

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 251

Introduced by Assembly Member Fuentes

February 3, 2011

An act to add Section 52372.6 to, and to add and repeal Section 46308 of, the Education Code, relating to high schools. An act to amend, repeal, and add Section 20111.5 of, and to add and repeal Section 20111.6 of, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 251, as amended, Fuentes. ~~High schools: career technical education.~~ *Public contracts: school districts: bidding requirements.*

Under existing law, the governing board of a school district may require each prospective bidder for specified contracts to submit a standardized questionnaire and financial statement, including information relating to financial ability and experience in performing public works, which is required to be verified under oath. Existing law further requires a school district requiring the above information to adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, as specified.

This bill, until January 1, 2018, would require the questionnaire and uniform system of rating bidders described above to cover, at a minimum, the issues covered by the standardized questionnaire and model guidelines for rating bidders developed by the Department of Industrial Relations, as specified. This bill would provide that the questionnaire and uniform system of rating bidders described above

shall not preclude the governing board of the district from prequalifying or disqualifying a subcontractor. This bill would provide that these provisions shall not apply to school districts with an average daily attendance of less than 2,500.

This bill, until January 1, 2018, would also require the governing board of the district, except for school districts with an average daily attendance of less than 2,500, for certain public projects, if the governing board of the district chooses not to follow the uniform system of rating bidders described above, to use other procedures, which require a standardized questionnaire and financial statement to be verified under oath, for bidding applicable to public entities, as prescribed. The bill would also require the Director of Industrial Relations, on or before January 1, 2017, to submit a report to the Legislature evaluating whether labor violations have decreased, as specified, and to recommend improvements to the system for prequalifying contractors and subcontractors on school district projects. By expanding the scope of an existing crime and by imposing new duties on local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, with regard to certain mandates, no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~(1) Existing law defines a “multiple pathway program” as a multiyear, comprehensive high school program of integrated academic and technical study that ensures that all pupils have curriculum choices that prepare them for career entry and a full range of postsecondary options. Existing law requires the Superintendent of Public Instruction, in conjunction with specified entities, to develop a report on the feasibility of establishing and expanding multiple pathway programs. Under existing law, multiple pathway programs created for high schools include partnership academies, regional occupational centers and programs, charter schools, academies, small learning communities, and other career-themed small schools.~~

~~Existing law authorizes a school district that maintains a high school to provide work experience education, as defined. Existing law prohibits attendance in work experience classes or programs maintained by a regional occupational center or program from receiving apportionments from state funds based on average daily attendance unless those classes or programs are in conformance with specified standards, and it limits the number of hours of attendance per calendar week that a pupil enrolled in a vocational education class using the cooperative vocational education methodology conducted by a regional occupational center or program may be credited with.~~

~~The bill, commencing with the 2012–13 school year and until July 1, 2018, would make a school district with an integrated academic and workforce approach to high school reform or a work-based learning initiative eligible to apply to receive state funding based on minimum weekly attendance instead of average daily attendance for pupils enrolled in its work-based learning or multiple pathway programs, or both. The bill would prohibit a school district and a high school from using minimum weekly attendance to reduce the number of days instruction is offered or that a pupil is required to be in attendance at school or a work-based learning opportunity. The bill would require the school district to report annually to the State Department of Education the academic and workforce preparation progress of pupils enrolled in its work-based learning or multiple pathway programs, or both. The bill would require the Superintendent to determine the minimum number of instructional hours per week that constitute weekly attendance in a specified manner and to calculate a revenue limit for each school district using that minimum weekly attendance.~~

~~(2) Existing law authorizes the governing board of a school district or a county board of education, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, to request the State Board of Education to waive all or part of any statute in the Education Code or any regulation adopted by the state board that implements a provision of that code except as specified.~~

~~This bill would authorize the Superintendent, upon application of a school district and for the operation of a multiple pathway program, to waive any provisions of the Education Code, other than those relating to earthquake safety. The bill would place specified reporting requirements on a school district as a condition of receiving that waiver~~

and would authorize the Superintendent to repeal a waiver if the school district is not achieving specified progress.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20111.5 of the Public Contract Code is
2 amended to read:

3 20111.5. (a) The governing board of the district may require
4 that each prospective bidder for a contract, as described under
5 Section 20111, complete and submit to the district a standardized
6 questionnaire and financial statement in a form specified by the
7 district, including a complete statement of the prospective bidder’s
8 financial ability and experience in performing public works. The
9 questionnaire and financial statement shall be verified under oath
10 by the bidder in the manner in which civil pleadings in civil actions
11 are verified. The questionnaires and financial statements shall not
12 be public records and shall not be open to public inspection.

13 (b) Any school district requiring prospective bidders to complete
14 and submit questionnaires and financial statements, as described
15 in subdivision (a), shall adopt and apply a uniform system of rating
16 bidders on the basis of the completed questionnaires and financial
17 statements, in order to determine the size of the contracts upon
18 which each bidder shall be deemed qualified to bid.

19 (c) *The questionnaire described in subdivision (a), and the*
20 *uniform system of rating bidders described in subdivision (b), shall*
21 *cover, at a minimum, the issues covered by the standardized*
22 *questionnaire and model guidelines for rating bidders developed*
23 *by the Department of Industrial Relations pursuant to subdivision*
24 *(a) of Section 20101.*

25 ~~(e)~~

26 (d) Each prospective bidder on any contract described under
27 Section 20111 shall be furnished by the school district letting the
28 contract with a standardized proposal form that, when completed
29 and executed, shall be submitted as his or her bid. Bids not
30 presented on the forms so furnished shall be disregarded.

31 ~~(d)~~

32 (e) A proposal form required pursuant to subdivision ~~(e)~~ (d)
33 shall not be accepted from any person or other entity ~~who~~ that is

1 required to submit a completed questionnaire and financial
2 statement for prequalification pursuant to subdivision (a), but has
3 not done so at least five days prior to the date fixed for the public
4 opening of sealed bids or has not been prequalified, pursuant to
5 subdivision (b), for at least one day prior to that date.

6 ~~(e)~~

7 (f) Notwithstanding subdivision ~~(d)~~ (e), any school district may
8 establish a process for prequalifying prospective bidders pursuant
9 to this section on a quarterly basis and may authorize that
10 prequalification to be considered valid for up to one calendar year
11 following the date of initial prequalification.

12 (g) *This section shall not preclude the governing board of the*
13 *district from prequalifying or disqualifying a subcontractor. The*
14 *disqualification of a subcontractor by the governing board of the*
15 *district does not disqualify an otherwise prequalified contractor.*

16 (h) *The amendments made by the act adding this subdivision*
17 *shall not apply to a school district with an average daily attendance*
18 *of less than 2,500.*

19 (i) *This section shall become inoperative on January 1, 2018,*
20 *and, as of July 1, 2018, is repealed, unless a later enacted statute,*
21 *that becomes operative on or before July 1, 2018, deletes or*
22 *extends the dates on which it becomes inoperative and is repealed.*

23 SEC. 2. *Section 20111.5 is added to the Public Contract Code,*
24 *to read:*

25 20111.5. (a) *The governing board of the district may require*
26 *that each prospective bidder for a contract, as described under*
27 *Section 20111, complete and submit to the district a standardized*
28 *questionnaire and financial statement in a form specified by the*
29 *district, including a complete statement of the prospective bidder's*
30 *financial ability and experience in performing public works. The*
31 *questionnaire and financial statement shall be verified under oath*
32 *by the bidder in the manner in which civil pleadings in civil actions*
33 *are verified. The questionnaires and financial statements shall not*
34 *be public records and shall not be open to public inspection.*

35 (b) *Any school district requiring prospective bidders to complete*
36 *and submit questionnaires and financial statements, as described*
37 *in subdivision (a), shall adopt and apply a uniform system of rating*
38 *bidders on the basis of the completed questionnaires and financial*
39 *statements, in order to determine the size of the contracts upon*
40 *which each bidder shall be deemed qualified to bid.*

1 (c) Each prospective bidder on any contract described under
2 Section 20111 shall be furnished by the school district letting the
3 contract with a standardized proposal form that, when completed
4 and executed, shall be submitted as his or her bid. Bids not
5 presented on the forms so furnished shall be disregarded.

6 (d) A proposal form required pursuant to subdivision (c) shall
7 not be accepted from any person or other entity that is required
8 to submit a completed questionnaire and financial statement for
9 prequalification pursuant to subdivision (a), but has not done so
10 at least five days prior to the date fixed for the public opening of
11 sealed bids or has not been prequalified, pursuant to subdivision
12 (b), for at least one day prior to that date.

13 (e) Notwithstanding subdivision (d), any school district may
14 establish a process for prequalifying prospective bidders pursuant
15 to this section on a quarterly basis and may authorize that
16 prequalification to be considered valid for up to one calendar year
17 following the date of initial prequalification.

18 (f) This section shall become operative on January 1, 2018.

19 SEC. 3. Section 20111.6 is added to the Public Contract Code,
20 to read:

21 20111.6. (a) This section shall apply only to public projects,
22 as defined in subdivision (c) of Section 22002, for which the
23 governing board of the district uses funds received pursuant to the
24 Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5
25 (commencing with Section 17070.10) of Part 10 of Division 1 of
26 Title 1 of the Education Code) for a public project.

27 (b) If the governing board of the district does not utilize the
28 procedures set forth in Section 20111.5 for a contract meeting the
29 criteria of subdivision (a), then the governing board of the district
30 shall use the procedures for qualification of bidders set forth in
31 Section 20101.

32 (c) For purposes of this section, bidders shall include all
33 subcontractors performing work in excess of 3 percent of the total
34 cost.

35 (d) This section shall not apply to a school district with an
36 average daily attendance of less than 2,500.

37 (e) This section shall apply only to contracts awarded on or
38 after January 1, 2013.

39 (f) On or before January 1, 2017, the Director of Industrial
40 Relations shall (1) submit a report to the Legislature evaluating

1 whether, during the years this section has applied to contracts,
2 violations of the Labor Code on school district projects have
3 decreased as compared to the same number of years immediately
4 preceding the enactment of this section, and (2) recommend
5 improvements to the system for prequalifying contractors and
6 subcontractors on school district projects.

7 (g) This section shall become inoperative on January 1, 2018,
8 and, as of July 1, 2018, is repealed, unless a later enacted statute,
9 that becomes operative on or before July 1, 2018, deletes or
10 extends the dates on which it becomes inoperative and is repealed.

11 SEC. 4. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution for certain
13 costs that may be incurred by a local agency or school district
14 because, in that regard, this act creates a new crime or infraction,
15 eliminates a crime or infraction, or changes the penalty for a crime
16 or infraction, within the meaning of Section 17556 of the
17 Government Code, or changes the definition of a crime within the
18 meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 However, if the Commission on State Mandates determines that
21 this act contains other costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.

25 SECTION 1. ~~Section 46308 is added to the Education Code,~~
26 ~~to read:~~

27 ~~46308. (a) For purposes of this section the following terms~~
28 ~~have the following meanings:~~

29 ~~(1) "Integrated academic and workforce approach to high school~~
30 ~~reform" means a districtwide system of pathway programs pursuant~~
31 ~~to Section 52372.5.~~

32 ~~(2) "Work-based learning initiative" means a districtwide~~
33 ~~initiative to increase the delivery of quality work-based learning~~
34 ~~pursuant to Section 51760.1.~~

35 ~~(b) In order to maximize classroom and workforce preparation~~
36 ~~activities as well as incorporate modified instructional schedules,~~
37 ~~commencing with the 2012-13 school year, a school district with~~
38 ~~an integrated academic and workforce approach to high school~~
39 ~~reform or a work-based learning initiative is eligible to apply to~~
40 ~~receive funding based on minimum weekly attendance instead of~~

1 average daily attendance for pupils enrolled in its work-based
2 learning or multiple pathway programs, or both.

3 ~~(e) A school district that is eligible to apply to receive funding
4 based on minimum weekly attendance instead of average daily
5 attendance shall submit an application to the Superintendent. The
6 application shall identify the high schools that will utilize a
7 minimum weekly attendance and include their instructional
8 schedules.~~

9 ~~(d) A school district and a high school shall not use minimum
10 weekly attendance to reduce the number of days instruction is
11 offered or that a pupil is required to be in attendance at school or
12 a work-based learning opportunity.~~

13 ~~(e) As a condition of receiving funding based on minimum
14 weekly attendance, the school district shall report annually to the
15 department the academic and workforce preparation progress of
16 pupils enrolled in its work-based learning or multiple pathway
17 programs, or both. Indicators to measure that progress shall include,
18 but are not limited to, all of the following:~~

19 ~~(1) Graduation rates.~~

20 ~~(2) Scores from the standards-based achievement tests
21 administered pursuant to Section 60640.~~

22 ~~(3) Passage rates on the high school exit examination.~~

23 ~~(4) Completion of career technical education courses.~~

24 ~~(5) Completion of courses required for admission to the
25 University of California and the California State University.~~

26 ~~(6) Completion of work-based learning opportunity courses.~~

27 ~~(7) Other indicators of academic and workforce preparation
28 success, including workforce preparation, training certificates,
29 increased matriculation into postsecondary educational or training
30 institutions, enrollment in apprenticeship programs, and other
31 measures as determined by the department.~~

32 ~~(f) (1) The Superintendent shall determine the minimum number
33 of instructional hours per week that constitute weekly attendance
34 and shall calculate a revenue limit for each school district using
35 that minimum weekly attendance.~~

36 ~~(2) The Superintendent shall determine the minimum weekly
37 attendance pursuant to paragraph (1) in a manner that allows pupils
38 to attend school less than 240 minutes per day, provided that pupils
39 do not attend school less than 1200 minutes per week.~~

1 ~~(g) This section shall become inoperative on July 1, 2018, and,~~
2 ~~as of January 1, 2019, is repealed, unless a later enacted statute,~~
3 ~~that becomes operative on or before January 1, 2019, deletes or~~
4 ~~extends the dates on which it becomes inoperative and is repealed.~~

5 SEC. 2. ~~Section 52372.6 is added to the Education Code, to~~
6 ~~read:~~

7 ~~52372.6.—(a) Upon application of a school district and for the~~
8 ~~operation of a multiple pathway program, the Superintendent may~~
9 ~~waive any provisions of this code other than those relating to~~
10 ~~earthquake safety.~~

11 ~~(b) As a condition of receiving a waiver pursuant to subdivision~~
12 ~~(a), the school district shall report every two years to the~~
13 ~~Superintendent the academic and workforce preparation progress~~
14 ~~of pupils enrolled in its multiple pathway programs. Indicators to~~
15 ~~measure that progress shall include, but are not limited to, all of~~
16 ~~the following:~~

- 17 ~~(1) Graduation rates.~~
- 18 ~~(2) Scores from the standards-based achievement tests~~
19 ~~administered pursuant to Section 60640.~~
- 20 ~~(3) Passage rates on the high school exit examination.~~
- 21 ~~(4) Completion of career technical education courses.~~
- 22 ~~(5) Completion of courses required for admission to the~~
23 ~~University of California and the California State University.~~
- 24 ~~(6) Completion of work-based learning opportunity courses.~~
- 25 ~~(7) Other indicators of academic and workforce preparation~~
26 ~~success, including workforce preparation, training certificates,~~
27 ~~increased matriculation into postsecondary educational or training~~
28 ~~institutions, enrollment in apprenticeship programs, and other~~
29 ~~measures as determined by the department.~~

30 ~~(c) The Superintendent may repeal waivers granted pursuant to~~
31 ~~subdivision (a) if he or she determines that a school district is not~~
32 ~~achieving sufficient academic and workforce preparation progress~~
33 ~~for pupils enrolled in its multiple pathway programs according to~~
34 ~~the indicators measured pursuant to subdivision (b). The~~
35 ~~Superintendent shall provide school districts with notification of~~
36 ~~his or her decision to repeal a waiver at least 180 days prior to the~~
37 ~~effective date of the repeal and shall allow the school district to~~
38 ~~appeal the repeal decision.~~

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