

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

SB 234 Engrossed

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 (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.

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 prohibits and public entity from entering into a joint or multi-party contract for goods or services unless the contract contains the written verification required pursuant to proposed law from each company that is a party to the contract. Further provides a verification requirement exception for such contracts for any company that will receive less than \$100,000 pursuant to the contract.

Proposed law defines "public entity" for the purposes of proposed law 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.

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 primarily from public funds.
- (2) It is between a public entity and a company with at least 50 full-time employees.
- (3) It is renewed or entered into on or after Aug. 1, 2024.

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.

Proposed law further provides that for the purposes of the definition, "status" includes the lawful products and services provided by and lawful practices of firearm entities and firearm trade associations.

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

Proposed law 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.

Proposed law authorizes the attorney general to enforce the requirements of proposed law and further authorizes recovery of all reasonably costs and attorney fees incurred if he prevails in any legal action for such enforcement.

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 by governmental entities pursuant to the La. Procurement Code. Defines "governmental 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 governmental 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 prohibits a governmental entity from entering into a joint or multi-party contract for goods or services unless the contract contains the written verification required pursuant to proposed law from each company that is a party to the contract. Further provides a verification requirement exception for such contracts for any company that will receive less than \$100,000 pursuant to the contract.

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 primarily from public funds.
- (2) It is between a public entity and a company with at least 50 full-time employees.
- (3) It is renewed or entered into on or after Aug. 1, 2024.

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 for the purposes of the definition, "status" includes the lawful products and services provided by and lawful practices of firearm entities and firearm trade associations.

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 "status" includes

the lawful products and services provided by and lawful practices of firearm entities and firearm trade associations.

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.

Proposed law authorizes the attorney general to enforce the requirements of proposed law and further authorizes recovery of all reasonable costs and attorney fees incurred if he prevails in any legal action for such enforcement.

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.

Summary of Amendments Adopted by House

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

1. Remove language exempting a company in a multiple party contract that will receive less than \$100,000 over the term of the contract from proposed law.
2. Add language prohibiting a public entity or a governmental entity from entering into a joint or multi-party contract unless the contract contains the verification required pursuant to proposed law from each company. Provide verification exception for such contracts for any company that will receive less than \$100,000 pursuant to the contract.
3. Make technical changes.