2017 ASSEMBLY BILL 456


AN ACT to repeal 16.856, 19.36 (12), 84.062, 84.41 (3), 106.04, 111.322 (2m) (c) and 946.15; to renumber 84.06 (1) (b); to renumber and amend 84.06 (1) (a); to amend 19.36 (3), 20.395 (2) (fx), 20.395 (3) (cq), 20.395 (3) (cx), 20.765 (3) (ka), 43.17 (9) (a), 59.20 (3) (a), 59.52 (29) (a), 62.03 (1), 62.15 (1), 66.0903 (1) (c), 66.0903 (1) (f), 66.0903 (1) (g), 66.0903 (1) (j), 66.0907 (3) (d), 66.1103 (11) (b) 1., 84.06 (2) (a), 103.503 (1) (a), 103.503 (1) (c), 103.503 (1) (e), 103.503 (1) (g), 103.503 (2), 103.503 (3) (a) 2., 109.09 (1), 111.322 (2m) (d), 230.13 (1) (intro.), 233.13 (intro.), 341.35 (1) and 978.05 (6) (a); and to create 13.94 (3m), 20.395 (2) (fq), 59.52 (29) (c), 60.47 (2m), 62.15 (1m), 66.0901 (1m) (c), 84.06 (1) (c), 84.06 (1) (d), 84.06 (1) (e), 84.06 (1) (f), 84.06 (1) (g), 84.06 (2m), 84.54, 86.35, 103.503 (1) (fm), 103.503 (1) (j) and 341.35 (1m) of the statutes; relating to: alternative highway project delivery methods; prevailing wage for public works projects; municipal approval of highway roundabouts; local referendum imposing a
wheel tax; funding for and audit of the Department of Transportation; granting
rule-making authority; and making appropriations.

Analysis by the Legislative Reference Bureau

Alternative project delivery methods

This bill authorizes the Department of Transportation and cities, villages, towns, counties, and technical colleges (governmental units) to use alternate methods for delivering projects.

Under current law, the design and construction of projects are generally two distinct phases. Under this method, often referred to as “design-bid-build,” governmental units have broad authority to accomplish the design of a project. The construction of a project must be executed by contract based on bids, with a governmental unit awarding the contract to the lowest responsible bidder.

Under the bill, in addition to the design-bid-build method, governmental units are authorized to deliver projects with four alternative methods:

1. “Design-build,” in which architectural, surveying, engineering, construction, and related services for a project are provided by a single contractor.
2. “Design-build-finance,” in which the design and construction services for a project are provided by a single entity and financing is provided in whole or in part by the same entity.
3. “Construction manager-general contractor,” a two-phase method in which all services unrelated to construction are provided in the first phase by a contractor who, subject to approval by the governmental unit, also provides construction services in the second phase.
4. “Fixed-price variable-scope,” in which a contractor provides the maximum amount of work at a cost not to exceed the price fixed by the governmental unit.

The bill creates requirements for soliciting and evaluating proposals using these methods and awarding contracts to the most qualified bidders. The bill requires DOT to use these methods to deliver not less than 5 percent of construction costs of improvement projects by June 30, 2019, not less than 10 percent of construction costs of improvement projects by June 30, 2021, and not less than 20 percent of construction costs of improvement projects by June 30, 2023.

Prevailing wage

The bill eliminates the state prevailing wage law and the highway prevailing wage law.

Generally, under the current prevailing wage laws, laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works 1) must be paid the prevailing wage rate, as determined by the U.S. Department of Labor under the federal Davis-Bacon Act; and 2) may not be required or permitted to work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. The prevailing wage laws
include two separate laws: one that applies to certain projects of public works to which the state or any state agency is a party (state prevailing wage law) and one that applies to projects under a contract based on bids to which the state is a party for the construction or improvement of highways (highway prevailing wage law). Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance. The bill retains this prohibition.

Local authority

The bill provides that a county or municipal vehicle registration fee, commonly known as a wheel tax, may be imposed only if approved by a majority of electors voting in a referendum at a regularly scheduled election. Under current law, the governing body of a municipality or county may enact an ordinance imposing an annual flat municipal or county registration fee on all motor vehicles registered in this state which are customarily kept in the municipality or county. The fees collected are required to be used for transportation-related purposes only.

The bill provides that no roundabout may be constructed as part of a highway project unless the authority in charge of the highway project obtains approval for the roundabout from the governing body of the municipality where the proposed roundabout would be located.

Transportation funding

The bill requires DOT to transfer state moneys appropriated to DOT for state highway rehabilitation to an appropriation account for local transportation assistance programs. The bill also requires DOT to transfer an equivalent amount of federal moneys appropriated for local transportation assistance programs to an appropriation account for state highway rehabilitation. The bill also requires the Legislative Fiscal Bureau to adjust the appropriation schedule in chapter 20 of the statutes to reflect the amounts in the state highway rehabilitation and local transportation assistance program appropriation accounts immediately following the transfers.

Audit of the Department of Transportation

The bill requires the state auditor to appoint within the Legislative Audit Bureau an inspector general who is assigned to and housed at DOT headquarters and whose services are paid for by DOT. The bill provides that the inspector general may examine the accounts and other financial records of DOT and may review the performance and program accomplishments of DOT.

Under the bill, the inspector general must investigate fraud in DOT programs or activities and report any finding of fraud to the Department of Justice, as well as investigate waste, abuse, or inefficiency in DOT programs or activities. The inspector general must report any finding of waste, abuse, or inefficiency to the speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations. In addition, in investigating waste, abuse, or inefficiency, the inspector general must endeavor to identify savings for DOT that would pay at least the costs incurred by the inspector general in carrying out the investigations.
The bill also provides that the inspector general may review claims by any person whose substantial interest has been adversely affected by a DOT action or order. If the inspector general elects to review a claim, the inspector general must determine whether the DOT action or order was inconsistent with any law or administrative rule and report all such determinations to the speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations.

Reports

The bill requires DOT to report to the appropriate standing committees of the legislature on the progress of highway improvements using alternative project delivery methods.

The bill requires DOT to submit to the governor and the Joint Committee on Finance a plan for developing a funding formula for regions that is based on need rather than baseline funding.

The bill requires the Department of Administration to develop a plan for conducting an audit of DOT to be completed no later than August 31, 2018.

The bill requires the inspector general assigned to DOT to submit an annual report of inspector general activities to the Speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations.

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.** 13.94 (3m) of the statutes is created to read:

   13.94 *(3m)* INSPECTOR GENERAL. (a) In this subsection, “department” means the department of transportation.

   (b) The state auditor shall appoint an inspector general who is assigned to and housed at the headquarters of the department. The state auditor shall appoint the inspector general for a 6-year term expiring on March 1 of the odd-numbered year.
(c) The inspector general shall be housed at the department headquarters. The
department shall provide office space for the inspector general. The department
shall pay for all services provided by the inspector general and shall credit the
payments to the appropriation account under s. 20.765 (3) (ka).

(d) The inspector general shall be strictly nonpartisan and shall at all times
observe the confidential nature of any investigation currently being performed.

(e) The inspector general may examine the accounts and other financial records
of the department to assure that all financial transactions have been made in a legal
and proper manner. The inspector general may review the performance and program
accomplishments of the department during the fiscal period for which the
examination is being conducted to determine whether the department carried out
the policy of the legislature and the governor during the period for which the
appropriations were made. The department shall at all times with or without notice
provide the inspector general access to any books, records, or other documents
maintained by the department relating to its expenditures, revenues, operations,
and structure, including specifically any such books, records, or other documents
that are confidential by law.

(f) The inspector general shall do all of the following:

1. At his or her discretion, review claims by any person whose substantial
interest has been adversely affected by a department action or order. A person
requesting such a review must do so before the commencement of a contested case
under s. 227.44 or other similar state agency review process. If the inspector general
elects to review a claim, the inspector general shall determine whether the
department action or order was inconsistent with any law or administrative rule.
The inspector general shall report all such determinations to the speaker of the
assembly, the senate majority leader, the joint legislative audit committee, the
assembly and senate committees on transportation, and the chairpersons of
standing committees whose committee jurisdiction includes oversight and
accountability of government operations.

2. Investigate fraud in department programs or activities and report any
finding of fraud to the department of justice.

3. Investigate waste, abuse, or inefficiency in department programs or
activities and report any finding of waste, abuse, or inefficiency to the speaker of the
assembly, the senate majority leader, the joint legislative audit committee, the
assembly and senate committees on transportation, and the chairpersons of
standing committees whose committee jurisdiction includes oversight and
accountability of government operations. In investigating waste, abuse, or
inefficiency in department programs, the inspector general shall endeavor to identify
savings for the department that would pay at least the costs incurred by the inspector
general in carrying out the investigations.

4. Submit an annual report of inspector general activities to the chief clerk of
each house of the legislature, for distribution to the legislature under s. 13.172 (2),
and to the speaker of the assembly, the senate majority leader, the joint legislative
audit committee, the assembly and senate committees on transportation, and the
chairpersons of standing committees whose committee jurisdiction includes
oversight and accountability of government operations.

(g) Before the department may expend on its programs and activities any
moneys saved as a result of inspector general investigations under par. (f) 2. and 3.,
the department must first use the moneys to pay all costs incurred by the inspector
general in carrying out the investigations.
(h) The speaker of the assembly and the senate majority leader, jointly, may
direct the inspector general to examine the records or programs of the department.
The inspector general shall submit the investigation report to the chief clerk of each
house of the legislature, for distribution to the legislature under s. 13.172 (2), and
to the speaker of the assembly, the senate majority leader, the joint legislative audit
committee, the assembly and senate committees on transportation, and the
chairpersons of standing committees whose committee jurisdiction includes
oversight and accountability of government operations.

(i) The chairpersons of the joint legislative audit committee, the assembly and
senate committees on transportation, and the chairpersons of standing committees
whose committee jurisdiction includes oversight and accountability of government
operations may direct the inspector general to examine the records or programs of
the department. The inspector general shall submit the investigation report to the
chief clerk of each house of the legislature, for distribution to the legislature under
s. 13.172 (2), and to the speaker of the assembly, the senate majority leader, the joint
legislative audit committee, the assembly and senate committees on transportation,
and the chairpersons of standing committees whose committee jurisdiction includes
oversight and accountability of government operations.

(j) Upon request of the inspector general, the legislative service agencies shall
assist the inspector general in performing any duty or exercising any power under
this subsection.

**SECTION 2.** 16.856 of the statutes is repealed.

**SECTION 3.** 19.36 (3) of the statutes is amended to read:

19.36 (3) **Contractors' records.** Subject to sub. (12), each authority shall
make available for inspection and copying under s. 19.35 (1) any record produced or
collected under a contract entered into by the authority with a person other than an
authority to the same extent as if the record were maintained by the authority. This
subsection does not apply to the inspection or copying of a record under s. 19.35 (1)
(am).

SECTION 4. 19.36 (12) of the statutes is repealed.

SECTION 5. 20.395 (2) (fq) of the statutes is created to read:

20.395 (2) (fq) Local transportation facility improvement assistance, state
funds. All moneys transferred under s. 84.54 (2) for providing public access roads
to navigable waters and for the purposes of ss. 84.27 and 84.28 and for improving
transportation facilities, including facilities funded under applicable federal acts or
programs, that are not state trunk or connecting highways.

SECTION 6. 20.395 (2) (fx) of the statutes is amended to read:

20.395 (2) (fx) Local transportation facility improvement assistance, federal
funds. All moneys received from the federal government for providing public access
roads to navigable waters and for the purposes of ss. 84.27 and 84.28 and for improving
transportation facilities, including facilities funded under applicable
federal acts or programs, that are not state trunk or connecting highways, for such
purposes and to make the transfers under s. 84.54 (1).

SECTION 7. 20.395 (3) (cq) of the statutes is amended to read:

20.395 (3) (cq) State highway rehabilitation, state funds. As a continuing
appropriation, the amounts in the schedule for improvement of existing state trunk
and connecting highways; for improvement of bridges on state trunk or connecting
highways and other bridges for which improvement is a state responsibility, for
necessary approach work for such bridges and for replacement of such bridges with
at-grade crossing improvements; for the construction and rehabilitation of the
national system of interstate and defense highways and bridges and related
appurtenances; for activities under s. 84.04 on roadside improvements; for bridges
under s. 84.10; for the bridge project under s. 84.115; for payment to a local unit of
government for a jurisdictional transfer under s. 84.02 (8); for the disadvantaged
business demonstration and training program under s. 84.076; for the purpose
specified in s. 84.017 (3); for the transfers required under 1999 Wisconsin Act 9,
section 9250 (1) and 2003 Wisconsin Act 33, section 9153 (4q); and for the purposes
described under 1999 Wisconsin Act 9, section 9150 (8g), 2001 Wisconsin Act 16,
section 9152 (4e), and 2007 Wisconsin Act 20, section 9148 (9i) (b) and (9x); and to
make the transfers under s. 84.54 (2). This paragraph does not apply to any
southeast Wisconsin freeway megaprojects under s. 84.0145, to any southeast
Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major
highway projects under s. 84.013, or to the installation, replacement, rehabilitation,
or maintenance of highway signs, traffic control signals, highway lighting, pavement
markings, or intelligent transportation systems, unless incidental to the
improvement of existing state trunk and connecting highways.

**SECTION 8.** 20.395 (3) (cx) of the statutes is amended to read:

20.395 (3) (cx) *State highway rehabilitation, federal funds.* All moneys
received from the federal government for improvement of existing state trunk and
connecting highways; for improvement of bridges on state trunk or connecting
highways and other bridges for which improvement is a state responsibility, for
necessary approach work for such bridges and for replacement of such bridges with
at-grade crossing improvements; for the construction and rehabilitation of the
national system of interstate and defense highways and bridges and related
appurtenances; for activities under s. 84.04 on roadside improvements; for the bridge
project under s. 84.115; for the purpose specified in s. 84.017 (3); and for the
disadvantaged business demonstration and training program under s. 84.076; and all moneys received under 2003 Wisconsin Act 33, section 9153 (4q); and all moneys transferred under s. 84.54 (1) for such purposes. This paragraph does not apply to any southeast Wisconsin freeway megaprojects under s. 84.0145 or to any southeast Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major highway projects under s. 84.013.

**SECTION 9.** 20.765 (3) (ka) of the statutes is amended to read:

20.765 (3) (ka) Audit bureau reimbursable audits. The amounts in the schedule for the provision of auditing services requested by state agencies or by the federal government, for audits specified in s. 13.94 (1s) (c) and, for audits of the department of revenue relating to the state lottery and verifications of the odds of winning a lottery game under s. 565.37 (5), and for services provided by the inspector general under s. 13.94 (3m). All moneys received by the legislative audit bureau from charges assessed to departments under s. 13.94 (1s) and (3m) shall be credited to this appropriation account.

**SECTION 10.** 43.17 (9) (a) of the statutes is amended to read:

43.17 (9) (a) All contracts for public construction made by a federated public library system whose territory lies within 2 or more counties or by a federated public library system whose territory lies within a single county with a population of at least 500,000 shall be let by the public library system board to the lowest responsible bidder in accordance with s. 62.15 (1) to (11) and (14). For purposes of this section, the system board possesses the powers conferred by s. 62.15 on the board of public works and the common council, except that s. 62.15 (1m) does not apply to any contract made by the system board for public construction. All contracts made under
this section shall be made in the name of the federated public library system and
shall be executed by the system board president and such other board officer as the
system board designates.

SECTION 11. 59.20 (3) (a) of the statutes is amended to read:

59.20 (3) (a) Every sheriff, clerk of the circuit court, register of deeds, treasurer,
comptroller, register of probate, clerk, and county surveyor shall keep his or her office
at the county seat in the offices provided by the county or by special provision of law;
or if there is none, then at such place as the board directs. The board may also require
any elective or appointive county official to keep his or her office at the county seat
in an office to be provided by the county. All such officers shall keep their offices open
during the usual business hours of any day except Sunday, as the board directs. With
proper care, the officers shall open to the examination of any person all books and
papers required to be kept in his or her office and permit any person so examining
to take notes and copies of such books, records, papers, or minutes therefrom except
as authorized in par. (c) and ss. 19.36 (10) to (12) and (11) and 19.59 (3) (d) or under
ch. 69.

SECTION 12. 59.52 (29) (a) of the statutes is amended to read:

59.52 (29) (a) All Except as provided in par. (c), 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 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 as provided in par. (c) and 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 13. 59.52 (29) (c) of the statutes is created to read:

59.52 (29) (c) 1. In this paragraph:

a. “Alternative technical concepts” means a proposed alternative to the
technical requirements provided by the county in the request for proposals for a
project.

b. “Construction manager-general contractor project” means a two-phase
project for which all services unrelated to construction are provided in the first phase
by a contractor who, subject to county approval, also provides construction services
in the second phase.

c. “Design-build-finance project” means a project for which the design and
construction services are provided by a single entity and financing is provided in
whole or in part by the same entity.

d. “Design-build project” means a project for which architectural, surveying,
engineering, construction, and related services for a project are provided by a single
contractor.
e. “Fixed-price variable-scope project” means a project with a broad scope for which a contractor provides the maximum amount of work at a cost not to exceed the price fixed by the county.

2. A county may designate any project as a design-build, design-build-finance, construction manager-general contractor, or fixed-price variable-scope project if the county conducts an analysis of the project and makes a written determination that it is in the best interests of the county to designate the project. The analysis and determination shall include the impact of the selected project delivery method on the anticipated schedule, completion date, and cost of the project.

3. A county may not solicit proposals for a project under this paragraph unless the county does one of the following:

a. Not later than 30 days before issuing the request for qualifications, issues a notice of intent to receive qualifications that includes a description of the project.

b. For a single-phase project delivery, not later than 30 days before issuing the request for proposals, issues a notice of intent to receive proposals that includes a description of the project.

4. a. Subject to subd. 4. b., a county may solicit proposals for design-build, design-build-finance, construction manager-general contractor, and fixed-price variable-scope projects by using one or more requests for qualifications, short-listing of qualified bidders, requests for proposals, and negotiations.

b. Except as provided in subd. 4. c., a county shall use a two-phase process for a design-build project. In the first phase, the county shall evaluate the qualifications of the bidders, create a short list of the most highly qualified bidders, and request proposals from those bidders. The county may not consider projected cost in its
creation of the short list. In the second phase, the county shall evaluate and select from among the responsive proposals.

c. For a design-build project with an estimated cost of less than $100,000, a county may solicit proposals and evaluate and select from among the responsive proposals.

5. If a county issues a request for qualifications under this paragraph, the county shall evaluate responses based on the evaluation criteria provided in the request for qualifications and create a short list of the most qualified bidders. The county shall short-list not more than 5 bidders and, unless the county finds that it is justified by an emergency, not less than 2 bidders. A request for qualifications issued under this paragraph may contain any of the following information:

   a. The scope of work for the project.

   b. A requirement that the bidder identify certain personnel and describe the experience of the personnel and the conditions under which personnel may be replaced.

   c. The evaluation criteria for the qualifications and the relative importance of those criteria. The evaluation criteria may address the bidder’s technical and financial qualifications.

   d. The county’s prequalification, licensing, and registration requirements.

   e. The maximum number of bidders the county will short-list to submit proposals.

   f. Any other relevant information the county determines is appropriate.

6. a. A request for proposals issued under this paragraph may contain the form and amount of required bid security; the terms of the contract, including scope and performance requirements, schedule or completion date requirements,
subcontractor requirements, payment and performance security requirements, and
insurance requirements; the requirements for the technical component of the
proposal, including a description of the level of design, scope and type of renderings,
drawings, and specifications to be provided in the proposal; the requirements for the
price component of the proposal; the evaluation criteria for the proposals, including
technical criteria, innovation, and schedule, and the relative importance of those
criteria; a process for the county to review and accept alternative technical concepts;
requirements regarding the bidder’s qualifications; and any other relevant
information the county determines is appropriate. For a construction
manager–general contractor project, the county may require the bidder to submit a
lump sum price for the direct costs to perform the required preconstruction services
and a percentage markup on those direct costs.

b. Prior to receiving proposals, the county may conduct confidential meetings
and exchange confidential information with bidders to promote understanding of the
request for proposals, review alternative technical concepts, or discuss other issues
related to the procurement.

c. The county shall establish a due date for proposals that is not more than 120
days after the date on which the county issues the request for proposals.

7. a. The county shall appoint a technical review committee to review, evaluate,
score, and rank proposals. The county shall appoint to the committee not fewer than
5 individuals, the majority of whom are design professionals. Each member of a
technical review committee must certify that no conflict of interest exists between
the member and the bidders. If the county determines a conflict exists with a
member, the county shall remove the member from the committee and substitute a
replacement member.
b. Except as provided in subd. 7. c., the technical review committee shall evaluate and assign a technical score to each proposal. The committee shall award not less than 70 percent of available points to each proposal that is responsive to the request for proposals, not less than 5 percent of available points to each proposal that uses contractors based in this state for not less than 50 percent of the dollar value of the contract, and not more than 25 percent of available points based on any criteria in the project scope that the county determines is critical to the improvement project. The committee shall divide the bid price for a proposal by the technical score to produce an overall score for each proposal. Notwithstanding s. 66.0901, the county shall award the contract to the bidder with the proposal with the lowest overall score.

c. For a fixed-price variable-scope project, notwithstanding s. 66.0901, the technical review committee shall award the contract to the bidder that proposes the largest volume of work within the price that the county fixed for the project.

d. If the bidder awarded the contract is unable or unwilling to execute the contract, the county may award the contract to the bidder whose proposal has the next lowest overall score. For a fixed-price variable-scope project, if the bidder awarded the contract is unable or unwilling to execute the contract, the county may award the contract to the bidder whose proposal has the next largest volume of work within the price that the county fixed for the project.

8. A contract for a design-build, design-build-finance, construction manager-general contractor, or fixed-price variable-scope project may include provisions regarding all of the following:

   a. Compensation of or payments to the contractor.

   b. Grounds for termination of the contract, including the county’s right to terminate for convenience.
c. Liability for damages and nonperformance.

d. Events of default and the rights and remedies available to the contractor and the county in the event of a default or delay.

e. The identification of any technical specifications that the contractor must comply with when developing plans or performing construction work.

f. The procedures for review and approval of the contractor’s plans.

g. Required performance and payment security.

h. Terms and conditions of indemnification and minimum insurance requirements.

i. Any other terms and conditions the county determines are appropriate.

9. a. The county shall divide the services provided under a contract for a construction manager-general contractor project into one phase that addresses preconstruction services and a subsequent phase that addresses the construction of the project for a lump sum or a guaranteed maximum price. The price may not exceed 9 percent of the independent cost estimate.

b. A contract for a construction manager-general contractor project shall include provisions regarding the provision of and compensation for preconstruction services during the first phase of the contract; a requirement that, during the first phase of the contract, the contractor use a competitive bidding process to procure subcontracts for at least the minimum percentage of construction work specified in the request for proposals, which percentage shall be based on an estimated cost for the construction work approved by the county prior to the start of the competitive bidding process; a requirement that the contractor may not use subcontracts with its wholly or partially owned subsidiaries, parent companies, or affiliates; the process the county and the contractor shall use to determine a lump sum or guaranteed
maximum price for the construction work, including a requirement that the county
conduct an independent cost estimate for the construction work; and grounds for
termination of the contract.

c. If a contract for a construction manager-general contractor project is
terminated for any reason, the county may re-advertise the project using any
authorized process to complete the project. The county may use any work product
developed by the contractor to complete the project.

10. a. The county shall establish procedures for the bidding and selection of
proposals for design-build, design-build-finance, construction manager-general
contractor, and fixed-price variable-scope projects that ensure an open,
transparent, and efficient process.

b. The county shall employ or retain a professional engineer licensed in this
state or a licensed architect, or both, to prepare the scope of a design-build,
design-build-finance, construction manager-general contractor, or fixed-price
variable-scope project and assist in the evaluation of the technical portions of
proposals for those projects. An engineer or architect evaluating proposals may not
be a member of a team that is bidding on the project.

c. The county shall allow bidders to submit alternative technical concepts in
their proposals by describing the process for submission and evaluation of
alternative technical concepts in the request for proposals for that project.

d. The county may offer to pay a stipend to all short-listed bidders, if the county
ends the process before the due date for proposals, and to each unsuccessful bidder
that submits a responsive proposal who grants to the county the right to use any work
product contained in the proposal.
e. The county may reject any submitted qualifications or proposals that the county determines are nonresponsive. The county shall consider nonresponsive any proposal that fails to include the required bid security or fails to comply with county requirements relating to using business enterprises.

f. The county and a contractor may enter into leases, licenses, easements, and other grants of property interests that the county determines are necessary to deliver a project under this paragraph.

g. The county shall maintain all written decisions, qualification and proposal evaluations, scoring documents, selection evaluations, proposals, and procurement documents in a procurement file maintained by the county. A bidder may clearly identify those portions of a proposal or other submission that the bidder considers to be trade secrets or confidential, commercial, financial, or proprietary information and request that those portions be exempt from disclosure. The qualifications, proposals, and other information and documents submitted by bidders and the county’s evaluation records shall not be subject to release or disclosure by the county until execution of the contract. If the county ends the process prior to entering into a contract for a project, the exemption from release or disclosure shall remain in place until the county has entered into a contract for the project or until 5 years after ending the initial process, whichever occurs first.

SECTION 14. 60.47 (2m) of the statutes is created to read:

60.47 (2m) ALTERNATIVE PROJECT DELIVERY. Notwithstanding sub. (3), any public contract under sub. (2) may be let using the alternative project delivery methods under s. 59.52 (29) (c). Section 59.52 (29) (c), as it applies to counties, applies to towns.

SECTION 15. 62.03 (1) of the statutes is amended to read:
62.03 (1) This subchapter, except ss. 62.071, 62.08 (1), 62.09 (1) (e) and (11) (j) and (k), 62.15 (1m) (b), 62.175, 62.23 (7) (em) and (he) and 62.237, does not apply to 1st class cities under special charter.

**SECTION 16.** 62.15 (1) of the statutes is amended to read:

62.15 (1) CONTRACTS; HOW LET; EXCEPTION FOR DONATED MATERIALS AND LABOR. All Except as provided in sub. (1m), 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, 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 17.** 62.15 (1m) of the statutes is created to read:

62.15 (1m) ALTERNATIVE PROJECT DELIVERY. (a) Any contract for public construction under sub. (1) may be let using the alternative project delivery methods under s. 59.52 (29) (c). Section 59.52 (29) (c), as it applies to counties, applies to cities.

(b) Any contract for public construction let by a 1st class city may be let using the alternative project delivery methods under s. 59.52 (29) (c). Section 59.52 (29) (c), as it applies to counties, applies to 1st class cities.

**SECTION 18.** 66.0901 (1m) (c) of the statutes is created to read:
66.0901 (1m) (c) This subsection does not apply to a public works project performed under an alternative project delivery method under s. 59.52 (29) (c), 60.47 (2m), or 62.15 (1m).

SECTION 19. 66.0903 (1) (c) of the statutes is amended to read:

66.0903 (1) (c) “Hourly basic rate of pay” has the meaning given in s. 16.856 (1) (b), 2015 stats.

SECTION 20. 66.0903 (1) (f) of the statutes is amended to read:

66.0903 (1) (f) “Prevailing hours of labor” has the meaning given in s. 16.856 (1) (e), 2015 stats.

SECTION 21. 66.0903 (1) (g) of the statutes is amended to read:

66.0903 (1) (g) “Prevailing wage rate” includes the meanings given under s. 66.0903 (1) (g), 2013 stats., and s. 16.856 (1) (f), 2015 stats.

SECTION 22. 66.0903 (1) (j) of the statutes is amended to read:

66.0903 (1) (j) “Truck driver” has the meaning given in s. 16.856 (1) (j) includes an owner–operator of a truck.

SECTION 23. 66.0907 (3) (d) of the statutes is amended to read:

66.0907 (3) (d) Default of owner. If the owner neglects for a period of 20 days after service of notice under par. (c) to lay, remove, replace or repair the sidewalk the city may cause the work to be done at the expense of the owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder except as provided in s. 62.15 (1) or (1m).

SECTION 24. 66.1103 (11) (b) 1. of the statutes is amended to read:

66.1103 (11) (b) 1. Except as provided by subd. 2. and except as provided under ss. 59.52 (29) (c), 60.47 (2m), and 62.15 (1m), construction work which is let by contract and which has an estimated cost exceeding $5,000 may be financed with
bonds only if the contract is let to the lowest responsible bidder and proposals for the contract are advertised by publishing a class 2 notice under ch. 985.

**SECTION 25.** 84.06 (1) (a) of the statutes is renumbered 84.06 (1) (h), and 84.06 (1) (h) (intro.), as renumbered, is amended to read:

84.06 (1) (h) (intro.) Subject to par. (b) (i), “improvement” or “highway improvement” includes all of the following:

**SECTION 26.** 84.06 (1) (b) of the statutes is renumbered 84.06 (1) (i).

**SECTION 27.** 84.06 (1) (c) of the statutes is created to read:

84.06 (1) (c) “Alternative technical concepts” means a proposed alternative to the technical requirements provided by the department in the request for proposals for an improvement project.

**SECTION 28.** 84.06 (1) (d) of the statutes is created to read:

84.06 (1) (d) “Construction manager-general contractor project” means a two-phase improvement project for which all services unrelated to construction are provided in the first phase by a contractor who, subject to department approval, also provides construction services in the second phase.

**SECTION 29.** 84.06 (1) (e) of the statutes is created to read:

84.06 (1) (e) “Design-build-finance project” means a project for which the design and construction services are provided by a single entity and financing is provided in whole or in part by the same entity.

**SECTION 30.** 84.06 (1) (f) of the statutes is created to read:

84.06 (1) (f) “Design-build project” means an improvement project for which architectural, surveying, engineering, construction, and related services for an improvement project are provided by a single contractor.

**SECTION 31.** 84.06 (1) (g) of the statutes is created to read:
84.06 (1) (g) “Fixed-price variable-scope project” means an improvement project with a broad scope for which a contractor provides the maximum amount of work at a cost not to exceed the price fixed by the department.

SECTION 32. 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. The department shall allow bidders to submit alternative technical concepts in their bids by describing the process for submission and evaluation of alternative technical concepts in advertisements for bids. 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 33.** 84.06 (2m) of the statutes is created to read:

84.06 (2m) **ALTERNATIVE PROJECT DELIVERY METHODS.** (a) The department may designate any improvement project as a design–build, design–build–finance, construction manager–general contractor, or fixed–price variable–scope project if the department conducts an analysis of the project and makes a written determination that it is in the best interests of the state to designate the project. The analysis and determination shall include the selected project delivery method’s impact on the anticipated schedule, completion date, and cost of the project. The department shall make every reasonable effort to ensure the improvement project is consistent with any regional plan that exists for the area where the improvement project will be located.

(b) The department may not solicit proposals for an improvement project under this subsection until the department does one of the following:

1. Designates the improvement project as a design–build, design–build–finance, construction manager–general contractor, or fixed–price variable–scope project in the department’s multi–year highway improvement program.

2. Issues a notice of intent to receive qualifications that includes a description of the improvement project no later than 30 days before issuing the request for qualifications.

3. For a single–phase project delivery, issues a notice of intent to receive proposals that includes a description of the improvement project no later than 30 days before issuing the request for proposals.
(c) 1. Subject to subd. 2., the department may solicit proposals for design–build, design–build–finance, construction manager–general contractor, and fixed–price variable–scope projects by using one or more requests for qualifications, short–listing of qualified bidders, requests for proposals, and negotiations.

2. Except as provided in subd. 3., the department shall use a two–phase process for a design–build project. In the first phase, the department shall evaluate the qualifications of the bidders, create a short list of the most highly qualified bidders, and request proposals from those bidders. The department may not consider projected cost in its creation of the short list. In the second phase, the department shall evaluate and select from among the responsive proposals.

3. For a design–build project with an estimated cost of less than $100,000, the department may solicit proposals and evaluate and select from among the responsive proposals.

(d) If the department issues a request for qualifications under this subsection, the department shall evaluate responses based on the evaluation criteria provided in the request for qualifications and create a short list of the most qualified bidders. The department shall short–list not more than 5 bidders and, unless the secretary finds that it is justified by an emergency, not less than 2 bidders. A request for qualifications issued under this subsection may contain any of the following information:

1. The scope of work for the improvement project.

2. A requirement that the bidder identify certain personnel and describe the experience of the personnel and the conditions under which personnel may be replaced.
3. The evaluation criteria for the qualifications and the relative importance of those criteria. The evaluation criteria may address the bidder’s technical and financial qualifications.

4. The department’s prequalification, licensing, and registration requirements.

5. The maximum number of bidders the department will short-list to submit proposals.

6. Any other relevant information the department determines is appropriate.

(e) 1. A request for proposals issued under this subsection may contain any of the following information:

   a. The form and amount of required bid security.

   b. The terms of the contract, including scope and performance requirements, schedule or completion date requirements, subcontractor requirements, payment and performance security requirements, and insurance requirements.

   c. The requirements for the technical component of the proposal, including a description of the level of design, scope and type of renderings, drawings, and specifications to be provided in the proposal.

   d. The requirements for the price component of the proposal. For a construction manager-general contractor project, the department may require the bidder to submit a lump sum price for the direct costs to perform the required preconstruction services and a percentage markup on those direct costs.

   e. The evaluation criteria for the proposals, including technical criteria, innovation, and schedule, and the relative importance of those criteria.

   f. A process for the department to review and accept alternative technical concepts.

   g. Requirements regarding the bidder’s qualifications.
h. Any other relevant information the department determines is appropriate.

2. Prior to receiving proposals, the department may conduct confidential meetings and exchange confidential information with bidders to promote understanding of the request for proposals, review alternative technical concepts, or discuss other issues related to the procurement.

3. The department shall establish a due date for proposals that is not more than 120 days after the date on which the department issues the request for proposals.

(f) 1. The secretary shall appoint a technical review committee to review, evaluate, score, and rank proposals. The secretary shall appoint to the committee not less than 5 individuals, the majority of whom are design professionals, including a representative of this state’s largest transportation builders group. Each member of a technical review committee must certify that no conflict of interest exists between the member and the bidders. If the secretary determines a conflict exists with a member, the secretary shall remove the member from the committee and substitute a replacement member.

2. Except as provided in subd. 3., the technical review committee shall evaluate and assign a technical score to each proposal. The committee shall award not less than 70 percent of available points to each proposal that is responsive to the request for proposals, not less than 5 percent of available points to each proposal that uses contractors based in this state for not less than 50 percent of the dollar value of the contract, and not more than 25 percent of available points based on any criteria in the project scope that the department determines is critical to the improvement project. The committee shall divide the bid price for a proposal by the technical score to produce an overall score for each proposal. Notwithstanding sub. (2) and s.
66.0901, the department shall award the contract to the bidder with the proposal with the lowest overall score.

3. For a fixed-price variable-scope project, notwithstanding sub. (2) and s. 66.0901, the technical review committee shall award the contract to the bidder that proposes the largest volume of work within the price that the department fixed for the project.

4. If the bidder awarded the contract is unable or unwilling to execute the contract, the department may award the contract to the bidder whose proposal has the next lowest overall score. For a fixed-price variable-scope project, if the bidder awarded the contract is unable or unwilling to execute the contract, the department may award the contract to the bidder whose proposal has the next largest volume of work within the price that the department fixed for the project.

(g) A contract for a design-build, design-build-finance, construction manager-general contractor, or fixed-price variable-scope project may include provisions regarding all of the following:

1. Compensation of or payments to the contractor.

2. Grounds for termination of the contract, including the department’s right to terminate for convenience.

3. Liability for damages and nonperformance.

4. Events of default and the rights and remedies available to the contractor and the department in the event of a default or delay.

5. The identification of any technical specifications that the contractor must comply with when developing plans or performing construction work.

6. The procedures for review and approval of the contractor’s plans.

7. Required performance and payment security.
8. Terms and conditions of indemnification and minimum insurance requirements.

9. Any other terms and conditions the department determines are appropriate.

(h) 1. The department shall divide the services provided under a contract for a construction manager–general contractor project into one phase that addresses preconstruction services and a subsequent phase that addresses the construction of the improvement project for a lump sum or a guaranteed maximum price. The price may not exceed 9 percent of the independent cost estimate.

2. A contract for a construction manager–general contractor project shall include provisions regarding all of the following:

a. The provision of and compensation for preconstruction services during the first phase of the contract.

b. A requirement that, during the first phase of the contract, the contractor use a competitive bidding process to procure subcontracts for at least the minimum percentage of construction work specified in the request for proposals. The percentage shall be based on an estimated cost for the construction work approved by the department prior to the start of the competitive bidding process. The contractor may not use subcontracts with its wholly or partially owned subsidiaries, parent companies, or affiliates.

c. The process the department and the contractor shall use to determine a lump sum or guaranteed maximum price for the construction work, including a requirement that the department conduct an independent cost estimate for the construction work.

d. Grounds for termination of the contract.
3. If a contract for a construction manager-general contractor project is terminated for any reason, the department may re-advertise the project using any authorized process to complete the project. The department may use any work product developed by the contractor to complete the improvement project.

   (i) 1. The department shall establish procedures for the bidding and selection of proposals for design-build, design-build-finance, construction manager-general contractor, and fixed-price variable-scope projects that ensure an open, transparent, and efficient process. The department shall submit its proposed procedures to the governor and to the relevant standing committees of the legislature for passive review.

   2. The department shall employ or retain a professional engineer licensed in this state or a licensed architect, or both, to prepare the scope of a design-build, design-build-finance, construction manager-general contractor, or fixed-price variable-scope project and assist in the evaluation of the technical portions of proposals for those projects. An engineer or architect evaluating proposals may not be a member of a team that is bidding on the project. The department may not use engineers or architects directly employed by the department for more than 20 percent of the delivery cost of work required by this subdivision in a calendar year.

   3. The department shall allow bidders to submit alternative technical concepts in their proposals by describing the process for submission and evaluation of alternative technical concepts in the request for proposals for that project.

   4. The department may offer to pay a stipend to any of the following:

      a. All short-listed bidders, if the department ends the process before the due date for proposals.
b. Each unsuccessful bidder that submits a responsive proposal who grants to
the department the right to use any work product contained in the proposal.

5. The department may reject any submitted qualifications or proposals that
the department determines are nonresponsive. The department shall consider
nonresponsive any proposal that fails to include the required bid security or fails to
comply with department requirements relating to using business enterprises.

6. The department may use any authorized source of funding and financing to
compensate a contractor for work and services performed under a contract for a
design-build, design-build-finance, construction manager–general contractor, or
fixed-price variable-scope project and may combine federal, state, local, and private
funds to finance the project. Subject to appropriation by the joint committee on
finance or the transportation projects commission, the department may obligate and
make expenditures of funds as and when needed to satisfy its payment obligations
under a contract for a design-build, design-build-finance, construction
manager–general contractor, or fixed-price variable-scope project.

7. The department and a contractor may enter into leases, licenses, easements,
and other grants of property interests that the department determines are necessary
to deliver an improvement project under this subsection.

8. a. The department shall maintain all written decisions, qualification and
proposal evaluations, scoring documents, selection evaluations, proposals, and
procurement documents in a procurement file maintained by the department.

b. A bidder may clearly identify those portions of a proposal or other submission
that the bidder considers to be trade secrets or confidential, commercial, financial,
or proprietary information and request that those portions be exempt from
disclosure.
c. The qualifications, proposals, and other information and documents submitted by bidders and the department's evaluation records shall not be subject to release or disclosure by the department until execution of the contract. If the department ends the process prior to entering into a contract for an improvement project, the exemption from release or disclosure shall remain in place until the department has entered into a contract for the improvement project or until 5 years after ending the initial process, whichever occurs first.

(j) The department shall use project delivery methods under this subsection to deliver not less than 5 percent of construction costs of improvement projects by June 30, 2019, not less than 10 percent of construction costs of improvement projects by June 30, 2021, and not less than 20 percent of construction costs of improvement projects by June 30, 2023.

(k) Beginning with the completion of the first improvement project procured under this subsection, the department shall report to the appropriate standing committees of the legislature annually for 5 years on the progress of procurements and transportation facilities procured under this subsection.

(L) The department may promulgate rules as necessary to implement this subsection.

SECTION 34. 84.062 of the statutes is repealed.

SECTION 35. 84.41 (3) of the statutes is repealed.

SECTION 36. 84.54 of the statutes is created to read:

84.54 Transfers of state and federal funding. (1) From the appropriation account under s. 20.395 (2) (fx), the department shall transfer to the appropriation account under s. 20.395 (3) (cx) $23,829,800 in fiscal year 2018–19, $24,551,700 in fiscal year 2019–20, and $23,829,800 in fiscal year 2020–21.
(2) From the appropriation account under s. 20.395 (3) (cq), the department shall transfer to the appropriation account under s. 20.395 (2) (fq) $23,829,800 in fiscal year 2018-19, $24,551,700 in fiscal year 2019-20, and $23,829,800 in fiscal year 2020-21.

(3) In each fiscal year that the department makes the transfers required under subs. (1) and (2), the legislative fiscal bureau shall adjust the amounts in the schedule for s. 20.395 (2) (fq) and (fx) and (3) (cq) and (cx) to reflect the amounts in those appropriation accounts immediately following the transfers.

SECTION 37. 86.35 of the statutes is created to read:

86.35 Approval of municipal governing body required before construction of roundabouts. (1) In this section, “municipality” means a city, village, or town.

(2) After the effective date of this subsection .... [LRB inserts date], no roundabout may be constructed as part of any highway project unless the authority in charge of the highway project seeks and obtains approval, by a majority vote, for the roundabout from the governing body of the municipality where the proposed roundabout would be located.

SECTION 38. 103.503 (1) (a) of the statutes is amended to read:

103.503 (1) (a) “Accident” means an incident caused, contributed to, or otherwise involving an employee that resulted or could have resulted in death, personal injury, or property damage and that occurred while the employee was performing the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works or while the employee was performing work on a public utility project.

SECTION 39. 103.503 (1) (c) of the statutes is amended to read:
103.503 (1) (c) “Contracting agency” means a local governmental unit, as defined in s. 66.0903 (1) (d), or a state agency, as defined in s. 16.856 (1) (h), that has contracted for the performance of work on a project of public works or a public utility that has contracted for the performance of work on a public utility project.

SECTION 40. 103.503 (1) (e) of the statutes is amended to read:

103.503 (1) (e) “Employee” means a laborer, worker, mechanic, or truck driver who performs the work described in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works or on a public utility project.

SECTION 41. 103.503 (1) (fm) of the statutes is created to read:

103.503 (1) (fm) “Local governmental unit” means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing, or an instrumentality of the state and any of the foregoing.

SECTION 42. 103.503 (1) (g) of the statutes is amended to read:

103.503 (1) (g) “Project of public works” means a project of public works that is subject to s. 16.856 or that would be subject to s. 66.0903, 2013 stats., if the project were erected, constructed, repaired, remodeled, or demolished prior to January 1, 2017, or that would be subject to s. 16.856, 2015 stats., if the project were erected, constructed, repaired, remodeled, or demolished prior to the effective date of this paragraph .... [LRB inserts date].

SECTION 43. 103.503 (1) (j) of the statutes is created to read:

103.503 (1) (j) “State agency” means any office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts. “State agency” also includes the University
of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System
Authority, and the Wisconsin Aerospace Authority.

**SECTION 44.** 103.503 (2) of the statutes is amended to read:

103.503 (2) **SUBSTANCE ABUSE PROHIBITED.** No employee may use, possess,
attempt to possess, distribute, deliver, or be under the influence of a drug, or use or
be under the influence of alcohol, while performing the work described in s. 66.0903
(4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works or while
performing work on a public utility project. An employee is considered to be under
the influence of alcohol for purposes of this subsection if he or she has an alcohol
concentration that is equal to or greater than the amount specified in s. 885.235 (1g)
(d).

**SECTION 45.** 103.503 (3) (a) 2. of the statutes is amended to read:

103.503 (3) (a) 2. A requirement that employees performing the work described
in s. 66.0903 (4), 2013 stats., or s. 16.856 (2m), 2015 stats., on a project of public works
or performing work on a public utility project submit to random, reasonable
suspicion, and post-accident drug and alcohol testing and to drug and alcohol testing
before commencing work on the project, except that testing of an employee before
commencing work on a project is not required if the employee has been participating
in a random testing program during the 90 days preceding the date on which the
employee commenced work on the project.

**SECTION 46.** 106.04 of the statutes is repealed.

**SECTION 47.** 109.09 (1) of the statutes is amended to read:

109.09 (1) The department shall investigate and attempt equitably to adjust
controversies between employers and employees as to alleged wage claims. The
department may receive and investigate any wage claim that is filed with the
department, or received by the department under s. 109.10 (4), no later than 2 years
after the date the wages are due. The department may, after receiving a wage claim,
investigate any wages due from the employer against whom the claim is filed to any
employee during the period commencing 2 years before the date the claim is filed.
The department shall enforce this chapter and s. 66.0903, 2013 stats., s. 103.49, 2013
stats., and s. 229.8275, 2013 stats., and s. 16.856, 2015 stats., and ss. 16.856, 103.02,
103.82, and 104.12. In pursuance of this duty, the department may sue the employer
on behalf of the employee to collect any wage claim or wage deficiency and ss. 109.03
(6) and 109.11 (2) and (3) shall apply to such actions. Except for actions under s.
109.10, the department may refer such an action to the district attorney of the county
in which the violation occurs for prosecution and collection and the district attorney
shall commence an action in the circuit court having appropriate jurisdiction. Any
number of wage claims or wage deficiencies against the same employer may be joined
in a single proceeding, but the court may order separate trials or hearings. In actions
that are referred to a district attorney under this subsection, any taxable costs
recovered by the district attorney shall be paid into the general fund of the county
in which the violation occurs and used by that county to meet its financial
responsibility under s. 978.13 (2) (b) for the operation of the office of the district
attorney who prosecuted the action.

SECTION 48. 111.322 (2m) (c) of the statutes is repealed.

SECTION 49. 111.322 (2m) (d) of the statutes is amended to read:
111.322 (2m) (d) The individual’s employer believes that the individual
engaged or may engage in any activity described in pars. (a) to (e) (bm).

SECTION 50. 230.13 (1) (intro.) of the statutes is amended to read:
230.13 (1) (intro.) Except as provided in sub. (3) and ss. 19.36 (10) to (12) and (11) and 103.13, the director and the administrator may keep records of the following personnel matters closed to the public:

**SECTION 51.** 233.13 (intro.) of the statutes is amended to read:

**233.13 Closed records.** (intro.) Except as provided in ss. 19.36 (10) to (12) and (11) and 103.13, the authority may keep records of the following personnel matters closed to the public:

**SECTION 52.** 341.35 (1) of the statutes is amended to read:

**341.35 (1) ANNUAL REGISTRATION FEE.** In this section “municipality” means a town, village, or city and “motor vehicle” means an automobile or motor truck registered under s. 341.25 (1) (c) at a gross weight of not more than 8,000 pounds. The subject to sub. (1m), the governing body of a municipality or county may enact an ordinance imposing an annual flat municipal or county registration fee on all motor vehicles registered in this state which are customarily kept in the municipality or county. A registration fee imposed under this section shall be in addition to state registration fees.

**SECTION 53.** 341.35 (1m) of the statutes is created to read:

**341.35 (1m) REFERENDUM REQUIRED.** (a) A municipality or county that proposes to impose a registration fee under sub. (1) shall hold a referendum at a regularly scheduled election. The referendum question shall be substantially as follows: “Shall [name of municipality or county] impose an annual registration fee of [amount of registration fee] on all motor vehicles registered in this state that are customarily kept in [name of municipality or county]?”. If the question submitted at the referendum is approved by a majority of the electors who vote in the referendum, the
municipality or county may impose the registration fee. If the referendum question
is not approved, the municipality or county may not impose any registration fee.

(b) A municipality or county that imposes a registration fee prior to the effective
date of this paragraph .... [LRB inserts date], shall hold a referendum at a regularly
scheduled election occurring not later than the first day of the 18th month beginning
after the effective date of this paragraph .... [LRB inserts date]. The referendum
question shall be substantially as follows: “Shall [name of municipality or county]
continue to impose an annual registration fee of [amount of registration fee] on all
motor vehicles registered in this state that are customarily kept in [name of
municipality or county]?” If the question submitted at the referendum is approved
by a majority of the electors who vote in the referendum, the municipality or county
may continue imposing the registration fee. If the referendum question is not
approved, the municipality or county may not impose any registration fee.

SECTION 54. 946.15 of the statutes is repealed.

SECTION 55. 978.05 (6) (a) of the statutes is amended to read:

978.05 (6) (a) Institute, commence or appear in all civil actions or special
proceedings under and perform the duties set forth for the district attorney under ch.
980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 84.062 (8), 89.08,
103.92 (4), 109.09, 343.305 (9) (a), 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
connection with court proceedings in a court assigned to exercise jurisdiction under
chs. 48 and 938 as the judge may request and perform all appropriate duties and
appear if the district attorney is designated in specific statutes, including matters
within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
the authority of the county board to designate, under s. 48.09 (5), that the corporation
counsel provide representation as specified in s. 48.09 (5) or to designate, under s. 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the interests of the public under s. 48.14 or 938.14.

**SECTION 55. Nonstatutory provisions.**

(1) **Audit of the Department of Transportation.** No later than September 30, 2017, the department of administration shall submit to the joint legislative audit committee and the senate and assembly standing committees having jurisdiction over transportation matters a plan for issuing a request for proposals to conduct a complete and thorough operational and financial audit of the department of transportation. No later than December 1, 2017, the department of administration shall issue the request for proposals, which shall include an audit completion date of no later than August 31, 2018.

(2) **Development of a New Funding Formula.** No later than January 1, 2018, the department of transportation shall submit to the governor and the joint committee on finance a plan for developing a funding formula for regions that is based on need rather than baseline funding.

(3) **Appointment of Inspector General.** The initial inspector general appointed under section 13.94 (3m) shall serve for a term expiring on March 1, 2023.

(4) **Inspector General Position Authorization.** There is authorized for the legislative audit bureau 1.0 FTE PR inspector general position to be funded from the appropriation under section 20.765 (3) (ka) of the statutes.

**SECTION 57. Initial applicability.**

(1) **Elimination of Prevailing Wage Law.** The treatment of sections 16.856, 19.36 (3) and (12), 59.20 (3) (a), 66.0903 (1) (c), (f), (g), and (j), 84.062, 84.41 (3), 103.503 (1) (a), (c), (e), (fm), (g), and (j), (2), and (3) (a) 2., 106.04, 109.09 (1), 111.322
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(2m) (c) and (d), 230.13 (1) (intro.), 233.13 (intro.), 946.15, and 978.05 (6) (a) of the statutes first applies, with respect to a project of public works that is subject to bidding, to a project for which the request for bids is issued on the effective date of this subsection and, with respect to a project of public works that is not subject to bidding, to a project the contract for which is entered into on the effective date of this subsection.

SECTION 58. Effective dates. This act takes effect on the day after publication, except as follows:

(1) APPOINTMENT OF INSPECTOR GENERAL. The treatment of sections 13.94 (3m) and 20.765 (3) (ka) of the statutes and SECTION 56 (3) and (4) of this act take effect on January 1, 2018.