



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4311/1
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2017 BILL

1 **AN ACT** *to amend* 13.48 (3), 13.48 (6), 13.48 (7), 13.48 (10) (a), 13.48 (10) (b) 5.,
2 13.48 (29), 13.488 (7) (a), 16.855 (14) (am), 16.855 (22), 16.87 (3), 20.924 (1) (a)
3 and 20.924 (1) (b); and *to create* 16.855 (1g) (ec), 16.855 (1g) (em), 16.855 (14s)
4 and 16.867 of the statutes; **relating to:** projects included in the Authorized
5 State Building Program, project approvals by the Building Commission, and
6 selection of project architects and engineers.

Analysis by the Legislative Reference Bureau

Under this bill, the Building Commission may authorize money from the state building trust fund to be available for any project costing \$1,000,000 or less, and the Building Commission may authorize the design and construction of any building, the acquisition of land, or the repair or improvement of any building, structure, or facility that costs more than \$1,000,000 only if the project is enumerated in the state building program. Under current law, each of those thresholds is set at \$760,000.

Subject to limited exceptions, the bill also prohibits the state from entering into a contract for the construction of or addition to any building in connection with a building project involving a cost that exceeds \$300,000 without the approval of the Building Commission. Current law sets that threshold at \$185,000. The bill includes a corresponding adjustment to certain thresholds for projects of the State Fair Park Board.

The bill also raises from \$185,000 to \$300,000 the threshold for projects that are subject to single prime contracting, and the bill creates an exception to single prime

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contracting, including certain bidding requirements, for certain construction projects. Specifically, under the bill, the Department of Administration may let any construction project that exceeds \$300,000 to a contractor whose primary business is the performance of a trade (single trade contractor) for all work on the project if at least 85 percent of the estimated construction cost of the project is for work that involves the trade that is the primary business of the single trade contractor. For purposes of the bill, "trade" means mechanical, electrical, plumbing, or fire protection work. The current law requirements with respect to the solicitation of bids or proposals for construction projects and the award of contracts to the lowest responsible bidder apply to single trade contracts under the bill. The single prime contracting process for certifying, selecting, and contracting with subcontractors does not apply to single trade contractors under the bill.

Finally, under the bill, the secretary of administration is required to establish a committee for each construction project under the department's supervision, except certain emergency projects, for the purpose of selecting an architect or engineer for the project. If the estimated cost of a construction project is \$7,400,000 or more, the selection committee must use a request-for-proposal process established by the department to select an architect or engineer for the project based on qualifications.

For further information see the *state* 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.** 13.48 (3) of the statutes is amended to read:

2 13.48 (3) STATE BUILDING TRUST FUND. In the interest of the continuity of the
3 program, the moneys appropriated to the state building trust fund under s. 20.867
4 (2) (f) shall be retained as a nonlapsing building depreciation reserve. Such moneys
5 shall be deposited into the state building trust fund. At such times as the building
6 commission directs, or in emergency situations under s. 16.855 (16) (b), the governor
7 shall authorize releases from this fund to become available for projects and shall
8 direct the department of administration to allocate from this fund such amounts as
9 are approved for these projects. In issuing such directions, the building commission
10 shall consider the cash balance in the state building trust fund, the necessity and
11 urgency of the proposed improvement, employment conditions and availability of

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1 materials in the locality in which the improvement is to be made. The building
2 commission may authorize any project costing ~~\$760,000~~ \$1,000,000 or less in
3 accordance with priorities to be established by the building commission and may
4 adjust the priorities by deleting, substituting or adding new projects as needed to
5 reflect changing program needs and unforeseen circumstances. The building
6 commission may enter into contracts for the construction of buildings for any state
7 agency, except a project authorized under sub. (10) (c), and shall be responsible for
8 accounting for all funds released to projects. The building commission may designate
9 the department of administration or the agency for which the project is constructed
10 to act as its representative in such accounting.

11 **SECTION 2.** 13.48 (6) of the statutes is amended to read:

12 13.48 (6) REVIEW OF PROJECTS. All reports submitted as provided by sub. (4)
13 shall be reviewed by the building commission, which shall make its report as soon
14 after November 20 as is possible. Such report shall include specific
15 recommendations and establish priorities for the next 3 biennia from among all
16 projects submitted which the building commission deems essential and shall
17 recommend additional appropriations if necessary for the execution thereof. The
18 building commission shall include in the report any projects proposed by the state
19 fair park board involving a cost of not more than ~~\$250,000~~ \$300,000, together with
20 the method of financing proposed for those projects by the board, without
21 recommendation. The building commission shall include in its report an appraisal
22 and recommendation of available and alternative methods of financing buildings for
23 the use of state agencies and shall file copies of its report with the governor-elect.

24 **SECTION 3.** 13.48 (7) of the statutes is amended to read:

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1 13.48 (7) BIENNIAL RECOMMENDATIONS. The building commission shall prepare
2 and formally adopt recommendations for the long-range state building program on
3 a biennial basis. The building commission shall include in its report any projects
4 proposed by the state fair park board involving a cost of not more than \$250,000
5 \$300,000, together with the method of financing those projects proposed by the
6 board, without recommendation. Unless a later date is requested by the building
7 commission and approved by the joint committee on finance, the building
8 commission shall, no later than the first Tuesday in April of each odd-numbered
9 year, transmit the report prepared by the department of administration under s.
10 16.40 (20) and the commission's recommendations for the succeeding fiscal biennium
11 that require legislative approval to the joint committee on finance in the form of
12 proposed legislation prepared in proper form.

13 **SECTION 4.** 13.48 (10) (a) of the statutes is amended to read:

14 13.48 (10) (a) Except as provided in par. (c), no state board, agency, officer,
15 department, commission, or body corporate may enter into a contract for the
16 construction, reconstruction, remodeling of, or addition to any building, structure,
17 or facility, in connection with any building project which involves a cost in excess of
18 ~~\$185,000~~ \$300,000 without completion of final plans and arrangement for
19 supervision of construction and prior approval by the building commission. This
20 section applies to the department of transportation only in respect to buildings,
21 structures, and facilities to be used for administrative or operating functions,
22 including buildings, land, and equipment to be used for the motor vehicle emission
23 inspection and maintenance program under s. 110.20.

24 **SECTION 5.** 13.48 (10) (b) 5. of the statutes is amended to read:

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1 13.48 **(10)** (b) 5. Contracts for construction of any building, structure or facility
2 for the state fair park board involving a cost of not more than ~~\$250,000~~ \$300,000.

3 **SECTION 6.** 13.48 (29) of the statutes is amended to read:

4 13.48 **(29)** ~~SMALL~~ SIMPLIFIED POLICIES AND PROCEDURES FOR CONSTRUCTION
5 PROJECTS. Except as otherwise required under s. 16.855 (10m), the building
6 commission may prescribe simplified policies and procedures to be used in lieu of the
7 procedures provided in s. 16.855 for any construction project that ~~does not require~~
8 ~~prior approval of the building commission under sub. (10) (a)~~ involving a cost of not
9 more than \$300,000, except projects specified in sub. (10) (c).

10 **SECTION 7.** 13.488 (7) (a) of the statutes is amended to read:

11 13.488 **(7)** (a) The building commission, with advice from the state fair park
12 board, shall examine and review detailed design requirements for all state-owned
13 facilities involving a cost of more than ~~\$250,000~~ \$300,000 to be included in the
14 development of state fair park.

15 **SECTION 8.** 16.855 (1g) (ec) of the statutes is created to read:

16 16.855 **(1g)** (ec) “Single trade contractor” means a contractor whose primary
17 business is the performance of a trade.

18 **SECTION 9.** 16.855 (1g) (em) of the statutes is created to read:

19 16.855 **(1g)** (em) “Trade” means mechanical, electrical, plumbing, or fire
20 protection work.

21 **SECTION 10.** 16.855 (14) (am) of the statutes is amended to read:

22 16.855 **(14)** (am) Except as provided in sub. (14s) and s. 13.48 (19), the
23 department shall let all construction projects that exceed ~~\$185,000~~ \$300,000 through
24 single prime contracting. The department may not request or accept any alternate
25 bids when letting a construction project through single prime contracting.

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1 **SECTION 11.** 16.855 (14s) of the statutes is created to read:

2 16.855 (14s) (a) The department may let any construction project that exceeds
3 \$300,000 to a single trade contractor for all work on the project if at least 85 percent
4 of the estimated construction cost of the project is for work that involves the trade
5 that is the primary business of the single trade contractor.

6 (b) The department and the Board of Regents shall each develop and
7 implement an open and public bidding process for purposes of contracting with single
8 trade contractors who have submitted the lowest bid on a project and who are
9 qualified responsible bidders. For purposes of this paragraph, the department and
10 the board shall follow the requirements and procedures under sub. (2).

11 (c) Within 48 hours after the deadline for a single trade contractor to submit
12 a bid, the department or the Board of Regents shall post on its Internet site the
13 tabulations of all bids that identify the names of the single trade contractors that bid
14 and the amount of each bid and shall make the tabulations and amounts available
15 at the department or board if they are unavailable on the Internet site.

16 (d) Except as provided in sub. (10m) (am), the department or the Board of
17 Regents shall award all contracts under this subsection to the lowest bidder who is
18 a qualified responsible bidder that results in the lowest total construction cost for the
19 project.

20 (e) Within 30 days after the deadline for a single trade contractor to submit a
21 bid, the department or the Board of Regents shall notify the single trade contractor
22 bidder that was awarded the contract.

23 (f) A contract awarded under this subsection is not subject to subs. (13) and
24 (14m).

25 **SECTION 12.** 16.855 (22) of the statutes is amended to read:

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1 16.855 **(22)** The provisions of this section, except sub. (10m), do not apply to
2 construction work for any project ~~that does not require the prior approval of the~~
3 ~~building commission under s. 13.48 (10) (a)~~ involving a cost of not more than
4 \$300,000 if the project is constructed in accordance with policies and procedures
5 prescribed by the building commission under s. 13.48 (29). If the estimated
6 construction cost of any project, other than a project exempted under sub. (12m) or
7 (24), is at least \$50,000, and the building commission elects to utilize the procedures
8 prescribed under s. 13.48 (29) to construct the project, the department shall provide
9 adequate public notice of the project and the procedures to be utilized to construct
10 the project on a publicly accessible computer site.

11 **SECTION 13.** 16.867 of the statutes is created to read:

12 **16.867 Selection of architects and engineers. (1)** The secretary shall
13 establish a committee under s. 15.04 (1) (c) for each construction project under the
14 department's supervision, except an emergency project approved under s. 16.855
15 (16) (b) 2., for the purpose of selecting an architect or engineer for the project.

16 **(2)** If the estimated cost of a construction project under the department's
17 supervision is \$7,400,000 or more, the selection committee appointed under sub. (1)
18 shall use a request-for-proposal process established by the department to select an
19 architect or engineer for the project based on qualifications.

20 **SECTION 14.** 16.87 (3) of the statutes is amended to read:

21 16.87 **(3)** Except as provided in sub. (4), a contract under sub. (2) is not valid
22 or effectual for any purpose until it is endorsed in writing and approved by the
23 secretary or the secretary's ~~designated assistant~~ designee and, if the contract
24 involves an expenditure over ~~\$60,000~~ \$300,000, approved by the governor. ~~The~~
25 ~~governor may delegate the authority to approve any contract requiring his or her~~

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1 ~~approval under this subsection that involves an expenditure of less than \$150,000~~
2 ~~to the secretary or the secretary's designee.~~ Except as provided in sub. (4), no
3 payment or compensation for work done under any contract involving \$2,500 or
4 more, except a highway contract, may be made unless the written claim is audited
5 and approved by the secretary or the secretary's designee. Any change order to a
6 contract requiring approval under this subsection requires the prior approval by the
7 secretary or the secretary's ~~designated assistant~~ designee and, if the change order
8 involves an expenditure over ~~\$60,000~~ \$300,000, the approval of the governor ~~or, if the~~
9 ~~governor delegates his or her authority to approve contracts under this subsection~~
10 ~~and the change order involves an expenditure of less than \$150,000, the approval of~~
11 ~~the secretary or the secretary's designee.~~

12 **SECTION 15.** 20.924 (1) (a) of the statutes is amended to read:

13 20.924 (1) (a) Shall authorize the design and construction of any building,
14 structure or facility costing in excess of ~~\$760,000~~ \$1,000,000 regardless of funding
15 source, only if that project is enumerated in the authorized state building program.

16 **SECTION 16.** 20.924 (1) (b) of the statutes is amended to read:

17 20.924 (1) (b) Shall authorize the acquisition of land, or the repair, remodeling
18 or improvement to any existing building, structure or facility costing in excess of
19 ~~\$760,000~~ \$1,000,000, regardless of funding source, only if that project is enumerated
20 in the authorized state building program. This paragraph does not apply to the
21 acquisition of land by the building commission in the city of Madison within a block
22 number specified in s. 13.48 (18). This paragraph does not apply to projects
23 authorized under s. 16.858.

24 **SECTION 17. Initial applicability.**

25 (1) STATE BUILDING PROGRAM THRESHOLDS.

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1 (a) The treatment of sections 13.48 (3) and 20.924 (1) (a) and (b) of the statutes
2 first applies to authorizations occurring on the effective date of this paragraph.

3 (b) The treatment of sections 13.48 (10) (a) and (b) 5., 16.855 (22), and 16.87 (3)
4 of the statutes first applies to contracts entered into, or extended, modified, or
5 renewed, on the effective date of this paragraph.

6 (2) BIDDING AND CONTRACTING. The treatment of sections 13.48 (29) and 16.855
7 (14) (am) and (14s) of the statutes first applies to an advertisement that is published,
8 or a solicitation that occurs, under section 16.855 (2) (a) of the statutes on the first
9 day of the 3rd month beginning after publication.

10 (3) SELECTION OF ARCHITECTS AND ENGINEERS. The treatment of section 16.867
11 of the statutes first applies to a construction project under the department of
12 administration's supervision for which an advertisement is published or solicitation
13 occurs on the effective date of this subsection.

14 (END)