



2011 SENATE BILL 575

March 15, 2012 – Introduced by Senators LASSA and VINEHOUT, cosponsored by Representatives JORGENSEN, ROYS, TURNER and RINGHAND. Referred to Committee on Senate Organization.

1 AN ACT *to amend* 16.87 (2) (a); and *to create* 84.01 (13m) and 85.65 of the
2 statutes; **relating to:** state contractual services and requiring the exercise of
3 rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, if a state agency enters into or renews a contract for services that involves an estimated expenditure of more than \$25,000, the agency must, in accordance with standards prescribed by the Department of Administration (DOA), conduct either a uniform cost-benefit analysis, for a new contract, or a continued appropriateness review, for a contract renewal. In addition, if the estimated cost exceeds \$50,000, DOA must generally invite bids or proposals to be submitted and award the contract to the entity that submits the lowest bid or most advantageous competitive proposal.

Current law exempts from the requirements certain contracts for engineering services or architectural services done for the state if DOA approves the contract. Under this bill, these services remain exempt from the requirements, but an engineer or an architect at DOA must determine if the project could be completed more effectively and efficiently with state employees before DOA may approve the contract.

Current law also exempts from the requirements contracts with the Department of Transportation (DOT). Instead, under current law, DOT must, in accordance with standards prescribed by DOT, conduct a uniform cost-benefit analysis, or continued appropriateness review, of each proposed engagement that

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involves an estimated expenditure of more than \$25,000. Under this bill, DOT must submit a report, with respect to the previous fiscal year, to the governor and the legislature on the following:

1. The number, value, and nature of contractual engagements of services authorized by DOT.
2. A summary of the cost–benefit analyses completed.
3. Recommendations for elimination of unneeded contractual engagements of services and for consolidation or resolicitation of existing contractual engagements of services.
4. An identification of all contractors engaged, contract amount, duration, and services to be provided, as well as aggregated value of contracts for each contractor, distinguishing between initial contracts and extended or renewed contracts and specifying the termination date of each contract.
5. A summary of DOT’s contract review activities.
6. An identification of contract services by code according to the type of services.
7. An identification of any contracts awarded by other than usual and customary contracting procedures, including any single–source contracts.

Then, under this bill, within 30 days of completion of a contract for engagements of services that involves an expenditure of more than \$50,000, DOT must submit to the governor and the legislature a summary of the purpose of the contract, including why it was necessary to enter into the contract; the amount spent on the contract; if the contract was awarded by other than usual and customary contracting procedures and, if it was a single–source contract, an explanation of why there was only a single source for the services; and a performance evaluation of the work done under the contract.

This bill also requires DOT to establish a methodology to determine the percentage of work for which DOT has responsibility that DOT may outsource to persons not employed by DOT and to set forth a process by which DOT could attain staffing levels sufficiently proficient to ensure that not more than 50 percent of work for which DOT has responsibility is outsourced to persons not employed by DOT.

Finally, under this bill, within six months of the enactment of this bill, DOT must submit a report to the Joint Committee on Finance that contains recommendations on actions that DOT and local governments can take to improve the efficiency, cost–effectiveness, and timeliness of local road construction projects and proposed legislative changes to help to implement those recommendations. In addition, this bill requires DOT to submit to the legislature by February 1, 2013, a report on the work for which DOT has responsibility and that DOT has, during the previous three fiscal years, outsourced to persons not employed by DOT, including any outsourced projects for which DOT has encumbered, expended, or otherwise committed any funding. In this report, DOT must denote work that was committed from funding provided under the American Recovery and Reinvestment Act of 2009.

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For further information see the *state and 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:

1 **SECTION 1.** 16.87 (2) (a) of the statutes is amended to read:

2 16.87 (2) (a) A contract for engineering services or architectural services ~~or a~~
3 to be done for or furnished to the state or a department, board, commission, or officer
4 of the state is exempt from the requirements of ss. 16.705 and 16.75, but an engineer
5 or an architect employed at the department shall determine if the project could be
6 completed more effectively and efficiently with state employees before a contract
7 may be approved under sub. (3). A contract involving an expenditure of \$10,000 or
8 more for construction work, or \$30,000 or more for limited trades work, to be done
9 for or furnished to the state or a department, board, commission, or officer of the state
10 is exempt from the requirements of ss. 16.705 and 16.75.

11 **SECTION 2.** 84.01 (13m) of the statutes is created to read:

12 **84.01 (13m) CONTRACTUAL ENGAGEMENTS OF SERVICES REPORTING.** (a) On or
13 before October 15 of each year, the department shall submit to the governor, the joint
14 committee on finance, the joint legislative audit committee, and the chief clerk of
15 each house of the legislature for distribution to the appropriate standing committees
16 under s. 13.172 (3) a report concerning the number, value, and nature of contractual
17 engagements of services authorized under sub. (13) during the preceding fiscal year.
18 The report shall also include, with respect to contractual engagements of services for
19 the preceding fiscal year, all of the following:

20 1. A summary of the cost–benefit analyses completed in compliance with rules
21 promulgated by the department.

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1 2. Recommendations for elimination of unneeded contractual engagements of
2 services and for consolidation or resolicitation of existing contractual engagements
3 of services.

4 3. Identification of all contractors engaged, contract amount, duration, and
5 services to be provided, as well as aggregated value of contracts for each contractor.
6 The report shall distinguish between initial contracts and extended or renewed
7 contracts and shall specify the termination date of each contract.

8 4. A summary of the department's contract review activities.

9 5. Identification of contract services by code according to the type of services.

10 6. Identification of any contracts awarded by other than usual and customary
11 contracting procedures, including any single source contracts.

12 (b) Within 30 days of final completion of a contract for engagements of services
13 authorized under sub. (13) that involves an expenditure of more than \$50,000, the
14 secretary shall submit to the governor, the joint committee on finance, the joint
15 legislative audit committee, and the chief clerk of each house of the legislature for
16 distribution to the appropriate standing committees under s. 13.172 (3) a one-page
17 report that includes all of the following information:

18 1. A summary of the purpose of the contract, including why it was necessary
19 to enter into the contract.

20 2. The amount spent on the contract.

21 3. If the contract was awarded by other than usual and customary contracting
22 procedures, including if it was a single-source contract, an explanation of why the
23 department determined that there was only a single source for the services.

24 4. A written performance evaluation of the work done under the contract,
25 including an appraisal of the contractor's timeliness, quality, cost, and overall

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1 performance in meeting the terms and objectives of the contract. Contractors may
2 request copies of evaluations prepared under this subdivision and may respond in
3 writing. The department shall maintain contractor responses with the contract file.

4 **SECTION 3.** 85.65 of the statutes is created to read:

5 **85.65 Workload outsourcing rules.** The department shall promulgate rules
6 establishing a methodology to determine the percentage of work for which the
7 department has responsibility that the department may outsource to persons not
8 employed by the department. The rules shall set forth a process by which the
9 department could attain staffing levels sufficiently proficient to ensure that not more
10 than 50 percent of work for which the department has responsibility is outsourced
11 to persons not employed by the department.

12 **SECTION 4. Nonstatutory provisions.**

13 (1) REPORT ON LOCAL ROAD PROJECTS. No later than the first day of the 7th month
14 beginning after the effective date of this subsection, the department of
15 transportation shall submit a report to the joint committee on finance that contains
16 all of the following:

17 (a) Recommendations on actions that the department and local governments
18 can take to improve the efficiency, cost-effectiveness, and timeliness of local road
19 construction projects.

20 (b) Any proposed legislative changes that the legislature can consider that may
21 help to implement the recommendations under paragraph (a).

22 (2) REPORT ON WORKLOAD OUTSOURCING. No later than February 1, 2013, the
23 department of transportation shall submit to the legislature under section 13.172 (2)
24 of the statutes a report on the work for which the department of transportation has
25 responsibility and that the department of transportation has, during the previous 3

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1 fiscal years, outsourced to persons not employed by the department of
2 transportation. The report shall include any outsourced projects for which the
3 department of transportation has encumbered, expended, or otherwise committed
4 any funding. In this report, the department of transportation shall also denote work
5 that was committed from funding provided under the American Recovery and
6 Reinvestment Act of 2009.

7 (3) RULEMAKING ON WORKLOAD OUTSOURCING. The department of transportation
8 shall begin promulgating the rules required under section 85.65 of the statutes, as
9 created by this act, no later than February 1, 2013, and shall submit in proposed form
10 the rules required under section 85.65 of the statutes, as created by this act, to the
11 legislative council staff under section 227.15 (1) of the statutes no later than
12 February 1, 2014.

13 (END)