

SENATE FILE NO. SF0028

Resident preference provisions.

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

A BILL

for

1 AN ACT relating to administration of government; modifying
2 procurement requirements for expenditures for capital
3 construction projects; amending the definition of resident
4 contractor; modifying and specifying preference
5 requirements and procedures; providing that the state
6 treasurer shall collect insurance on destroyed state
7 buildings as specified; providing that preferences shall be
8 limited to capital construction projects; providing that
9 preference requirements apply equally to all business
10 entities and delivery methods; repealing certain
11 preferences; amending reporting requirements; repealing a
12 sunset date; and providing for an effective date.

13

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

15

1 **Section 1.** W.S. 15-6-302 by creating a new subsection
2 (d), 16-6-101(a)(i)(intro), (A), (C)(intro), (I), (III),
3 (D)(intro), (II), (J)(intro), by creating a new
4 subparagraph (M) and (iii)(D), 16-6-106, 16-6-107,
5 16-6-109, 16-6-112(a)(intro), 16-6-120(b)(intro),
6 16-6-202(a)(ii), 16-6-206(b), 16-6-301(b),
7 16-6-1001(a)(intro), (i)(E), (ii)(C) and (iii) and 18-3-504
8 by creating a new subsection (d) are amended to read:

9

10 **15-6-302. Call for bids; contents; procedure for**
11 **awarding and executing contracts.**

12

13 (d) All bids and contracts for capital construction
14 projects shall be in accord with the Wyoming contractor
15 preference laws of title 16, chapter 6.

16

17 **16-6-101. Definitions.**

18

19 (a) As used in this act:

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21 (i) "Resident" means a natural person,
22 association, ~~partnership, limited partnership, registered~~
23 ~~limited partnership, registered limited liability company~~
24 ~~or corporation~~ or business entity authorized to be formed

1 under title 17 of the Wyoming statutes, or the laws of
2 another state that are the functional equivalent, and that
3 is certified as a resident by the department of workforce
4 services following receipt of an affidavit executed and
5 sworn to by a chief executive officer of the entity setting
6 forth information required by the department to determine
7 compliance with this act and prior to bidding upon the
8 contract or responding to a request for proposal, subject
9 to the following criteria:

10

11 (A) Any natural person who has been a
12 resident of the state for one (1) year or more immediately
13 prior to bidding upon the contract or responding to a
14 request for proposal;

15

16 (C) A ~~corporation~~ business entity organized
17 under the laws of the state:

18

19 (I) With at least fifty percent (50%)
20 of the ~~issued and outstanding shares of stock in the~~
21 ~~corporation~~ equity in the business entity owned by persons
22 who have been residents of the state for one (1) year or
23 more prior to bidding upon the contract or responding to a
24 request for proposal;

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(III) The ~~president of the corporation~~

chief executive officer of the business entity has been a resident of the state for one (1) year or more immediately prior to the business entity's bidding upon the contract or responding to a request for proposal.

(D) A ~~corporation~~business entity organized

under the laws of the state which has been in existence in the state for one (1) year or more and whose ~~president~~ chief executive officer has been a resident of the state for one (1) year or more immediately prior to bidding upon the contract or responding to a request for proposal and maintains its principal office and place of business within the state. If at least fifty percent (50%) of the ~~issued and outstanding shares of stock in the corporation are~~ equity in the business entity is owned by nonresidents, ~~shares of the corporation~~ the nonresident equity owned by the nonresidents shall:

(II) If it consists of shares in a

corporation, be publicly traded and registered under Section 13 or 15(d) of the Securities Exchange Act of 1934 for one (1) or more classes of its shares.

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

(M) No preference under this article shall be awarded to any contractor who is not a certified resident contractor at the time bids are submitted for a public capital construction project, and no contractor shall receive a contingent or retroactive resident certification.

(iii) "Chief executive officer" means:

(D) For a limited liability company, a designated member or manager of the limited liability company;

16-6-106. Statement of Wyoming materials preference in requests for bids and proposals.

All requests for bids and proposals for materials, supplies, ~~agricultural products,~~ equipment, machinery and provisions for the construction, major maintenance and

1 ~~upkeep~~ renovation of every state, county, municipal,
2 community college district or school district institution
3 shall contain the words "preference is hereby given to
4 materials, supplies, ~~agricultural products,~~ equipment,
5 machinery and provisions produced, or manufactured ~~or grown~~
6 in Wyoming, or supplied by a resident of the state, quality
7 being equal to articles offered by the competitors outside
8 of the state".

9
10 **16-6-107. Wyoming materials preference required in**
11 **construction, major maintenance and renovation of public**
12 **structures; exception.**

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14 All public buildings, courthouses, public school buildings,
15 public monuments and other public structures constructed in
16 this state shall ~~be constructed and maintained by~~ use
17 materials produced or manufactured in Wyoming for
18 construction, major maintenance and renovation if Wyoming
19 materials are suitable and can be furnished in marketable
20 quantities. ~~Preference shall not be granted for materials~~
21 ~~of an inferior quality to those offered by competitors~~
22 ~~outside of the state, but a differential of not to exceed~~
23 ~~five percent (5%) may be allowed in cost of contracts less~~
24 ~~than five million dollars (\$5,000,000.00) for the Wyoming~~

1 ~~materials of equal quality as against materials from states~~
2 ~~having or enforcing a preference rule against~~
3 ~~"out-of-state" products.~~

4
5 **16-6-109. Use of insurance for rebuilding state**
6 **structures.**

7
8 When buildings belonging to the state are destroyed, ~~by~~
9 ~~fire,~~ the insurance on the buildings shall be collected by
10 the state treasurer. The governing board of the state
11 institution suffering the loss ~~by fire~~ may draw on the
12 state treasurer for the amount of money collected and use
13 the insurance money for the rebuilding of the structure
14 destroyed ~~by fire~~ if, in the opinion of the governing
15 board, the structure should be rebuilt.

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17 **16-6-112. Contractor's bond or other guarantee; when**
18 **required; conditions; amount; approval; filing; enforcement**
19 **upon default.**

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21 (a) Except as provided under W.S. 9-2-1016(b)(xviii),
22 any contract entered into with the state, any county, city,
23 town, school district or other political subdivision of the
24 state for the ~~erection,~~ construction, ~~alteration, repair or~~

1 ~~addition to~~ major maintenance or renovation of any public
2 building or other public structure or for any public work
3 or improvement and the contract price exceeds seven
4 thousand five hundred dollars (\$7,500.00), shall require
5 any contractor before beginning work under the contract to
6 furnish the state or any political subdivision, as
7 appropriate, a bond or if the contract price is one hundred
8 fifty thousand dollars (\$150,000.00) or less, any other
9 form of guarantee approved by the state or the political
10 subdivision. The bond or other form of guarantee shall be:

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12 **16-6-120. Rulemaking; penalties; enforcement.**

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14 (b) Unless punishable under subsection (c) of this
15 section, an individual, ~~partnership, association, limited~~
16 ~~partnership, registered limited partnership, registered~~
17 ~~limited liability company or corporation~~ or a business
18 entity and any officer or member thereof that intentionally
19 falsifies information under this act shall be:

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21 **16-6-202. Definitions.**

22

23 (a) As used in this act:

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1 (ii) "Resident" includes any person who is or
2 who has declared an intention to become a citizen of the
3 United States and has resided in the state of Wyoming for
4 at least one (1) year immediately preceding his application
5 for employment. For purposes of this paragraph, a legal
6 resident shall be deemed to have declared an intention to
7 become a citizen of the United States;

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9 **16-6-206. Failure to employ state laborers; penalty.**

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11 (b) In the event a second offense occurs within a
12 twelve (12) month period from the date of the first
13 offense, the person shall be barred from bidding on any
14 contract subject to the provisions of this act or
15 submitting any request for proposal on any project subject
16 to the provisions of this act for one (1) year from the
17 date the second violation is corrected.

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19 **16-6-301. Preference for resident bidders; exception;**
20 **"resident" defined; violation.**

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22 (b) As used in this section, "resident" means any
23 person, ~~partnership, corporation or association~~ or business
24 entity who has been a bona fide resident of this state as

1 defined in W.S. 16-6-101(a)(i), for one (1) year or more
2 immediately prior to bidding upon a contract, and who has
3 an established printing plant in actual operation in the
4 state of Wyoming immediately prior to bidding upon a
5 contract.

6
7 ARTICLE 10

8 CAPITAL CONSTRUCTION PROJECTS
9

10 16-6-1001. Capital construction projects
11 restrictions; preference requirements; waivers.
12

13 (a) Unless otherwise prohibited by federal law, any
14 ~~legislatively appropriated~~ funds appropriated or authorized
15 for expenditure ~~during the fiscal biennium ending June 30,~~
16 ~~2012 or ending June 30, 2014, which have not been~~
17 ~~encumbered, obligated by contract or designed as of January~~
18 ~~17, 2011,~~ for capital construction projects shall be
19 subject to the restrictions of this section which shall be
20 construed where possible as complimentary and consistent
21 with other statutory requirements relating to competitive
22 bidding and contractor preferences. To the extent the
23 restrictions in this section are inconsistent with other
24 state statutes, this section shall supersede all such

1 inconsistent provisions and shall govern. This section
2 shall be applied as follows:

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4 (i) This paragraph shall apply to any alternate
5 design and construction delivery method as defined in W.S.
6 16-6-701(a)(v):

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8 (E) Any approved waiver shall be documented
9 in writing and provided to the governor. Notice of all
10 approved waivers shall also be published on a website
11 maintained by the construction management division of the
12 department of administration and information, including a
13 statement of the grounds for the waiver.

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15 (ii) Unless exempted pursuant to subparagraph
16 (D) of this paragraph, this paragraph shall apply to all
17 construction delivery methods:

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19 (C) A five percent (5%) preference shall be
20 granted to responsible Wyoming resident suppliers for
21 procurements by public entities subject to this paragraph
22 and that are used in and incorporated into a public capital
23 construction project;

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(iii) All bids shall be opened in public ~~in an~~
~~office of the agency~~ at a location designated by the public
entity soliciting the bid. This paragraph shall apply to
all construction delivery methods;

6 18-3-504. Powers and duties generally.

8 (d) All bids and contracts for capital construction
9 projects shall be in accord with the Wyoming contractor
10 preference laws of title 16, chapter 6.

12 **Section 2.** W.S. 16-6-101(a)(i)(B) and (E) through
13 (G), 16-6-105 and 16-6-1001(e) are repealed.

15 **Section 3.** This act is effective July 1, 2014.

17 (END)