

SENATE No. 2525

The Commonwealth of Massachusetts

SENATE, December 30, 2004.

The committee on Ethics and Rules, to whom was referred the petition (accompanied by bill, Senate, No. 2524) of Dianne Wilkerson for legislation to make certain technical corrections to the public construction laws of the Commonwealth; reports the accompanying bill (Senate, No. 2525).

For the committee,

STEPHEN M. BREWER.

The Commonwealth of Massachusetts

In the Year Two Thousand and Four.

AN ACT FURTHER REGULATING PUBLIC CONSTRUCTION.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is forthwith to further regulate public
3 construction, therefore it is hereby declared to be an emergency
4 law, necessary for the immediate preservation of the public conve-
5 nience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 44D½ of chapter 149 of the General
2 Laws, inserted by section 19 of chapter 193 of the Acts of 2004, is
3 hereby amended by striking out subsection (i) and inserting in
4 place thereof the following subsection:—

5 (i) Notwithstanding subsections (a) to (h), inclusive, if the
6 awarding authority qualifies less than 3 general contractors to
7 submit bids pursuant to said subsection (h) and the prequalifica-
8 tion process was required pursuant to said subsection (a), the
9 awarding authority shall reject all responses and issue at least 1
10 new request for qualifications and, if the awarding authority still
11 prequalifies less than 3 general contractors to submit bids pur-
12 suant to said subsection (h), then the awarding authority may
13 reject all responses and issue a new request for qualifications,
14 invite general bids pursuant to sections 44B to 44E, inclusive, or,
15 if the awarding authority prequalifies at least 2 general contrac-
16 tors, then the awarding authority may invite bids from the 2 pre-
17 qualified general contractors. If the awarding authority qualifies
18 less than 3 general contractors to submit bids pursuant to said sub-
19 section (h) and the prequalification process was initiated at the
20 option of the awarding authority pursuant to said subsection (a),
21 the awarding authority may reject all responses and issue a new
22 request for qualifications, invite general bids pursuant to said sec-

23 tions 44B to 44E, inclusive, without further prequalification, or, if
24 the awarding authority prequalifies at least 2 general contractors,
25 then the awarding authority may invite bids from the 2 prequali-
26 fied general contractors. An awarding authority re-issuing a
27 request for qualifications under this subsection may stipulate that
28 a general contractor prequalified for a particular project during the
29 first prequalification review by the awarding authority will remain
30 prequalified for that particular project without further submission
31 by the general contractor or review by the awarding authority, for
32 not more than 120 days from the due date of the responses from
33 the first request for qualifications issued to general contractors for
34 the project.

1 SECTION 2. Section 44D³/₄ of said chapter 149, as so inserted,
2 is hereby amended by striking out subsection (i) and inserting in
3 place thereof the following subsection:—

4 (i) Notwithstanding subsections (a) to (h), inclusive, if the
5 awarding authority qualifies less than 3 subcontractors in a partic-
6 ular trade to submit bids pursuant to said subsection (h) and the
7 prequalification process was required pursuant to said subsec-
8 tion (a), the awarding authority shall reject all responses and issue
9 at least 1 new request for qualifications and, if the awarding
10 authority still prequalifies less than 3 subcontractors to submit
11 filed sub-bids pursuant to said subsection (h), then the awarding
12 authority may reject all responses and issue a new request for
13 qualifications, invite filed sub-bids pursuant to sections 44B to
14 44E, inclusive, without further prequalification, or, if the
15 awarding authority prequalifies at least 2 subcontractors in the
16 particular trade, then the awarding authority may invite bids from
17 the 2 prequalified subcontractors. If the awarding authority quali-
18 fies less than 3 subcontractors to submit filed sub-bids pursuant to
19 said subsection (h) and the prequalification process was initiated
20 at the option of the awarding authority pursuant to said
21 subsection (a), the awarding authority may reject all responses and
22 issue a new request for qualifications, invite filed sub-bids pur-
23 suant to said sections 44B to 44E, inclusive, without further pre-
24 qualification, or, if the awarding authority prequalifies at least 2
25 subcontractors in the particular trade, then the awarding authority
26 may invite filed sub-bids from the 2 prequalified subcontractors.

27 An awarding authority re-issuing a request for qualifications
28 under this subsection may stipulate that a subcontractor prequali-
29 fied for a particular project during the first prequalification review
30 by the awarding authority will remain prequalified for that partic-
31 ular project without further submission by the subcontractor or
32 review by the awarding authority for not more than 120 days from
33 the due date of the responses from the first request for qualifica-
34 tions issued to subcontractors for the project.

1 SECTION 3. Chapter 193 of the Acts of 2004 is hereby
2 amended by striking out section 34 and inserting in place thereof
3 the following 2 sections:—

4 Section 34. Implementation of subcontractor certification by
5 the division of capital asset management and maintenance as
6 required by section 18 shall be completed not later than December
7 31, 2005.

8 Section 34A. Section 27 shall take effect on January 1, 2005.