

HOUSE BILL REPORT

HB 1089

As Reported by House Committee On: State Government

Title: An act relating to adding adherence to state wage payment laws to the state's responsible bidder criteria.

Brief Description: Adding adherence to state wage payment laws to the state's responsible bidder criteria.

Sponsors: Representatives S. Hunt, Moscoso, Robinson, Tarleton, Gregerson and Pollet; by request of Attorney General.

Brief History:

Committee Activity:

State Government: 1/20/15, 1/22/15 [DPS].

Brief Summary of Substitute Bill

- Expands responsible bidder criteria to include compliance with state wage laws.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives S. Hunt, Chair; Bergquist, Vice Chair; Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member; Appleton, Gregory and Hawkins.

Staff: Marsha Reilly (786-7135).

Background:

Bidders for public works and goods-and-services contracts must meet responsibility criteria in order to be qualified for the contract.

In order to be considered a responsible bidder for a public works contract, the bidder must:

- be a registered contractor;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- have a current state unified business identifier number;
- have, if applicable, industrial insurance coverage for employees, an Employment Security Department number, and a state excise tax registration number;
- not be disqualified from bidding due to violations on a previous contract including: not being registered, not obtaining the state unified business identifier number for a subcontractor, or prevailing wage violations;
- if the project is subject to the apprenticeship training program, not be disqualified due to violations of that program; and
- not have violated more than one time the requirements to submit to the Department of Labor and Industries (L&I) information about off-site, prefabricated, nonstandard, project-specific items produced under the terms of a previous contract.

To be determined a responsible bidder for a contract for goods and services, the agency must consider:

- the ability of the bidder to perform the contract or provide the requested services;
- the character, integrity, reputation, judgment, experience and efficiency of the bidder;
- whether the bidder can perform the contract within the time specified;
- the quality of performance of previous contracts or services;
- the previous and existing compliance by the bidder with laws relating to the contract or services; and
- other applicable information.

Summary of Substitute Bill:

In order to be considered a responsible bidder for purposes of award of a public works or goods-and-services contract, a bidder must not have willfully violated or violated more than one time in the prior three years minimum wage laws, payment of wages laws, or wage deductions, contributions, and rebate laws as determined by the L&I or through a civil judgment entered by a court of limited general jurisdiction.

To meet the responsibility criteria for purposes of compliance with wage laws, the bidder must submit a signed statement in conformance with statutory standards for a sworn statement, prior to award of the contract. The statement must verify, under penalty of perjury, that the bidder is in compliance with wage laws. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.

Substitute Bill Compared to Original Bill:

A violation of wage laws is expressed as a determination the L&I or the entry of a civil judgment by a court of limited or general jurisdiction. The signed statement must be submitted before the award of contract and must be in accordance with the statutory standards of a sworn statement.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The aim of the bill is to make sure the state is not doing business with people who are violating the rights of workers and who are not in compliance with current law. The bill supports businesses that play by the rules. Under current law, there is no requirement to adhere to state wage laws. The federal government and several states have recently adopted similar laws. There is some revised language to the bill that provides better clarity regarding violations and clarifies that a sworn statement does not have to happen at the time of bid submittal, but before contract is awarded.

(Opposed) The Associated General Contractors appreciate the spirit of the bill, to keep bad actors from participating in the state's procurement process, but it cannot support the bill in its current form. Language needs to be clarified, such as defining what "violated" means and linking it to a civil judgment.

Persons Testifying: (In support) Travis Alley, Office of the Attorney General.

(Opposed) Jerry Vanderwood, Associated General Contractors.

Persons Signed In To Testify But Not Testifying: None.