



2017 SENATE BILL 236

May 11, 2017 - Introduced by Senators STROEBEL, LEMAHIEU, OLSEN, FEYEN, KAPENGA, COWLES and TIFFANY, cosponsored by Representatives R. BROOKS, MACCO, QUINN, HORLACHER, BRANDTJEN, KULP, PETERSEN, GANNON, THIESFELDT, TITTL, KLEEFISCH, E. BROOKS, SPIROS, RIPP, SCHRAA, KREMER, KRUG, ROHRKASTE, KATSMA and STEFFEN. Referred to Committee on Economic Development, Commerce and Local Government.

1 **AN ACT to renumber and amend** 59.52 (29) (a), 60.47 (5) and 62.15 (1); **to**
2 **amend** 60.47 (1) (a), 60.47 (2) (a), 60.47 (2) (b), 60.47 (3), 60.47 (4), 60.47 (5)
3 (title), 66.0901 (1) (as), 66.0901 (1m) (a) (intro.), 66.0901 (1m) (b) and 119.04 (1);
4 and **to create** 59.52 (29) (am), 59.52 (29) (c) 2., 60.47 (1) (am), 60.47 (2m), 60.47
5 (5) (c), 62.15 (1) (b), 62.15 (1e), 120.12 (5m) and 120.127 of the statutes; **relating**
6 **to:** competitive bidding thresholds and requiring school districts to utilize
7 competitive bidding.

Analysis by the Legislative Reference Bureau

This bill increases to \$75,000, with an exception for certain highway projects, the threshold governing sealed, competitive bids that is applicable to a local unit of government. Under current law, if the estimated cost of a public works project exceeds \$25,000, the state or local unit of government must solicit bids and award the public works contract to the lowest responsible bidder.

The bill also requires a school board and the board of school directors of the Milwaukee Public Schools to comply with these bidding requirements.

The bill also provides an exception to bidding requirements for improvements that are constructed by a person other than the local unit of government and donated to a local unit of government after the completion of construction.

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

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

1 **SECTION 1.** 59.52 (29) (a) of the statutes is renumbered 59.52 (29) (a) 1. and
2 amended to read:

3 59.52 **(29)** (a) 1. All public work, including any contract for the construction,
4 repair, remodeling, or improvement of any public work, building, or furnishing of
5 supplies or material of any kind where the estimated cost of such work will exceed
6 ~~\$25,000~~ \$75,000 shall be let by contract to the lowest responsible bidder.

7 3. Any public work, the estimated cost of which does not exceed ~~\$25,000~~
8 \$75,000, shall be let as the board may direct.

9 4. If the estimated cost of any public work is between \$5,000 and ~~\$25,000~~
10 \$75,000, the board shall give a class 1 notice under ch. 985 before it contracts for the
11 work or shall contract with a person qualified as a bidder under s. 66.0901 (2).

12 2. A contract, the estimated cost of which exceeds ~~\$25,000~~ \$75,000, shall be let
13 and entered into under s. 66.0901, except that the board may by a three-fourths vote
14 of all the members entitled to a seat provide that any class of public work or any part
15 thereof may be done directly by the county without submitting the same for bids.

16 (c) 1. This subsection does not apply to public construction if the materials for
17 such a project are donated or if the labor for such a project is provided by volunteers.

18 (d) This subsection does not apply to highway contracts which the county
19 highway committee or the county highway commissioner is authorized by law to let
20 or make.

21 **SECTION 2.** 59.52 (29) (am) of the statutes is created to read:

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1 59.52 (29) (am) 1. In this paragraph, “public road project” means a public work
2 project for the construction, repair, or maintenance of a public road of which the
3 county is in control or for which the county is responsible.

4 2. Notwithstanding par. (a) 1., if the estimated cost of a public road project
5 exceeds \$25,000, the board shall let the project by contract to the lowest responsible
6 bidder. Notwithstanding par. (a) 3., if the estimated cost of a public road project does
7 not exceed \$25,000, the board may let the project in any manner. Notwithstanding
8 par. (a) 4., if the estimated cost of a public road project is between \$5,000 and \$25,000,
9 the board shall give a class 1 notice under ch. 985 before it contracts for the project
10 or shall contract with a person qualified as a bidder under s. 66.0901 (2).
11 Notwithstanding par. (a) 2., if the estimated cost of a public road project exceeds
12 \$25,000, the board shall let the project by contract and enter into the contract under
13 s. 66.0901, except that the board may, by a three-fourths vote of all the members
14 entitled to a seat, provide that any portion of the project may be completed directly
15 by the county without submitting that portion of the project for bids.

16 **SECTION 3.** 59.52 (29) (c) 2. of the statutes is created to read:

17 59.52 (29) (c) 2. This subsection does not apply to the construction by a person
18 other than the county of an improvement that is donated to the county after the
19 completion of construction.

20 **SECTION 4.** 60.47 (1) (a) of the statutes is amended to read:

21 60.47 (1) (a) “Public contract” means a contract for the construction, execution,
22 repair, remodeling or improvement of any public work or building or for the
23 furnishing of materials or supplies, with an estimated cost greater than \$5,000
24 \$25,000.

25 **SECTION 5.** 60.47 (1) (am) of the statutes is created to read:

SENATE BILL 236**SECTION 5**

1 60.47 (1) (am) “Public road contract” means a contract for the construction,
2 repair, or maintenance of a public road of which the town is in control or for which
3 the town is responsible.

4 **SECTION 6.** 60.47 (2) (a) of the statutes is amended to read:

5 60.47 (2) (a) No town may enter into a public contract with an estimated cost
6 of more than \$5,000 but not more than ~~\$25,000~~ \$75,000 unless the town board, or a
7 town official or employee designated by the town board, gives a class 1 notice under
8 ch. 985 before execution of that public contract.

9 **SECTION 7.** 60.47 (2) (b) of the statutes is amended to read:

10 60.47 (2) (b) No town may enter into a public contract with a value of more than
11 ~~\$25,000~~ \$75,000 unless the town board, or a town official or employee designated by
12 the town board, advertises for proposals to perform the terms of the public contract
13 by publishing a class 2 notice under ch. 985. The town board may provide for
14 additional means of advertising for bids.

15 **SECTION 8.** 60.47 (2m) of the statutes is created to read:

16 60.47 (2m) PUBLIC ROAD CONTRACTS. Notwithstanding sub. (2) and except as
17 provided in subs. (4) and (5), no town may enter into a public road contract with an
18 estimated cost of more than \$5,000 but not more than \$25,000 unless the town board,
19 or a town official or employee designated by the town board, gives a class 1 notice
20 under ch. 985 before execution of that public road contract. Notwithstanding sub.
21 (2) and except as provided in subs. (4) and (5), no town may enter into a public road
22 contract with a value of more than \$25,000, unless the town board, or a town official
23 or employee designated by the town board, advertises for proposals to perform the
24 terms of the public road contract by publishing a class 2 notice under ch. 985. The
25 town board may provide for additional means of advertising for bids.

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1 **SECTION 9.** 60.47 (3) of the statutes is amended to read:

2 60.47 (3) **CONTRACTS TO LOWEST RESPONSIBLE BIDDER.** The town board shall let
3 a public contract or public road contract, for which advertising for proposals is
4 required under sub. (2) (b) or (2m) to the lowest responsible bidder. Section 66.0901
5 applies to public contracts or public road contracts let under ~~sub.~~ subs. (2) (b) and
6 (2m).

7 **SECTION 10.** 60.47 (4) of the statutes is amended to read:

8 60.47 (4) **CONTRACTS WITH GOVERNMENTAL ENTITIES.** This section does not apply
9 to public contracts or public road contracts, entered into by a town with a
10 municipality, as defined under s. 66.0301 (1) (a).

11 **SECTION 11.** 60.47 (5) (title) of the statutes is amended to read:

12 60.47 (5) (title) ~~EXCEPTION FOR EMERGENCIES AND DONATED MATERIALS AND LABOR~~
13 CERTAIN DONATIONS.

14 **SECTION 12.** 60.47 (5) of the statutes is renumbered 60.47 (5) (a) and amended
15 to read:

16 60.47 (5) (a) This section is optional with respect to public contracts and public
17 road contracts for the repair and construction of public facilities when damage or
18 threatened damage to the facility creates an emergency, as declared by resolution of
19 the town board, that endangers the public health or welfare of the town. This
20 subsection no longer applies when the town board declares that the emergency no
21 longer exists.

22 (b) This section is optional with respect to a public contract or public road
23 contract if the materials related to the contract are donated or if the labor that is
24 necessary to execute the public contract or public road contract is provided by
25 volunteers.

SENATE BILL 236**SECTION 13**

1 **SECTION 13.** 60.47 (5) (c) of the statutes is created to read:

2 60.47 (5) (c) This section does not apply to the construction by a person other
3 than the town of an improvement that is donated to the town after the completion
4 of construction.

5 **SECTION 14.** 62.15 (1) of the statutes is renumbered 62.15 (1) (a) and amended
6 to read:

7 62.15 (1) (a) All public construction, the estimated cost of which exceeds
8 ~~\$25,000~~ \$75,000, shall be let by contract to the lowest responsible bidder; all other
9 public construction shall be let as the council may direct. If the estimated cost of any
10 public construction exceeds \$5,000 but is not greater than ~~\$25,000~~ \$75,000, the board
11 of public works shall give a class 1 notice, under ch. 985, of the proposed construction
12 before the contract for the construction is executed. This provision does not apply to
13 public construction if the materials for such a project are donated or if the labor for
14 such a project is provided by volunteers. The council may also by a vote of
15 three-fourths of all the members-elect provide by ordinance that any class of public
16 construction or any part thereof may be done directly by the city without submitting
17 the same for bids.

18 **SECTION 15.** 62.15 (1) (b) of the statutes is created to read:

19 62.15 (1) (b) 1. In this paragraph, “public road construction” means a public
20 construction project involving the construction, repair, or maintenance of a public
21 road of which the city is in control or for which the city is responsible.

22 2. Notwithstanding par. (a), all public road construction, the estimated cost of
23 which exceeds \$25,000, shall be let by contract to the lowest responsible bidder; all
24 other public road construction shall be let as the council may direct.
25 Notwithstanding par. (a), if the estimated cost of any public road construction

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1 exceeds \$5,000 but is not greater than \$25,000, the board of public works shall give
2 a class 1 notice, under ch. 985, of the proposed construction before the contract for
3 the construction is executed. This provision does not apply to public road
4 construction if the materials for such a project are donated or if the labor for such a
5 project is provided by volunteers. The council may also by a vote of three-fourths of
6 all the members-elect provide by ordinance that any class of public road construction
7 or any part thereof may be done directly by the city without submitting the same for
8 bids.

9 **SECTION 16.** 62.15 (1e) of the statutes is created to read:

10 62.15 (1e) EXCEPTION FOR CERTAIN DONATIONS. Subsection (1) does not apply to
11 the construction by a person other than the city of an improvement that is donated
12 to the city after the completion of construction.

13 **SECTION 17.** 66.0901 (1) (as) of the statutes, as affected by 2017 Wisconsin Act
14 3, is amended to read:

15 66.0901 (1) (as) "Municipality" means the state or a town, city, village, school
16 district, board of school directors of the school district operating under ch. 119, sewer
17 district, drainage district, technical college district or other public or quasi-public
18 corporation, officer, board or other public body charged with the duty of receiving bids
19 for and awarding any public contracts.

20 **SECTION 18.** 66.0901 (1m) (a) (intro.) of the statutes is amended to read:

21 66.0901 (1m) (a) (intro.) Except when necessary to secure federal aid,
22 whenever a political subdivision, school district, or the board of school directors of the
23 school district operating under ch. 119 lets a public contract by bidding, the political
24 subdivision, school district, or board of school directors shall comply with all of the
25 following:

SENATE BILL 236**SECTION 19**

1 **SECTION 19.** 66.0901 (1m) (b) of the statutes is amended to read:

2 66.0901 (**1m**) (b) Except when necessary to secure federal aid, a political
3 subdivision, school district, or the board of school directors of the school district
4 operating under ch. 119 may not use a bidding method that gives preference based
5 on the geographic location of the bidder or that uses criteria other than the lowest
6 responsible bidder in awarding a contract.

7 **SECTION 20.** 119.04 (1) of the statutes is amended to read:

8 119.04 (**1**) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
9 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
10 115.345, 115.363, 115.365 (3), 115.38 (2), 115.415, 115.445, 118.001 to 118.04,
11 118.045, 118.06, 118.07, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145
12 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20,
13 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10), 118.245, 118.255, 118.258,
14 118.291, 118.292, 118.293, 118.30 to 118.43, 118.46, 118.50, 118.51, 118.52, 118.53,
15 118.55, 118.56, 120.12 (2m), (4m), (5), (5m), and (15) to (27), 120.125, 120.127, 120.13
16 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.137,
17 120.14, 120.20, 120.21 (3), and 120.25 are applicable to a 1st class city school district
18 and board but not, unless explicitly provided in this chapter or in the terms of a
19 contract, to the commissioner or to any school transferred to an opportunity schools
20 and partnership program.

21 **SECTION 21.** 120.12 (5m) of the statutes is created to read:

22 120.12 (**5m**) CONTRACTS; ADVERTISING FOR BIDS; CONTRACTS TO LOWEST
23 RESPONSIBLE BIDDER; EXCEPTION FOR EMERGENCIES. (a) Subject to s. 120.127, before
24 entering into a contract for the construction, repair, remodeling, or improvement of
25 a public school building or public school facilities or for the furnishing of supplies or

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1 materials with an estimated cost greater than \$5,000 but not more than \$75,000, give
2 or direct the school district clerk to give a class 1 notice under ch. 985 of that contract
3 or contract with a person qualified as a bidder under s. 66.0901 (2).

4 (b) 1. Except as provided in subds. 2. and 3. and subject to s. 120.127, before
5 entering into a contract for the construction, repair, remodeling, or improvement of
6 a public school building or public school facilities or for the furnishing of supplies or
7 materials with an estimated cost greater than \$75,000, advertise or direct the school
8 district clerk to advertise for proposals to perform the terms of the contract by
9 publishing a class 2 notice under ch. 985. The school board may provide for
10 additional means of advertising for bids. The school board shall let a public contract
11 for which advertising for proposals is required under this paragraph to the lowest
12 responsible bidder. Section 66.0901 applies to public contracts let under this
13 paragraph.

14 2. The school board may, by a three-fourths vote of all the members, provide
15 that any construction, repair, remodeling, or improvement described in subd. 1. or
16 any part thereof may be done directly by the school district without submitting the
17 same for bids.

18 3. Subdivision 1. does not apply to the construction, repair, remodeling, or
19 improvement of a public school building or public school facilities or to the furnishing
20 of supplies or materials if the materials for such a project are donated or if the labor
21 for such a project is provided by volunteers.

22 **SECTION 22.** 120.127 of the statutes is created to read:

23 **120.127 Exception to requirement for notice and bidding of contracts**
24 **in case of emergency.** The provisions of s. 120.12 (5m) are not mandatory for the
25 repair or reconstruction of a public school building or public school facilities when

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1 damage or threatened damage thereto creates an emergency, as determined by
2 resolution of the school board, in which the public health or welfare of the school
3 district is endangered. Whenever the school board by majority vote at a regular or
4 special meeting determines that an emergency no longer exists, this section no longer
5 applies.

6 **SECTION 23. Initial applicability.**

7 (1) BIDS THRESHOLD. The treatment of sections 60.47 (2) (b), 62.15 (1), 66.0901
8 (1m) (a) (intro.), and 120.12 (5m) (b) of the statutes and the renumbering and
9 amendment of section 59.52 (29) (a) of the statutes first apply to bids solicited on the
10 effective date of this subsection.

11 (END)