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AB-2031 Public contracts: school facility projects: bidding requirements. (2017-2018)

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Assembly Bill No. 2031

CHAPTER 534

An act to amend Section 20111.6 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2031, O'Donnell. Public contracts: school facility projects: bidding requirements.

Existing law requires a prospective bidder for a construction contract for certain school facility projects to submit a prequalification questionnaire and financial statement, under oath, as part of the bidding process and requires each prospective bidder to submit a bid by completing and executing a standardized proposal form. Existing law requires the Director of Industrial Relations to submit a report to the Legislature, by January 1, 2018, on whether violations of the Labor Code on school district projects have decreased during the years these provisions are applicable to contracts. Existing law makes all of the above-specified provisions inoperative on January 1, 2019, and repeals them on July 1, 2019.

This bill would extend the operation of the bill's provisions indefinitely and would eliminate the reporting requirement. By extending the operation of the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 20111.6 of the Public Contract Code is amended to read:

20111.6. (a) This section applies only to public projects, as defined in subdivision (c) of Section 22002, for which the governing board of the school district uses funds received pursuant to the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code) or any funds received, including funds reimbursed, from any future state school bond for a public project that involves a projected expenditure of one million dollars (\$1,000,000) or more.

(b) If the governing board of the school district enters into a contract meeting the criteria of subdivision (a), then the governing board of the school district shall require that prospective bidders for a construction contract complete and submit to the governing board of the school district a standardized prequalification questionnaire and financial statement. The questionnaire and financial

statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements are not public records and shall not be open to public inspection.

(c) The governing board of the school district shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements. This system shall also apply to a person, firm, or corporation that constructs a building described in Section 17406 or 17407 of the Education Code.

(d) The questionnaire and financial statement described in subdivision (b), and the uniform system of rating bidders described in subdivision (c), shall cover, at a minimum, the issues covered by the standardized questionnaire and model guidelines for rating bidders developed by the Department of Industrial Relations pursuant to subdivision (a) of Section 20101.

(e) Each prospective bidder shall be furnished by the school district letting the contract with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be disregarded.

(f) A proposal form required pursuant to subdivision (e) shall not be accepted from any person or other entity that is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (b) or from any person or other entity that uses a subcontractor that is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (b), but has not done so at least 10 business days before the date fixed for the public opening of sealed bids or has not been prequalified for at least five business days before that date. The school district may require the completed questionnaire and financial statement for prequalification to be submitted more than 10 business days before the fixed date for the public opening of sealed bids. The school district may also require the prequalification more than five business days before the fixed date.

(g) (1) The governing board of the school district may establish a process for prequalifying prospective bidders pursuant to this section on a quarterly or annual basis and a prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(2) The governing board of the school district shall establish a process to prequalify a person, firm, or corporation, including, but not limited to, the prime contractor and, if used, an electrical, mechanical, and plumbing subcontractor, to construct a building described in Section 17406 or 17407 of the Education Code on a quarterly or annual basis. A prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(h) This section does not preclude the governing board of the school district from prequalifying or disqualifying a subcontractor of any specialty classification described in Section 7058 of the Business and Professions Code.

(i) For purposes of this section, bidders shall include both of the following:

(1) A prime contractor, as defined in Section 4113, that is either of the following:

(A) A general engineering contractor described in Section 7056 of the Business and Professions Code.

(B) A general building contractor described in Section 7057 of the Business and Professions Code.

(2) If utilized, each electrical, mechanical, and plumbing contractor, whether as a prime contractor or as a subcontractor, as defined in Section 4113.

(j) If a public project covered by this section includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors shall be made available by the school district to all bidders at least five business days before the dates fixed for the public opening of sealed bids. The school district may require the list to be made available more than five business days before the fixed dates for the public opening of sealed bids.

(k) For purposes of this section, electrical, mechanical, and plumbing subcontractors are contractors licensed pursuant to Section 7058 of the Business and Professions Code, specifically contractors holding C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46 licenses, pursuant to regulations of the Contractors' State License Board.

(l) This section does not apply to a school district with an average daily attendance of less than 2,500.

(m) (1) This section applies only to contracts awarded on or after January 1, 2014.

(2) The amendments made to this section by Chapter 408 of the Statutes of 2014 apply only to contracts awarded on or after January 1, 2015.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.