

THIRD READING

Bill No: AB 1838
Author: Berman (D)
Amended: 6/11/26 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 5-2, 6/10/26
AYES: Durazo, Arreguín, Ashby, Cervantes, Laird
NOES: Choi, Seyarto

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/17/26
AYES: Smallwood-Cuevas, Cortese, Durazo, Laird
NOES: Strickland

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/13/26
AYES: Cervantes, Cabaldon, Dahle, Grayson, Richardson, Wahab
NOES: Seyarto

ASSEMBLY FLOOR: 62-7, 4/20/26 - See last page for vote

SUBJECT: Public contracts: local agencies: responsive bidders

SOURCE: International Union of Operating Engineers, Cal-Nevada Conference,
District Council of Iron Workers

DIGEST: This bill requires a contractor submitting a bid to a local agency to fully disclose any history of wage and hour violations and provide supporting documentation.

ANALYSIS:

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.

- 2) Defines “public works,” for the purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds.
- 3) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a “public works” project costing over \$1,000 dollars and imposes misdemeanor penalties for violation of this requirement.
- 4) Requires contractors and subcontractors to register with the DIR, as specified, to be qualified to bid on, be listed in a bid proposal, or engage in the performance for any public work contract.
- 5) Provides 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.
- 6) 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.
- 7) 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.
- 8) 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.
- 9) 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.

- 10) Establishes the Local Agency Public Construction Act which authorizes a public entity to require 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 DIR to develop a model questionnaire that may be used by public entities, as specified.
- 11) Requires any public entity requiring prospective bidders to complete and submit questionnaires and financial statements to adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, as specified.
- 12) Requires any public entity requiring prospective bidders on a public works project to prequalify pursuant to 10) to establish a process that will allow prospective bidders to dispute their proposed prequalification rating prior to the closing time for receipt of bids, as specified.

This bill:

- 1) 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;
- 2) Requires, to the extent applicable, the contractor to submit the following:
 - a) 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
 - b) 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.
- 3) Provides that failure to provide the required disclosures and supporting materials pursuant to these provisions may result in disqualification of the bid;
- 4) Requires a local agency to establish a process that allows a contractor to appeal a bid disqualification for failure to comply with these provisions and to ensure that the process complies with all of the following:

- a) The process shall include a written notification to the contractor regarding the basis for the contractor's disqualification and any supporting evidence, including any disclosures submitted to the local agency or adduced as a result of an investigation by the local agency.
 - b) The contractor shall be given the opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the local agency that supports why the contractor should be found qualified.
 - c) If the contractor elects to not avail themselves of this process, the proposed bid disqualification may be adopted without further proceedings.
- 5) Provides that these provisions do not apply to either of the following:
- a) A public works contract that is covered by a project labor agreement,
 - b) A project for which a local agency requires contractors, as a condition of bidding, to prequalify by disclosing all wage and hour violations within the past five years,
- 6) 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;
- a) However, specifies that 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.

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), Chapter 972, Statutes of 1999). 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.

Comments

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."

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.

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 this 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. This 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to Senate Appropriations Committee:

- 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)

SUPPORT: (Verified 8/13/26)

International Union of Operating Engineers, Cal-Nevada Conference (Source)

District Council of Iron Workers (Co-Source)

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: (Verified 8/13/26)

Associated General Contractors, California Chapters

Valley Industry and Commerce Association

Western Electrical Contractors Association

ASSEMBLY FLOOR: 62-7, 4/20/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Davies, Elhawary, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Wicks, Wilson, Zbur, Rivas

NOES: DeMaio, Dixon, Gallagher, Hadwick, Macedo, Sanchez, Tangipa

NO VOTE RECORDED: Bonta, Castillo, Ellis, Flora, Hoover, Johnson, Lackey, Patterson, Celeste Rodriguez, Ta, Ward

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