



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2930/1
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2011 ASSEMBLY BILL 374

November 14, 2011 – Introduced by Representatives POPE-ROBERTS, MOLEPSKE JR, VRUWINK, CLARK, ZEPNICK, C. TAYLOR, DANOU, WYNN, POCAN, HEBL, TURNER, BERCEAU, BERNARD SCHABER, FIELDS, ROYS, SINICKI, MASON and RINGHAND, cosponsored by Senators LASSA, HOLPERIN, HANSEN and WIRCH. Referred to Committee on Homeland Security and State Affairs.

1 **AN ACT to repeal** 16.75 (1) (a) 2.; **to amend** 16.75 (1) (a) 1., 16.754 (2) and 16.754
2 (3) (intro.); and **to create** 16.75 (4m) of the statutes; **relating to:** creating a
3 preference in state procurement for Wisconsin-based businesses.

Analysis by the Legislative Reference Bureau

Current law generally requires that state agencies or other authorized state purchasing agents award orders and contracts for materials, supplies, equipment, and contractual services to the entity that provides the lowest responsible bid or most advantageous competitive proposal. Current law contains several exceptions to this requirement. One exception is a preference for Wisconsin producers, distributors, suppliers, and retailers over any out-of-state vendor that is domiciled in a jurisdiction that grants a preference to vendors domiciled in that jurisdiction. This bill deletes this exception and, instead, requires state agencies and other purchasing agents to maximize the awards given to businesses that have at least 50 percent of their operations in Wisconsin or that plan to have at least 50 percent of their operations in Wisconsin in the next year. To accomplish this goal, the state agency or purchasing agent may purchase materials, supplies, equipment, and contractual services from any such business that submits a bid or proposal that is no more than 5 percent higher than the apparent low bid or most advantageous proposal.

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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.** 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 (4m), (6), (7), (8), (9), (10e), and (10m) and ss. 16.705 (1r), 16.73 (4) (a), 16.751, 16.754,
6 16.964 (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 (1) (a) 2. of the statutes is repealed.

12 **SECTION 3.** 16.75 (4m) of the statutes is created to read:

13 16.75 (4m) (a) In this subsection, “Wisconsin business” means a business that
14 has at least 50 percent of its operations in Wisconsin or that plans to have at least
15 50 percent of its operations in Wisconsin by the end of the year following the
16 solicitation of the bid or proposal.

17 (b) 1. The department and any agency making purchases under s. 16.74 shall
18 attempt to maximize the amount paid under this subchapter in each fiscal year to
19 Wisconsin businesses.

20 2. Except as provided under sub. (7), the department and any agency making
21 purchases under s. 16.74 may purchase materials, supplies, equipment, and

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1 contractual services from any Wisconsin business submitting a qualified responsible
2 competitive bid that is no more than 5 percent higher than the apparent low bid or
3 submitting a competitive proposal that is no more than 5 percent higher than the
4 most advantageous proposal.

5 **SECTION 4.** 16.754 (2) of the statutes is amended to read:

6 16.754 (2) PURCHASE PREFERENCE. Notwithstanding s. 16.75 (1) ~~(a) 2.,~~ (2), (2m),
7 and (6), when all other factors are substantially equal the state shall purchase
8 materials which are manufactured to the greatest extent in the United States.

9 **SECTION 5.** 16.754 (3) (intro.) of the statutes is amended to read:

10 16.754 (3) EXEMPTIONS. (intro.) Subsection (2) does not apply if the materials
11 are purchased for the purpose of commercial resale or for the purpose of use in the
12 production of goods for commercial sale. Subsection (2) does not apply to the
13 purchase of stationery and printing materials. Subsection (2) does not apply if the
14 department determines, ~~under s. 16.75 (1) (a) 2.,~~ that the foreign nation or
15 subdivision thereof in which the vendor is domiciled does not give preference to
16 vendors domiciled in that nation or subdivision in making governmental purchases.
17 Subsection (2) does not apply if the department or other person having contracting
18 authority in respect to the purchase determines that:

19 **SECTION 6. Initial applicability.**

20 (1) The treatment of section 16.75 (4m) of the statutes first applies to bids or
21 proposals solicited on the effective date of this subsection.

22 (END)