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HOUSE BILL 2042

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Dunshee and Zeiger

Read first time 03/31/11. Referred to Committee on Capital Budget.

1            AN ACT Relating to establishing a preference for resident  
2 contractors on public works; adding a new section to chapter 39.04 RCW;  
3 and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 39.04 RCW  
6 to read as follows:

7            (1) The department of general administration must conduct a survey  
8 to determine which states provide a preference for its resident  
9 contractors bidding on public works projects, and provide details on  
10 the type of preference, the amount of the preference, and how the  
11 preference is applied. The survey must be completed by November 1,  
12 2011, and by December 1, 2011, the department must submit a report to  
13 the appropriate committees of the legislature on the results of the  
14 survey. The report must also include recommendations necessary to  
15 implement the intent of this section and section 2 of this act.

16            (2) The department of general administration must distribute the  
17 results of the survey, along with the requirements of this section and  
18 section 2 of this act, to all state and local agencies with the  
19 authority to procure public works. The department may adopt rules and

1 procedures to implement the reciprocity requirements in subsection (3)  
2 of this section or may determine that such rules and procedures are not  
3 necessary to implement the intent of this section and section 2 of this  
4 act.

5 (3) In any bidding process for public works in which a bid is  
6 received from a nonresident contractor from a state that provides a  
7 percentage bidding preference, a comparable percentage disadvantage  
8 must be applied to the bid of that nonresident contractor. This  
9 subsection does not take effect until the department of general  
10 administration has adopted the rules and procedures for reciprocity  
11 under subsection (2) of this section.

12 (4) A nonresident contractor from a state that provides a  
13 percentage bid preference means a contractor that:

14 (a) Is not registered or licensed, or otherwise legally authorized  
15 to perform public works construction in Washington; and

16 (b) At the time of bidding on a public works project, does not have  
17 a physical office located in Washington.

18 (5) The state of residence for a nonresident contractor shall be  
19 the state in which the contractor was incorporated or, if not a  
20 corporation, the state where the contractor's business entity was  
21 formed.

22 (6) This section does not apply to public works procured pursuant  
23 to RCW 39.04.155 or 39.04.280, or any other procurement where  
24 competitive bidding is exempt.

25 NEW SECTION. **Sec. 2.** If any part of this act is found to be in  
26 conflict with federal requirements that are a prescribed condition to  
27 the allocation of federal funds to the state, the conflicting part of  
28 this act is inoperative solely to the extent of the conflict and with  
29 respect to the agencies directly affected, and this finding does not  
30 affect the operation of the remainder of this act in its application to  
31 the agencies concerned. Rules adopted under this act must meet federal  
32 requirements that are a necessary condition to the receipt of federal  
33 funds by the state.

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