2011 SENATE BILL 303


1 **AN ACT** to repeal 16.75 (1) (a) 2.; to amend 16.75 (1) (a) 1., 16.754 (2) and 16.754 (3) (intro.); and to create 16.75 (4m) of the statutes; relating to: creating a preference in state procurement for Wisconsin−based businesses.

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**Analysis by the Legislative Reference Bureau**

Current law generally requires that state agencies or other authorized state purchasing agents award orders and contracts for materials, supplies, equipment, and contractual services to the entity that provides the lowest responsible bid or most advantageous competitive proposal. Current law contains several exceptions to this requirement. One exception is a preference for Wisconsin producers, distributors, suppliers, and retailers over any out−of−state vendor that is domiciled in a jurisdiction that grants a preference to vendors domiciled in that jurisdiction. This bill deletes this exception and, instead, requires state agencies and other purchasing agents to maximize the awards given to businesses that have at least 50 percent of their operations in Wisconsin or that plan to have at least 50 percent of their operations in Wisconsin in the next year. To accomplish this goal, the state agency or purchasing agent may purchase materials, supplies, equipment, and contractual services from any such business that submits a bid or proposal that is no more than 5 percent higher than the apparent low bid or most advantageous proposal.
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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:

SECTION 1. 16.75 (1) (a) 1. of the statutes is amended to read:

16.75 (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment, and contractual services to be provided to any agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t), (4m), (6), (7), (8), (9), (10e), and (10m) and ss. 16.705 (1r), 16.73 (4) (a), 16.751, 16.754, 16.964 (8), 50.05 (7) (f), 153.05 (2m) (a), and 287.15 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

SECTION 2. 16.75 (1) (a) 2. of the statutes is repealed.

SECTION 3. 16.75 (4m) of the statutes is created to read:

16.75 (4m) (a) In this subsection, “Wisconsin business” means a business that has at least 50 percent of its operations in Wisconsin or that plans to have at least 50 percent of its operations in Wisconsin by the end of the year following the solicitation of the bid or proposal.

(b) 1. The department and any agency making purchases under s. 16.74 shall attempt to maximize the amount paid under this subchapter in each fiscal year to Wisconsin businesses.

2. Except as provided under sub. (7), the department and any agency making purchases under s. 16.74 may purchase materials, supplies, equipment, and
contractual services from any Wisconsin business submitting a qualified responsible
competitive bid that is no more than 5 percent higher than the apparent low bid or
submitting a competitive proposal that is no more than 5 percent higher than the
most advantageous proposal.

SECTION 4. 16.754 (2) of the statutes is amended to read:

16.754 (2) PURCHASE PREFERENCE. Notwithstanding s. 16.75 (1) (a) 2., (2), (2m),
and (6), when all other factors are substantially equal the state shall purchase
materials which are manufactured to the greatest extent in the United States.

SECTION 5. 16.754 (3) (intro.) of the statutes is amended to read:

16.754 (3) EXEMPTIONS. (intro.) Subsection (2) does not apply if the materials
are purchased for the purpose of commercial resale or for the purpose of use in the
production of goods for commercial sale. Subsection (2) does not apply to the
purchase of stationery and printing materials. Subsection (2) does not apply if the
department determines, under s. 16.75 (1) (a) 2., that the foreign nation or
subdivision thereof in which the vendor is domiciled does not give preference to
vendors domiciled in that nation or subdivision in making governmental purchases.
Subsection (2) does not apply if the department or other person having contracting
authority in respect to the purchase determines that:

SECTION 6. Initial applicability.

(1) The treatment of section 16.75 (4m) of the statutes first applies to bids or
proposals solicited on the effective date of this subsection.

(END)