

Assembly Bill No. 185

CHAPTER 412

An act to amend Section 7118 of the Government Code, relating to economic development.

[Approved by Governor October 1, 2001. Filed with Secretary of State October 2, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 185, Wright. Local agency military base recovery areas.

(1) The Local Agency Military Base Recovery Area Act provides, among other things, that whenever the state prepares an invitation for bid for a contract for goods in excess of \$100,000, with a specified exception, the state shall award a 5% preference to California-based companies who certify under penalty of perjury that no less than 50% of the labor required to perform the contract shall be accomplished at a worksite or worksites located in a local agency military base recovery area. In evaluating proposals for contracts for services in excess of \$100,000, with a specified exception, the state is required to award a 5% preference on the price submitted by California-based companies who certify under penalty of perjury that they shall perform the contract at a worksite or worksites located in a local agency military base recovery area.

This bill instead would provide that whenever the state prepares a solicitation for a contract for goods in excess of \$100,000, with that specified exception, the state shall award the 5% preference to California-based companies who demonstrate and certify under penalty of perjury that of the total labor hours required to manufacture the goods and perform the contract, at least 50% of the hours shall be accomplished at an identified worksite or worksites located in a local agency military base recovery area. It would also provide that, in evaluating proposals for contracts for services in excess of \$100,000, with that specified exception, the state shall award a 5% preference on the price submitted by California-based companies who demonstrate and certify under penalty of perjury that not less than 90% of the labor hours required to perform the contract shall be accomplished at an identified worksite or worksites located in a local agency military base recovery area.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) The act also provides that where a bidder complies with the provisions set forth above, the state shall award a 1% preference for

bidders who shall agree to hire persons living within a local agency military base recovery area equal to 5 to 9% of its workforce during the period of contract performance.

This bill instead would provide that the state shall award a 1% preference under these provisions for bidders who certify under penalty of perjury to hire persons meeting these criteria.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) The act further provides that a business that requests and is given the preference provided for under these provisions by reason of having furnished a false certification, and that by reason of this certification has been awarded a contract to which it would not otherwise have been entitled, shall, among other things, be ineligible to transact any business with the state for a period of not less than 3 months and not more than 24 months.

This bill instead would state that the business would be ineligible to directly or indirectly transact any business with the state for this period.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 7118 of the Government Code is amended to read:

7118. (a) Whenever the state prepares a solicitation for a contract for goods in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference to California-based companies who demonstrate and certify under penalty of perjury that of the total labor hours required to manufacture the goods and perform the contract, at least 50 percent of the hours shall be accomplished at an identified worksite or worksites located in a local agency military base recovery area.

(b) In evaluating proposals for contracts for services in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference on the price submitted by California-based companies who demonstrate and certify under penalty of perjury that not less than 90 percent of the labor hours required to perform the contract



shall be accomplished at an identified worksite or worksites located in a local agency military base recovery area.

(c) Where a bidder complies with subdivision (a) or (b), the state shall award a 1-percent preference for bidders who certify under penalty of perjury to hire persons living within a local agency military base recovery area equal to 5 to 9 percent of its workforce during the period of contract performance; a 2-percent preference for bidders who shall agree to hire persons living within a local agency military base recovery area equal to 10 to 14 percent of its workforce during the period of contract performance; a 3-percent preference for bidders who shall agree to hire persons living within a local agency military base recovery area equal to 15 to 19 percent of its workforce during the period of contract performance; and a 4-percent preference for bidders who shall agree to hire persons living within a local agency military base recovery area equal to 20 or more percent of its workforce during the period of contract performance.

(d) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent. However, in no case shall the maximum preference cost under this section exceed fifty thousand dollars (\$50,000) for any bid, nor shall the combined cost of preferences granted pursuant to this section and any other provision of law exceed one hundred thousand dollars (\$100,000). In those cases where the 15-percent cumulated preference cost would exceed the one hundred thousand dollar (\$100,000) maximum preference cost limit, the one hundred thousand dollar (\$100,000) maximum preference cost limit shall apply.

(e) Notwithstanding any other provision of this section, small business bidders qualified in accordance with Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this section, shall not result in the denial of the award to a small business bidder. This subdivision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference.

(f) All state contracts issued to bidders who are awarded preferences under this section shall contain conditions to ensure that the contractor performs the contract at the location specified and meets any commitment to employ persons with high risk of unemployment.

(g) (1) A business that requests and is given the preference provided for in subdivision (a) or (b) by reason of having furnished a false certification, and that by reason of this certification has been awarded a



contract to which it would not otherwise have been entitled, shall be subject to all of the following:

(A) Pay to the state any difference between the contract amount and what the state's cost would have been if the contract had been properly awarded.

(B) In addition to the amount specified in subparagraph (A), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.

(C) Be ineligible to directly or indirectly transact any business with the state for a period of not less than three months and not more than 24 months.

(2) Prior to the imposition of any sanction under this subdivision, the business shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

(h) In each instance in this section, a local agency military base recovery area shall also mean any local agency military base recovery area previously authorized under any other provision of state law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

