

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 07/06/2012
POSITION: Oppose

BILL NUMBER: AB 1565
AUTHOR: Fuentes, Felipe

BILL SUMMARY: Public contracts: school districts: bidding requirements.

This bill would require, from January 1, 2014 to January 1, 2019, school districts participating in the School Facilities Program (SFP) for a project with estimated expenditures of one million dollars or more, to: (1) prequalify all prospective bidders for public works projects in school districts with 2,500 or more Average Daily Attendance (ADA) by using a questionnaire that at a minimum contains the model guidelines for rating bidders specified by the Department of Industrial Relations (DIR) (school districts would be required to have every contractor prequalified pursuant to either Public Contract Code section 20111.5 or section 20101); (2) develop a uniform rating system that at a minimum contains the model guidelines for rating bidders specified by the DIR for projects using funding sources other than SFP funds if the district opts to prequalify bidders; and (3) have all subcontractors be prequalified for all contracts awarded after January 1, 2014. In addition, the DIR would be have to report whether, as a result of these amendments, there is a decrease in the number of labor code violations applicable to SFP projects.

FISCAL SUMMARY

This bill would require school districts to prequalify all bidders for any public works projects in school districts with 2,500 or more ADA as a condition of receiving SFP General Obligation bond funds, which could create K-12 facilities bond cost pressures and local project costs of in the tens of millions of dollars. That estimate is based on the following assumptions: (1) every qualifying SFP public works contract school facilities construction project is subject to the requirement, (2) an average cost of \$90,000 per project for a district to develop and review questionnaires and litigate costs related to disqualified bidders, and (3) an assumption of 1,000 qualifying projects per year. Based on information from school district personnel, the \$90,000 average cost per project is derived from the following cost components:

- \$4,600 (assumes 40 hours of work at \$45 per hour for staff to develop the questionnaire and \$350 per hour for 8 hours to have legal staff review the document) to develop, review and approve the prequalification questionnaire
\$57,600 to review 320 submitted prequalification questionnaires (assumes 40 bid packages, 8 bidders, and 4 hours to review each bid package at \$45 per hour)
\$28,160 to address appeals from disqualified bidders (assumes ten percent of the bid packages are reviewed at a cost of \$350 per hour for legal assistance for 64 hours and 128 hours at \$45 per hour for district personnel).

In addition, this bill would create minor but absorbable General Fund costs of approximately \$50,000 for the DIR to gather data and report the number of labor code violations resulting from the enactment of this law to the legislature.

COMMENTS

The Department of Finance is opposed to this bill for the following reasons:

Table with signature lines for Analyst/Principal, Program Budget Manager, Department Deputy Director, and Governor's Office, including fields for Date, Position Approved, and Position Disapproved.

Fuentes, Felipe

07/06/2012

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**COMMENTS** (continued)

- This bill would create K-12 facilities bond cost pressures in the tens of millions of dollars. This bill would also, for SFP participating entities, redirect current state and local capitol facilities funds from the physical construction of school facilities to administrative functions.
- This bill is unnecessary because current law permits school districts to prequalify bidders using the criteria set forth by the DIR at the discretion of the school district. It is our understanding that the intent of this bill is to disallow contractors from bidding for school facilities project contracts that they may not be qualified to undertake. However, we would note that it is in a school district's interest to ensure a contractor who submitted a bid is qualified to construct school facilities projects and disqualify bidders that do not meet those criteria.
- This bill could inadvertently limit the number of qualified bidders for a school construction project, thus increasing the cost of school facilities construction because a contractor did not complete the prequalification process in a timely manner or because the prequalification questionnaire was not flexible enough for the project being bid.

Current law, Public Contract Code section 20111, authorizes school districts to require prospective bidders submit questionnaires and financial statements for prequalifying the contractor to bid for school district contracts above \$50,000 in value for equipment, materials, supplies, non-maintenance repairs and nonconstruction services, and above \$15,000 for construction projects. School districts opting to require contractors submit questionnaires for prequalification purposes must develop and use a uniform questionnaire. Further, school districts opting to use the prequalification process, must deny any bids submitted from contractors that did not submit a prequalification questionnaire at least five days prior to the public bid opening.

Code/Department Agency or Revenue Type	SO		(Fiscal Impact by Fiscal Year)				Fund Code
	LA	CO	(Dollars in Thousands)				
	RV	PROP	98	FC	2012-2013 FC	2013-2014 FC	2014-2015
6350/Facil Aid	LA	No			----- See Fiscal Summary -----		6036
6350/Facil Aid	LA	No			----- See Fiscal Summary -----		6044
6350/Facil Aid	LA	No			----- See Fiscal Summary -----		6057
7350/DIR	SO	No			----- No/Minor Fiscal Impact -----		0001
<u>Fund Code</u>	<u>Title</u>						
0001	General Fund						
6036	School Facilities Fund, 2002 State						
6044	School Facilities Fund, 2004 State						
6057	School Facilities Fund, 2006 State						