

SENATE BILL 5176

State of Washington

52nd Legislature

1991 Regular Session

By Senators Vognild, Patterson, Owen, Matson, Conner, Sutherland, Moore, Rasmussen, Wojahn and Gaspard.

Read first time January 22, 1991. Referred to Committee on Governmental Operations.

1 AN ACT Relating to establishing preferences for in-state
2 contractors in contracts for public works and for public purchase of
3 goods; and adding a new chapter to Title 39 RCW.

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

5 NEW SECTION. **Sec. 1.** Unless the context requires otherwise,
6 the definitions in this section apply throughout this chapter.

7 (1) "Department" means the department of general administration.

8 (2) "Public agency" means the state of Washington and all
9 departments, commissions, agencies, and political subdivisions of the
10 state as defined in RCW 39.04.010.

11 (3) "Public works" means all work as defined in RCW 39.04.010.

12 (4) "Nonresident bidder" means a bidder whose residence is not in
13 Washington, as determined in section 2 of this act.

14 (5) "Resident bidder" means a bidder whose residence is in
15 Washington, as determined in section 2 of this act.

1 NEW SECTION. **Sec. 2.** (1) For the purposes of this section,
2 the word "resident" shall include actual residence of an individual
3 within this state for a period of more than one year immediately prior
4 to bidding.

5 (2) In a partnership or an association, the majority of all
6 partners or association members shall have been actual residents of the
7 state of Washington for more than one year immediately prior to
8 bidding.

9 (3) Domestic corporations organized under the laws of the state of
10 Washington are prima facie eligible to bid as residents, but this
11 qualification may be set aside and a successful bid disallowed when it
12 is shown to the satisfaction of the board, commission, officer, or
13 individual charged with the responsibility for the execution of the
14 contract that the corporation is a wholly owned subsidiary of a foreign
15 corporation or that the corporation was formed for circumventing the
16 provisions relating to residence.

17 NEW SECTION. **Sec. 3.** (1) To provide for an orderly
18 administration of the business of the state of Washington in awarding
19 public contracts for public works, a public agency shall award a public
20 works contract to the lowest responsible resident bidder whose bid does
21 not exceed ten percent over the lowest responsible nonresident bidder.

22 (2) The preference in this section applies:

23 (a) Whether the law requires advertisement for bids; and

24 (b) To contracts involving funds obtained from the federal
25 government unless expressly prohibited by the laws of the United States
26 or regulations enacted pursuant thereto.

27 NEW SECTION. **Sec. 4.** (1) The department shall determine
28 whether certain contractors, registered under chapter 18.27 RCW, are

1 residents of the state of Washington within the meaning of sections 2
2 and 3 of this act. Any public agency charged by law with the
3 responsibility for the execution of any contract subject to the
4 provisions of section 3 of this act may request that a determination of
5 resident/nonresident status be made by the department. All requests
6 must specify the name and address of the registered public contractor
7 for whom a determination of resident/nonresident status is required.

8 (2) If a determination is made that a licensed public contractor is
9 not a resident but the contractor thereafter qualifies as a resident,
10 the contractor may apply to the department for a redetermination of
11 residency. If, upon redetermination, the registered public contractor
12 is found to qualify as a resident, the contractor shall be furnished a
13 letter by the department attesting to resident status.

14 (3) The determination of the department that a registered public
15 contractor is or is not a resident within the meaning of sections 2 and
16 3 of this act is prima facie evidence of that fact.

17 NEW SECTION. **Sec. 5.** Public agencies may not show any
18 partiality or favoritism in making awards or contracts and must be
19 absolutely fair and impartial. If the bids offered are the same,
20 preference shall be given to resident bidders as defined in section 2
21 of this act over nonresident bidders.

22 NEW SECTION. **Sec. 6.** The department shall adopt rules
23 necessary to administer this chapter. All public agencies are subject
24 to this chapter.

25 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
26 constitute a new chapter in Title 39 RCW.