

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 629

Representative Flowers

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A B I L L

To amend section 9.312 and to enact section 4115.17 1
of the Revised Code to limit the use of complaints 2
alleging violations of the Prevailing Wage Law and 3
findings of the Director of Commerce concerning 4
violations of the Prevailing Wage Law. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 9.312 be amended and section 4115.17 6
of the Revised Code be enacted to read as follows: 7

Sec. 9.312. (A) If a state agency or political subdivision is 8
required by law or by an ordinance or resolution adopted under 9
division (C) of this section to award a contract to the lowest 10
responsive and responsible bidder, a bidder on the contract shall 11
be considered responsive if the bidder's proposal responds to bid 12
specifications in all material respects and contains no 13
irregularities or deviations from the specifications which would 14
affect the amount of the bid or otherwise give the bidder a 15
competitive advantage. The Except as provided in section 4115.17 16
of the Revised Code, the factors that the state agency or 17
political subdivision shall consider in determining whether a 18
bidder on the contract is responsible include the experience of 19
the bidder, the bidder's financial condition, conduct and 20

performance on previous contracts, facilities, management skills, 21
and ability to execute the contract properly. 22

For purposes of this division, the provision of a bid 23
guaranty in accordance with divisions (A)(1) and (B) of section 24
153.54 of the Revised Code issued by a surety licensed to do 25
business in this state is evidence of financial responsibility, 26
but a state agency or political subdivision may request additional 27
financial information for review from an apparent low bidder after 28
it opens all submitted bids. A state agency or political 29
subdivision shall keep additional financial information it 30
receives pursuant to a request under this division confidential, 31
except under proper order of a court. The additional financial 32
information is not a public record under section 149.43 of the 33
Revised Code. 34

An apparent low bidder found not to be responsive and 35
responsible shall be notified by the state agency or political 36
subdivision of that finding and the reasons for it. Except for 37
contracts awarded by the department of administrative services 38
pursuant to section 125.11 of the Revised Code, the notification 39
shall be given in writing and by certified mail. When awarding 40
contracts pursuant to section 125.11 of the Revised Code, the 41
department may send such notice in writing by first class mail. 42

(B) Where a state agency or a political subdivision that has 43
adopted an ordinance or resolution under division (C) of this 44
section determines to award a contract to a bidder other than the 45
apparent low bidder or bidders for the construction, 46
reconstruction, improvement, enlargement, alteration, repair, 47
painting, or decoration of a public improvement, it shall meet 48
with the apparent low bidder or bidders upon a filing of a timely 49
written protest. The protest must be received within five days of 50
the notification required in division (A) of this section. No 51
final award shall be made until the state agency or political 52

subdivision either affirms or reverses its earlier determination. 53
Notwithstanding any other provisions of the Revised Code, the 54
procedure described in this division is not subject to Chapter 55
119. of the Revised Code. 56

(C) A municipal corporation, township, school district, board 57
of county commissioners, any other county board or commission, or 58
any other political subdivision required by law to award contracts 59
by competitive bidding may by ordinance or resolution adopt a 60
policy of requiring each competitively bid contract it awards to 61
be awarded to the lowest responsive and responsible bidder in 62
accordance with this section. 63

Sec. 4115.17. (A) Except as provided in section 4115.133 of 64
the Revised Code, no person or public authority shall use any of 65
the following to preclude the award of a contract to a contractor: 66

(1) A complaint that alleges a violation of sections 4115.03 67
to 4115.16 of the Revised Code, filed against the contractor under 68
division (B) of section 4115.13 of the Revised Code; 69

(2) Any payment made by the contractor in response to a 70
finding made by the director of commerce that the contractor 71
violated sections 4115.03 to 4115.16 of the Revised Code; 72

(3) Any finding, including a determination, recommendation, 73
decision, or order, made by the director of commerce that the 74
contractor violated sections 4115.03 to 4115.16 of the Revised 75
Code; 76

(4) Any other finding or determination made by the director 77
of commerce that the contractor violated sections 4115.03 to 78
4115.16 of the Revised Code. 79

(B) Any contract awarded on or after the effective date of 80
this section that is in violation of division (A) of this section 81
is void. 82

(C) As used in this section, "contractor" means any 83
contractor, subcontractor, or officer of a contractor or 84
subcontractor. 85

Section 2. That existing section 9.312 of the Revised Code is 86
hereby repealed. 87