



State of Wisconsin
2017 - 2018 LEGISLATURE

August 2017 Special Session

LRBa1061/1
MG/MD/CH/ZW:all

**ASSEMBLY AMENDMENT 25,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1**

August 17, 2017 - Offered by Representatives SINICKI, OHNSTAD, STUCK, FIELDS, CROWLEY, BARCA, BILLINGS, HEBL, HESSELBEIN, KESSLER, MASON, SHANKLAND, SPREITZER, VRUWINK, ZAMARRIPA, ZEPNICK, KOLSTE and YOUNG.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 2, line 10: delete “and making appropriations” and substitute “making
3 appropriations; and providing a penalty”.

4 **2.** Page 2, line 10: after “authority;” insert “procurement for public contracts;”.

5 **3.** Page 10, line 14: after that line insert:

6 “**SECTION 2p.** 16.855 (1q) of the statutes is created to read:

7 16.855 (**1q**) (a) 1. A bid submitted by a qualified responsible bidder shall be
8 considered as if the bid amount submitted was reduced as follows:

9 a. By 1 percent if the bidder participates in an apprenticeship program under
10 ch. 106 and ch. DWD 295, Wis. Adm. Code, or under 29 USC 50 and 29 CFR part 29.

1 b. By 1 percent if the bidder contributes at least 75 percent of the premium cost
2 for individual health insurance coverage for each employee that is to perform work
3 under the contract.

4 c. By 1 percent if the bidder submits a written plan meeting the requirements
5 of s. 103.503 (3) and proof that at least 5 percent of the employees that are to perform
6 work under the contract are subject to random annual drug and alcohol testing.

7 d. By 1 percent if the bidder is a tier I or tier II participant under s. 299.83.

8 2. The department may request and receive information from the department
9 of workforce development or the department of natural resources when determining
10 if a bidder qualifies for reduction under subd. 1.

11 (b) 1. In this paragraph:

12 a. "First tier subcontractor" means a person who is awarded a subcontract
13 directly by the bidder for the purposes of acquiring supplies or services for
14 performance of the contract.

15 b. "Resident" means a person domiciled in Wisconsin for not less than 12
16 consecutive months preceding the submission of a bid.

17 2. A submitted bid by a qualified responsible bidder shall be considered as if
18 the bid amount submitted was reduced as follows:

19 a. By 6 percent if at least 75 percent of the bidder's employees performing work
20 on the contract are residents.

21 b. By 3 percent if at least 50 percent but less than 75 percent of the bidder's
22 employees performing work on the contract are residents.

23 c. By 1 percent if at least 25 percent but less than 50 percent of the bidder's
24 employees performing work on the contract are residents.

1 3. The reduction under subd. 2. may not be applied unless all first tier
2 subcontractors working under the bidder also meet the criteria under subd. 2. a., b.,
3 or c., whichever is appropriate, unless the first tier contractor demonstrates that
4 there is a lack of journeymen in Wisconsin available and qualified to perform the
5 work required by the subcontract.

6 (c) A bid reduction under this subsection may not be applied if the reduction
7 would jeopardize the receipt of federal funds or would violate federal law. If a bid
8 reduction under par. (b) is prohibited under this paragraph, the remaining bid
9 reductions shall be increased proportionately so that the the available bid reductions
10 total 10 percent.

11 (d) The department shall do all of the following:

12 1. Enforce this subsection and enforce conforming bid reductions under ss.
13 59.52 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3., 84.06 (2) (a), 85.077 (1), and
14 86.31 (2) (b).

15 2. Promulgate rules necessary to do all of the following:

16 a. Establish criteria and procedures for determining if bidders are eligible for
17 bid reductions under this subsection and ss. 59.52 (29) (a), 60.47 (3), 62.15 (1),
18 66.0901 (1m) (a) 3., 84.06 (2) (a), 85.077 (1), and 86.31 (2) (b).

19 b. Establish procedures for bidders to certify their eligibility for bid reductions
20 under this subsection and ss. 59.52 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3.,
21 84.06 (2) (a), 85.077 (1), and 86.31 (2) (b).

22 c. Establish procedures to audit bids that make a claim for bid reductions under
23 this subsection or s. 59.52 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3., 84.06 (2)
24 (a), 85.077 (1), or 86.31 (2) (b).

1 class of public work or any part thereof may be done directly by the county without
2 submitting the same for bids. This subsection does not apply to public construction
3 if the materials for such a project are donated or if the labor for such a project is
4 provided by volunteers. This subsection does not apply to highway contracts which
5 the county highway committee or the county highway commissioner is authorized by
6 law to let or make.

7 **SECTION 14r.** 60.47 (3) of the statutes is amended to read:

8 60.47 (3) CONTRACTS TO LOWEST RESPONSIBLE BIDDER. The town board shall let
9 a public contract for which advertising for proposals is required under sub. (2) (b) to
10 the lowest responsible bidder. Each bid submitted by a responsible bidder shall be
11 considered as if the bid amount submitted was reduced as provided under s. 16.855
12 (1q). Section 66.0901 applies to public contracts let under sub. (2) (b).”.

13 **6.** Page 14, line 8: after that line insert:

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

15 62.15 (1) CONTRACTS; HOW LET; EXCEPTION FOR DONATED MATERIALS AND LABOR. All
16 public construction, the estimated cost of which exceeds \$25,000, shall be let by
17 contract to the lowest responsible bidder; all other public construction shall be let as
18 the council may direct. If required to be let by contract, each bid submitted by a
19 responsible bidder shall be considered as if the bid amount submitted was reduced
20 as provided under s. 16.855 (1q). If the estimated cost of any public construction
21 exceeds \$5,000 but is not greater than \$25,000, the board of public works shall give
22 a class 1 notice, under ch. 985, of the proposed construction before the contract for
23 the construction is executed. This provision does not apply to public construction if
24 the materials for such a project are donated or if the labor for such a project is

1 provided by volunteers. The council may also by a vote of three-fourths of all the
2 members-elect provide by ordinance that any class of public construction or any part
3 thereof may be done directly by the city without submitting the same for bids.”.

4 **7.** Page 15, line 24: after that line insert:

5 “**SECTION 18p.** 66.0901 (1m) (a) 3. of the statutes is created to read:

6 66.0901 (**1m**) (a) 3. Each bid submitted by a responsible bidder shall be
7 considered as if the bid amount submitted was reduced as provided under s. 16.855
8 (1q).”.

9 **8.** Page 22, line 7: after “\$30,000” insert “, who is required to file a Wisconsin
10 income tax return for the same taxable year for which the employee’s employer
11 claims a credit under par. (b).”.

12 **9.** Page 26, line 11: after “\$30,000” insert “, who is required to file a Wisconsin
13 income tax return for the same taxable year for which the employee’s employer
14 claims a credit under par. (b).”.

15 **10.** Page 30, line 12: after that line insert:

16 “**SECTION 35p.** 84.06 (2) (a) of the statutes is amended to read:

17 84.06 (**2**) (a) All such highway improvements shall be executed by contract
18 based on bids unless the department finds that another method as provided in sub.
19 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
20 the manner determined by the department. Except as provided in s. 84.075, the
21 contract shall be awarded to the lowest competent and responsible bidder as
22 determined by the department. Each bid submitted by a competent and responsible
23 bidder shall be considered as if the bid amount submitted was reduced as provided
24 under s. 16.855 (1q). If the bid of the lowest competent bidder is determined by the

1 department to be in excess of the estimated reasonable value of the work or not in
2 the public interest, all bids may be rejected. The department shall, so far as
3 reasonable, follow uniform methods of advertising for bids and may prescribe and
4 require uniform forms of bids and contracts. Except as provided in par. (b), the
5 secretary shall enter into the contract on behalf of the state. Every such contract is
6 exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but ss. 16.528,
7 16.752, 16.753, and 16.754 apply to the contract. Any such contract involving an
8 expenditure of \$1,000 or more shall not be valid until approved by the governor. The
9 secretary may require the attorney general to examine any contract and any bond
10 submitted in connection with the contract and report on its sufficiency of form and
11 execution. The bond required by s. 779.14 (1m) is exempt from approval by the
12 governor and shall be subject to approval by the secretary. This subsection also
13 applies to contracts with private contractors based on bids for maintenance under s.
14 84.07.”.

15 **11.** Page 30, line 17: after that line insert:

16 **“SECTION 36d.** 85.077 (1) of the statutes is amended to read:

17 85.077 (1) Except as provided in subs. (2) and (4), if a project involving the
18 construction, rehabilitation, improvement, demolition, or repair of rail property or
19 rail property improvements is funded in any part with public funds, the department
20 or the recipient of the public funds shall let the project by contract on the basis of
21 competitive bids and shall award the contract to the lowest responsible bidder. Each
22 bid submitted by a responsible bidder shall be considered as if the bid amount
23 submitted was reduced as provided under s. 16.855 (1q).

24 **SECTION 36g.** 86.31 (2) (b) of the statutes is amended to read:

1 86.31 (2) (b) Except as provided in par. (d), improvements for highway
2 construction projects funded under the program shall be under contracts. Such
3 contracts shall be awarded on the basis of competitive bids and shall be awarded to
4 the lowest responsible bidder. Each bid submitted by a responsible bidder shall be
5 considered as if the bid amount submitted was reduced as provided under s. 16.855
6 (1q). If a city or village does not receive a responsible bid for an improvement, the
7 city or village may contract with a county for the improvement. Subject to s. 59.52
8 (30), a town may contract with a county for the improvement subject to the criteria
9 and procedures promulgated as rules under sub. (6) (h).”.

10 **12.** Page 30, line 20: delete “(bg) in the 2019-21 fiscal biennium,” and
11 substitute “(bg), in the 2017-19 fiscal biennium and in each fiscal biennium
12 thereafter.”.

13 **13.** Page 36, line 2: after “zone.” insert “The corporation may not certify a
14 business under this subsection unless the business executes a contract with the
15 corporation that requires the business to expend during the contract term at least
16 \$1,250,000,000 on the products and services of businesses based in this state.”.

17 **14.** Page 36, line 15: after that line insert:

18 “(3u) MINIMUM WAGE AND LABOR PEACE IN THE ZONE. (a) In this subsection:

19 1. “Claimant” means a person who is certified to claim tax benefits under sub.
20 (3).

21 2. “Claimant contracted employer” means an employer that employs employees
22 as a result of an agreement with a claimant to provide goods or services to the
23 claimant and that employs employees within 50 miles of the zone.

1 2e. “Covered employer” means a claimant, zone employer, or claimant
2 contracted employer.

3 2m. “Department” means the department of workforce development.

4 3. “Economic action” means picketing, work stoppage, strike, boycott, or other
5 adverse action against a covered employer regarding employees of the covered
6 employer.

7 4. “Employee” has the meaning given in s. 104.01 (2).

8 4e. “Employer” has the meaning given in s. 104.01 (3).

9 4m. “Labor organization” means an organization of any kind which exists for
10 the purpose, in whole or in part, of dealing with employers concerning wages, hours
11 of employment, conditions of work, or grievances.

12 4s. “Labor peace agreement” means a written agreement between an employer
13 and a labor organization that contains at a minimum a provision requiring
14 forbearance by the labor organization of any economic action against any covered
15 employer.

16 5. “Rate of inflation” means the rate of inflation determined by the federal
17 bureau of labor statistics for the metropolitan statistical area in which the zone
18 exists.

19 6. “Wage” has the meaning given in s. 104.01 (8).

20 7. “Zone” means the zone designated under sub. (1m).

21 8. “Zone employer” means an employer that employs employees within the
22 boundaries of the zone.

23 (b) 1. Every wage paid or agreed to be paid by a claimant to any employee shall
24 be not less than the minimum wage established under par. (c).

1 2. Every wage paid or agreed to be paid by any zone employer to any employee
2 shall be not less than the minimum wage established under par. (c).

3 3. Every wage paid or agreed to be paid by any claimant contracted employer
4 to any employee shall be not less than the minimum wage established under par. (c).

5 4. A claimant, a zone employer, or a claimant contracted employer paying,
6 offering to pay, or agreeing to pay any employee a wage lower or less in value than
7 the applicable minimum wage established under par. (c) is guilty of a violation of this
8 chapter as provided in s. 103.005 (11) and is subject to the penalties provided in s.
9 103.005 (12).

10 (c) 1. The minimum wage shall be not less than \$15 per hour through the last
11 day of February 2020.

12 2. On April 1, 2020, the minimum wage shall be not less than an amount
13 determined by the department by multiplying \$15 per hour by the rate of inflation
14 for the immediately preceding year. The department shall publish the wage
15 calculated under this subdivision no later than March 1, 2020.

16 3. On April 1, 2021, and on April 1 of each year thereafter, the minimum wage
17 shall be not less than an amount determined by the department by multiplying the
18 minimum wage of the immediately preceding 12 months by the rate of inflation for
19 the immediately preceding year. The department shall publish the wage calculated
20 under this subdivision no later than March 1 of each year.

21 (d) 1. Each claimant, zone employer, and claimant contracted employer shall
22 keep a record of the name and address of each of its employees, the hours of
23 employment and wages of each employee, the occupation and classification of each
24 employee, and such other records pertaining to ability as the department requires.

1 2. The records under this paragraph shall be submitted to the department
2 every 3 months as follows:

3 a. On May 1 regarding any employment of employees from January 1 to March
4 31 of that year.

5 b. On August 1 regarding any employment of employees from April 1 to June
6 30 of that year.

7 c. On November 1 regarding any employment of employees from July 1 to
8 September 30 of that year.

9 d. On February 1 regarding any employment of employees from October 1 to
10 December 31 of the previous year.

11 3. The records of employees in this paragraph shall be subject to the open
12 records law provisions of ss. 19.31 to 19.36.

13 (e) Any person may register with the department that the wages paid to an
14 employee for whom a minimum wage has been established under par. (c) are less
15 than that minimum wage, and the department shall investigate the matter and take
16 all proceedings necessary to enforce the payment of the minimum wage. Section
17 111.322 (2m) applies to discharge and other discriminatory acts arising in connection
18 with any proceeding under this section.

19 (f) The state shall be deemed to acquire, hold, or retain a proprietary interest
20 in the zone and must protect against threats to or potential compromises of this
21 proprietary interest by ensuring that potentially adverse labor relations arising over
22 recognition of, representation by, or collective bargaining through any employee's
23 labor organization do not and could not disrupt operations of the claimant, and to
24 ensure such protection shall require of the claimant and all covered employers a
25 labor peace agreement in the event that employees seek representation in collective

1 bargaining through a labor organization. This paragraph is not intended to, and
2 shall not be interpreted to, enact or express any generally applicable policy regarding
3 labor relations or to regulate those relations in any way.

4 (g) 1. Any agreement between the corporation and a claimant under this section
5 shall include a provision requiring of the claimant that, if any labor organization
6 declares an intent to seek representation of the employees of a claimant, a claimant
7 shall be required to submit to the department a verifiable labor peace agreement,
8 and the claimant shall be required to incorporate such a provision in any agreement
9 with a successor, assignee, or transferee.

10 2. Any agreement between the corporation and a claimant under this section
11 shall include a provision requiring of the claimant that it shall require in any
12 agreement with any covered employer that, if any labor organization declares an
13 intent to seek representation of the employees of the covered employer, the covered
14 employer shall be required to submit to the claimant and the claimant to the
15 department a verifiable labor peace agreement, and the covered employer shall be
16 required to incorporate such a provision in any agreement with a contractor or
17 subcontractor, successor, assignee, or transferee.

18 (h) 1. Any person or organization may file with the department a complaint of
19 noncompliance with par. (g). Upon any complaint the department shall investigate
20 and upon a finding of noncompliance the department shall institute a civil action for
21 an injunction or specific performance. In the event the department brings a civil
22 action for enforcement, any person by or with a direct interest in compliance with par.
23 (g) may join in that action as a real party in interest.

1 2. A covered employer that performs its obligations under a labor peace
2 agreement shall be relieved of further obligation under this paragraph and the terms
3 of the labor peace agreement if the labor organization engages in economic action.

4 3. Nothing in this subsection requires a covered employer to recognize a
5 particular labor organization nor enter into a collective bargaining agreement
6 establishing the terms and conditions of employment.

7 4. Nothing in this subsection requires a covered employer to abide by the
8 provisions of this subsection for any employment unrelated to employment of
9 employees resulting from an agreement between the corporation and the claimant
10 under this section.

11 **(3v) GOOD JOBS AGREEMENT.** (a) In this subsection:

12 1. “Claimant” means a person who is certified to claim tax benefits under sub.
13 (3) and who files a claim under this subsection.

14 2. “Claimant contracted employer” means an employer that employs employees
15 as a result of an agreement with a claimant to provide goods or services to the
16 claimant and that employs employees within 50 miles of the zone.

17 3. “Covered employer” means a claimant, zone employer, or claimant
18 contracted employer.

19 4. “Employee” has the meaning given in s. 104.01 (2).

20 5. “Employer” has the meaning given in s. 104.01 (3).

21 6. “Zone” means the zone designated under sub. (1m).

22 7. “Zone employer” means an employer that employs employees within the
23 boundaries of the zone.

24 (b) 1. Prior to certification of a claimant under sub. (3), the corporation shall
25 require that the potential claimant enter into a private agreement regarding

1 employment of employees by the potential claimant, any covered employer, zone
2 employer, and claimant contracted employer, and any contractor, subcontractor,
3 successor, transferee, or assignee.

4 2. The agreement under subd. 1. shall be substantially similar to the private
5 agreement entered into regarding the Wisconsin Entertainment and Sports Center
6 in Milwaukee covering post-construction, end-use employment.

7 3. The agreement under subd. 1. shall include 2 parties, of which one party
8 shall be the potential claimant and of which the other party shall be a person,
9 corporation, or unincorporated association located in Wisconsin, with demonstrable
10 experience with and expertise in employment standards related to job quality and
11 access, and that is a signatory party to at least one similar such agreement.”.

12 **15.** Page 36, line 23: after that line insert:

13 “4. Fails to ensure that at least 70 percent of the business’s employees in the
14 zone are residents of this state.

15 4b. Fails to demonstrate to the satisfaction of the corporation that the business
16 is committed to the goal of ensuring that at least 1 percent of its workforce in the state
17 are veterans.

18 4d. Fails to demonstrate to the satisfaction of the corporation that the business
19 is committed to the goal of ensuring that at least 1 percent of all of its purchases of
20 products and services in this state are made from disabled veteran-owned
21 businesses that are certified by the department of administration under s. 16.283 (3).

22 4f. Fails to ensure that the business provides individual and family health
23 insurance benefits to each of its full-time employees in this state.

1 4h. Fails to ensure that the business maintains an hourly basic rate of pay, as
2 defined in s. 16.856 (1) (b), for its full-time employees of at least \$15.

3 4j. Fails to demonstrate to the satisfaction of the corporation that applicants
4 who are residents of this state are accorded preference over other applicants having
5 substantially equal relevant qualifications and credentials for each employment
6 position for which the business is eligible to receive tax benefits.

7 4m. Fails to demonstrate to the satisfaction of the corporation that the business
8 gives preference to contractors based in this state in connection with the construction
9 of any facility of the business if the facility is located in the zone.

10 4s. Fails to demonstrate to the satisfaction of the corporation that each of the
11 business's contracts with a contractor based in this state in connection with the
12 construction of any facility of the business that is located in the zone requires the
13 contractor to ensure that applicants for employment with the contractor who are
14 residents of this state are accorded preference over other applicants having
15 substantially equal relevant qualifications and credentials.

16 4u. Fails to demonstrate to the satisfaction of the corporation that each of the
17 business's contracts with a contractor based in this state in connection with the
18 construction of any facility of the business that is located in the zone requires the
19 contractor to do all of the following:

20 a. Ensure that applicants for employment with the contractor who are
21 residents of this state are accorded preference over other applicants having
22 substantially equal relevant qualifications and credentials.

23 b. Ensure that the contractor provides health insurance benefits to each of its
24 full-time employees at a premium coverage rate of at least 75 percent.

25 c. Test its employees for the unlawful use of controlled substances.

1 d. Participate in a state or federally recognized apprenticeship program.

2 4x. Fails to demonstrate to the satisfaction of the corporation that the business
3 is committed to the goal of ensuring that at least 5 percent of its workforce in this
4 state are members of a community in this state that is predominately made up of
5 minority group members, as defined in s. 16.287 (1) (f).”.

6 **16.** Page 41, line 18: after that line insert:

7 “(3r) The department of transportation shall study the regional transportation
8 and transit needs associated with projects located within an electronics and
9 information technology manufacturing zone designated under section 238.396 (1m)
10 of the statutes and shall report its findings to the legislature under section 13.172
11 (2) of the statutes no later than September 1, 2018.”.

12 **17.** Page 42, line 12: after that line insert:

13 “(2p) PROCUREMENT PROVISIONS. The treatment of sections 16.855 (1q), 59.52
14 (29) (a), 60.47 (3), 62.15 (1), 66.0901 (1m) (a) 3., 84.06 (2) (a), 85.077 (1), and 86.31
15 (2) (b) of the statutes first applies to bids solicited on the effective date of this
16 subsection.”.

17 (END)