

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 742

INTRODUCER: Senator Grall

SUBJECT: Public Works Projects

DATE: January 19, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 742 revises the definition of “public works project” to include all projects paid for with local or state funds. Current law prohibits the state or local government from imposing certain requirements on contractors for public works projects paid for with any **state-appropriated** funds. The bill expands this provision to also include public works projects paid for with any **local** funds.

The bill, however, maintains the ability for local governments to preclude certain contractors from bidding on a public works project based on the geographic location of the contractor’s headquarters or offices, for such projects paid solely with local funds.

The bill takes effect July 1, 2024.

II. Present Situation:

Public Works Projects

A public works project is an activity that is paid for with any state-appropriated funds and that consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof owned in whole or in part by any political subdivision.¹

¹ Section 255.0992(1)(b)

Prohibited Governmental Actions Related to Public Works Projects

Except as required by federal or state law, the state or any political subdivision² that contracts for a public works project paid for with any state-appropriated funds may not:

- Prevent a certified, licensed, or registered contractor, subcontractor, or material supplier or carrier, from participating in the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residences of employees of such contractor, subcontractor, or material supplier or carrier;
- Require a contractor, subcontractor, or material supplier or carrier engaged in the project to:
 - Pay employees a predetermined amount of wages or prescribe any wage rate;
 - Provide employees a specified type, amount, or rate of employee benefits;
 - Control, limit, or expand staffing; or
 - Recruit, train, or hire employees from a designated, restricted, or single source.
- Prohibit any contractor, subcontractor, or material supplier or carrier from submitting a bid on the project if such individual is able to perform the work described and is qualified, licensed, or certified as required by state law.³

The foregoing governmental actions are prohibited only for projects that:

- Are paid for with any state-appropriated funds; and
- Are to construct, maintain, repair, renovate, remodel, or improve any building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision.⁴

Prior to 2023, a political subdivision could impose the otherwise prohibited requirements on contractors for projects that are paid for entirely with local funds or, if state funds are used, for projects up to \$1 million. However, in 2023 the Legislature removed the \$1 million requirement and prohibited such actions on public works project using any state appropriated funds.⁵

III. Effect of Proposed Changes:

The bill amends s. 255.0992, F.S., to revise the definition of “public works project” to include all projects paid for with **local or state funds**.

² “Political subdivision” means a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a city, town, or other municipality; or a department, commission, authority, school district, taxing district, water management district, board, public corporation, institution of higher education, or other public agency or body thereof authorized to expend public funds for construction, maintenance, repair, or improvement of public works. *See* s. 255.0992(1)(a), F.S.

³ Section 255.0992, F.S.

⁴ Section 255.0992(1)(b), F.S.

⁵ Ch. 2023-134 Laws of Fla.

Under current law, if a public works project utilizes any **state appropriated funds**, except as required by federal or state law, the state and political subdivisions that contract for a public works project are prohibited from:

- Preventing a certified, licensed, or registered contractor, subcontractor, or material supplier or carrier, from participating in the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residences of employees of such contractor, subcontractor, or material supplier or carrier;
- Requiring a contractor, subcontractor, or material supplier or carrier engaged in a public works project to provide specified pay and benefits, being subject to certain staffing controls, or requiring the vendor to select employees from specific sources; and
- Prohibiting any contractor, subcontractor, or material supplier or carrier able to perform the work that is qualified, licensed, or certified as required by state or local law to perform such work from receiving information about public works opportunities or from submitting a bid on the public works project, except for those vendors appearing on the convicted vendor or discriminatory vendor list.

However, the bill maintains the ability for local governments to preclude certain contractors from bidding on a public works project based on the geographic location of the contractor's headquarters or offices, for such public works projects paid solely with local funds.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The prohibition on certain predetermined wage, benefits, and staffing requirements may result in a positive fiscal impact for contractors.

C. Government Sector Impact:

The change to the definition of “public works project” may lower costs for local public construction projects by prohibiting certain actions by a local government such as imposing predetermined wage and benefit requirements on potential contractors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 255.0992 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.