

Regular Session, 2010

ACT No. 864

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

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

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.

20 B. Nothing in this Section shall impose a duty, responsibility, or requirement
21 on a public entity to perform criminal background checks on contractors, vendors,
22 or subcontractors. It shall be the responsibility of any person, company, or entity
23 making an allegation of prior convictions on the part of any individual with an

1 ownership interest of five percent or more in any bidder to present prima facie
 2 evidence to the public entity supporting their claim.

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

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

13 CHAPTER 24. PROHIBITIONS IN PUBLIC GOVERNMENTAL CONTRACTS AND
 14 PROCUREMENT

15 §2181. Applicability; definitions

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

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

26 §2182. Right to prohibit awards or procurement with individuals convicted of certain
 27 felony crimes

28 A. In awarding contracts, any public entity is authorized to reject the lowest
 29 bid from, or not award the contract to, a business in which any individual with an
 30 ownership interest of five percent or more has been convicted of, or has entered a

1 plea of guilty or nolo contendere to any state felony crime or equivalent federal
 2 felony crime committed in the solicitation or execution of a contract or bid awarded
 3 under the laws governing public contracts under the provisions of Chapter 10 of Title
 4 38 of the Louisiana Revised Statutes of 1950, professional, personal, consulting, and
 5 social services procurement under the provisions of Chapter 16 of this Title, or the
 6 Louisiana Procurement Code under the provisions of Chapter 17 of this Title.

7 B. Nothing in this Section shall impose a duty, responsibility, or requirement
 8 on a public entity to perform criminal background checks on contractors, vendors,
 9 or subcontractors. It shall be the responsibility of any person, company, or entity
 10 making an allegation of prior convictions on the part of any individual with an
 11 ownership interest of five percent or more in any bidder to present prima facie
 12 evidence to the public entity supporting their claim.

13 C. If evidence is submitted substantiating that any individual with an
 14 ownership interest of five percent or more in the lowest bidder has been convicted
 15 of, or has entered a plea of guilty or nolo contendere to any state felony crime or
 16 equivalent federal felony crime committed in the solicitation or execution of a
 17 contract or bid awarded under the laws listed in Subsection A of this Section and the
 18 public entity rejects the lowest bid, the company whose bid is rejected shall be
 19 responsible to the public entity for the costs of rebidding, the increased costs of
 20 awarding to the second low bidder, or forfeiture of the bid bond, whichever is higher.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____