
Wisconsin Legislative Council

AMENDMENT MEMO



Memo published: October 11, 2019

Contact: Ethan Lauer, Staff Attorney

2019 Assembly Bill 285

Senate Amendment 1

2019 Assembly Bill 285, as passed by the Assembly¹, addresses various state and local bidding procedures for highway and public works projects.

2019 ASSEMBLY BILL 285, AS AMENDED BY THE ASSEMBLY

Bidding for Highway Improvement Projects

Under current law, the Department of Transportation (DOT) generally must award a contract for a highway improvement² project to the lowest bidder. [s. 84.06 (2) (a), Stats.]

Under the bill, DOT must review, update, and document its estimates of the reasonable value of the work under a contract for a highway improvement project within two weeks before the date on which bids are due. **Assembly Amendment 1 to Assembly Amendment 5** prevents DOT from taking those actions within 24 hours before the time at which bids are due. **Senate Amendment 1** deletes this change made by Assembly Amendment 1 to Assembly Amendment 5.

Also under the bill, if DOT receives a single bid for a highway improvement project, and if the bid exceeds 110 percent of the estimated reasonable value of the work under the contract, DOT must reject the bid and readvertise the contract in a manner likely to increase the number of bids, unless one of the following two exceptions applies.

Exception for Emergency Repair

DOT may award a contract to the single bidder in the case of emergency repair of a highway that has been closed, or is being jeopardized, by extraordinary damage due to flood, failure, or other extraordinary condition.

Exception for Public Safety or Project Cost or Schedule

DOT may award a contract to the single bidder if DOT determines that re-advertising the contract would adversely affect public safety or project cost or schedule.

In order for this exception to apply, DOT must first submit to the Joint Committee on Finance (JCF) a request to award the contract. After a period of 14 working days, DOT may proceed with the award unless the co-chairs of JCF notify DOT that they have scheduled a meeting of JCF to review the request. In that event, DOT may award the contract only as approved, or modified and approved, by JCF.

DOT must report quarterly to JCF a list of any single bids rejected or contracts awarded.

¹ This amendment memorandum describes Assembly amendments only if relevant to Senate Amendment 1.

² A “highway improvement” generally means construction, reconstruction, rehabilitation, and processes incidental to building, fabricating, or bettering a highway, but not routine maintenance and work related to signage, lighting, and pavement markings. [s. 84.06 (1), Stats.]

Assembly Amendment 1 to Assembly Amendment 5 provides that all records and information DOT submits to JCF regarding this exception shall remain confidential and are exempt from disclosure under the public records law, and that any violation by a state employee of these confidentiality requirements is grounds for dismissal. **Senate Amendment 1** deletes this change made by Assembly Amendment 1 to Assembly Amendment 5.

Competitive Bidding Threshold for Certain Local Contracts

The bill raises from \$25,000 to \$50,000 the threshold at which sealed, competitive bidding is required for local public works or for purchasing supplies and materials by units of local government. The increased threshold would not apply to contracts for construction, repair, or maintenance of certain local highways.

Local Transportation Projects Using Federal or State Funds

The bill repeals and recreates verbatim a provision included in 2017 Wisconsin Act 368. This provision:

- Requires DOT to notify a political subdivision if aid DOT is disbursing to it for a local road or bridge project includes federal moneys and the project components for which federal moneys must be paid, if any.
- Prohibits DOT from requiring a political subdivision to comply with DOT's facilities development manual for local road or bridge projects meeting certain criteria.
- Requires certain local road or bridge projects to be let through competitive bidding.

SENATE AMENDMENT 1

Senate Amendment 1 deletes two changes that Assembly Amendment 1 to Assembly Amendment 5 made to the bill, as described above.

BILL HISTORY

Assembly Action

Representative Thiesfeldt introduced Assembly Amendment 2 on June 12, 2019. Representative Sanfelippo introduced Assembly Amendment 5 on June 14, 2019. On June 18, 2019, the Assembly Committee on Transportation recommended adoption of Assembly Amendment 2 by a vote of Ayes, 7; Noes 6, adoption of Assembly Amendment 5 by a vote of Ayes, 8; Noes 5, and passage of Assembly Bill 285, as amended, by a vote of Ayes, 8; Noes, 5.

Representative Sanfelippo introduced Assembly Amendment 1 to Assembly Amendment 5 on June 19, 2019.

On June 20, 2019, the Assembly adopted Assembly Amendment 2, Assembly Amendment 1 to Assembly Amendment 5, and Assembly Amendment 5, as amended, on voice votes. The Assembly then passed the bill, as amended, on a vote of Ayes, 61; Noes, 35.

Senate Action

Senator Craig introduced Senate Amendment 1 on October 7, 2019.

On October 8, 2019, the Senate adopted Senate Amendment 1 on a voice vote and concurred in the bill, as amended by the Senate, on a vote of Ayes, 19; Noes, 14.