

Chapter 80

CONTRACTOR RESIDENCY PROVISIONS

Original House Bill No. 26

AN ACT relating to public works and contracts; modifying provisions relating to residency status for purposes of preference laws; modifying penalties; providing definitions; providing for administration by the department of workforce services; providing for a select legislative committee and a study and report; providing an appropriation; and providing for an effective date.

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

**Section 1.** W.S. 16-6-101(a)(i)(intro), (J)(III), by creating new paragraphs (iii) and (iv) and by renumbering (iii) as (v), 16-6-102(c) and 16-6-120(a), (b)(intro), (ii), by creating a new subsection (c), by amending an renumbering (c) as (d) and by renumbering (d) as (e) are amended to read:

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

(a) As used in this act:

(i) “Resident” means a natural person, association, partnership, limited partnership, registered limited partnership, registered limited liability company or corporation certified as a resident by the department of employment following receipt of an affidavit executed and sworn to by the president or a chief executive officer of the company or his designee of entity setting forth information required by the department to determine compliance with this act and prior to bidding upon the contract or responding to a request for proposal, subject to the following criteria:

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

(III) Has paid worker’s compensation and unemployment taxes in Wyoming for at least one (1) year and is in good standing with ~~Wyoming worker’s compensation and the department of employment~~ at the time the bid or request for proposal is submitted.

(iii) “Chief executive officer” means:

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(A) For a corporation, the president of the corporation;

(B) For a partnership other than a limited partnership, a partner;

(C) For a limited partnership, a general partner;

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

(E) For a business entity not specified in subdivisions (A) through (D) of this paragraph, the entity's president, chairman of the executive committee, senior officer responsible for the entity's business, chief financial officer or any other individual who performs similar functions as specified by rule of the department. The department may authorize by rule the execution of an affidavit required by paragraph (i) of this subsection by an individual holding a position other than as specified in this paragraph, if the individual holds a position with functions similar to a president of a corporation.

(iv) "Department" means the department of workforce services;

~~(iii)~~(v) "This act" means W.S. 16-6-101 through 16-6-121.

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

(c) If any person who applies for certification as a resident contractor is denied certification because of not meeting the residency requirements, that person may not reapply for certification for a period of one hundred eighty (180) days from the date certification is denied. No person shall be denied certification because of inadvertent omission of information, as determined by the department, ~~of employment,~~ on an application for resident certification.

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

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(a) ~~The department of employment shall promulgate rules and regulations required as the department determines necessary or convenient to enforce this act.~~

(b) ~~A person~~ Unless punishable under subsection (c) of this section, an individual, partnership, association, limited partnership, registered limited partnership, registered limited liability company or corporation and any officer or member thereof that intentionally falsifies information under this act shall be:

(ii) Barred from bidding on any state contract subject to the provisions of this act or submitting any request for proposal on any state project subject to the provisions of this act for one (1) year from the date the violation is corrected.

(c) Any person who signs an affidavit submitted to the department pursuant to W.S. 16-1-101(a), knowing any information contained therein is false, shall be guilty of false swearing punishable as a felony in accordance with W.S. 6-5-303(a).

~~(e)(d)~~ The department of employment is authorized and directed to enforce W.S. 16-6-101 through 16-6-206.

~~(d)(e)~~ In the event a contractor fails to comply with an order from the department, the director shall refer the matter to the appropriate district or county attorney for enforcement of the department's order.

### **Section 2.**

(a) The president of the senate and the speaker of the house of representatives shall each appoint three (3) members of their respective houses to a select committee on resident contractor preference laws. The president and speaker shall each designate a cochairman of the select committee. At least one (1) member of the select committee shall be from the minority party.

(b) The select committee shall:

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(i) Review the provisions of W.S. 16-6-101 through 16-6-121, and other provisions of Wyoming law related to contractor preference laws and for public works construction projects for the state, state agencies, state institutions and political subdivisions of the state. The committee shall include in its review the provisions of 2011 Wyoming Session Laws, Chapters 81 and 82;

(ii) Determine whether statutory changes are necessary and desirable to make more uniform laws governing public works construction projects;

(iii) Determine whether statutory changes to contractor preference laws should be made to effectuate the goal of ensuring that all business entities certified as Wyoming residents are at least fifty percent (50%) owned by individuals or entities with an actual presence in Wyoming beyond that necessary to meet minimum requirements to qualify as a resident under W.S. 16-6-101 through 16-6-121;

(iv) Be staffed by the legislative service office. State agencies shall provide information and assistance to the select committee as requested.

(c) The select committee shall submit its recommendations, including proposed legislation with respect to the issues specified in subsection (b) of this section, to the joint minerals, business and economic development interim committee no later than October 1, 2012. The joint minerals, business and economic development interim committee shall consider the recommendations and develop legislation it deems appropriate for consideration by the legislature.

(d) Members of the select committee shall be paid salary, per diem and mileage as provided in W.S. 28-5-101 for their official duties as members of the committee.

(e) There is appropriated from the general fund twenty thousand dollars (\$20,000.00) to the legislative service office for payment of salary, per diem and mileage for committee members.

(f) The select committee shall terminate December 31, 2012.

**Section 3.** This act is effective immediately upon completion of all acts

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necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved March 15, 2012.