
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Emily Toler.

SB 234 Engrossed

DIGEST
2024 Regular Session

Miguez

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 and the La. Procurement Code.

Present law establishes the Public Bid Law to govern the letting of contracts 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.)

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.

The provisions hereafter in proposed law will apply to both Public Bid Law and the La. Procurement Code.

Proposed law adds to both Public Bid Law and the La. Procurement Code 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 in both Public Bid Law and the La. Procurement Code 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 primarily from public funds.
- (2) It is between a public entity and a company with at least 50 full-time employees.
- (3) It is entered into on or after Aug. 1, 2024.

Further establishes exceptions in both Public Bid Law and the La. Procurement Code 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 does not apply to a company in a multiple party contract that will receive less than \$100,000 over the term of the contract.

Proposed law provides in both Public Bid Law and the La. Procurement Code 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.

Proposed law further provides in both Public Bid Law and the La. Procurement Code 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 in both Public Bid Law and the La. Procurement Code 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.

Proposed law provides that status includes lawful products and services provided by and lawful practices of firearm entities and firearm trade associations.

Proposed law defines a public entity as the state of Louisiana, or any agency, board, commission,

department, or public corporation of the state, created by the constitution or statute, or any political subdivision of the state, including any political subdivision as defined in the present constitution and any public housing authority, public school board, or any public officer.

Proposed law mandates in both Public Bid Law and the La. Procurement Code that the attorney general shall have enforcement authority of proposed law and shall be entitled to recover all reasonable costs and reasonable attorney fees incurred in a prevailing lawsuit.

Effective August 1, 2024.

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

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the original bill

1. Defines "status" to include lawful products and services provided by and lawful practices of firearm entities and firearm trade associations.
2. Defines the term "public entity".
3. Increases the proposed law requirement for the minimum number of employees from 10 to 50 in a contract valued at \$100,000 or more between a public entity and a company.
4. Adds provision that proposed law does not apply to a company in a multiple party contract that will receive less than \$100,000 over the term of the contract.
5. Mandates that the attorney general has enforcement authority over proposed law and is entitled to recover all reasonable costs and reasonable attorney fees incurred if he prevails in a legal action.
6. Makes technical amendments.