

Regular Session, 2010

HOUSE BILL NO. 1490 (Substitute for House Bill No. 200 by Representative Connick)

BY REPRESENTATIVES CONNICK, GISCLAIR, LABRUZZO, LIGI, LOPINTO, LORUSSO, AND TALBOT AND SENATOR QUINN

PUBLIC CONTRACT/BIDS: Provides limitations on persons convicted of felonies from participating in governmental contracts

1 AN ACT

2 To enact R.S. 38:2212.8 and Chapter 24 of Title 39 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 39:2181 and 2182, relative to procurement; to allow
4 for the prohibition of certain convicted felons from participating in the contract and
5 procurement process; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 38:2212.8 is hereby enacted to read as follows:

8 §2212.8. Right to prohibit awards or procurement with individuals convicted of
9 certain felony crimes

10 A. In awarding contracts, any public entity is authorized to reject the lowest
11 bid from, or not award the contract to, a business in which any individual with an
12 ownership interest of five percent or more has been convicted of, or has entered a
13 plea of guilty or nolo contendere to any state felony crime or equivalent federal
14 felony crime committed in the solicitation or execution of a contract or bid awarded
15 under the laws governing public contracts under the provisions of Chapter 10 of this
16 Title, professional, personal, consulting and social services procurement under the
17 provisions of Chapter 16 of Title 39 of the Louisiana Revised Statutes of 1950, or the
18 Louisiana Procurement Code under the provisions of Chapter 17 of Title 39 of the
19 Louisiana Revised Statutes of 1950.

1 B. Nothing in this Section shall impose a duty, responsibility, or requirement
 2 on a public entity to perform criminal background checks on contractors, vendors,
 3 or subcontractors. It shall be the responsibility of any person, company, or entity
 4 making an allegation of prior convictions on the part of any bidder to present prima
 5 facie evidence to the public entity supporting their claim.

6 C. If prima facie evidence is submitted substantiating that the lowest bidder
 7 has been convicted of, or has entered a plea of guilty or nolo contendere to any state
 8 felony crime or equivalent federal felony crime committed in the solicitation or
 9 execution of a contract or bid awarded under the laws listed in Subsection A of this
 10 Section and the public entity rejects the lowest bid, the company whose bid is
 11 rejected shall be responsible to the public entity for the costs of rebidding, the
 12 increased costs of awarding to the second low bidder, or forfeiture of the bid bond,
 13 whichever is higher.

14 Section 2. Chapter 24 of Title 39 of the Louisiana Revised Statutes of 1950,
 15 comprised of R.S. 39:2181 and 2182, is hereby enacted to read as follows:

16 CHAPTER 24. PROHIBITIONS IN PUBLIC GOVERNMENTAL CONTRACTS AND
 17 PROCUREMENT

18 §2181. Applicability; definitions

19 A. This Chapter shall apply to any contract or cooperative endeavor
 20 agreement that results from any bid or other award governed under Chapter 16 and
 21 Chapter 17 of this Title.

22 B. For the purpose of this Chapter, "public entity" shall mean any agency,
 23 board, commission, department, or public corporation of the state, created by the
 24 constitution or statute or pursuant thereto, or any political subdivision of the state,
 25 including but not limited to any political subdivision as defined by Article VI,
 26 Section 44 of the Constitution of Louisiana, and any public housing authority, public
 27 school board, or any public officer whether or not an officer of a public corporation
 28 or political subdivision.

1 §2182. Right to prohibit awards or procurement with individuals convicted of certain
2 felony crimes

3 A. In awarding contracts, any public entity is authorized to reject the lowest
4 bid from, or not award the contract to, a business in which any individual with an
5 ownership interest of five percent or more has been convicted of, or has entered a
6 plea of guilty or nolo contendere to any state felony crime or equivalent federal
7 felony crime committed in the solicitation or execution of a contract or bid awarded
8 under the laws governing public contracts under the provisions of Chapter 10 of Title
9 38 of the Louisiana Revised Statutes of 1950, professional, personal, consulting and
10 social services procurement under the provisions of Chapter 16 of this Title, or the
11 Louisiana Procurement Code under the provisions of Chapter 17 of this Title.

12 B. Nothing in this Section shall impose a duty, responsibility, or requirement
13 on a public entity to perform criminal background checks on contractors, vendors,
14 or subcontractors. It shall be the responsibility of any person, company, or entity
15 making an allegation of prior convictions on the part of any bidder to present prima
16 facie evidence to the public entity supporting their claim.

17 C. If prima facie evidence is submitted substantiating that the lowest bidder
18 has been convicted of, or has entered a plea of guilty or nolo contendere to any state
19 felony crime or equivalent federal felony crime committed in the solicitation or
20 execution of a contract or bid awarded under the laws listed in Subsection A of this
21 Section and the public entity rejects the lowest bid, the company whose bid is
22 rejected shall be responsible to the public entity for the costs of rebidding, the
23 increased costs of awarding to the second low bidder, or forfeiture of the bid bond,
24 whichever is higher.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Connick

HB No. 1490

Abstract: Provides that a public entity is authorized to reject the lowest bid or a contract from a business in which any individual with an ownership interest of five percent or more has been convicted of or entered a plea of guilty or nolo contendere to certain felony crimes committed in the solicitation or execution of a contract or bid.

Proposed law provides that in awarding contracts, any public entity is authorized to reject the lowest bid from, or not award the contract to, a business in which any individual with an ownership interest of five percent or more has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony crime or equivalent federal felony crime committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts under the provisions of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, professional, personal, consulting and social services procurement under the provisions of Chapter 16 of Title 39 of the Louisiana Revised Statutes of 1950, or the Louisiana Procurement Code under the provisions of Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1950.

Proposed law provides that a public entity does not have a duty, responsibility, or requirement to perform criminal background checks on contractors, vendors, or subcontractors. Proposed law further provides that it shall be the responsibility of any person, company, or entity making an allegation of prior convictions on the part of any bidder to present prima facie evidence to the public entity supporting their claim.

Proposed law provides that if prima facie evidence is submitted substantiating that the lowest bidder has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony crime or equivalent federal felony crime pursuant to proposed law and the public entity rejects the lowest bid, the company whose bid is rejected will be responsible to the public entity for the costs of rebidding, the increased costs of awarding to the second low bidder, or forfeiture of the bid bond, whichever is higher.

Proposed law defines "public entity" as any agency, board, commission, department, or public corporation of the state, created by the constitution or statute or pursuant thereto, or any political subdivision of the state, including but not limited to any political subdivision as defined in Art. VI, §44 of the Const. of La., and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision.

(Adds R.S. 38:2212.8 and R.S. 39:2181-2182)