



2007 ASSEMBLY BILL 954

March 11, 2008 - Introduced by Representatives STASKUNAS, JESKEWITZ, JORGENSEN, VOS and SHERIDAN. Referred to Committee on State Affairs.

1 **AN ACT to amend** 16.75 (1) (a) 1. and 16.855 (1); and **to create** 16.75 (10r), 16.856
2 and 66.0902 of the statutes; **relating to:** employee eligibility verification
3 requirements for state and local procurement and construction contracts and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law generally authorizes the Department of Administration (DOA) to purchase, or delegate the authority to purchase, all necessary materials and contractual services for all state agencies. Current law also generally authorizes DOA to contract for construction work when the project cost is estimated to exceed \$40,000. With some exceptions, orders or contracts must be awarded to the lowest bidder.

This bill prohibits the purchase of materials or services or the contracting of construction work unless the bidder appears on a list maintained by DOA that indicates all of the bidder's employees have been verified to be eligible for employment in the United States.

In general under current law, before a contract for public construction with a value between \$5,000 and \$25,000 may be let by a second, third, or fourth class city or a village, town, or county (political subdivision), the political subdivision's governing body must give a class 1 notice of the proposed construction. Also under current law, before certain contracts for public construction may be let by a political subdivision, a town sanitary district commission, or a sewerage district, certain other requirements, such as a lowest responsible bidder requirement, must be met.

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The public construction contracting requirements that apply to a city also apply, generally, to a technical college district board and a federated public library system.

This bill prohibits a local governmental unit (a political subdivision, including a first class city, a special purpose district, or a subunit or agency of such an entity) from entering into a public contract with any person unless the person is on the list maintained by DOA relating to verifying that the person's employees are eligible for employment in the United States.

This bill provides progressive penalties including forfeitures and ineligibility for state and local procurement and construction contracts for persons appearing on the list that fail to verify all of its employees' employment eligibility.

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.** 16.75 (1) (a) 1. of the statutes is amended to read:

2 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all
3 materials, supplies, equipment, and contractual services to be provided to any
4 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
5 (6), (7), (8), (9), (10e), and (10m), and (10r), and ss. 16.73 (4) (a), 16.751, 16.754, 16.964
6 (8), 50.05 (7) (f), 153.05 (2m) (a), and 287.15 (7), shall be awarded to the lowest
7 responsible bidder, taking into consideration life cycle cost estimates under sub.
8 (1m), when appropriate, the location of the agency, the quantities of the articles to
9 be supplied, their conformity with the specifications, and the purposes for which they
10 are required and the date of delivery.

11 **SECTION 2.** 16.75 (10r) of the statutes is created to read:

12 16.75 (10r) (a) In this subsection, "federal employment verification system"
13 means the most current method the federal government offers to verify employment
14 eligibility of an individual.

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1 (b) The department, any other designated purchasing agent under s. 16.71 (1),
2 any agency making purchases under s. 16.74, and any authority may not enter into
3 any contract or order for the purchase of materials, supplies, equipment, or
4 contractual services with a person unless the person appears on a list maintained by
5 the department under par. (c).

6 (c) The department shall maintain and post on the Internet a list of persons who
7 have verified employment eligibility through the federal employment verification
8 system, and provided the department with a record from the federal employment
9 verification system, for all of their employees and employees of persons with whom
10 they subcontract. The department must receive a record within 15 days of the person
11 or subcontractor hiring a new employee.

12 (d) If the department determines a person on the list under par. (c) has not
13 verified employment eligibility of all employees within the time frame under par. (c)
14 or has otherwise violated this subsection, the department shall do one of the
15 following:

16 1. If the violation is a first violation, terminate the contract without liability
17 for the uncompleted portion or any materials or services purchased or paid for by the
18 person for use in completing the contract, remove the person from the list under par.
19 (c) for 2 years, and subject the person to a forfeiture of not more than \$10,000.

20 2. If the violation is a 2nd or subsequent violation, terminate the contract
21 without liability for the uncompleted portion or any materials or services purchased
22 or paid for by the person for use in completing the contract, remove the person from
23 the list under par. (c), and subject the person to a forfeiture of not more than \$25,000.

24 **SECTION 3.** 16.855 (1) of the statutes is amended to read:

ASSEMBLY BILL 954**SECTION 3**

1 16.855 (1) The department shall let by contract to the lowest qualified
2 responsible bidder all construction work when the estimated construction cost of the
3 project exceeds \$40,000, except for construction work authorized under s. 16.858 and
4 except as provided in sub. (10m) or s. 13.48 (19) or 16.856. If a bidder is not a
5 Wisconsin firm and the department determines that the state, foreign nation or
6 subdivision thereof in which the bidder is domiciled grants a preference to bidders
7 domiciled in that state, nation or subdivision in making governmental purchases,
8 the department shall give a preference over that bidder to Wisconsin firms, if any,
9 when awarding the contract, in the absence of compelling reasons to the contrary.
10 The department may enter into agreements with states, foreign nations and
11 subdivisions thereof for the purpose of implementing this subsection.

12 **SECTION 4.** 16.856 of the statutes is created to read:

13 **16.856 Employment eligibility verification.** The department may not let
14 any construction work by contract under s. 16.855 (1) to a person unless the person
15 appears on a list maintained by the department under s. 16.75 (10r) (c).

16 **SECTION 5.** 66.0902 of the statutes is created to read:

17 **66.0902 Employment eligibility verification. (1) DEFINITIONS.** In this
18 section:

19 (a) "Local governmental unit" means a political subdivision of this state, a
20 special purpose district in this state, an agency or corporation of a political
21 subdivision or special purpose district, or a combination or subunit of any of the
22 foregoing.

23 (b) "Public contract" has the meaning given in s. 66.0901 (1) (c).

