

# SENATE BILL REPORT

## SB 5301

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As Reported by Senate Committee On:  
State Government, February 8, 2017

**Title:** An act relating to the inclusion of repeat and willful violations of chapters 49.46, 49.48, and 49.52 RCW to the state's responsible bidder criteria.

**Brief Description:** Including repeat and willful violations of certain state laws to the state's responsible bidder criteria. **[Revised for 1st Substitute:** Including willful violations of certain state laws to the state's responsible bidder criteria.]

**Sponsors:** Senators Miloscia, Hunt, Hasegawa, Chase and Conway; by request of Attorney General.

**Brief History:**

**Committee Activity:** State Government: 1/27/17, 2/08/17 [DPS].

**Brief Summary of Substitute Bill**

- Amends the state's responsible bidder criteria in the public works and procurement statutes to require consideration of a company's compliance with the state's wage laws over the previous three years.

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### SENATE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** That Substitute Senate Bill No. 5301 be substituted therefor, and the substitute bill do pass.

Signed by Senators Miloscia, Chair; Zeiger, Vice Chair; Hunt, Ranking Minority Member; Kuderer and Pearson.

**Staff:** Melissa Van Gorkom (786-7491)

**Background:** Public Works Responsible Bidder Criteria. Public works projects include construction, building, renovation, remodeling, alteration, repair, or improvement of real property. Most public agencies are required to award public works contracts to the lowest responsible bidder or the responsible bidder who submits the lowest responsive bid.

In order to be considered a responsible bidder, the bidder must have:

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*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.*

- a certificate of registration at the time of bid submission;
- a current state unified business identifier number; and
- if applicable, worker's compensation coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number.

In addition, the bidder must not be currently disqualified from bidding on any public works contracts.

Under current statute, the state's basic minimum wage and wage payment laws are not considered for public work contracts.

Procurement Responsible Bidder Criteria. Department of Enterprise Services (DES) is responsible for the development and oversight of policy for the procurement of goods and services by all state agencies. DES adopts uniform policies and procedures for the effective and efficient management of contracts by all state agencies.

Agencies are required to award the purchase contract to the lowest responsible bidder or the responsible bidder who submits the lowest responsive bid. In determining whether or not the bidder is a responsible bidder, the agency must consider:

- the ability of the bidder to perform the contract or provide the service required;
- 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 relevant information.

**Summary of Bill (First Substitute):** The state's responsible bidder criteria are amended. Agencies must consider whether a final and binding citation and notice of assessment has been issued by the Department of Labor and Industries or through a civil judgment that the bidder willfully violated any provision of the state's wage laws in the three years before the date of the bid solicitation.

Bidders are required to submit a signed statement verifying under penalty of perjury that they are in compliance with the responsible bidder criteria requirement for the state's wage laws. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.

**EFFECT OF CHANGES MADE BY STATE GOVERNMENT COMMITTEE (First Substitute):**

- Removes repeat violations from consideration under the state's responsible bidder criteria, requiring that only willfully violated provisions of the state's wage laws in the three years before the date of the bid solicitation are considered.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Government has the responsibility to keep all bidders responsible. The intent is to ensure that anyone who is knowingly or intentionally violating state laws are not rewarded through government contracts.

OTHER: This may cause some undue hardship for companies. Recommend leaving the language at willful, as defined in the bill, or removing the allowance for outside entity complaints to be considered.

**Persons Testifying:** PRO: Senator Mark Miloscia, Prime Sponsor; Mike Webb, Office of the Attorney General; Amanda Goss, Office of the Attorney General.

OTHER: Gary Smith, Independent Business Association.

**Persons Signed In To Testify But Not Testifying:** No one.