

HOUSE BILL NO. HB0026

Contractor residency provisions.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to public works and contracts; modifying
2 provisions relating to residency status for purposes of
3 preference laws; modifying penalties; providing
4 definitions; providing for administration by the department
5 of workforce services; requiring reapplication for and
6 review of residency certification; providing for a select
7 legislative committee and a study and report; providing an
8 appropriation; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 16-6-101(a)(i)(intro), (J)(III), by
13 creating new paragraphs (iii) and (iv) and by renumbering
14 (iii) as (v), 16-6-102(c) and 16-6-120(a), (b)(intro),
15 (ii), by creating a new subsection (c), by amending and

1 renumbering (c) as (d) and by renumbering (d) as (e) are
2 amended to read:

3

4 **16-6-101. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Resident" means a natural person,
9 association, partnership, limited partnership, registered
10 limited partnership, registered limited liability company
11 or corporation certified as a resident by the department of
12 employment following receipt of an affidavit executed and
13 sworn to by ~~the president~~ a chief executive officer of the
14 ~~company or his designee of~~ entity setting forth information
15 required by the department to determine compliance with
16 this act and prior to bidding upon the contract or
17 responding to a request for proposal, subject to the
18 following criteria:

19

20 (J) A corporation organized under the laws
21 of any state which has been in existence for two (2) years
22 or more:

23

1 (III) Has paid worker's compensation
2 and unemployment taxes in Wyoming for at least one (1) year
3 and is in good standing with ~~Wyoming worker's compensation~~
4 ~~and the~~ department ~~of employment~~ at the time the bid or
5 request for proposal is submitted.

6

7 (iii) "Chief executive officer" means:

8

9 (A) For a corporation, the president of the
10 corporation;

11

12 (B) For a partnership other than a limited
13 partnership, a partner;

14

15 (C) For a limited partnership, a general
16 partner;

17

18 (D) For a limited liability company, a
19 member of the limited liability company;

20

21 (E) For a business entity not specified in
22 subdivisions (A) through (D) of this paragraph, the
23 entity's president, chairman of the executive committee,
24 senior officer responsible for the entity's business, chief

1 financial officer or any other individual who performs
2 similar functions as specified by rule of the department.
3 The department may authorize by rule the execution of an
4 affidavit required by paragraph (i) of this subsection by
5 an individual holding a position other than as specified in
6 this paragraph, if the individual holds a position with
7 functions similar to a president of a corporation.

8
9 (iv) "Department" means the department of
10 workforce services;

11
12 ~~(iii)~~ (v) "This act" means W.S. 16-6-101 through
13 16-6-121.

14
15 **16-6-102. Resident contractors; preference limitation**
16 **with reference to lowest bid or qualified response;**
17 **decertification; denial of application for residency.**

18
19 (c) If any person who applies for certification as a
20 resident contractor is denied certification because of not
21 meeting the residency requirements, that person may not
22 reapply for certification for a period of one hundred
23 eighty (180) days from the date certification is denied.
24 No person shall be denied certification because of

1 inadvertent omission of information, as determined by the
2 department, ~~of employment,~~ on an application for resident
3 certification.

4
5 **16-6-120. Rulemaking; penalties; enforcement.**

6
7 (a) The department ~~of employment~~ shall promulgate
8 rules and regulations required as the department determines
9 necessary or convenient to enforce this act.

10
11 (b) ~~A person~~ Unless punishable under subsection (c)
12 of this section, an individual, partnership, association,
13 limited partnership, registered limited partnership,
14 registered limited liability company or corporation and any
15 officer or member thereof that intentionally falsifies
16 information under this act shall be:

17
18 (ii) Barred from bidding on any ~~state~~ contract
19 subject to the provisions of this act or submitting any
20 request for proposal on any ~~state~~ project subject to the
21 provisions of this act for one (1) year from the date the
22 violation is corrected.

23

1 (c) Any person who signs an affidavit submitted to
2 the department pursuant to W.S. 16-1-101(a), knowing any
3 information contained therein is false, shall be guilty of
4 false swearing punishable as a felony in accordance with
5 W.S. 6-5-303(a).

6
7 ~~(e)~~(d) The department ~~of employment~~ is authorized and
8 directed to enforce W.S. 16-6-101 through 16-6-206.

9
10 ~~(d)~~(e) In the event a contractor fails to comply with
11 an order from the department, the director shall refer the
12 matter to the appropriate district or county attorney for
13 enforcement of the department's order.

14
15 **Section 2.** All individuals and entities certified as
16 residents pursuant to W.S. 16-6-101 through 16-6-121 as of
17 the effective date of this act shall reapply for residency
18 certification with the department of workforce services not
19 later than June 30, 2012. The department shall review the
20 status of all contractors certified as a resident and shall
21 reissue certifications to all qualifying contractors not
22 later than December 31, 2012. Unless a contractor's
23 residency status is terminated by the department the

1 pendency of an application pursuant to this section shall
2 not affect the contractor's residency status.

3

4 **Section 3.**

5

6 (a) The president of the senate and the speaker of
7 the house of representatives shall each appoint three (3)
8 members of their respective houses to a select committee on
9 resident contractor preference laws. At least one (1)
10 member of the select committee shall be from the minority
11 party.

12

13 (b) The select committee shall:

14

15 (i) Elect a chairman;

16

17 (ii) Review the provisions of W.S. 16-6-101
18 through 16-6-121, and other provisions of Wyoming law
19 related to contractor preference laws and for public works
20 construction projects for the state, state agencies, state
21 institutions and political subdivisions of the state. The
22 committee shall include in its review the provisions of
23 2011 Wyoming Session Laws, Chapters 81 and 82;

24

1 (iii) Determine whether statutory changes are
2 necessary and desirable to make more uniform laws governing
3 public works construction projects;

4
5 (iv) Determine whether statutory changes to
6 contractor preference laws should be made to effectuate the
7 goal of ensuring that all business entities certified as
8 Wyoming residents are at least fifty percent (50%) owned by
9 individuals or entities with an actual presence in Wyoming
10 beyond that necessary to meet minimum requirements to
11 qualify as a resident under W.S. 16-6-101 through 16-6-121;

12
13 (v) Be staffed by the legislative service
14 office. State agencies shall provide information and
15 assistance to the select committee as requested.

16
17 (c) The select committee shall submit its
18 recommendations, including proposed legislation with respect
19 to the issues specified in subsection (b) of this section,
20 to the joint minerals, business and economic development
21 interim committee no later than October 1, 2012. The joint
22 minerals, business and economic development interim
23 committee shall consider the recommendations and develop
24 legislation it deems appropriate for consideration by the
25 legislature.

1

2 (d) Members of the select committee shall be paid
3 salary, per diem and mileage as provided in W.S. 28-5-101
4 for their official duties as members of the committee.

5

6 (e) There is appropriated from the general fund twenty
7 thousand dollars (\$20,000.00) to the legislative service
8 office for payment of salary, per diem and mileage for
9 committee members.

10

11 (f) The select committee shall terminate December 31,
12 2012.

13

14 **Section 4.** This act is effective immediately upon
15 completion of all acts necessary for a bill to become law
16 as provided by Article 4, Section 8 of the Wyoming
17 Constitution.

18

19

(END)