

SENATE BILL REPORT

SB 5662

As of February 12, 2011

Title: An act relating to establishing a preference for resident contractors on public works.

Brief Description: Establishing a preference for resident contractors on public works.

Sponsors: Senators Conway, Chase, Kline, Shin, Keiser, Kohl-Welles, White, Roach, Hobbs, Nelson, Prentice, Haugen and Fraser.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/15/11.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Mac Nicholson (786-7445)

Background: Contracts for public works projects are generally awarded to the responsible bidder submitting the lowest responsive bid. A responsible bidder must be licensed; have a current state unified business identifier number; if applicable; have industrial insurance coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number; and not be disqualified from bidding based on noncompliance with licensing requirements, state apprenticeship requirements, or prevailing wage violations.

Summary of Bill: Resident contractors are given a preference of 7 percent by the state or municipality when determining lowest responsible bidder.

A resident contractor is a contractor certified by the Department of General Administration (GA) as:

- being a registered contractor or licensed electrical contractor;
- maintaining a staffed place of business in Washington for the six months preceding the date of bid;
- paying residents at at least 85 percent of payroll, or having residents make up at least 85 percent of the total employees; and
- being incorporated or organized to do business in Washington with owners or partners being in-state residents.

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.

GA is to develop application forms for contractors seeking certification as resident contractors. Contractors meeting the resident contractor qualification criteria are issued a certification number, which can be revoked when the contractor no longer meets the qualifications of a resident contractor.

A contractor that is awarded a public works contract based on a resident contractor preference secured with false information is subject to:

- an assessment equal to the difference between the contract amount and what the state's cost would have been had the contract been properly awarded;
- a civil penalty of \$1,000 or 10 percent of the contract amount, whichever is less; and
- an ineligibility period of six months to three years, during which the contractor cannot directly or indirectly transact any business with the state.

Contractors that knowingly, and with intent to defraud, make a false statement, fail to provide, or conceal any material information for the purpose of obtaining a resident contractor preference are subject to a civil penalty of \$10,000 or 10 percent of the contract amount, whichever is greater.

A contractor subject to sanction may request a hearing within 30 days. The Attorney General may recover final assessments or penalties from contractors who fail to pay.

Appropriation: None.

Fiscal Note: Requested on February 9, 2011.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.