
Second Session, Forty-third Parliament
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Legislative Assembly of British Columbia

BILL M 233

**PUBLIC SECTOR CONSTRUCTION
PROJECTS PROCUREMENT ACT**

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Explanatory Note

This Bill prohibits the issuance of solicitations in respect of public sector construction projects that require or have the effect of requiring successful vendors to employ unionized employees or non-unionized employees for projects and makes related amendments.

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PUBLIC SECTOR CONSTRUCTION PROJECTS PROCUREMENT ACT

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 In this Act:

“**bargaining agent**” has the same meaning as in the *Labour Relations Code*;

“**compliant bid**” means a bid made in response to a solicitation that meets all required conditions of the solicitation;

“**construction project**” means a project that involves the alteration, construction, decoration, demolition, erection, maintenance, reconstruction, relocation, renovation or repair of bridges, buildings, canals, dams, gas or water mains, pipelines, railways, roads, sewers, structures, transmission lines, tunnels or other public works;

“**non-unionized employee**” means an employee who is not a member of a unit that is represented by a bargaining agent;

“**public sector entity**” means

- (a) the government,
- (b) a government organization as defined in the *Procurement Services Act*,
- (c) a local public body as defined in the *Procurement Services Act*, or
- (d) an entity prescribed by regulation;

“**solicitation**” means an invitation issued for the purpose of soliciting bids for a construction project;

“**trade union**” has the same meaning as in the *Labour Relations Code*;

“**unionized employee**” means an employee who is a member of a unit that is represented by a bargaining agent;

“**unit**” has the same meaning as in the *Labour Relations Code*.

Soliciting for construction projects

- 2 A public sector entity must not issue a solicitation that requires or has the effect of requiring any of the following as a condition of a compliant bid:
- (a) that the vendor be a party to or become a party to a collective agreement in respect of employees who work on a construction project;
 - (b) that the vendor employ members of a specified trade union for work on a construction project;
 - (c) that the vendor employ non-unionized employees for work on a construction project;
 - (d) that the vendor, if it employs non-unionized employees for work on a construction project, must pay or require the non-unionized employees to pay to a union an amount in lieu of the union dues payable by unionized employees doing the same or similar work on a construction project.

Evaluation of bids

- 3 In evaluating bids made in response to a solicitation, a public sector entity must not use whether the vendor employs unionized employees or non-unionized employees as an evaluation criterion.

Payment of union dues or fees

- 4 A public sector entity that issues a solicitation must not pay dues or fees to a union in relation to any non-unionized employees employed to work on a construction project that is the subject of the solicitation.

No agreement

- 5 A public sector entity must not enter into an agreement, including a collective agreement, that impedes, prevents or attempts to impede or prevent the public sector entity from complying with this Act.

Offence Act

- 6 Section 5 of the *Offence Act* does not apply to this Act.

Regulations

- 7 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) designating an entity as a public sector entity for purposes of this Act;
 - (b) respecting any matter the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

Transitional – solicitations

- 8 Section 5 does not apply in respect of a binding solicitation that was issued before the coming into force of this Act.

Transitional – contracts

- 9 Nothing in this Act limits or affects the operation of a contract for a construction project that was entered into before the coming into force of this Act.

Commencement

- 10 This Act comes into force on the date of Royal Assent.