

AMENDED IN SENATE JUNE 24, 2002
AMENDED IN SENATE JUNE 10, 2002
AMENDED IN SENATE APRIL 29, 2002
AMENDED IN ASSEMBLY APRIL 23, 2001
AMENDED IN ASSEMBLY APRIL 3, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1080

Introduced by Assembly Member Kehoe
*(Coauthors: Assembly Members Alquist, Aroner, Diaz, Goldberg,
Migden, Strom-Martin, and Wiggins)*
(Coauthors: Senators Kuehl and Vasconcellos)

February 23, 2001

An act to add Section 10295.3 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1080, as amended, Kehoe. State contracts: acquisition of goods or services.

Existing law authorizes the Department of General Services to contract with suppliers to acquire goods and services for state agencies.

This bill would prohibit a state agency from entering into a contract for the acquisition of goods or services with a vendor or contractor who does not offer benefits to ~~registered~~ domestic partner employees, *as defined, that are equal to benefits offered to ~~married~~ employees with spouses, except as otherwise specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 ~~SECTION 1.—Section 10295.3 is added to the Public Contract~~
2 SECTION 1. *Section 10295.3 is added to the Public Contract*
3 Code, to read:
4 10295.3. (a) *Notwithstanding any other provision of law, a*
5 *state agency may not enter into any contract for the acquisition of*
6 *goods or services with a vendor or contractor who does not offer*
7 *benefits to employees with domestic partners that are equal to*
8 *benefits offered to employees with spouses, and to the domestic*
9 *partners and spouses of those employees. For purposes of this*
10 *section, “domestic partner” means one of two persons who has*
11 *filed a declaration of partnership with the Secretary of State*
12 *pursuant to Division 2.5 (commencing with Section 297) of the*
13 *Family Code. These benefits may include, but not be limited to,*
14 *bereavement leave, family medical leave, health benefits,*
15 *membership or membership discounts, moving expenses, pension,*
16 *and retirement benefits or travel benefits as well as any benefits*
17 *other than bereavement leave, family medical leave, health*
18 *benefits, membership or membership discounts, moving expenses,*
19 *pension and retirement benefits or travel benefits. This section*
20 *shall not apply to any contracts executed or amended prior to April*
21 *1, 2003, or to bid packages advertised and made available to the*
22 *public, or any competitive or sealed bids received by the state,*
23 *prior to April 1, 2003, unless and until those contracts or property*
24 *contracts are amended after March 31, 2003, and would otherwise*
25 *be subject to this section.*
26 (b) *Contractors or vendors shall treat as confidential to the*
27 *maximum extent allowed by law or by the requirement of*
28 *contractor’s or vendor’s insurance provider, any request by an*
29 *employee or applicant for employment for domestic partner or*
30 *spousal benefits or any documentation of eligibility for domestic*
31 *partner or spousal benefits submitted by an employee or applicant*
32 *for employment.*
33 (c) *After taking all reasonable measures to find a contractor or*
34 *vendor that complies with this section, the requirements of this*
35 *section may be waived under any of the following circumstances:*



1 (1) Whenever there is only one prospective contractor willing
2 to enter into a specific contract with the state agency.

3 (2) If the contract is necessary to respond to an emergency that
4 endangers the public health or safety and no entity which complies
5 with the requirements of this section capable of responding to the
6 emergency is immediately available.

7 (3) Where the requirements of this section violate, or are
8 inconsistent, with the terms or conditions of a grant, subvention or
9 agreement with a public agency or the instructions of an
10 authorized representative of any public agency with respect to any
11 grant, subvention, or agreement, provided that a good faith
12 attempt has been made by the agency to change the terms or
13 conditions of any grant, subvention, or agreement to authorize
14 application of this section.

15 (4) Where there are no qualified responsive bidders or
16 prospective contractors or vendors who could comply with the
17 requirements of this section and the contract is essential to the state
18 and state residents.

19 (5) Where the contract or vendor is providing wholesale or bulk
20 water, power or natural gas, the conveyance or transmission of
21 same, or ancillary services such as spinning reserve, voltage
22 control, or loading scheduling, as required for assuring reliable
23 services in accordance with good utility practice, provided that the
24 purchase of same may not practically be accomplished through the
25 standard competitive bidding procedures; and further provided
26 that this exemption shall not apply to contractors or vendors or
27 franchises providing direct, retail services to end users.

28 (d) In the event that the contractor's or vendor's actual cost of
29 providing a certain benefit for the domestic partner of an employee
30 exceeds that of providing it for the spouse of an employee, or the
31 contractor's or vendor's actual cost of providing a certain benefit
32 for the spouse of an employee exceeds that of providing it for the
33 domestic partner of an employee, the contractor or vendor shall
34 not be deemed to discriminate in the provision of benefits if the
35 contractor or vendor conditions providing the benefit upon the
36 employee agreeing to pay the excess costs. In addition, in the event
37 a contractor or vendor is unable to provide a certain benefit,
38 despite taking reasonable measures to do so, the contractor or
39 vendor shall not be deemed to discriminate in the provision of



1 *benefits if the contractor provides the employee with a cash*
2 *equivalent.*

3 *(e) This section shall be construed so as not to conflict with*
4 *applicable federal laws, rules, or regulations. In the event that a*
5 *court or agency of competent jurisdiction holds that federal law,*
6 *rule, or regulation invalidates any clause, sentence, paragraph, or*
7 *section of this code or the application thereof to any person or*
8 *circumstances, it is the intent of the state that the court or agency*
9 *sever that clause, sentence, paragraph, or section so that the*
10 *remainder of this section shall remain in effect.*

11 ~~Code, to read:~~

12 ~~10295.3.— Notwithstanding any other provision of law, a state~~
13 ~~agency may not enter into any contract for the acquisition of goods~~
14 ~~or services with a vendor or contractor who does not offer benefits~~
15 ~~to domestic partner employees, who are registered with the~~
16 ~~Secretary of State under Division 2.5 (commencing with Section~~
17 ~~297) of the Family Code, equal to benefits offered to married~~
18 ~~employees.~~

