



1995 ASSEMBLY BILL 708

November 29, 1995 - Introduced by Representatives FREESE, AINSWORTH, DOBYNS, OLSEN, PLACHE and SKINDRUD, cosponsored by Senator SCHULTZ. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to amend** 16.75 (1) (b), 59.07 (134), 59.08 (1), 60.47 (3), 60.77 (6) (a), 61.54
2 (1) and (2), 61.55, 61.57, 62.15 (1) and (5) and 62.155; and **to create** 16.754 (2m),
3 60.47 (2) (c) and 66.291 of the statutes; **relating to:** requiring cities, villages,
4 towns and counties, under certain circumstances, to purchase goods, supplies
5 or equipment that is manufactured in the United States and requiring that bid
6 solicitations for these items, and for items purchased by the state, require
7 information about the country of manufacture or origin of the items.

Analysis by the Legislative Reference Bureau

Under current law, when this state or any of its agencies makes purchases, with some exceptions and with all other factors being substantially equal, the state or agency is required to purchase goods, supplies or equipment that is manufactured to the greatest extent in the United States. This bill extends this requirement to purchases of goods, supplies or equipment that is made by a city, village, town or county; however, under current law, a city, village, town or county is not required to solicit bids except for certain public works projects. This bill also directs the state and cities, villages, towns and counties to require bidders to supply information concerning the country of manufacture or origin of items to be provided under any bid.

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

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

2 16.75 (1) (b) When the estimated cost exceeds \$10,000, due notice inviting bids
3 shall be published as a class 2 notice, under ch. 985, and the bids shall not be opened
4 until at least 7 days from the last day of publication. The official advertisement shall
5 give a clear description of the materials, supplies, equipment or service to be
6 purchased, the amount of the bond, share draft, check or other draft to be submitted
7 as surety with the bid and the date of public opening. The advertisement shall also
8 indicate that bidders are required to provide information concerning the country of
9 manufacture or origin or both of any materials, supplies or equipment to be provided
10 under a bid.

11 **SECTION 2.** 16.754 (2m) of the statutes is created to read:

12 16.754 (2m) BID INFORMATION. Each contractor or vendor submitting a bid to
13 supply materials, supplies or equipment to the state shall provide information with
14 its bid concerning the country of manufacture or origin or both of any materials,
15 supplies or equipment to be provided under the bid.

16 **SECTION 3.** 59.07 (134) of the statutes is amended to read:

17 59.07 (134) ACQUISITION OF RECYCLING OR RESOURCE RECOVERY FACILITIES
18 WITHOUT BIDS. Contract for the acquisition of any element of a recycling or resource
19 recovery facility without submitting the contract for bids as required under s. 59.08
20 if the county invites developers to submit proposals to provide a completed project
21 and evaluates proposals according to site, cost, design and the developers' experience
22 in other similar projects, except that contracts let under this subsection shall be
23 subject to s. 66.291.

24 **SECTION 4.** 59.08 (1) of the statutes is amended to read:

1 59.08 (1) All public work, including any contract for the construction, repair,
2 remodeling or improvement of any public work, building, or furnishing of supplies
3 or material of any kind where the estimated cost of such work will exceed \$20,000
4 shall be let by contract to the lowest responsible bidder and shall be subject to s.
5 66.291. Any public work, the estimated cost of which does not exceed \$20,000, shall
6 be let as the board may direct and shall be subject to s. 66.291. If the estimated cost
7 of any public work is between \$5,000 and \$20,000, the board shall give a class 1 notice
8 under ch. 985 before it contracts for the work, subject to s. 66.291, or shall contract,
9 subject to s. 66.291, with a person qualified as a bidder under s. 66.29 (2). A contract,
10 the estimated cost of which exceeds \$20,000, shall be let and entered into under s.
11 66.29, except that the board may by a three-fourths vote of all the members entitled
12 to a seat provide that any class of public work or any part thereof may be done directly
13 by the county without submitting the same for bids. If bids are solicited for a contract
14 that is to be let under this subsection, the bid notice shall require a prospective
15 contractor to supply the board with information concerning the country of
16 manufacture or origin or both of the materials, as defined in s. 66.291 (1) (c), to which
17 the bid applies. This section does not apply to highway contracts which the county
18 highway committee or the county highway commissioner is authorized by law to let
19 or make.

20 **SECTION 5.** 60.47 (2) (c) of the statutes is created to read:

21 60.47 (2) (c) If a town solicits bids for a public contract that is to be let under
22 this section, the bid notice shall require a prospective contractor to supply the town
23 board with information concerning the country of manufacture or origin or both of
24 the materials, as defined in s. 66.291 (1) (c), to which the bid applies.

25 **SECTION 6.** 60.47 (3) of the statutes is amended to read:

1 60.47 **(3)** CONTRACTS TO LOWEST RESPONSIBLE BIDDER. The town board shall let
2 a public contract for which advertising for proposals is required under sub. (2) (b) to
3 the lowest responsible bidder. ~~Section 66.29 applies~~ Sections 66.29 and 66.291 apply
4 to public contracts let under sub. (2) (b).

5 **SECTION 7.** 60.77 (6) (a) of the statutes is amended to read:

6 60.77 **(6)** (a) Let contracts for any work or purchase that involves an
7 expenditure of \$5,000 or more to the lowest responsible bidder in the manner
8 prescribed by the commission. ~~Section 66.29 applies~~ Sections 66.29 and 66.291 apply
9 to contracts let under this paragraph.

10 **SECTION 8.** 61.54 (1) and (2) of the statutes are amended to read:

11 61.54 **(1)** WHEN VILLAGE MAY REJECT AND PERFORM WORK. Whenever ~~any a~~ village
12 board ~~shall~~, after notice duly given, ~~have received~~ receives bids for the grading of
13 streets, construction of sewers, laying of pavements, sprinkling and cleaning of
14 streets or for any other public work or improvement, or for the furnishing of
15 materials therefor, and ~~be~~ is of the opinion that ~~sueh~~ the bids are fraudulent,
16 collusive or greater in amount than the fair reasonable value of the work to be done
17 or materials to be furnished, or if no bids are received, ~~said~~ the village board may, by
18 resolution and by the vote of two-thirds of its members, direct, and determine that
19 the bids so received shall be rejected and that the work to be done, and materials to
20 be furnished shall be performed and furnished by ~~said~~ the village directly, subject to
21 s. 66.291, and under the direction and supervision of the village board.

22 **(2)** POWER OF BOARD. Whenever the village board of ~~any a~~ village ~~shall~~
23 ~~determine~~ determines to carry on any public work or construct any improvement
24 under the provisions of this section, it shall have the power to purchase and secure

1 all necessary and proper tools and equipment with which to perform the same public
2 work or improvement, subject to s. 66.291.

3 **SECTION 9.** 61.55 of the statutes is amended to read:

4 **61.55 Contracts involving over \$10,000; how let; exception.** All contracts
5 for public construction, in ~~any such a~~ a village, exceeding \$10,000, shall be let by the
6 village board to the lowest responsible bidder in accordance with ~~s. ss. 66.29 and~~
7 66.291 insofar as said ~~section~~ those sections may be applicable. If the estimated cost
8 of any public construction exceeds \$5,000, but is not greater than \$10,000, the village
9 board shall give a class 1 notice, under ch. 985, of the proposed construction before
10 the contract for the construction is executed, and the contract shall be let subject to
11 s. 66.291. If a village solicits bids for a contract that is to be let under this section,
12 the bid notice shall require a prospective contractor to supply the village board with
13 information concerning the country of manufacture or origin or both of the materials,
14 as defined in s. 66.291 (1) (c), to which the bid applies. This ~~provision~~ section and s.
15 144.04 are not mandatory for the repair and reconstruction of public facilities when
16 damage or threatened damage thereto creates an emergency, as determined by
17 resolution of the village board, in which the public health or welfare of the village is
18 endangered. Whenever the village board by majority vote at a regular or special
19 meeting declares that an emergency no longer exists, this exemption no longer
20 applies.

21 **SECTION 10.** 61.57 of the statutes is amended to read:

22 **61.57 Acquisition of recycling or resource recovery facilities without**
23 **bids.** A village may contract for the acquisition of any element of a recycling or
24 resource recovery facility without submitting the contract for bids as required under
25 ss. 61.54 to 61.56 if the village invites developers to submit proposals to provide a

1 completed project and evaluates proposals according to site, cost, design and the
2 developers' experience in other similar projects, except that contracts let under this
3 section shall be subject to s. 66.291.

4 **SECTION 11.** 62.15 (1) and (5) of the statutes are amended to read:

5 62.15 (1) CONTRACTS; HOW LET. All Subject to s. 66.291, all public construction,
6 the estimated cost of which exceeds \$10,000, shall be let by contract to the lowest
7 responsible bidder; subject to s. 66.291, all other public construction shall be let as
8 the council may direct. If the estimated cost of any public construction exceeds
9 \$5,000 but is not greater than \$10,000, the board of public works shall give a class
10 1 notice, under ch. 985, of the proposed construction before the contract for the
11 construction is executed, and the contract shall be let subject to s. 66.291. The council
12 may also by a vote of three-fourths of all the members-elect provide by ordinance
13 that any class of public construction or any part thereof may be done directly by the
14 city, subject to s. 66.291, without submitting the same contract for bids. If a council
15 solicits bids for a contract that is to be let under this section, the bid notice shall
16 require a prospective contractor to supply the council with information concerning
17 the country of manufacture or origin or both of the materials, as defined in s. 66.291
18 (1) (c), to which the bid applies.

19 (5) REJECTION OF BIDS. The power to reject any and all bids shall exist unless
20 expressly waived. The board of public works may reject any and all bids, if, in their
21 opinion, any combination has been entered into to prevent free competition. The
22 council may, if it be of the opinion that any of the bids are fraudulent, collusive,
23 excessive or against the best interests of the city, by resolution adopted by two-thirds
24 of its members, reject any or all of the bids received and order the work done by the

1 city directly under the supervision of the board of public works and s. ss. 61.54 (2)
2 and (3) and 66.291 shall apply to the performance of such work.

3 **SECTION 12.** 62.155 of the statutes is amended to read:

4 **62.155 Acquisition of recycling or resource recovery facilities without**
5 **bids.** A city may contract for the acquisition of any element of a recycling or resource
6 recovery facility without submitting the contract for bids as required under s. 62.15
7 if the city invites developers to submit proposals to provide a completed project and
8 evaluates proposals according to site, cost, design and the developers' experience in
9 other similar projects, except that contracts let under this section shall be subject to
10 s. 66.291.

11 **SECTION 13.** 66.291 of the statutes is created to read:

12 **66.291 Preference for American-made materials. (1) DEFINITIONS.** In
13 this section:

14 (a) "Manufactured" means mined, produced, manufactured, fabricated or
15 assembled.

16 (b) "Manufactured in the United States" means that materials are
17 manufactured in whole or in substantial part within the United States or that the
18 majority of the component parts of the materials were manufactured in whole or in
19 substantial part in the United States.

20 (c) "Materials" means any goods, supplies, equipment or other tangible
21 products.

22 (d) "Political subdivision" means a city, village, town or county.

23 (e) "Purchase" means acquire by sale or lease.

24 **(2) PURCHASE PREFERENCE.** Notwithstanding ss. 59.08 (1), 60.47 (3), 60.77 (6) (a),
25 61.55 and 62.15 (1), when all other factors are substantially equal a political

1 subdivision shall purchase materials which are manufactured to the greatest extent
2 in the United States.

3 (3) EXEMPTIONS. Subsection (2) does not apply if the materials are purchased
4 for the purpose of commercial resale or for the purpose of use in the production of
5 goods for commercial sale. Subsection (2) does not apply if a political subdivision
6 determines that a foreign nation or subdivision of that nation in which a prospective
7 vendor is domiciled does not give preference to vendors domiciled in that nation or
8 subdivision in making governmental purchases. Subsection (2) does not apply if a
9 political subdivision or other person having contracting authority with respect to a
10 purchase determines any of the following:

11 (a) That the materials are not manufactured in the United States in sufficient
12 or reasonably available quantities.

13 (b) That the quality of the materials manufactured in the United States is
14 substantially less than the quality of similar available materials manufactured
15 outside of the United States.

16 (4) BID REQUIREMENTS. If a political subdivision solicits bids for the purchase
17 of materials, the bid notice shall require a prospective vendor to supply the political
18 subdivision with information concerning the country of manufacture or origin or
19 both of the materials to which the bid applies.

20 **SECTION 14. Initial applicability.**

21 (1) This act first applies to contracts let, purchases made and bids solicited on
22 the first day of the 3rd month beginning after publication.

23 (END)