

Date of Hearing: March 22, 2023

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Ash Kalra, Chair

AB 1121 (Haney) – As Amended March 20, 2023

**SUBJECT:** Public works: ineligibility list

**SUMMARY:** Requires awarding authorities to submit to the Department of Industrial Relations' (DIR) electronic project registration database a list of contractors with specified information that are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project, pursuant to local debarment or suspension processes. Specifically, **this bill:**

- 1) Requires awarding authorities to submit to the DIR's electronic project registration database a list of contractors that are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project, pursuant to local debarment or suspension processes.
- 2) Requires the list to contain the name of the contractor, the Contractors State License Board license number of the contractor, the jurisdiction where the debarment or suspension applies, and the effective period of debarment or suspension of the contractor.
- 3) States that the list shall be updated at least annually.

**EXISTING LAW:**

- 1) Requires a contractor or subcontractor to be registered with the DIR to be qualified to bid on, be listed in a bid proposal, or engage in the performance of any public works contract. Labor Code § 1771.1(a).
- 2) Defines public works, to include among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except as specified. Labor Code, § 1720 (a).
- 3) Requires a contractor or subcontractor to take certain steps, including but not limited to, paying an application fee, making disclosures regarding unpaid wages, and providing evidence of workers' compensation coverage, to qualify for this registration. Labor Code § 1725.5.
- 4) Requires the DIR to maintain on its internet website a list of contractors that are currently registered to perform public works. Labor Code § 1771.1(g).
- 5) Provides that if the Labor Commissioner or their designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with 1) above, the contractor or subcontractor shall pay specified penalties. Labor Code § 1771.1(g).

**FISCAL EFFECT:** Unknown

**COMMENTS:** According to the author, “The number of contractors who are suspended or debarred is widely unknown because requirements to publish a list of debarred contractors vary across localities. The inconsistent publishing of this information presents the ability for contractors who have violated labor laws to continue to bid on public works projects in jurisdictions where they haven’t been found in violation yet. To ensure transparency and the protection of public dollars, AB 1121 would require awarding agencies of public works contracts to annually post to the Department of Industrial Relations a list of debarred contractors who are ineligible to bid on public works contracts.”

The author further remarks on the benefits of the bill in terms of fostering equity, stating, “The State of California has long sought to ensure fair pay and benefits to all employees on public works projects by establishing what is seen by many as the “gold standard” of prevailing wage laws in the nation. AB 1121 will help promote equity and benefit underserved and marginalized communities by ensuring transparency related to contractors who have been debarred for willfully violating the state’s public works labor laws. By providing this transparency, we will be taking a step toward ensuring that contractors with a history of mistreating employees are well known, and assist in ensuring that tax payer dollars are not going to contractors with egregious labor violations.”

### **Committee Comments**

The author may wish to clarify in the future how the new requirements in the bill will be enforced or add some level of oversight by the DIR.

### **Arguments in Support**

The California-Nevada Conference of Operating Engineers, sponsor of the bill, states “Under the state’s debarment statute, the Labor Commissioner may prohibit contractors and subcontractors from participating in public works projects for a variety of reasons, including but not limited to, violations of public works laws with intent to defraud, committing two or more willful violations of public works laws within a three-year period, and failure to supply certified payroll records.

Similar to the labor commissioner, local awarding agencies use local level debarments as a means to ensure accountability and protect taxpayer dollars from going to contractors with egregious violations. For example, Los Angeles County currently has debarred 17 contractors, the City of San Diego has debarred 12, and the City of Irvine has debarred 2 contractors. Overall, the number of contractors who are suspended or debarred by cities, counties, or other awarding bodies is widely unknown, as requirements to publish a list of debarred contractors vary across localities.

The inconsistent publishing of this information presents the ability for contractors who have willfully violated state and local labor laws to continue to bid on public works projects in jurisdictions where they haven’t been found in violation yet. This opens the door for awarding agencies to enter into public works contracts with contractors whom they have no knowledge of being debarred in other jurisdictions. The lack of publishing of this information additionally limits the Labor Commissioner’s ability to monitor these contractors and ensure that their violations don’t meet the level of debarring them from participating in State level public works contracts. Legislation is needed to ensure transparency around local level debarments.”

**Arguments in Opposition**

None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

International Union of Operating Engineers, Cal-Nevada Conference (Sponsor)  
AFSCME  
California Labor Federation

**Opposition**

None on file.

**Analysis Prepared by:** Megan Lane / L. & E. /