

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5662

Chapter 345, Laws of 2011

62nd Legislature
2011 Regular Session

PUBLIC WORKS--RESIDENT CONTRACTOR PREFERENCE

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 21, 2011
YEAS 35 NAYS 12

BRAD OWEN

President of the Senate

Passed by the House April 15, 2011
YEAS 93 NAYS 2

FRANK CHOPP

Speaker of the House of Representatives

Approved May 12, 2011, 2:37 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5662** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 13, 2011

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5662

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Ways & Means (originally sponsored by Senators Conway, Chase, Kline, Shin, Keiser, Kohl-Welles, White, Roach, Hobbs, Nelson, Prentice, Haugen, and Fraser)

READ FIRST TIME 02/25/11.

1 AN ACT Relating to establishing a preference for resident
2 contractors on public works; adding a new section to chapter 39.04 RCW;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW
6 to read as follows:

7 (1) The department of general administration must conduct a survey
8 and compile the results into a list of which states provide a bidding
9 preference on public works contracts for their resident contractors.
10 The list must include details on the type of preference, the amount of
11 the preference, and how the preference is applied. The list must be
12 updated periodically as needed. The initial survey must be completed
13 by November 1, 2011, and by December 1, 2011, the department must
14 submit a report to the appropriate committees of the legislature on the
15 results of the survey. The report must include the list and
16 recommendations necessary to implement the intent of this section and
17 section 2 of this act.

18 (2) The department of general administration must distribute the
19 report, along with the requirements of this section and section 2 of

1 this act, to all state and local agencies with the authority to procure
2 public works. The department may adopt rules and procedures to
3 implement the reciprocity requirements in subsection (3) of this
4 section. However, subsection (3) does not take effect until the
5 department of general administration has adopted the rules and
6 procedures for reciprocity under subsection (2) of this section or
7 announced that it will not be issuing rules or procedures pursuant to
8 this section.

9 (3) In any bidding process for public works in which a bid is
10 received from a nonresident contractor from a state that provides a
11 percentage bidding preference, a comparable percentage disadvantage
12 must be applied to the bid of that nonresident contractor. This
13 subsection does not apply until the department of general
14 administration has adopted the rules and procedures for reciprocity
15 under subsection (2) of this section, or has determined and announced
16 that rules are not necessary for implementation.

17 (4) A nonresident contractor from a state that provides a
18 percentage bid preference means a contractor that:

19 (a) Is from a state that provides a percentage bid preference to
20 its resident contractors bidding on public works contracts; and

21 (b) At the time of bidding on a public works project, does not have
22 a physical office located in Washington.

23 (5) The state of residence for a nonresident contractor is the
24 state in which the contractor was incorporated or, if not a
25 corporation, the state where the contractor's business entity was
26 formed.

27 (6) This section does not apply to public works procured pursuant
28 to RCW 39.04.155, 39.04.280, or any other procurement exempt from
29 competitive bidding.

30 NEW SECTION. **Sec. 2.** If any part of this act is found to be in
31 conflict with federal requirements that are a prescribed condition to
32 the allocation of federal funds to the state or local authority, the
33 conflicting part of this act is inoperative solely to the extent of the
34 conflict and with respect to the agencies directly affected, and this
35 finding does not affect the operation of the remainder of this act in
36 its application to the agencies concerned. Rules adopted under this

1 act must meet federal requirements that are a necessary condition to
2 the receipt of federal funds by the state or local authority.

Passed by the Senate April 21, 2011.

Passed by the House April 15, 2011.

Approved by the Governor May 12, 2011.

Filed in Office of Secretary of State May 13, 2011.