

Assembly Bill No. 1565

Passed the Assembly August 29, 2012

Chief Clerk of the Assembly

Passed the Senate August 28, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 20111.6 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1565, 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, for contracts awarded on and after January 1, 2014, and until January 1, 2019, would 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, to use procedures, which require a standardized questionnaire and financial statement to be verified under oath, for bidding applicable to public entities, as prescribed. This bill would require the questionnaire and uniform system of rating bidders 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 would not preclude the governing board of the district from prequalifying or disqualifying a subcontractor. This bill would provide that bidders would include the general contractor and, if utilized, all electrical, mechanical, and plumbing subcontractors. This bill would authorize the board of the district to establish a process for prequalifying prospective bidders on a quarterly or annual basis, as provided. The bill would also require the Director of Industrial Relations, on or before January 1, 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.

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

SECTION 1. Section 20111.6 is added to the Public Contract Code, to read:

20111.6. (a) This section shall apply only to public projects, as defined in subdivision (c) of Section 22002, for which the governing board of the district uses funds received pursuant to the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code) or any funds from any future state school bond for a public project that involves a projected expenditure of one million dollars (\$1,000,000) or more.

(b) If the governing board of the district enters into a contract meeting the criteria of subdivision (a), then the governing board of the district shall require that prospective bidders for a construction contract complete and submit to the board of the district a standardized prequalification questionnaire and financial statement. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection.

(c) The board of the district shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements.

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

(e) Each prospective bidder shall be furnished by the school district letting the contract with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be disregarded.

(f) A proposal form required pursuant to subdivision (e) shall not be accepted from any person or other entity that is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (b) or from any person or other entity that uses a subcontractor that is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (b), but has not done so at least 10 business days prior to the date fixed for the public opening of sealed bids or has not been prequalified for at least five business days prior to that date.

(g) The board of the district may establish a process for prequalifying prospective bidders pursuant to this section on a quarterly or annual basis and a prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(h) This section shall not preclude the governing board of the district from prequalifying or disqualifying a subcontractor.

(i) For purposes of this section, bidders shall include the general contractor and, if utilized, all electrical, mechanical, and plumbing subcontractors.

(j) If a public project covered by this section includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors shall be made available by the school district to all bidders at least five business days prior to the dates fixed for the public opening of sealed bids.

(k) For purposes of this section, electrical, mechanical, and plumbing subcontractors are contractors licensed pursuant to Section 7058 of the Business and Professions Code, specifically contractors holding C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46 licenses, pursuant to regulations of the Contractors' State License Board.

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

(m) This section shall apply only to contracts awarded on or after January 1, 2014.

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

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

(o) This section shall become inoperative on January 1, 2019, and, as of July 1, 2019, is repealed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

Approved _____, 2012

Governor