
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 1838 (Berman) - Public contracts: local agencies: responsive bidders

Version: June 11, 2026

Urgency: No

Hearing Date: June 29, 2026

Policy Vote: L.GOV. 5 - 2, L.,P.E.&R. 4- 1

Mandate: Yes

Consultant: Mark McKenzie

Bill Summary: AB 1838 would require contractors that submit bids to local agencies for public works contracts to disclose any history of wage and hour violations within the previous five years and provide supporting documentation, as specified. The bill would authorize local agencies to disqualify contractor bids for failure to provide this information, and require local agencies to establish and administer a specified bid disqualification appeal process.

Fiscal Impact:

- Unknown state-mandated local costs. By requiring local agencies to establish and administer a bid disqualification appeals process, this bill imposes a state-mandated local program. One-time and ongoing local costs related to this requirement are unknown, but potentially significant in the aggregate, and would depend upon the frequency and individual circumstances of contractor appeals. These local costs may be state-reimbursable, subject to a determination by the Commission on State Mandates. (General Fund)

Background: Existing law generally requires public agencies that solicit bids to contract out for public works projects to award contracts to the lowest responsible bidder. All contractors and subcontractors that bid on and engage in the performance of any public works contract must be registered with the Department of Industrial Relations (DIR) by paying an annual fee, and demonstrating proof of workers' compensation coverage and licensure with the Contractors State License Board (CSLB). In addition, contractors cannot have any delinquent unpaid wage or penalty assessments, or be under federal or state debarment, as specified. Local agencies, when awarding contracts, determine whether a contractor is a "responsible bidder" by verifying their public works registration with DIR and CSLB license.

Existing law, as enacted by AB 574 (Hertzberg, 1999), authorizes cities, counties, and special districts (but not K-12 school districts) to require contractors bidding on public works contracts to "pre-qualify" for the right to bid, which may apply to a single contract or qualify contractors to bid on projects for a one-year period. Local agencies that opt to use this prequalification process must use a standardized form developed by DIR, adopt a uniform system of rating bidders using objective criteria, which may be based on model guidelines developed by DIR, and create a universal appeal procedure that allows a contractor that is denied prequalification to seek a reversal of that decision. DIR released an updated questionnaire in 2018, after meeting and consulting with key stakeholders, that includes questions about a bidder's five-year history of wage and hour violations.

Proposed Law: AB 1838 would require 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 by submitting the following:

- A written disclosure of any federal, state, or local wage and hour violations within the past five years, as specified.
- Documents demonstrating that each disclosed wage and hour violation has been corrected or otherwise resolved, including copies of any court orders, judgments, or final administrative determinations, and proof that all fines, penalties, or back wages have been paid in full.

The bill would authorize a local agency to disqualify a bid if a contractor fails to provide the required disclosures and supporting materials, but a contractor cannot be disqualified for any judgment, order, or determination that is under appeal if it has secured the payment of any amount eventually found due through a bond or other appropriate means. The bill would also require a local agency to establish a process that allows a contractor to appeal a bid disqualification and ensure the process complies with all of the following:

- The process includes a written notification to the contractor regarding the basis for disqualification and any supporting evidence, including disclosures submitted to the local agency or adduced through an investigation by the local agency.
- The contractor must be provided with the opportunity to rebut any evidence used as the basis for disqualification and present evidence that supports why the contractor should be found qualified.
- The local agency may adopt the proposed bid disqualification without further proceedings if the contractor opts out of the appeal process.

The bill's requirements would 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, as specified.

Staff Comments: As noted above, this bill imposes a state-mandated local program by requiring local agencies (including cities, counties, special districts, and school districts) to establish and administer a specified bid disqualification appeal process. Local agencies would incur one-time costs to establish processes and procedures related to the conduct of the notice and appeal requirements, as well as ongoing costs for staff time to administer this process. Costs for several thousand local agencies to comply with these requirements are unknown, but likely significant in the aggregate. These costs may be reimbursable from the state General Fund, to the extent a local agency files a successful claim for reimbursement with the Commission on State Mandates.

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