

AMENDED IN ASSEMBLY APRIL 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1565

Introduced by Assembly Member Fuentes

January 30, 2012

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 1565, as amended, Fuentes. 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~~ 2019, 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, *for contracts awarded on and after January 1, 2014, and until January 1, 2018 2019*, 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~~ 2018, 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.

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

1 by the bidder in the manner in which civil pleadings in civil actions
2 are verified. The questionnaires and financial statements shall not
3 be public records and shall not be open to public inspection.

4 (b) Any school district requiring prospective bidders to complete
5 and submit questionnaires and financial statements, as described
6 in subdivision (a), shall adopt and apply a uniform system of rating
7 bidders on the basis of the completed questionnaires and financial
8 statements, in order to determine the size of the contracts upon
9 which each bidder shall be deemed qualified to bid.

10 (c) The questionnaire described in subdivision (a), and the
11 uniform system of rating bidders described in subdivision (b), shall
12 cover, at a minimum, the issues covered by the standardized
13 questionnaire and model guidelines for rating bidders developed
14 by the Department of Industrial Relations pursuant to subdivision
15 (a) of Section 20101.

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

21 (e) A proposal form required pursuant to subdivision (d) shall
22 not be accepted from any person or other entity that is required to
23 submit a completed questionnaire and financial statement for
24 prequalification pursuant to subdivision (a), but has not done so
25 at least five days prior to the date fixed for the public opening of
26 sealed bids or has not been prequalified, pursuant to subdivision
27 (b), for at least one day prior to that date.

28 (f) Notwithstanding subdivision (e), any school district may
29 establish a process for prequalifying prospective bidders pursuant
30 to this section on a quarterly basis and may authorize that
31 prequalification to be considered valid for up to one calendar year
32 following the date of initial prequalification.

33 (g) This section shall not preclude the governing board of the
34 district from prequalifying or disqualifying a subcontractor. The
35 disqualification of a subcontractor by the governing board of the
36 district does not disqualify an otherwise prequalified contractor.

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

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

6 SEC. 2. Section 20111.5 is added to the Public Contract Code,
 7 to read:

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

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

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

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

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

1 (f) This section shall become operative on January 1, ~~2018~~ 2019.

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

4 20111.6. (a) This section shall apply only to public projects,
5 as defined in subdivision (c) of Section 22002, for which the
6 governing board of the district uses funds received pursuant to the
7 Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5
8 (commencing with Section 17070.10) of Part 10 of Division 1 of
9 Title 1 of the Education Code) for a public project.

10 (b) If the governing board of the district does not utilize the
11 procedures set forth in Section 20111.5 for a contract meeting the
12 criteria of subdivision (a), then the governing board of the district
13 shall use the procedures for qualification of bidders set forth in
14 Section 20101.

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

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

20 (e) This section shall apply only to contracts awarded on or after
21 January 1, ~~2013~~ 2014.

22 (f) (1) On or before January 1, ~~2017~~ 2018, the Director of
23 Industrial Relations shall ~~(1)~~ (A) submit a report to the Legislature
24 evaluating whether, during the years this section has applied to
25 contracts, violations of the Labor Code on school district projects
26 have decreased as compared to the same number of years
27 immediately preceding the enactment of this section, and ~~(2)~~ (B)
28 recommend improvements to the system for prequalifying
29 contractors and subcontractors on school district projects.

30 (2) A report to be submitted pursuant to this subdivision shall
31 be submitted in compliance with Section 9795 of the Government
32 Code.

33 (g) This section shall become inoperative on January 1, ~~2018~~
34 2019, and, as of July 1, ~~2018~~ 2019, is repealed, ~~unless a later~~
35 ~~enacted statute, that becomes operative on or before July 1, 2018,~~
36 ~~deletes or extends the dates on which it becomes inoperative and~~
37 ~~is repealed.~~

38 SEC. 4. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution for certain
40 costs that may be incurred by a local agency or school district

1 because, in that regard, this act creates a new crime or infraction,
2 eliminates a crime or infraction, or changes the penalty for a crime
3 or infraction, within the meaning of Section 17556 of the
4 Government Code, or changes the definition of a crime within the
5 meaning of Section 6 of Article XIII B of the California
6 Constitution.

7 However, if the Commission on State Mandates determines that
8 this act contains other costs mandated by the state, reimbursement
9 to local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

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