

**HOUSE . . . . . No. 3030**

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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 adoption of the accompanying bill:

An Act Relative to Public Bidding on State Contracts.

PETITION OF:

NAME:

*Nick Collins*

DISTRICT/ADDRESS:

*4th Suffolk*

**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

In the Year Two Thousand Eleven

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:*

- 1 Amend M.G.L. ch. 149, Section 44D1/2(e) to add new subsections (5) and (6) as follows:
- 2 (5) The statement of qualifications shall be signed under pains and penalties of perjury.
- 3 Any general contractor that fails to respond to the RFQ in accordance with the instructions
- 4 provided in the RFQ in any material way shall be disqualified from consideration for
- 5 prequalification. Any general contractor that provides any materially false or misleading
- 6 information in its statement of qualifications shall be disqualified from consideration for
- 7 prequalification, regardless of whether the prequalification committee learns of the false or
- 8 misleading information prior to making its prequalification determinations under this Section. If
- 9 the awarding authority is notified of materially false or misleading information in any general
- 10 contractor’s statement of qualifications after qualification by the committee, the awarding
- 11 authority shall reject the general contractor’s bid and shall not enter into any contract with the
- 12 general contractor. If the awarding authority is notified of materially false or misleading
- 13 information in any general contractor’s statement of qualifications after it has entered into a

14 contract with the general contractor, but before substantial work on the project has commenced,  
15 the contract shall be deemed void, work on the project shall be stopped immediately, and the  
16 awarding authority shall select another general contractor based on the bids submitted or take  
17 such action as it may have under this Chapter to replace the contractor. If the awarding authority  
18 is notified of materially false or misleading information in any general contractor's statement of  
19 qualifications after it has entered into a contract with the general contractor and after substantial  
20 work on the project has commenced, the awarding authority shall have discretion to declare the  
21 contract void, stop work on the project, and take such action as it may have under this Chapter to  
22 replace the contractor. Upon the application of any person, a Superior Court shall enter  
23 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  
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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.