

Date of Hearing: March 18, 2026

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

AB 1838 (Berman) – As Introduced February 11, 2026

SUBJECT: Public contracts: local agencies: responsive bidders

SUMMARY: Requires a contractor submitting a bid to a local agency to fully disclose any history of wage-and-hour violations and provide supporting documentation, as specified.

Specifically, **this bill:**

- 1) Requires, as a condition of submitting a bid to a local agency, a contractor to fully disclose any history of wage-and-hour violations and provide supporting documentation.
- 2) Requires, at a minimum, the contractor to submit all of the following:
 - a. A written disclosure of any federal, state, or local wage-and-hour violations within the past five years, including, but not limited to, violations involving unpaid wages, overtime, meal or rest break violations, or misclassification of employees or independent contractors.
 - b. Documents demonstrating that each disclosed wage-and-hour violation has been corrected or otherwise resolved.
 - i. The documentation shall include, but is not limited to, copies of court orders, judgments, settlement agreements, or final administrative determinations, along with proof that all fines, penalties, or back wages have been paid in full.
 - c. A written statement describing all actions taken to prevent future wage-and-hour violations, which may include revised payroll practices, employee training, compliance monitoring procedures, or implementation of internal audits.
- 3) Provides that failure to provide the above required disclosures and supporting materials may result in disqualification of the bid.

EXISTING LAW:

- 1) Establishes the Department of Industrial Relations (DIR), within the Labor and Workforce Development Agency, to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment. Labor Code § 50 et seq.
- 2) Establishes that the Public Contract Code is the basis of contracts between most public entities in the state and their contractors and subcontractors. Applies the Public Contract Code to charter cities in the absence of an express exemption or a city charter provision or ordinance that conflicts with the relevant provision of this code. Public Contract Code § 1100.7.

- 3) Defines “public entity” to mean the state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state. Public Contract Code § 1100.
- 4) Defines “public works contract,” to mean an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. Public Contract Code § 1101.
- 5) Requires, if a public entity awards a contract, that it be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses. Public Contract Code § 22038.
- 6) Defines a “responsible bidder” to mean a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract. Public Contract Code § 1103.
- 7) Prohibits a public entity from permitting a contractor or subcontractor who is ineligible to bid or work on, or be awarded, a public works project pursuant to the Labor Code to bid on, be awarded, or perform work as a subcontractor on, a public works project. Public Contract Code § 6109.
- 8) Requires a contractor to be registered to be qualified to bid on, be listed in a bid proposal, or engage in the performance of any public work contract. Includes in the requirements for registration, that the contractor provide certain information, including that the contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. Provides that the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means. Labor Code § 1725.5.
- 9) Establishes the Local Agency Public Construction Act and authorizes a public entity subject to the Act to require that each prospective bidder for a contract complete and submit to the entity a standardized questionnaire and financial statement in a form specified by the entity, including a complete statement of the prospective bidder’s experience in performing public works. Requires the DIR to create a model questionnaire for public entities to use. Public Contract Code § 20100-20101.

FISCAL EFFECT: Unknown

COMMENTS: Local agencies are required to award most contracts to the lowest responsible bidder; however, local agencies are not always aware of certain information that would assist them in evaluating a contractor’s responsibility. Currently, most local agencies overseeing public works projects determine if a contractor is responsible by verifying the contractor’s public works registration and Contractors State License Board license, since the process to obtain these approvals require contractors to disclose their workers’ compensation coverage, debarment status and other information.

The DIR provides a model questionnaire that local agencies can use to prequalify public works contractors, but it is intended only as a guideline and is optional. The model questionnaire includes questions about a bidder's five-year history of wage and hour violations.

According to the author, "AB 1838 will help local agencies make informed decisions when awarding contracts by requiring bidders for public contracts to disclose any history of wage-and-hour violations within the last five years. This bill will give local agencies more information to determine if contractors bidding for public contracts are responsible and should be trusted to utilize taxpayer funds. AB 1838 will increase transparency into the use of taxpayer dollars for public works projects, protect workers and fair labor practices, and give greater transparency to local agencies and the public."

The author adds that "the construction industry is very diverse and includes sizeable representation of historically underserved populations. This bill promotes equity by increasing transparency in the use of taxpayer dollars and ensures that local agencies are aware of the labor practices of their contractors. Requiring disclosure of previous wage-and-hour violations while bidding for public contracts will ensure that taxpayer money is actually going to a responsible bidder with fair labor practices. Further, this bill encourages all contractors to improve labor practices by requiring documentation of how past violations have been addressed and how they will prevent future violations. By ensuring that local agencies have access to this information, this bill would protect all construction workers, including those from historically marginalized groups."

The author provides examples of localities that already require bidders to report their history violations of wage and hours laws, including the cities of Gilroy and San Jose.

Committee Comments

As written, the bill's language does not apply specifically to public works projects, although that is seemingly the author's intent. Additionally, clarity is needed on what constitutes a "violation" for purposes of this bill. Lastly, since settlement agreements are often confidential, they likely should be removed from the list of required documentation, or the language should clarify that only non-confidential agreements must be shared.

To address these issues, Committee staff recommend that the author consider amending the bill in the following ways in the future:

2011. (a) (1) As a condition of submitting a bid to a local agency for a public works contract pursuant to this chapter, a contractor shall fully disclose any history of wage-and-hour violations and provide supporting documentation.

(2) At a minimum, the contractor shall submit all of the following:

(A) A written disclosure of any federal, state, or local wage-and-hour violations within the past five years, including, but not limited to, violations involving unpaid wages, overtime, meal or rest break violations, or misclassification of employees or independent contractors.

(B) (i) Documents demonstrating that each disclosed wage-and-hour violation has been corrected or otherwise resolved.

(ii) The documentation shall include, but is not limited to, copies of court orders, judgments, ~~settlement agreements~~, or final administrative determinations, along with proof that all fines, penalties, or back wages have been paid in full.

(C) A written statement describing all actions taken to prevent future wage-and-hour violations, which may include revised payroll practices, employee training, compliance monitoring procedures, or implementation of internal audits.

(b) Failure to provide the required disclosures and supporting materials pursuant to this section may result in disqualification of the bid.

(c) (1) For purposes of this section, “violation” means a final judgment, order, or determination by a court or any federal, state, or local administrative agency finding the contractor liable for owed wages or related damages, interest, fines, or penalties.

(2) A contractor shall not be disqualified for any judgment, order or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

Arguments in Support

The California-Nevada Conference of Operating Engineers and the District Council of Iron Workers, co-sponsors of the measure, state that, “while existing law prohibits awarding bodies from awarding contracts to debarred or suspended contractors, awarding agencies have few tools available to assess a contractor’s previous history with wage and hour violations, which can and should be a critical component of determining if a contractor can be trusted to properly utilize taxpayer funds.

It’s important to note that various localities including the City of Gilroy and the City of San Jose have internally taken steps to require contractors to disclose in their bid documents whether they have been found to have violated federal, state, or local wage and hours law as a mechanism to assist in determining if a contractor is responsible and can be entrusted with public monies.

Further, this information is also included as part of the Department of Industrial Relations pre-qualification model questionnaire that has been developed for localities seeking to pre-qualify contractors for their construction projects. DIRs model questionnaire outlines the importance of wage theft history as an indicator of contractor responsibility.”

Arguments in Opposition

The Western Electrical Contractors Association is opposed unless amended and states that “AB 1838 as currently drafted would establish a disclosure requirement that applies unevenly across the construction industry, while failing to address well-known enforcement gaps that exist on certain projects performed under project labor agreements (PLAs)...contractors working on non-PLA projects will be required to disclose enforcement actions that are publicly documented, while contractors working under PLAs may resolve similar violations privately through grievance procedures that produce no public record at all. In other words, AB 1838 risks creating a disclosure regime that penalizes transparency while shielding violations resolved through private labor-management arrangements. If the Legislature’s goal is meaningful transparency in

public contracting, the disclosure requirements must apply equally regardless of how a violation is resolved.

To correct this imbalance, WECA respectfully requests the bill be amended to require disclosure of wage-and-hour violations resolved through private grievance or arbitration procedures, including those arising under collective bargaining agreements or project labor agreements.”

Prior Legislation

SB 458 (Gonzalez) of 2023 would have required local agencies to publish a database of their contracts online. Died in the Senate Governance and Finance Committee.

AB 2762 (Carrillo), Chapter 654, Statutes of 2018, authorized, effective January 1, 2019, through January 1, 2024, a specified local agency to establish a disabled veteran business preference and a social enterprise preference for use in a public contract awarded to the lowest responsible bidder.

AB 2844 (Bloom), Chapter 581, Statutes of 2016, required a person who submits a bid or proposal to enter into, or renew, a contract of \$100,000 or more with a state agency to certify the following, under penalty of perjury: 1) They are in compliance with the California Fair Employment and Housing Act (FEHA) and the Unruh Civil Rights Act (Unruh Act) and, 2) Any policy that they have against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, is not used to discriminate in violation of the FEHA or the Unruh Act.

REGISTERED SUPPORT / OPPOSITION:

Support

International Union of Operating Engineers, California-Nevada Conference (Sponsor)
American Federation of State, County and Municipal Employees, AFL-CIO
California Federation of Labor Unions, AFL-CIO
California State Association of Electrical Workers
California State Council of Service Employees International Union
California State Pipe Trades Council
District Council 16, International Union of Painters and Allied Trades
State Building & Construction Trades Council of California
Teamsters California
Western States Council Sheet Metal, Air, Rail and Transportation

Opposition

Western Electrical Contractors Association (Oppose Unless Amended)

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