

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN SENATE MAY 11, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 600

Introduced by Senator Rubio

February 17, 2011

~~An act to amend Section 20111.5 of, and to add Section 20111.6 to, 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

SB 600, as amended, Rubio. 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 ~~contain cover~~, at a minimum, ~~substantially similar information, questions, and requirements as that of 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.

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~~

1 financial ability and experience in performing public works. The
2 questionnaire and financial statement shall be verified under oath
3 by the bidder in the manner in which civil pleadings in civil actions
4 are verified. The questionnaires and financial statements shall not
5 be public records and shall not be open to public inspection.

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

12 ~~(c) The questionnaire described in subdivision (a), and the
13 uniform system of rating bidders described in subdivision (b), shall
14 contain, at a minimum, substantially similar information, questions,
15 and requirements as that of the standardized questionnaire and
16 model guidelines for rating bidders developed by the Department
17 of Industrial Relations pursuant to subdivision (a) of Section 20101.~~

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

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

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

35 ~~(g) Nothing in this section shall preclude the governing board
36 of the district from prequalifying or disqualifying a subcontractor.
37 The disqualification of a subcontractor by the governing board of
38 the district does not disqualify an otherwise prequalified contractor.~~

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

4 *SECTION 1. Section 20111.5 of the Public Contract Code is*
 5 *amended to read:*

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

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

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

28 ~~(e)~~

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

34 ~~(d)~~

35 (e) A proposal form required pursuant to subdivision ~~(e)~~ (d)
 36 shall not be accepted from any person or other entity ~~who~~ that is
 37 required to submit a completed questionnaire and financial
 38 statement for prequalification pursuant to subdivision (a), but has
 39 not done so at least five days prior to the date fixed for the public

1 opening of sealed bids or has not been prequalified, pursuant to
2 subdivision (b), for at least one day prior to that date.

3 ~~(e)~~

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

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

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

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

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

22 20111.5. (a) *The governing board of the district may require*
23 *that each prospective bidder for a contract, as described under*
24 *Section 20111, complete and submit to the district a standardized*
25 *questionnaire and financial statement in a form specified by the*
26 *district, including a complete statement of the prospective bidder's*
27 *financial ability and experience in performing public works. The*
28 *questionnaire and financial statement shall be verified under oath*
29 *by the bidder in the manner in which civil pleadings in civil actions*
30 *are verified. The questionnaires and financial statements shall not*
31 *be public records and shall not be open to public inspection.*

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

38 (c) *Each prospective bidder on any contract described under*
39 *Section 20111 shall be furnished by the school district letting the*
40 *contract with a standardized proposal form that, when completed*

1 *and executed, shall be submitted as his or her bid. Bids not*
2 *presented on the forms so furnished shall be disregarded.*

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

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

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

16 ~~SEC. 2.~~

17 *SEC. 3.* Section 20111.6 is added to the Public Contract Code,
18 to read:

19 20111.6. (a) This section shall apply only to public projects,
20 as defined in subdivision (c) of Section 22002, for which the
21 governing board of the district uses funds received pursuant to the
22 Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5
23 (commencing with Section 17070.10) of Part 10 of Division 1 of
24 Title 1 of the Education Code) for a public project.

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

30 ~~(e) For purposes of this section, bidders shall include all~~
31 ~~subcontractors required to be listed in a bid pursuant to Section~~
32 ~~4104.~~

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

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

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

1 (f) On or before January 1, 2017, the Director of Industrial
2 Relations shall (1) submit a report to the Legislature evaluating
3 whether, during the years this section has applied to contracts,
4 violations of the Labor Code on school district projects have
5 decreased as compared to the same number of years immediately
6 preceding the enactment of this section, and (2) recommend
7 improvements to the system for prequalifying contractors and
8 subcontractors on school district projects.

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

13 ~~SEC. 3.~~

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

23 However, if the Commission on State Mandates determines that
24 this act contains other costs mandated by the state, reimbursement
25 to local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.