



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4910/1
EVM&FFK:wlj

2023 ASSEMBLY BILL 723

December 6, 2023 - Introduced by Representatives BROOKS, BEHNKE, BODDEN, BRANDTJEN, DITTRICH, MOSES, O'CONNOR, ROZAR, SORTWELL, ZIMMERMAN and GREEN, cosponsored by Senators STROEBEL, FELZKOWSKI and TOMCZYK. Referred to Committee on Local Government.

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

Analysis by the Legislative Reference Bureau

This bill increases to \$50,000, 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 if the estimated cost of a contract exceeds \$150,000 and the contract is for the

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construction, repair, remodeling, or improvement of a public school building or for the furnishing of supplies or materials.

The bill provides an exception to the bidding requirements for improvements that are constructed by a person other than a town or county and donated to a town or county after the completion of construction. A similar exception for donated improvements currently exists for improvements donated to a city or village. The bill also provides an exception to the bidding requirements that apply to school boards and the MPS board of school directors if the school board or board of directors determines that damage or potential damage to a public school building endangers the public health or welfare.

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:

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

59.52 **(29)** (a) 1. All public work, including any contract for the construction, repair, remodeling, or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed ~~\$25,000~~ \$50,000 shall be let by contract to the lowest responsible bidder.

3. Any public work, the estimated cost of which does not exceed ~~\$25,000~~ \$50,000, shall be let as the board may direct.

4. If the estimated cost of any public work is between \$5,000 and ~~\$25,000~~ \$50,000, the board shall give a class 1 notice under ch. 985 before it contracts for the work or shall contract with a person qualified as a bidder under s. 66.0901 (2).

2. A contract, the estimated cost of which exceeds ~~\$25,000~~ \$50,000, shall be let and entered into under s. 66.0901, except that the board may by a three-fourths vote of all the members entitled to a seat provide that any class of public work or any

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part thereof may be done directly by the county without submitting the same for bids.

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

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

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

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

2. Notwithstanding par. (a) 1., if the estimated cost of a public road project exceeds \$25,000, the board shall let the project by contract to the lowest responsible bidder. Notwithstanding par. (a) 3., if the estimated cost of a public road project does not exceed \$25,000, the board may let the project in any manner. Notwithstanding par. (a) 4., if the estimated cost of a public road project is between \$5,000 and \$25,000, the board shall give a class 1 notice under ch. 985 before it contracts for the project or shall contract with a person qualified as a bidder under s. 66.0901 (2). Notwithstanding par. (a) 2., if the estimated cost of a public road project exceeds \$25,000, the board shall let the project by contract and enter into the contract under s. 66.0901, except that the board may, by a three-fourths vote of all the members entitled to a seat, provide that any portion of the project may be

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completed directly by the county without submitting that portion of the project for bids.

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

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

SECTION 4. 60.47 (1) (am) of the statutes is created to read:

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

SECTION 5. 60.47 (2) (a) of the statutes is amended to read:

60.47 **(2)** (a) No town may enter into a public contract with an estimated cost of more than \$5,000 but not more than ~~\$25,000~~ \$50,000 unless the town board, or a town official or employee designated by the town board, gives a class 1 notice under ch. 985 before execution of that public contract.

SECTION 6. 60.47 (2) (b) of the statutes is amended to read:

60.47 **(2)** (b) No town may enter into a public contract with a value of more than ~~\$25,000~~ \$50,000 unless the town board, or a town official or employee designated by the town board, advertises for proposals to perform the terms of the public contract by publishing a class 2 notice under ch. 985. The town board may provide for additional means of advertising for bids.

SECTION 7. 60.47 (2m) of the statutes is created to read:

60.47 **(2m)** PUBLIC ROAD CONTRACTS. Notwithstanding sub. (2), and except as

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

SECTION 8. 60.47 (3) of the statutes is amended to read:

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

SECTION 9. 60.47 (4) of the statutes is amended to read:

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

SECTION 10. 60.47 (5) (title) of the statutes is amended to read:

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

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SECTION 11. 60.47 (5) of the statutes is renumbered 60.47 (5) (a) and amended to read:

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

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

SECTION 12. 60.47 (5) (c) of the statutes is created to read:

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

SECTION 13. 62.15 (1) of the statutes is renumbered 62.15 (1) (a) and amended to read:

62.15 (1) (a) All public construction, the estimated cost of which exceeds ~~\$25,000~~ \$50,000, shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the council may direct. If the estimated cost of any public construction exceeds \$5,000 but is not greater than ~~\$25,000~~ \$50,000, the board of public works shall give a class 1 notice, under ch. 985, of the proposed

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construction before the contract for the construction is executed. This ~~provision~~ paragraph does not apply to public construction if the materials for ~~such a~~ the project are donated or if the labor for ~~such a~~ the project is provided by volunteers. The council may also by a vote of three-fourths of all the members-elect provide by ordinance that any class of public construction or any part thereof may be done directly by the city without submitting the same for bids.

SECTION 14. 62.15 (1) (b) of the statutes is created to read:

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

2. Notwithstanding par. (a), all public road construction, the estimated cost of which exceeds \$25,000, shall be let by contract to the lowest responsible bidder; all other public road construction shall be let as the council may direct. Notwithstanding par. (a), if the estimated cost of any public road construction exceeds \$5,000 but is not greater than \$25,000, the board of public works shall give a class 1 notice, under ch. 985, of the proposed construction before the contract for the construction is executed. This subdivision does not apply to public road construction if the materials for the project are donated or if the labor for the project is provided by volunteers. The council may also by a vote of three-fourths of all the members-elect provide by ordinance that any class of public road construction or any part thereof may be done directly by the city without submitting the same for bids.

SECTION 15. 66.0901 (1) (as) of the statutes is amended to read:

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

SECTION 16. 66.0901 (1m) (a) (intro.) of the statutes is amended to read:

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

SECTION 17. 66.0901 (1m) (b) of the statutes is amended to read:

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

SECTION 18. 119.04 (1) of the statutes, as affected by 2023 Wisconsin Act 12, is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c), 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.363, 115.364, 115.365 (3), 115.366, 115.367, 115.38 (2), 115.415, 115.445, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.075, 118.076, 118.10,

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118.12, 118.124, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.196, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10), 118.245, 118.25, 118.255, 118.258, 118.291, 118.292, 118.293, 118.2935, 118.30 to 118.43, 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 120.12 (2m), (4m), (5), (5m), and (15) to (27), 120.125, 120.127, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.137, 120.14, 120.20, 120.21 (3), and 120.25 are applicable to a 1st class city school district and board but not, unless explicitly provided in this chapter or in the terms of a contract, to the commissioner or to any school transferred to an opportunity schools and partnership program.

SECTION 19. 120.12 (5m) of the statutes is created to read:

120.12 **(5m)** CONTRACTS; ADVERTISING FOR BIDS; CONTRACTS TO LOWEST RESPONSIBLE BIDDER; EXCEPTION FOR EMERGENCIES. (a) Subject to s. 120.127, before entering into a contract for the construction, repair, remodeling, or improvement of a public school building or public school facilities or for the furnishing of supplies or materials with an estimated cost greater than \$5,000 but not more than \$150,000, give or direct the school district clerk to give a class 1 notice under ch. 985 of that contract or contract with a person qualified as a bidder under s. 66.0901 (2).

(b) 1. Except as provided in subds. 2. and 3. and subject to s. 120.127, before entering into a contract for the construction, repair, remodeling, or improvement of a public school building or public school facilities or for the furnishing of supplies or materials with an estimated cost greater than \$150,000, advertise or direct the

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school district clerk to advertise for proposals to perform the terms of the contract by publishing a class 2 notice under ch. 985. The school board may provide for additional means of advertising for bids. The school board shall let a public contract for which advertising for proposals is required under this paragraph to the lowest responsible bidder. Section 66.0901 applies to public contracts let under this paragraph.

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

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

SECTION 20. 120.127 of the statutes is created to read:

120.127 Exception to requirement for notice and bidding of contracts in case of emergency. The provisions of s. 120.12 (5m) are not mandatory for the repair or reconstruction of a public school building or public school facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the school board, in which the public health or welfare of the school district is endangered. Whenever the school board by majority vote at a regular or special meeting determines that an emergency no longer exists, this section no longer applies.

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SECTION 21

SECTION 21. Initial applicability.

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

(END)