



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1219/P1
EVM:emw

DOA:.....Aslesen, BB0432 - Raising the minimum contract threshold to
require governor's signature

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Thresholds for certain contracts requiring gubernatorial approval

Current law requires gubernatorial approval of certain DOT contracts involving expenditures over specified thresholds. This bill increases these thresholds as follows:

1. Engagement of engineering or related services, from \$3,000 to \$100,000.
2. Contracts for highway improvement, from \$1,000 to \$250,000.
3. Non-bid contracts with counties for highway improvements, from \$5,000 to \$100,000.
4. Non-bid contracts with railroads or public utilities for highway improvements, from \$5,000 to \$100,000.
5. Emergency non-bid contracts for highway improvements, from \$10,000 to \$100,000.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 84.01 (13) of the statutes is amended to read:

84.01 (13) ENGINEERING SERVICES. The department may engage such engineering, consulting, surveying, or other specialized services as it deems advisable. Any engagement of services under this subsection is exempt from ss. 16.70 to 16.75, 16.755 to 16.82, and 16.85 to 16.89, but ss. 16.528, 16.752, 16.753, and 16.754 apply to such engagement. Any engagement involving an expenditure of ~~\$3,000~~ \$100,000 or more shall be by formal contract approved by the governor. The department shall conduct a uniform cost-benefit analysis, as defined in s. 16.70 (3g), of each proposed engagement under this subsection that involves an estimated expenditure of more than \$300,000 in accordance with standards prescribed by rule of the department and consider and document the results of the analysis before the determination of whether to undertake the proposed engagement. The department shall review periodically, and before any renewal, the continued appropriateness of contracting pursuant to each engagement under this subsection that involves an estimated expenditure of more than \$300,000.

SECTION 2. 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. 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~~ \$250,000 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 3. 84.06 (3) of the statutes is amended to read:

84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If the department finds that it would be more feasible and advantageous to have the improvement performed by the county in which the proposed improvement is located and without bids, the department may, by arrangement with the county highway committee of the county, enter into a contract satisfactory to the department to have the work done by the county forces and equipment. In such contract the department may authorize the county to purchase, deliver, and store materials and may fix the rental rates of small tools and equipment. The contract shall be between the county and the state and shall not be based on bids, and may be entered into on behalf of the

county by the county highway committee and on behalf of the state by the secretary. Such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230, except ss. 16.753 and 16.754. If the total estimated indebtedness to be incurred exceeds ~~\$5,000~~ \$100,000, the contract shall not be valid until approved by the governor. The provisions of this subsection relating to agreements between a county and the state shall also authorize and apply to such arrangements between a city, town, or a village and the state. In such cases, the governing body of the city, town, or village shall enter into the agreement on behalf of the municipality.

SECTION 4. 84.06 (4) of the statutes is amended to read:

84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement undertaken by the department will cross or affect the property or facilities of a railroad or public utility company, the department may, upon finding that it is feasible and advantageous to the state, arrange to perform portions of the improvement work affecting such facilities or property or perform work of altering, rearranging, or relocating such facilities by contract with the railroad or public utility. Such contract shall be between the railroad company or public utility and the state and need not be based on bids. The contract may be entered into on behalf of the state by the secretary. Every such contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230, except ss. 16.528, 16.752, 16.753, and 16.754. No such contract in which the total estimated debt to be incurred exceeds ~~\$5,000~~ \$100,000 shall be valid until approved by the governor. As used in this subsection, “public utility” means the same as in s. 196.01 (5), and includes a telecommunications carrier as defined in s. 196.01 (8m), and “railroad” means the same as in s. 195.02. “Property” as used in this subsection includes but is not limited to tracks, trestles, signals, grade crossings, rights-of-way, stations, pole lines,

plants, substations, and other facilities. Nothing in this subsection shall be construed to relieve any railroad or public utility from any financial obligation, expense, duty, or responsibility otherwise provided by law relative to such property.

SECTION 5. 84.07 (1b) of the statutes is amended to read:

84.07 **(1b)** EMERGENCY REPAIR AND PROTECTION OF STATE TRUNK HIGHWAYS. To accomplish prompt repair, protection or preservation of any state trunk highway which has been closed or is being jeopardized by extraordinary damage by flood, structure failure, slides, or other extraordinary condition of necessity and emergency, the department may, if it is deemed for the best interest of the state, proceed at once to repair or protect the highway with forces and services of private constructors and agencies, summarily engaged by the department and cause said work to be done by negotiated contract or agreement without calling for competitive bids, provided that any such contract or agreement involving an estimated expenditure in excess of ~~\$10,000~~ \$100,000 shall be subject to approval of the governor before it becomes effective.

(END)