

Sponsored By: Representative(s) Larsen, Furphy and Greear and
Senator(s) Pappas

AN ACT relating to public works and contracts; creating definitions; modifying language for consistency; modifying final settlement and payment to contractors procedures; updating bond requirements; requiring disputes be directed to a prime contractor's surety bond; and providing for an effective date.

1/10/2019 Bill Number Assigned
1/10/2019 H Received for Introduction
1/11/2019 H Introduced and Referred to H09 - Minerals
1/23/2019 H09 - Minerals:Recommend Do Pass 9-0-0-0-0

ROLL CALL

Ayes: Representative(s) Burkhardt, Crank, Duncan, Eyre, Furphy, Greear, Henderson, Loucks, MacGuire

Ayes 9 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

1/23/2019 H Placed on General File

HB0108HW001/ADOPTED

Page 8-line 16 After "materialman" strike "," and insert "or".
Page 8-line 17 After "subcontractor" insert "_"; strike "or laborer,".
LARSEN

HB0108HW002/ADOPTED

Page 1-line 2 After "definitions;" insert "modifying language for consistency;".
Page 1-line 10 After "(viii)," insert "16-6-102(a),".
Page 1-line 11 After "(i)" delete balance of the line and insert "(ii), (iv) and (b), 16-6-113 through".
Page 1-line 12 After "16-6-117" insert ", 16-6-121(a)"
Page 2-after line 9 Insert:

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

(a) If a contract is let by the state, any department thereof, or any county, city, town, school district, community college district, political subdivision of the state or other public corporation of the state for the construction, major maintenance or renovation of any public building, or other public structure, or for making any addition thereto, or for any public work or improvements, the contract shall be let, if advertisement for bids or request for proposal is not required, to a resident of the state. If advertisement for bids is required, the contract shall be let to the responsible certified resident making the lowest bid if the certified resident's bid is not more than five percent (5%) higher than that of the lowest responsible nonresident bidder."

Page 2-line 18 After "community college" insert ", a public corporation".
Page 3-line 1 Strike "any political subdivision" and insert "entity".
Page 3-line 4 Strike "political".
Page 3-line 5 Strike "subdivision" and insert "appropriate entity".
Page 3-line 10 Strike "any political subdivision" and insert "appropriate entity"

Page3-after line 21 Insert:

"(iv) Approved by and filed with the appropriate officer, agent or other designee of the state or ~~governing body of the political subdivision~~ appropriate entity.

(b) A bond or other guarantee satisfactory to the state or ~~political subdivision~~ appropriate entity, as the case may be, shall include the obligations specified under subsection (a) of this section even though not expressly written into the guarantee.

16-6-113. Contractor's bond or other guarantee; right of action; notice to obligee; intervention by interested parties; pro rata distribution.

Any person entitled to the protection of a bond or other form of guarantee approved by the state or ~~any political subdivision~~ entity under W.S. 16-6-112, may maintain an action for the amount due him. He shall notify the obligee named in the bond or other guarantee of the beginning of the action, giving the names of the parties, describing the guarantee and stating the amount and nature of his claim. No judgment shall be entered in the action within thirty (30) days after the giving of the notice. The obligee or any person having a cause of action may on his motion, be admitted as a party to the action. The court shall determine the rights of all parties to the action. If the amount realized on the bond or other guarantee is insufficient to discharge all claims in full, the amount shall be distributed among the parties pro rata.

16-6-114. Contractor's bond or other guarantee; requiring new or additional bond or other guarantee; failure to furnish.

If in its judgment any of the sureties on a bond or other form of guarantee approved by the state or ~~any political subdivision~~ entity under W.S. 16-6-112 are insolvent or for any cause are no longer proper or sufficient sureties, the obligee may within ten (10) days require the contractor to furnish a new or additional bond or other approved guarantee. If ordered by the obligee, all work on the contract shall cease until a new or additional bond or other guarantee is furnished. If the guarantee is not furnished within ten (10) days, the obligee may at its option ~~determine~~ terminate the contract and complete the contract as the agent and at the expense of the contractor and his sureties.".

Page 4-line 5 Strike "political".

Page 4-line 6 Strike "subdivision" and insert "entity".

Page 6-line 8 After "college" insert ", political subdivision"

Page 7-after line 11 Insert:

"16-6-121. Notice required to receive protection under a bond or guarantee; limitation; notice required by owner in project specifications.

(a) Any subcontractor or materialman entitled to the protection of a bond or other form of guarantee approved by the state or ~~any political subdivision~~ entity under W.S. 16-6-112 shall give notice of his right to that protection to the prime contractor. Failure to give notice to a prime contractor who has complied with subsections (f) and (g) of this section waives the subcontractor or materialman's protection under the bond or guarantee and waives any right to a lien for materials or services provided.".

1/25/2019 H COW:Passed

1/28/2019 H 2nd Reading:Passed

HB0108H3001/WITHDRAWN

1/29/2019 H 3rd Reading:Passed 34-24-2-0-0

ROLL CALL

Ayes: Representative(s) Barlow, Brown, Burkhart, Duncan, Eklund, Eyre, Flitner, Furphy, Greear, Haley, Hallinan, Harshman, Henderson, Hunt, Kinner, Kirkbride, Larsen, Laursen, Lindholm, Loucks, Newsome, Nicholas, Obermueller,

Paxton, Pownall, Roscoe, Simpson, Sommers, Sweeney, Walters, Western, Wilson, Winter, Zwonitzer

Nays: Representative(s) Blackburn, Blake, Burlingame, Clausen, Clem, Clifford, Connolly, Crank, Dayton-Selman, Edwards, Freeman, Gray, Jennings, Miller, Olsen, Pelkey, Piiparinen, Salazar, Schwartz, Stith, Styvar, Tass, Washut, Yin

Excused: Representative(s) MacGuire, Northrup

Ayes 34 Nays 24 Excused 2 Absent 0 Conflicts 0

1/30/2019 S Received for Introduction
2/7/2019 S Introduced and Referred to S01 - Judiciary
2/15/2019 S01 - Judiciary:Recommend Do Pass 5-0-0-0-0

ROLL CALL

Ayes: Senator(s) Anselmi-Dalton, Boner, Kost, Nethercott, Von Flatern

Ayes 5 Nays 0 Excused 0 Absent 0 Conflicts 0

2/15/2019 S Placed on General File

HB0108SW001/ADOPTED

(TO ENGROSSED COPY)

Page 1-line 5 after "bond;" insert "repealing provisions;".
Page 1-line 11 Delete entirely and insert "(vi) through (viii) and by renumbering (vi) as (ix), 16-6-102(a), 16-6-105(a)(i)(intro), 16-6-106, 16-6-109, 16-6-110(a)(intro),".
Page 1-line 12 Delete "(intro), (i), (ii), (iv)".
Page 1-line 13 After "16-6-117," insert "16-6-118(b),".
Page 2-after line 9 Insert:
 "(viii) "State entity" means the state of Wyoming, any agency, board, commission, department or institution thereof, including the University of Wyoming, any other political subdivision of the state, any county, city, town, school district, community college district or any public corporation of the state;".
Page 2-line 11 Delete "(viii)" and insert "(ix)".
Page 2-line 18 Strike "the state, any department".
Page 2-lines 19 through 21 Strike all existing language; delete all new language; insert "a state entity for the".
Page 3-after line 8 Insert:

"16-6-105. Preference for Wyoming materials and Wyoming agricultural products required in public purchases; exception; cost differential; definition.

(a) A five percent (5%) materials preference for Wyoming materials shall be applied in public purchases, subject to the following:

(i) The preference requirement shall apply to any state entity.

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

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

When buildings belonging to the state are destroyed, the insurance on the buildings shall be collected by the state treasurer. The ~~governing board of the state institution~~ entity suffering the loss may draw on the state treasurer for

the amount of money collected and use the insurance money for the rebuilding of the structure destroyed if, in the opinion of the ~~governing board~~ state entity, the structure should be rebuilt.

16-6-110. Limitation on work hours; overtime; exceptions.

(a) No person shall require laborers, workmen or mechanics to work more than eight (8) hours in any one (1) calendar day or forty (40) hours in any one (1) week upon any public works of ~~the a state or any of its political subdivisions~~ entity except as hereafter authorized. An employee may agree to work more than eight (8) hours per day or more than forty (40) hours in any week, provided the employee shall be paid at the rate of one and one-half (1 1/2) times the regularly established hourly rate for all work in excess of forty (40) hours in any one (1) week. This section does not apply:".

Page 3-lines 14 through 23 Delete entirely.

Page 4-lines 1 through 5 Delete entirely and insert:

"(a) Except as provided under W.S. 9-2-3004(c)(iv), any contract entered into with ~~the a state, any county, city, town, school district or other political subdivision of the state~~ entity for the construction, major maintenance or renovation of any public building or other public structure or for any public work or improvement and the contract price exceeds seven thousand five hundred dollars (\$7,500.00), shall require any contractor before beginning work under the contract to furnish the state ~~or any political subdivision, as appropriate,~~ entity a bond or if the contract price is one hundred fifty thousand dollars (\$150,000.00) or less, any other form of guarantee approved by the state ~~or the political subdivision~~ entity. The bond or other form of guarantee shall be:".

Page 4-line 10 Strike "or"; delete "appropriate".

Page 4-after line 22 Insert:

"(iii) In an amount not less than fifty percent (50%) of the contract price unless the price exceeds one hundred fifty thousand dollars (\$150,000.00), in which case the ~~appropriate officer, agent or the governing body~~ state entity may fix a sufficient amount;".

Page 5-line 2 After "agent" insert ", governing body"; after "state" strike "or".

Page 5-line 3 Delete "appropriate".

Page 5-line 6 Strike "or"; delete "appropriate"; strike ", as the case may".

Page 5-line 7 Strike "be,".

Page 5-line 16 Strike "or".

Page 6-line 13 Strike "the" and insert "a"; strike "or".

Page 7-line 6 Strike "the" and insert "a"; strike "or any".

Page 7-line 15 After "contract" insert ","; strike "the".

Page 7-line 16 Strike "commission, board or person" and insert "a state entity".

Page 8-line 5 Strike "commission, board or person" and insert "state entity".

Page 8-line 7 Strike "commission, board".

Page 8-line 8 Strike "or person" and insert "state entity".

Page 8-line 12 Strike "commission, board or person" and insert "state entity".

Page 9-line 5 Strike "the" and insert "a".

Page 9-lines 6 through 9 Strike all existing language; delete all new language.

Page 9-line 10 After "state" strike "," and insert "entity".

Page 9-line 13 Strike "officer,".

Page 9-lines 14 and 15 Strike entirely.

Page 9-line 16 Strike line through "by" and insert "state entity with".

Page 10-after line 12 Insert:

"16-6-118. Unlawful interest of officeholders in public contracts or works; exception.

(b) Notwithstanding subsection (a) of this section, an act shall not be unlawful under this section if any person who is interested in any public contract or shall represent who represents any person, company or corporation interested in any public contract, but shall disclose discloses the nature and extent thereof to all the contracting parties concerned therewith, and shall absent absents himself during the considerations and vote thereon, and does not attempt to influence any of the contracting parties and does not act directly or indirectly for the governing body state entity in the inspection, operation, administration or performance of any contract, , then the acts are not unlawful under this section. This section does not apply as to the operation, administration, inspection or performance of banking and deposit contracts and relationships after the selection of a depository."

Page 10-line 20 Strike "the" and insert "a"; strike "or".

Page 12-after line 16 Insert:

"Section 2. W.S. 16-6-105(a)(i)(A) through (C) is repealed."

Page 12-line 18 Delete "Section 2." and insert "Section 3.". PAPPAS, ANSELMI-DALTON

2/20/2019 S COW:Passed 11-10-9-0-0

ROLL CALL

Ayes: Senator(s) Anselmi-Dalton, Baldwin, Boner, Case, Coe, Ellis, Landen, Moniz, Pappas, Schuler, Scott

Nays: Senator(s) Anderson, Biteman, Bouchard, Hutchings, Kost, Nethercott, Rothfuss, Steinmetz, Von Flatern, Wasserburger

Excused: Senator(s) Agar, Bebout, Dockstader, Driskill, Gierau, Hicks, James, Kinskey, Perkins

Ayes 11 **Nays** 10 **Excused** 9 **Absent** 0 **Conflicts** 0

2/21/2019 S 2nd Reading:Passed

2/22/2019 S 3rd Reading:Failed 5-22-3-0-0

ROLL CALL

Ayes: Senator(s) Anderson, Case, Landen, Moniz, Pappas

Nays: Senator(s) Agar, Anselmi-Dalton, Baldwin, Biteman, Boner, Bouchard, Coe, Dockstader, Driskill, Ellis, Gierau, Hutchings, James, Kost, Nethercott, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Von Flatern, Wasserburger

Excused: Senator(s) Bebout, Hicks, Kinskey

Ayes 5 **Nays** 22 **Excused** 3 **Absent** 0 **Conflicts** 0