

No. 467, S.]

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CHAPTER 306.

AN ACT to repeal and recreate 38.07 (2) and (3) of the statutes, relating to letting of contracts for construction and purchase of materials by boards of school directors in cities of the first class.

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

38.07 (2) and (3) of the statutes are repealed and recreated to read:

38.07 (2) The board shall erect, purchase, hire or lease buildings, improve or enlarge the same, and purchase furniture and sites for the accommodations of such public schools of said city, and purchase, install and maintain heating systems in said schools, and contract for the carrying out of any of the purposes authorized in this chapter but when the board contemplates the doing of any construction work involving \$1,000 or more, the board shall advertise for proposals for doing the same after filing a plan or profile of the work to be done accompanied by specifications for doing the same, or other appropriate sufficient description of the work required to be done, and the kinds or quality of materials, equipment or supplies to be furnished in the office of said board for the information of bidders and others. When the board contemplates the purchase of materials, equipment and supplies not to be used for new construction projects at an estimated cost of \$2,000 or more it must advertise for bids. Such advertisements shall be published at least 6 consecutive days, excluding Sundays and legal holidays, prior to the date set for the opening of the bids, and the contracts may be awarded on the day the bids are opened or thereafter. Said board, at its option, may call for competitive bids on advertised notice when the amounts of expenditures involved in any case are less than \$1,000 for any construction or less than \$2,000 for the purchase of materials, equipment and supplies not to be used for construction projects and may call for informal bids on plans and specifications without advertised notice when the amount involved is less than \$1,000 for any construction or less than \$2,000 for the purchase of materials, equipment and supplies not to be used for construction projects. A performance bond in the principal amount of the contract shall be required in such cases and on all other contracts let by the board.

(3) All proposals shall be sealed and directed to said board and accompanied by a bid bond executed by a surety corporation licensed to transact business in Wisconsin in a penal sum to be fixed by the board in dollars, but the amount thereof shall not be less than 5 per cent, nor more than 10 per cent, of the estimated cost of the construction work or the materials, equipment or supplies. In lieu of such bid bond, the bidder may accompany his bid with a certified check, a bank cashier's check or cash in the amount required by the board. In case the bidder awarded the contract shall fail or refuse to execute the contract and performance bond, the amount of the said bid bond, certified check, cashier's check or cash shall be forfeited to the city as liquidated damages. Whenever the advertisement calls for the performance of different kinds of construction work, or the furnishing of different kinds or qualities of materials, equipment or supplies, such contracts may be let in whole or in part to the lowest responsible bidder for particular parts of the proposed contract. Such board may reserve the right to reject any or all bids and to waive minor irregularities. The said board shall fix the time of completion of the contract and shall have power for good reason to extend the time for completion. The board shall fix the amount of liquidated damages for failure of the contractor to complete the contract at the specified time and the damages shall not, in any event, exceed one-half of one per cent of the estimated cost involved for each day of default. All contracts shall run in the name of the city, be executed by the president and secretary-business manager of the board and countersigned by the comptroller and shall be approved as to form and execution by the city attorney. A bidder may, by written notice to the board, withdraw his bid before the time set for opening bids and a bidder may file an additional bid or bids before the opening day, but when the bids are opened at the prescribed time, no bidder may withdraw or amend his bid for any reason, except that in case the bidder appears to have been acting in good faith and by oversight or error has made an improvident bid, the board can, in its discretion, reject such bid if it be the low bid and award the contract to the next lowest responsible bidder. Said board may demand that a prospective bidder qualify as to responsibility and competence before receiving his bid. The board may for good reason waive liquidated damages for failure to complete at the prescribed time. The board shall insert in all contracts appropriate provisions, terms and conditions as to suitable indemnity to the city against loss or expense,

as to payment of prevailing wage rates, as to hours of daily work, as to payments on account to the contractor as the work progresses and delivery is made and as to other particulars for the protection of the city.

Approved June 17, 1949.
