest in,
2 or is considering purchasing or lending money based upon the value of, that property.
3 Costs under this paragraph shall be paid by the fund and charged to the appropriate
4 account under s. 40.04 (3).

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

6 **84.01 (13) ENGINEERING SERVICES.** The department may engage such
7 engineering, consulting, surveying, or other specialized services as it deems
8 advisable. Any engagement of services under this subsection is exempt from ss.
9 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
10 16.754 apply to such engagement. Any engagement involving an expenditure of
11 \$3,000 or more shall be by formal contract approved by the governor.

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

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

ASSEMBLY BILL 788**SECTION 8**

1 involving an expenditure of \$1,000 or more shall not be valid until approved by the
2 governor. The secretary may require the attorney general to examine any contract
3 and any bond submitted in connection with the contract and report on its sufficiency
4 of form and execution. The bond required by s. 779.14 (1m) is exempt from approval
5 by the governor and shall be subject to approval by the secretary. This subsection
6 also applies to contracts with private contractors based on bids for maintenance
7 under s. 84.07.

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

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

ASSEMBLY BILL 788

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

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

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

22 **85.015 Transportation assistance contracts.** All contracts entered into
23 under this chapter to provide financial assistance in the areas of railroads, urban
24 mass transit, specialized transportation, and harbors are subject to ss. 16.528 and,

ASSEMBLY BILL 788

1 16.752, and 16.753 but are exempt from ss. 16.70 to 16.75, 16.755 to 16.82 ~~and~~, 16.85
2 to 16.87, and 16.875 to 16.89.

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

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

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

18 221.0903 (4) (b) *Contracts for examination services.* The division may enter
19 into contracts with any bank supervisory agency with concurrent jurisdiction over
20 a state bank or an in-state branch of an out-of-state state bank to engage the
21 services of the agency's examiners at a reasonable rate of compensation, or to provide
22 the services of the division's examiners to the agency at a reasonable rate of
23 compensation. Contracts entered into under this paragraph are exempt from ss.
24 16.70 to 16.752, 16.754 to 16.76, and 16.767 to 16.82.

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

