HOUSE DOCKET, NO. 3253 FILED ON: 1/21/2011

HOUSE . . . . . No. 3030

The Commonwealth of Massachusetts

PRESENTED BY:

Nick Collins

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act Relative to Public Bidding on State Contracts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Nick Collins	*4th Suffolk*

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HOUSE . . . . . No. 3030

By Mr. Collins of Boston, a petition (accompanied by bill, House, No. 3030) of Nick Collins relative to the certification of contractors bidding on state contracts. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

An Act Relative to Public Bidding on State Contracts.

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

Amend M.G.L. ch. 149, Section 44D1/2(e) to add new subsections (5) and (6) as follows:

(5) The statement of qualifications shall be signed under pains and penalties of perjury. Any general contractor that fails to respond to the RFQ in accordance with the instructions provided in the RFQ in any material way shall be disqualified from consideration for prequalification. Any general contractor that provides any materially false or misleading information in its statement of qualifications shall be disqualified from consideration for prequalification, regardless of whether the prequalification committee learns of the false or misleading information prior to making its prequalification determinations under this Section. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after qualification by the committee, the awarding authority shall reject the general contractor's bid and shall not enter into any contract with the general contractor. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after it has entered into a contract with the general contractor, but before substantial work on the project has commenced, the contract shall be deemed void, work on the project shall be stopped immediately, and the awarding authority shall select another general contractor based on the bids submitted or take such action as it may have under this Chapter to replace the contractor. If the awarding authority is notified of materially false or misleading information in any general contractor's statement of qualifications after it has entered into a contract with the general contractor and after substantial work on the project has commenced, the awarding authority shall have discretion to declare the contract void, stop work on the project, and take such action as it may have under this Chapter to replace the contractor. Upon the application of any person, a Superior Court shall enter temporary, preliminary, and permanent injunctive relief as necessary to enforce this subsection.

24 (6) Any prequalification committee or awarding authority that becomes aware of any
25 materially false or misleading information in any general contractor's statement of qualifications
26 at any time shall report the violation to the commissioner of the division of capital asset
27 management and maintenance and to the Attorney General. The division of capital asset
28 management shall debar any general contractor that provides any materially false or misleading
29 information in a statement of qualifications for no less than one year for a first violation and
30 permanently after a second violation. This section is not intended to limit in any way the
31 imposition of any additional civil penalties for any violations, the criminal prosecution of any
32 violations, or the judicial enforcement of this section.

33 Amend the second paragraph of M.G.L. ch. 149, Section 44D1/2(h) to provide as
34 follows:

35 A general contractor's score shall be made available to the general contractor upon
36 request. The prequalification committee shall not consider for prequalification any general
37 contractor that has failed to comply with all the requirements of subsection (e). The decision of
38 the prequalification committee with respect to those general contractors that are qualified for
39 consideration for prequalification under subsection (e) shall be final and shall not be subject to
40 appeal except on grounds of arbitrariness, capriciousness, fraud or collusion. Nothing in this
41 subsection (h) shall be deemed to limit in any way the compliance with or enforcement of
42 subsection (e) by any prequalification committee, awarding authority, agency, or court.

43 Amend M.G.L. ch. 149, Section 44D3/4 by adding at the end of the section the following
44 sections:

45 (k) The statement of qualifications shall be signed under pains and penalties of perjury.
46 Any general contractor that fails to respond to the RFQ in accordance with the instructions
47 provided in the RFQ in any material way shall be disqualified from consideration for
48 prequalification. Any general contractor that provides any materially false or misleading
49 information in its statement of qualifications shall be disqualified from consideration for
50 prequalification, regardless of whether the prequalification committee learns of the false or
51 misleading information prior to making its prequalification determinations under this Section. If
52 the awarding authority is notified of materially false or misleading information in any general
53 contractor's statement of qualifications after qualification by the committee, the awarding
54 authority shall reject the general contractor's bid and shall not enter into any contract with the
55 general contractor. If the awarding authority is notified of materially false or misleading
56 information in any general contractor's statement of qualifications after it has entered into a
57 contract with the general contractor, but before substantial work on the project has commenced,
58 the contract shall be deemed void, work on the project shall be stopped immediately, and the
59 awarding authority shall select another general contractor based on the bids submitted or take
60 such action as it may have under this Chapter to replace the contractor. If the awarding authority
61 is notified of materially false or misleading information in any general contractor's statement of

62 qualifications after it has entered into a contract with the general contractor and after substantial
63 work on the project has commenced, the awarding authority shall have discretion to declare the
64 contract void, stop work on the project, and take such action as it may have under this Chapter to
65 replace the contractor. Upon the application of any person, a Superior Court shall enter
66 temporary, preliminary, and permanent injunctive relief as necessary to enforce this subsection.

67 (l) Any prequalification committee or awarding authority that becomes aware of any
68 materially false or misleading information in any general contractor's statement of qualifications
69 at any time shall report the violation to the commissioner of the division of capital asset
70 management and maintenance and to the Attorney General. The division of capital asset
71 management shall debar any general contractor that provides any materially false or misleading
72 information in a statement of qualifications for no less than one year for a first violation and
73 permanently after a second violation. This section is not intended to limit in any way the
74 imposition of any additional civil penalties for any violations, the criminal prosecution of any
75 violations, or the judicial enforcement of this section.

76 Amend Chapter 149A by adding at the end of Section 5 the following sections:

77 (j) The statement of qualifications shall be signed under pains and penalties of perjury.
78 Any general contractor that fails to respond to the RFQ in accordance with the instructions
79 provided in the RFQ in any material way shall be disqualified from consideration for
80 prequalification. Any general contractor that provides any materially false or misleading
81 information in its statement of qualifications shall be disqualified from consideration for
82 prequalification, regardless of whether the prequalification committee learns of the false or
83 misleading information prior to making its prequalification determinations under this Section. If
84 the awarding authority is notified of materially false or misleading information in any general
85 contractor's statement of qualifications after qualification by the committee, the awarding
86 authority shall reject the general contractor's bid and shall not enter into any contract with the
87 general contractor. If the awarding authority is notified of materially false or misleading
88 information in any general contractor's statement of qualifications after it has entered into a
89 contract with the general contractor, but before substantial work on the project has commenced,
90 the contract shall be deemed void, work on the project shall be stopped immediately, and the
91 awarding authority shall select another general contractor based on the bids submitted or take
92 such action as it may have under this Chapter to replace the contractor. If the awarding authority
93 is notified of materially false or misleading information in any general contractor's statement of
94 qualifications after it has entered into a contract with the general contractor and after substantial
95 work on the project has commenced, the awarding authority shall have discretion to declare the
96 contract void, stop work on the project, and take such action as it may have under this Chapter to
97 replace the contractor. Upon the application of any person, a Superior Court shall enter
98 temporary, preliminary, and permanent injunctive relief as necessary to enforce this subsection.

99 (k) Any prequalification committee or awarding authority that becomes aware of any
100 materially false or misleading information in any general contractor's statement of qualifications
101 at any time shall report the violation to the commissioner of the division of capital asset
102 management and maintenance and to the Attorney General. The division of capital asset
103 management shall debar any general contractor that provides any materially false or misleading
104 information in a statement of qualifications for no less than one year for a first violation and
105 permanently after a second violation. This section is not intended to limit in any way the
106 imposition of any additional civil penalties for any violations, the criminal prosecution of any
107 violations, or the judicial enforcement of this section.