



# House of Representatives

General Assembly

**File No. 201**

January Session, 2009

Substitute House Bill No. 6297

*House of Representatives, March 25, 2009*

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING CERTAIN AUTHORITY AND DUTIES OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4a-16 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 When any person supported or cared for by the state under a  
4 program of public assistance or in an institution maintained by the  
5 Department of Public Health, Department of Developmental Services  
6 or Department of Mental Health and Addiction Services, or when an  
7 inmate of the Department of Correction, or when any child committed  
8 to the Commissioner of Social Services or Commissioner of Children  
9 and Families dies leaving only personal estate, including personal  
10 assets owing and due the estate after death, not exceeding [twenty  
11 thousand dollars in value] the aggregate value, as described in section  
12 45a-273, the Commissioner of Administrative Services or the  
13 commissioner's authorized representative shall, upon filing with the

14 probate court having jurisdiction of such estate a certificate that the  
15 total estate is under [twenty thousand dollars] the aggregate value, as  
16 described in section 45a-273, and the claim of the state, together with  
17 the expense of last illness not exceeding three hundred seventy-five  
18 dollars and funeral and burial expenses in accordance with section  
19 17b-84, equals or exceeds the amount of such estate, be issued a  
20 certificate by said court that the commissioner is the legal  
21 representative of such estate only for the following purpose. The  
22 commissioner shall have authority to claim such estate, the  
23 commissioner's receipt for the same to be a valid discharge of the  
24 liability of any person turning over the same, and to settle the same by  
25 payment of the expense of last illness not exceeding three hundred  
26 seventy-five dollars, expense of funeral and burial in accordance with  
27 section 17b-84 and the remainder as partial or full reimbursement of  
28 the claim of the state for care or assistance rendered to the decedent.  
29 The commissioner shall file with said probate court a statement of the  
30 settlement of such estate as herein provided.

31 Sec. 2. Subsection (a) of section 4a-57 of the general statutes is  
32 repealed and the following is substituted in lieu thereof (*Effective from*  
33 *passage*):

34 (a) All purchases of, and contracts for, supplies, materials,  
35 equipment and contractual services, except purchases and contracts  
36 made pursuant to the provisions of subsection (b) of this section and  
37 public utility services as provided in subsection (e) of this section shall  
38 be based, when possible, on competitive bids or competitive  
39 negotiation. The commissioner shall solicit competitive bids or  
40 proposals by providing notice of the planned purchase in a form and  
41 manner that the commissioner determines will maximize public  
42 participation in the competitive bidding or competitive negotiation  
43 process, including participation by small contractors, as defined in  
44 section 4a-60g, and promote competition. In the case of an expenditure  
45 [which] that is estimated to exceed fifty thousand dollars, such notice  
46 shall be [inserted, at least] posted, not less than five calendar days  
47 before the final date of submitting bids or proposals, [in two or more

48 publications, at least one of which shall be a major daily newspaper  
49 published in the state and shall be posted on the Internet] on the State  
50 Contracting Portal. Each notice of a planned purchase under this  
51 subsection shall indicate the type of goods and services to be  
52 purchased and the estimated value of the contract award. The notice  
53 shall also contain a notice of state contract requirements concerning  
54 nondiscrimination and affirmative action pursuant to section 4a-60  
55 and, when applicable, requirements concerning the awarding of  
56 contracts to small contractors, minority business enterprises,  
57 individuals with a disability and nonprofit corporations pursuant to  
58 section 4a-60g. Each bid and proposal shall be kept sealed or secured  
59 until opened publicly at the time stated in the notice soliciting such bid  
60 or proposal.

61 Sec. 3. Subsections (j) to (o), inclusive, of section 4a-100 of the  
62 general statutes are repealed and the following is substituted in lieu  
63 thereof (*Effective from passage*):

64 (j) The commissioner may revoke a contractor's or substantial  
65 subcontractor's prequalification or reduce the contractor's or  
66 substantial subcontractor's prequalification classification or aggregate  
67 work capacity ratings, after an opportunity for a hearing, if the  
68 commissioner receives additional information that supports such  
69 revocation or reduction. During the course of such hearing process, the  
70 commissioner may suspend a contractor's or substantial  
71 subcontractor's prequalification certificate if the commissioner  
72 determines that there is probable cause to believe that such contractor  
73 or substantial subcontractor engaged in conduct that significantly  
74 undermines the skill, ability or integrity of such contractor or  
75 substantial subcontractor. Any such suspension shall not exceed a  
76 period of three months and shall be accompanied by a written decision  
77 of the commissioner that sets forth the reasons for and duration of  
78 such suspension. The commissioner shall send notification of any such  
79 suspension to such contractor or substantial subcontractor by certified  
80 mail, return receipt requested. Such contractor or substantial  
81 subcontractor may file a response, in writing, not later than thirty days

82 after receipt of such notice. The commissioner shall review any such  
83 response submitted by a contractor or substantial subcontractor within  
84 such thirty-day period.

85 (k) (1) Any substantial evidence of fraud in obtaining or  
86 maintaining prequalification or any materially false statement in the  
87 application, update statement or update bid statement may, in the  
88 discretion of the awarding authority, result in termination of any  
89 contract awarded the [applicant] contractor or substantial  
90 subcontractor by the awarding authority. The awarding authority shall  
91 provide written notice to the commissioner of such false statement not  
92 later than thirty days after discovering such false statement. The  
93 commissioner shall provide written notice of such false statement to  
94 the Commissioner of Public Works, the Commissioner of Consumer  
95 Protection and the President of The University of Connecticut not later  
96 than thirty days after discovering such false statement or receiving  
97 such notice.

98 (2) The commissioner shall deny or revoke the prequalification of  
99 any [person] contractor or substantial subcontractor if the  
100 commissioner finds that the [person] contractor or substantial  
101 subcontractor, or a principal or key personnel of such contractor or  
102 substantial contractor, within the past five years (A) has included any  
103 materially false statement in [such] a prequalification application,  
104 update statement or update bid statement, (B) has been convicted of,  
105 entered a plea of guilty or nolo contendere for, or admitted to, a crime  
106 related to the procurement or performance of any public or private  
107 construction contract, or [within the past five years,] (C) has otherwise  
108 engaged in fraud in obtaining or maintaining prequalification. Any  
109 revocation made pursuant to this subsection shall be made only after  
110 an opportunity for a hearing. Any [person] contractor or substantial  
111 subcontractor whose prequalification has been revoked pursuant to  
112 this subsection shall be disqualified for a period of two years after  
113 which the [person] contractor or substantial subcontractor may  
114 reapply for prequalification, except that a [person] contractor or  
115 substantial subcontractor whose prequalification has been revoked on

116 the basis of conviction of a crime or engaging in fraud shall be  
117 disqualified for a period of five years after which the [person]  
118 contractor or substantial subcontractor may reapply for  
119 prequalification. The commissioner shall not prequalify a [person]  
120 contractor or substantial subcontractor whose prequalification has  
121 been revoked pursuant to this subdivision until the expiration of said  
122 two-year, five-year, or other applicable disqualification period and the  
123 commissioner is satisfied that the matters that gave rise to the  
124 revocation have been eliminated or remedied.

125 (l) The commissioner shall provide written notice of any revocation,  
126 disqualification, reduction in classification or capacity rating or  
127 reinstated prequalification to the Commissioner of Public Works, the  
128 Commissioner of Consumer Protection and the President of The  
129 University of Connecticut not later than thirty days after any final  
130 determination.

131 (m) The provisions of this section and section 4a-101, as amended by  
132 this act, shall not apply to subcontractors who are not substantial  
133 subcontractors.

134 (n) The commissioner shall establish an update statement for use by  
135 [bidders] contractors and substantial subcontractors for purposes of  
136 renewing or upgrading a prequalification certificate and an update bid  
137 statement for purposes of submitting a bid pursuant to section 4b-91.

138 (o) Any [applicant] contractor or substantial subcontractor  
139 aggrieved by the commissioner's final determination concerning a  
140 preliminary determination, a denial of certification, a reduction in  
141 prequalification classification or aggregate work capacity rating or a  
142 revocation or nonrenewal of certification may appeal to the Superior  
143 Court in accordance with section 4-183.

144 Sec. 4. Subsection (g) of section 4a-101 of the general statutes is  
145 repealed and the following is substituted in lieu thereof (*Effective from*  
146 *passage*):

147 (g) Notwithstanding the provisions of [subsection (a) of] this  
148 section, any [political subdivision] public agency of the state, when  
149 evaluating the performance of a contractor's subcontractors or  
150 substantial subcontractors, to the extent known, may rely on an  
151 evaluation of such subcontractors or substantial subcontractors that is  
152 conducted by the contractor. No contractor shall be held liable to any  
153 subcontractor or substantial subcontractor for any loss or injury  
154 sustained by such subcontractor or substantial subcontractor as the  
155 result of such evaluation provided to a public agency, unless such  
156 contractor is found by a court of competent jurisdiction to have acted  
157 in a wilful, wanton or reckless manner.

158 Sec. 5. Section 4b-91 of the general statutes is repealed and the  
159 following is substituted in lieu thereof (*Effective from passage*):

160 (a) Every contract for the construction, reconstruction, alteration,  
161 remodeling, repair or demolition of any public building or any other  
162 public work by the state except a public highway or bridge project or  
163 any other construction project administered by the Department of  
164 Transportation, which is estimated to cost more than five hundred  
165 thousand dollars, except a contract awarded by the Commissioner of  
166 Public Works for (1) a community court project, as defined in  
167 subsection (j) of section 4b-55, (2) the downtown Hartford higher  
168 education center project, as defined in subsection (l) of section 4b-55,  
169 (3) a correctional facility project, as defined in subsection (m) of section  
170 4b-55, (4) a juvenile detention center project, as defined in subsection  
171 (n) of section 4b-55, or (5) a student residential facility for the  
172 Connecticut State University System that is a priority higher education  
173 facility project, as defined in subsection (f) of section 4b-55, shall be  
174 awarded to the lowest responsible and qualified general bidder who is  
175 prequalified pursuant to section 4a-100, as amended by this act, on the  
176 basis of competitive bids in accordance with the procedures set forth in  
177 this chapter, after the Commissioner of Public Works or, in the case of  
178 a contract for the construction of or work on a building or other public  
179 work under the supervision and control of the Joint Committee on  
180 Legislative Management of the General Assembly, the joint committee

181 or, in the case of a contract for the construction of or work on a  
182 building or other public work under the supervision and control of one  
183 of the constituent units of the state system of higher education, the  
184 constituent unit, has invited such bids by [advertisements inserted at  
185 least once in one or more newspapers having a circulation in each  
186 county in the state] notice posted on the State Contracting Portal.  
187 Every contract for the construction, reconstruction, alteration,  
188 remodeling, repair or demolition of any public building or any other  
189 public work by a municipality that is paid for, in whole or in part, with  
190 state funds and that is estimated to cost more than five hundred  
191 thousand dollars, except a public highway or bridge project or any  
192 other construction project administered by the Department of  
193 Transportation, shall be awarded to a bidder that is prequalified  
194 pursuant to section 4a-100, as amended by this act, after the  
195 municipality has invited such bids by notice posted on the State  
196 Contracting Portal. The Commissioner of Public Works, the joint  
197 committee, [or] the constituent unit or the municipality, as the case  
198 may be, shall indicate the prequalification classification required for  
199 the contract in such [advertisement] notice. As used in this section,  
200 "prequalification classification" means the prequalification  
201 classifications established by the Commissioner of Administrative  
202 Services pursuant to section 4a-100, as amended by this act.

203 (b) The Commissioner of Public Works, the joint committee or the  
204 constituent unit, as the case may be, shall determine the manner of  
205 submission and the conditions and requirements of such bids, and the  
206 time within which the bids shall be submitted, consistent with the  
207 provisions of sections 4b-91 to 4b-96, inclusive, as amended by this act.  
208 Such award shall be made not later than ninety days after the opening  
209 of such bids. If the general bidder selected as the general contractor  
210 fails to perform the general contractor's agreement to execute a  
211 contract in accordance with the terms of the general contractor's  
212 general bid and furnish a performance bond and also a labor and  
213 materials or payment bond to the amount specified in the general bid  
214 form, an award shall be made to the next lowest responsible and  
215 qualified general bidder. No employee of the Department of Public

216 Works, the joint committee or a constituent unit with decision-making  
217 authority concerning the award of a contract and no public official, as  
218 defined in section 1-79, may communicate with any bidder prior to the  
219 award of the contract if the communication results in the bidder  
220 receiving information about the contract that is not available to other  
221 bidders, except that if the lowest responsible and qualified bidder's  
222 price submitted is in excess of funds available to make an award, the  
223 Commissioner of Public Works, the Joint Committee on Legislative  
224 Management or the constituent unit, as the case may be, may negotiate  
225 with such bidder and award the contract on the basis of the funds  
226 available, without change in the contract specifications, plans and  
227 other requirements. If the award of a contract on said basis is refused  
228 by such bidder, the Commissioner of Public Works, the Joint  
229 Committee on Legislative Management or the constituent unit, as the  
230 case may be, may negotiate with other contractors who submitted bids  
231 in ascending order of bid prices without change in the contract,  
232 specifications, plans and other requirements. In the event of  
233 negotiation with general bidders as provided in this section, the  
234 general bidder involved may negotiate with subcontractors on the  
235 same basis, provided such general bidder shall negotiate only with  
236 subcontractors named on such general bidder's general bid form.

237 (c) No person may bid on a contract or perform work pursuant to a  
238 contract [for the construction, reconstruction, alteration, remodeling,  
239 repair or demolition of any public building for work by the state or a  
240 municipality, which is estimated to cost more than five hundred  
241 thousand dollars and is paid for, in whole or in part, with state funds,]  
242 that is subject to the provisions of subsection (a) of this section unless  
243 the person is prequalified in accordance with section 4a-100, as  
244 amended by this act.

245 (d) Each bid submitted for a contract described in subsection (c) of  
246 this section shall include [a copy of a prequalification certificate issued  
247 by the Commissioner of Administrative Services. The bid shall also be  
248 accompanied by] an update bid statement in such form as the  
249 Commissioner of Administrative Services prescribes and, if required

250 by the state or municipal agency soliciting such bid, a copy of the  
251 prequalification certificate issued by the Commissioner of  
252 Administrative Services. The form for such update bid statement shall  
253 provide space for information regarding all projects completed by the  
254 bidder since the date the bidder's prequalification certificate was  
255 issued or renewed, all projects the bidder currently has under contract,  
256 including the percentage of work on such projects not completed, the  
257 names and qualifications of the personnel who will have supervisory  
258 responsibility for the performance of the contract, any significant  
259 changes in the bidder's financial position or corporate structure since  
260 the date the certificate was issued or renewed, any change in the  
261 contractor's qualification status as determined by the provisions of  
262 subdivision (6) of subsection (c) of section 4a-100, as amended by this  
263 act, and such other relevant information as the Commissioner of  
264 Administrative Services prescribes. Any bid submitted without a copy  
265 of the prequalification certificate, if required by the state or municipal  
266 agency soliciting such bid, and an update bid statement [shall] may be  
267 deemed invalid. Any public agency that accepts a bid submitted  
268 without a copy of such prequalification certificate, if required by such  
269 state or municipal agency soliciting such bid, and an update bid  
270 statement [, as required by this section,] may become ineligible for the  
271 receipt of funds related to such bid.

272 (e) Any person who bids on a contract described in subsection (c) of  
273 this section shall certify under penalty of false statement at the  
274 conclusion of the bidding process that the information in the bid is  
275 true, that there has been no substantial change in the bidder's financial  
276 position or corporate structure since the bidder's most recent  
277 prequalification certificate was issued or renewed, other than those  
278 changes noted in the update bid statement, and that the bid was made  
279 without fraud or collusion with any person.

280 (f) Any person who receives information from a state employee or  
281 public official that is not available to the general public concerning any  
282 construction, reconstruction, alteration, remodeling, repair or  
283 demolition project on a public building or any other public work prior

284 to the date that [an advertisement] a notice for bids on the project is  
285 [published] posted shall be disqualified from bidding on the project.

286 (g) Notwithstanding the provisions of this chapter regarding  
287 competitive bidding procedures, the commissioner may select and  
288 interview at least three responsible and qualified general contractors  
289 who are prequalified pursuant to section 4a-100, as amended by this  
290 act, and submit the three selected contractors to the construction  
291 services award panels process described in section 4b-100a and any  
292 regulation adopted by the commissioner. The commissioner may  
293 negotiate with the successful bidder a contract which is both fair and  
294 reasonable to the state for a community court project, as defined in  
295 subsection (j) of section 4b-55, the downtown Hartford higher  
296 education center project, as defined in subsection (l) of section 4b-55, a  
297 correctional facility project, as defined in subsection (m) of section 4b-  
298 55, a juvenile detention center project, as defined in subsection (n) of  
299 section 4b-55, or a student residential facility for the Connecticut State  
300 University System that is a priority higher education facility project, as  
301 defined in subsection (f) of section 4b-55. The Commissioner of Public  
302 Works, prior to entering any such contract or performing any work on  
303 such project, shall submit such contract to the State Properties Review  
304 Board for review and approval or disapproval by the board, pursuant  
305 to subsection (i) of this section. Any general contractor awarded a  
306 contract pursuant to this subsection shall be subject to the same  
307 requirements concerning the furnishing of bonds as a contractor  
308 awarded a contract pursuant to subsection (b) of this section.

309 (h) Any agency that seeks to have a project awarded without being  
310 subject to competitive bidding procedures shall certify to the joint  
311 committee of the General Assembly having cognizance of matters  
312 relating to government administration and elections that the project is  
313 of such an emergency nature that an exception to the competitive  
314 bidding procedures of this section is required. Such certification shall  
315 include input from all affected agencies, detail the need for the  
316 exception and include any relevant documentation.

317 (i) In the event that the General Assembly approves legislation  
 318 authorizing an exception to the competitive bidding process for a  
 319 project, the State Properties Review Board shall complete a review of  
 320 the contract for such project and approve or disapprove such contract  
 321 no later than thirty days after the Commissioner of Public Works  
 322 submits such contract to the board. Such review shall be conducted in  
 323 accordance with the provisions of section 4b-3. In the event that such  
 324 review does not occur within the thirty-day period prescribed by this  
 325 subsection, such contract shall be deemed to be approved.

326 (j) On and after [October 1, 2007] the effective date of this section, no  
 327 person whose subcontract exceeds five hundred thousand dollars in  
 328 value may perform work as a subcontractor on a project for the  
 329 construction, reconstruction, alteration, remodeling, repair or  
 330 demolition of any public building [for work] or any other public work  
 331 by the state or a municipality, except a public highway or bridge  
 332 project or any other construction project administered by the  
 333 Department of Transportation, which project is estimated to cost more  
 334 than five hundred thousand dollars and is paid for, in whole or in part,  
 335 with state funds, unless the person is prequalified in accordance with  
 336 section 4a-100, as amended by this act. The provisions of this  
 337 subsection shall not apply to a project described in subdivision (2) of  
 338 subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4a-16
Sec. 2	<i>from passage</i>	4a-57(a)
Sec. 3	<i>from passage</i>	4a-100(j) to (o)
Sec. 4	<i>from passage</i>	4a-101(g)
Sec. 5	<i>from passage</i>	4b-91

**Statement of Legislative Commissioners:**

In section 2, "Contracting Portal" was capitalized for accuracy. In section 3, subdivision (2) of subsection (k) was rewritten for technical sentence structure clarity. In subsection (j) of section 5, "the effective date of this section" was added for purposes of accuracy.

**GAE**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Dept. of Administrative Services	GF - Savings	See Below	See Below
Dept. of Administrative Services	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Various Municipalities	Savings	See Below	See Below

**Explanation**

The bill makes several changes to the duties of the Department of Administrative Services (DAS), the contractor and subcontractor prequalification statutes, and to notices for public works construction contracts.

The bill increases, from \$20,000 to \$40,000, the aggregate value of small estates for which DAS may petition the probate court for appointment as legal representative for the purpose of collecting debts owed to the state. Modifying the definition of a small estate is anticipated to result in a minimal General Fund revenue gain as DAS will now be able to act as legal representative and ensure that it recovers the money owed to the state from estates valued between \$20,000 and \$40,000.

This bill allows DAS to advertise certain state procurement opportunities for goods and contractual services on the internet only, instead of on the internet and in a newspaper. This will result in a minimal savings (less than \$20,000) as DAS will no longer have to pay

for newspaper advertising to solicit certain procurement bids or proposals.

The bill eliminates the requirement that state public works contracts valued at \$500,000 (other than those administered by DOT) must be published in a newspaper. This will result in a savings to the state. It is estimated that the total savings to construction contracting agencies will exceed \$200,000 annually. This may also result in a savings to certain municipalities, depending on their town requirements and current advertising practices.

The bill also eliminates the requirement that contractors include a copy of their prequalification certificate with their bids on all public works projects (other than DOT contracts). This provision may result in a significant savings to the state and municipalities if a low bidder on a project was ruled ineligible because it failed to include its prequalification certificate. Under current law, the state or municipality would have to select the next lowest bidder, whose cost may be significantly higher than the low bidder. Under this bill, the bid of the low bidder would no longer be invalid, thus the state or municipality would be able to select the low bidder for the project.

*Source: Department of Administrative Services*

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**OLR Bill Analysis**

**sHB 6297**

***AN ACT CONCERNING CERTAIN AUTHORITY AND DUTIES OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES.***

**SUMMARY:**

This bill:

1. allows Department of Administrative Services (DAS) to serve as the legal representative of more small estates for the purpose of collecting debts owed to the state;
2. requires the DAS commissioner to revoke or deny the prequalification of a contractor or substantial subcontractor based on the acts of his or her principal or key personnel;
3. requires that notice of most state, and certain municipal, public works contracts be posted on the state contracting portal;
4. extends to state agencies the authority to complete evaluations of subcontractors and substantial subcontractors by relying on evaluations completed by general contractors;
5. eliminates a requirement for contractors to include a copy of their prequalification certificate with their bids on all public works contracts, other than Department of Transportation (DOT) contracts, and instead requires the certificate when the agency soliciting the bids requests it;
6. specifies that subcontractors do not have to prequalify with DAS before performing work on highway, bridge, or construction projects administered by DOT;
7. clarifies that subcontractors must be prequalified by DAS before

they perform work on any non-DOT-administered public works projects, instead of just public works building projects, if their work and the total contract are each valued at \$500,000 or more; and

8. makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

### **SMALL ESTATE ADMINISTRATION**

The bill increases, from \$20,000 to \$40,000, the aggregate value of estates for which DAS may petition the probate court for appointment as legal representative. This is the threshold for filing an affidavit in lieu of administration in probate court. By law, DAS files these petitions when (1) the state has a claim against the estate for support or care provided to the decedent; (2) the amount of the claim, together with other specified claims, equals or exceeds the value of the estate; and (3) the value of the assets does not exceed \$20,000.

### **PREQUALIFICATION**

The bill allows the DAS commissioner to refuse to issue or renew a prequalification certificate if a contractor's or substantial subcontractor's principal or key staff member is convicted of, or admits to, acts or omissions that could have reasonably resulted in the contractor's or substantial subcontractor's disqualification.

It requires the commissioner to deny or revoke a contractor's or substantial subcontractor's prequalification if she finds that a principal or key member of their staff, within the past five years, (1) included a materially false statement in a prequalification application, update statement (i.e., statement submitted when renewing or upgrading a prequalification certificate), update bid statement; (2) was convicted of a crime, entered a plea of guilty or *nolo contendere* (no contest) for, or admitted to a crime related to getting or performing a construction contract; or (3) engaged in some other fraud to get or stay prequalified. By law, the commissioner can deny or revoke the prequalification if the contractor or substantial contractor committed these acts.

The bill also requires her to deny or revoke the prequalification of a contractor or substantial subcontractor who pleads guilty or no contest to a crime related to getting or performing a construction contract.

### **NOTICES OF PUBLIC WORKS CONSTRUCTION CONTRACTS**

The bill eliminates a requirement for (1) the DAS commissioner to place notices of bid solicitation for contracts in excess of \$50,000 in two publications, including one newspaper, and on the Internet and (2) state public works contracts valued at \$500,000, other than those administered by DOT, to be published in newspapers. It instead requires that the notices be posted on the state contracting portal.

It requires municipalities that receive state funds for all or a portion of public work projects valued at \$500,000 or more to post notices of the contracts, other than DOT-administered contracts, on the state contracting portal. These municipalities must include the qualifications necessary for the contract in the notice. By law, DOT has its own prequalification program.

### **SUBCONTRACTOR EVALUATIONS**

By law, public agencies must evaluate the performance of contractors and subcontractors working on public projects. Any agency that fails to file a completed evaluation with the DAS commissioner within 70 days after the project is completed is ineligible for future state funds to complete such projects.

The bill permits all public agencies, instead of just political subdivisions, to evaluate a subcontractor's or substantial subcontractor's performance by relying on the general contractor's evaluation of them. It absolves general contractors of liability for any harm an evaluation causes a subcontractor or substantial subcontractor. However, the general contractor may be liable for willful, wanton, or reckless actions related to the evaluations.

### **BACKGROUND**

#### ***Consequences for Agencies that Accept Bids Without Prequalification Certificates***

Bids submitted without prequalification certificates are deemed invalid and any agency that accepts a bid without the certificate may be ineligible for state funds.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/06/2009)