
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

2025 - 2026 Regular

Bill No: AB 1838
Author: Berman
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Fiscal: Yes
Consultant: Vargas

PUBLIC CONTRACTS: LOCAL AGENCIES: RESPONSIVE BIDDERS

Requires a contractor submitting a bid to a local agency to fully disclose any history of wage and hour violations and provide supporting documentation.

Background

Current law generally requires state agencies and local governments to award most public contracts to the lowest responsible bidder. Most local agencies overseeing public works projects determine if a contractor is responsible by verifying the contractor's public works registration and their Contractors State License Board license. To obtain these approvals and licenses, contractors must disclose their worker's compensation coverage, barring status and other information.

Public works pre-qualification of contractors. In 1999, the Legislature allowed many public agencies to require licensed contractors that wish to bid for public works jobs to "pre-qualify" for the right to bid (AB 574, Hertzberg). AB 574 also directed the Department of Industrial Relations (DIR) to develop a model guideline for rating bidders and draft the standardized questionnaire for public agencies. AB 574 established two different kinds of pre-qualification procedures for public works projects. Specifically, a public agency may either establish:

- A pre-qualification procedure linked to a single project; or
- A procedure in which a contractor may qualify to bid on projects which are put out to bid by that agency for a period of one year after the date of initial pre-qualification.

In 2016, the Labor Commissioner held a series of meetings with key stakeholders to update and enhance the model questionnaire and rating system. The model questionnaire that local agencies can use to prequalify public works contractors is only intended to be a guideline and is optional. The current model questionnaire includes questions about a bidder's five-year history of wage and hour violations.

The International Union of Operating Engineers and the District Council of Iron Workers want contractors to disclose any wage and hour violations as a condition of submitting a bid to a local agency for a public works contract.

Proposed Law

Assembly Bill 1838 requires a contractor, as a condition of submitting a bid to a local agency for a public works contract, to fully disclose any history of wage and hour violations and provide supporting documentation.

To the extent applicable, the contractor must submit the following:

- A written disclosure of any federal, state or local wage and hour violations within the past five years, including violations involving unpaid wages, overtime, meal or rest break violations, or misclassification of employees or independent contractors; and
- Documents demonstrating that each disclosed wage and hour violation has been corrected or otherwise resolved which can include, copies of court orders, judgements, or final administrative determinations, along with proof that all fines, penalties, or back wages have been paid in full.

The bill also states that a contractor that fails to provide the required disclosures and supporting materials could face disqualification of their bid. However, the local agency must establish a process that allows a contractor to appeal a bid disqualification. The process must:

- Include a written notification to the contractor from the local agency regarding the basis for the contractor's disqualification and any supporting evidence, as specified; and
- Allow the contractor to rebut any evidence used as a basis for disqualification and to present evidence to the public entity that supports why the contractor should be found qualified.

If the contractor elects to not avail themselves of this process, the proposed bid disqualification may be adopted without further proceedings.

AB 1838 defines a violation to mean 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. However, a contractor cannot be disqualified while any judgement, order, or determination is under appeal, as long as the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

The bill's requirements do not apply to a public works contract that is covered by a project labor agreement or a project for which the local agency already requires contractors to prequalify by disclosing all wage and hour violations within the past five years.

Comments

1. Purpose of the bill. 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."

2. Protections. A project labor agreement (PLA) is a pre-hire collective bargaining agreement between two entities and helps establish uniform terms and conditions of employment for workers on a construction project. AB 1838 excludes contracts subject to a PLA. This makes sense because PLAs typically include provisions related to wages, benefits, dispute resolution, and workforce standards and are designed to promote labor stability and ensure compliance with applicable labor standards.

3. Balancing act. AB 1838 gives local agencies the ability to collect and review disclosures relating to a contractor’s wage and hour violations history, as well as evidence of corrective actions the contractor took over the last five years. While the bill intends to provide local agencies with additional information when evaluating prospective contractors, it may also create new administrative responsibilities for them. Depending on the volume and complexity of the disclosures received, this could result in additional administrative costs. The bill tries to balance these new conditions on contractors submitting bids on public works contracts causing additional due diligence by the local agency while ensuring local agencies have all the information against any potential harm to workers.

4. Let’s get technical. Committee staff suggest the following technical amendments to AB 1838:

- Specify the “supporting documentation” that a contractor must provide as a condition of submitting a bid to mean the documentation required by the bill; and
- Replace the term “public entity” with local agency to keep it consistent throughout the bill.

5. Coming and going. The Senate Rules Committee has ordered a double referral of AB 1838: first to the Committee on Local Government to hear issues related to local government powers, and second to the Committee on Labor, Public Employment, and Retirement.

Assembly Actions

Assembly Labor and Employment:	7-0
Assembly Floor:	62-7

Support and Opposition (6/5/2026)

Support: International Union of Operating Engineers, Cal-nevada Conference (Sponsor)
 District Council of Iron Workers (Co-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 Pipe Trades Council
 County of San Mateo
 District Council 16, International Union of Painters and Allied Trades
 District Council 36, International Union of Painters and Allied Trades
 El Dorado Irrigation District
 Filoli
 Seiu California
 State Building and Construction Trades Council
 Teamsters California
 Valley Sanitary District
 Western States Council Sheet Metal, Air, Rail and Transportation

Opposition: Associated General Contractors, California Chapters
 Western Electrical Contractors Association