2007 ASSEMBLY BILL 406

June 14, 2007 – Introduced by Representatives OWENS, JESKEWITZ, ALBERS, BIES, MURSAU, A. OTT, VOS and LOTHIAN, cosponsored by Senator ROESSLER. Referred to Committee on Urban and Local Affairs.

AN ACT to amend 59.52 (29) (a), 60.47 (2) (a), 60.47 (2) (b), 61.55, 62.15 (1) and 62.15 (3); and to create 66.0901 (10) of the statutes; relating to: authorizing cities, villages, towns, and counties to solicit bids for certain contracts by using the Internet.

Analysis by the Legislative Reference Bureau

Generally under current law, if a city, village, town, or county (political subdivision) wishes to let a public contract involving the construction or repair of any public work or building, or the furnishing of supplies or materials, there are a number of bidding requirements that apply to such contracts. If the value of the contract is above a certain amount, or between certain amounts, a political subdivision must publish a notice in the newspaper before it contracts for the work, or, in the case of counties, the county board may instead contract with a qualified bidder as specified by statute.

Under this bill, a political subdivision may solicit bids for certain public contracts by posting the bid request on the political subdivision’s Web site, if the posting is linked to the political subdivision’s home page. This Internet posting option applies to situations under which a political subdivision is currently required or authorized to publish a notice in a newspaper before the contract is executed. Also, under the bill, if a political subdivision solicits bids for public contracts exclusively on its Web site, it must notify the public of this fact by publishing a notice in a newspaper at least twice each year.
For further information see the local 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:

SECTION 1. 59.52 (29) (a) of the statutes is amended to read:

59.52 (29) (a) All public work, including any contract for the construction, repair, remodeling or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed $25,000 shall be let by contract to the lowest responsible bidder. Any public work, the estimated cost of which does not exceed $25,000, shall be let as the board may direct. If the estimated cost of any public work is between $5,000 and $25,000, the board shall give a class 1 notice under ch. 985 or post a Web site notice as described under s. 66.0901 (10) before it contracts for the work or shall contract with a person qualified as a bidder under s. 66.0901 (2). A contract, the estimated cost of which exceeds $25,000, shall be let and entered into under s. 66.0901, except that the board may by a three-fourths vote of all the members entitled to a seat provide that any class of public work or any part thereof may be done directly by the county without submitting the same for bids. This subsection does not apply to public construction if the materials for such a project are donated or if the labor for such a project is provided by volunteers. This subsection does not apply to highway contracts which the county highway committee or the county highway commissioner is authorized by law to let or make.

SECTION 2. 60.47 (2) (a) of the statutes is amended to read:

60.47 (2) (a) No town may enter into a public contract with an estimated cost of more than $5,000 but not more than $25,000 unless the town board, or a town
official or employee designated by the town board, gives a class 1 notice under ch. 985 or posts a Web site notice as described under s. 66.0901 (10) before execution of that public contract.

**SECTION 3.** 60.47 (2) (b) of the statutes is amended to read:

60.47 (2) (b) No town may enter into a public contract with a value of more than $25,000 unless the town board, or a town official or employee designated by the town board, advertises for proposals to perform the terms of the public contract by publishing a class 2 notice under ch. 985 or by posting a Web site notice as described under s. 66.0901 (10). The town board may provide for additional means of advertising for bids.

**SECTION 4.** 61.55 of the statutes is amended to read:

61.55 Contracts involving over $25,000; how let; exception. All contracts for public construction, in any such village, exceeding $25,000, shall be let by the village board to the lowest responsible bidder in accordance with s. 66.0901 insofar as said section may be applicable. If the estimated cost of any public construction exceeds $5,000, but is not greater than $25,000, the village board shall give a class 1 notice, under ch. 985, or post a Web site notice as described under s. 66.0901 (10), of the proposed construction before the contract for the construction is executed. This provision does not apply to public construction if the materials for such a project are donated or if the labor for such a project is provided by volunteers, and this provision and s. 281.41 are not mandatory for the repair and reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the village board, in which the public health or welfare of the village is endangered. Whenever the village board by majority vote at a regular or special
meeting declares that an emergency no longer exists, this exemption no longer applies.

SECTION 5. 62.15 (1) of the statutes is amended to read:

62.15 (1) CONTRACTS; HOW LET; EXCEPTION FOR DONATED MATERIALS AND LABOR. All public construction, the estimated cost of which exceeds $25,000, shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the council may direct. If the estimated cost of any public construction exceeds $5,000 but is not greater than $25,000, the board of public works shall give a class 1 notice, under ch. 985, or post a Web site notice as described under s. 66.0901 (10), of the proposed construction before the contract for the construction is executed. This provision does not apply to public construction if the materials for such a project are donated or if the labor for such a project is provided by volunteers. The council may also by a vote of three-fourths of all the members-elect provide by ordinance that any class of public construction or any part thereof may be done directly by the city without submitting the same for bids.

SECTION 6. 62.15 (3) of the statutes is amended to read:

62.15 (3) ADVERTISEMENT FOR BIDS. After the plans, specifications and form of contract have been prepared, the board of public works shall advertise for proposals for doing such work by publishing a class 2 notice, under ch. 985, or by posting a Web site notice as described under s. 66.0901 (10). No bid shall be received unless accompanied by a certified check or a bid bond equal to at least 5% but not more than 10% of the bid payable to the city as a guaranty that if the bid is accepted the bidder will execute and file the proper contract and bond within the time limited by the city. If the successful bidder so files the contract and bond, upon the execution of the contract by the city the check shall be returned. In case the successful bidder fails
to file such contract and bond the amount of the check or bid bond shall be forfeited
to the city as liquidated damages. The notice published shall inform bidders of this
requirement.

SECTION 7. 66.0901 (10) of the statutes is created to read:

66.0901 (10) WEB SITE POSTING OF BID REQUESTS. (a) In this subsection, “political
subdivision” means a city, village, town, or county.

(b) To solicit bids for a public contract, a political subdivision may post the bid
request on the political subdivision’s Web site, and the posting shall be linked to the
political subdivision’s home page. If a political subdivision solicits bids for public
contracts exclusively on its Web site, it must provide public notice of this fact by
publishing a class 1 notice under ch. 985 at least twice each year.

(END)