
DIGEST

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HB 978 Reengrossed

2022 Regular Session

Miguez

Abstract:

Prohibits state agencies and political subdivisions from entering into public works or procurement contracts with companies that discriminate against firearm entities or trade associations.

Proposed law creates certain restrictions with respect to the ability of the state and its political subdivisions to contract pursuant to the Public Bid Law (R.S. 38:2181 et seq.) and the La. Procurement Code (R.S. 39:1551 et seq.).

PUBLIC BID LAW

Present law establishes the Public Bid Law to govern the letting of contracts for materials and supplies necessary to conduct public business and for the erection, construction, alteration, improvement, or repair of any public facility or land owned, used, or leased by a public entity. Defines "public entity" to mean the state of La., or any agency, board, commission, department, or public corporation of the state, or any political subdivision of the state, and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision. (Pursuant to present law, the term does not include a public body or officer where the particular transaction of the public body or officer is governed by the provisions of the model procurement code.)

Proposed law adds an additional restriction to contracts let by public entities pursuant to present law. Prohibits a public entity from entering into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company of both of the following:

- (1) The company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) The company will not discriminate against a firearm entity or firearm trade association during the term of the contract based solely on the entity's or association's status as a firearm entity or firearm trade association.

Further provides that proposed law applies only to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) It is to be paid partly or wholly from public funds.
- (2) It is between a public entity and a company with at least 10 full-time employees.
- (3) It is entered into on or after Aug. 1, 2022.

Further establishes exceptions to proposed law for sole-source provider contracts and circumstances where the public entity does not receive any bids from companies that are able to provide the written verification required by proposed law.

Proposed law provides that "discriminate against a firearm entity or firearm trade association" shall mean that a company:

- (1) Refuses to engage in the trade of any goods or services with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) Refrains from continuing an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (3) Terminates an existing business relationship with the entity or association based solely on the entity or association's status as a firearm entity or firearm trade association.

Further provides that a company does not "discriminate against a firearm entity or firearm trade association" if it refuses to engage in the trade of any goods or services, refrains from continuing an existing business relationship, or declines to enter into, modifies, or terminates an existing business relationship for any of the following reasons:

- (1) To comply with federal, state, or local law, policy or regulations or a directive by a regulator.
- (2) For any traditional or ordinary business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Further provides that nothing in proposed law shall be construed to require a company that is a merchant, retail seller, or platform to sell or list for sale ammunition, firearms, or firearm accessories.

LOUISIANA PROCUREMENT CODE

Present law establishes the La. Procurement Code to govern buying, purchasing, renting, leasing, or otherwise obtaining supplies, services, or major repairs by any governmental body of the state. Present law defines "governmental body" as any department, office, division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or

official of the executive branch of state government. Present law further authorizes political subdivisions to participate in certain contracts let pursuant to present law.

Present law (R.S. 39:2191, et seq.) establishes restrictions on contracting that apply to any bid or award resulting from present law (the La. Procurement Code). Proposed law adds an additional restriction for contracts let public entities pursuant to the La. Procurement Code. Defines "public entity" as:

- (1) Any department, office division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of state government.
- (2) Any parish, city, town, governmental body, and any other subdivision of the state or public agency thereof, public authority, public educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the acquisition or leasing of supplies, services, major repairs, and construction, and any nonprofit corporation operating a charitable hospital.

Proposed law prohibits a public entity from entering into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company of both of the following:

- (1) The company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) The company will not discriminate against a firearm entity or firearm trade association during the term of the contract based solely on the entity's or association's status as a firearm entity or firearm trade association.

Further provides that proposed law only applies to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) It is to be paid partly or wholly from public funds.
- (2) It is between a public entity and a company with at least 10 full-time employees.
- (3) It is entered into on or after Aug. 1, 2022.

Further establishes exceptions to proposed law for sole-source provider contracts and circumstances where the public entity does not receive any bids from companies that are able to provide the written verification required by proposed law.

Proposed law provides that "discriminate against a firearm entity or firearm trade association" shall mean that a company:

- (1) Refuses to engage in the trade of any goods or services with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) Refrains from continuing an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (3) Terminates an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.

Further provides that a company does not "discriminate against a firearm entity or firearm trade association" if it refuses to engage in the trade of any goods or services, refrains from continuing an existing business relationship, or declines to enter into, modifies, or terminates an existing business relationship for any of the following reasons:

- (1) To comply with federal, state, or local law, policy, or regulations or a directive by a regulator.
- (2) For any traditional or ordinary business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Further provides that nothing in proposed law shall be construed to require a company that is a merchant, retail seller, or platform to sell or list for sale ammunition, firearms, or firearm accessories.

(Adds R.S. 38:2216.1 and R.S. 39:1602.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Remove wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or associations from the definition of "company" in proposed law.
2. Provide that a company does not "discriminate against a firearm entity or firearm trade association" if it refuses to engage in business with, refrains from continuing an existing business relationship with, or alters or terminates an existing business relationship for any ordinary business reason that is specific to the customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

The House Floor Amendments to the engrossed bill:

1. Change a defined term in proposed law from "governmental entity" to "public entity".

2. Make technical changes.