

AMENDED IN SENATE AUGUST 14, 2002

AMENDED IN SENATE JUNE 29, 2002

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, *Chu*, Diaz,
Goldberg, ~~Migden~~, *Koretz*, *Longville*, *Migden*, *Nation*,
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 domestic partner employees, as defined, that are equal to benefits offered to 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 Code, to read:

3 10295.3. (a) Notwithstanding any other provision of law, a
4 state agency may not enter into any contract for the acquisition of
5 goods or services with a vendor or contractor who does not offer
6 benefits to employees with domestic partners that are equal to
7 benefits offered to employees with spouses, and benefits to the
8 domestic partners of employees equal to benefits offered to
9 spouses of employees. For purposes of this section, “domestic
10 partner” means one of two persons who has filed a declaration of
11 partnership with the Secretary of State pursuant to Division 2.5
12 (commencing with Section 297) of the Family Code. These
13 benefits may include, but not be limited to, bereavement leave,
14 family medical leave, health benefits, membership or membership
15 discounts, moving expenses, pension, and retirement benefits or
16 travel benefits as well as any benefits other than bereavement
17 leave, family medical leave, health benefits, membership or
18 membership discounts, moving expenses, pension and retirement
19 benefits or travel benefits. This section shall not apply to any
20 contracts executed or amended prior to April 1, 2003, or to bid
21 packages advertised and made available to the public, or any
22 competitive or sealed bids received by the state, prior to April 1,
23 2003, unless and until those contracts or property contracts are
24 amended after March 31, 2003, and would otherwise be subject to
25 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



1 partner or spousal benefits submitted by an employee or applicant
2 for employment.

3 (c) After taking all reasonable measures to find a contractor or
4 vendor that complies with this section, the requirements of this
5 section may be waived under any of the following circumstances:

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

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

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

20 (4) Where there are no qualified responsive bidders or
21 prospective contractors or vendors who could comply with the
22 requirements of this section and the contract is essential to the state
23 and state residents.

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

33 (d) In the event that the contractor's or vendor's actual cost of
34 providing a certain benefit for the domestic partner of an employee
35 exceeds that of providing it for the spouse of an employee, or the
36 contractor's or vendor's actual cost of providing a certain benefit
37 for the spouse of an employee exceeds that of providing it for the
38 domestic partner of an employee, the contractor or vendor shall not
39 be deemed to discriminate in the provision of benefits if the
40 contractor or vendor conditions providing the benefit upon the



1 employee agreeing to pay the excess costs. In addition, in the event
2 a contractor or vendor is unable to provide a certain benefit,
3 despite taking reasonable measures to do so, the contractor or
4 vendor shall not be deemed to discriminate in the provision of
5 benefits if the contractor provides the employee with a cash
6 payment equal to the amount that the employee pays to provide
7 that benefit to the spouse of an employee.

8 (e) *If a vendor or contractor does not discriminate in the*
9 *provision of benefits between employees with spouses and*
10 *employees with domestic partners, a vendor or contractor may do*
11 *any of the following:*

12 (1) *Elect to provide benefits to individuals in addition to*
13 *employees' spouses and employees' domestic partners.*

14 (2) *Allow each employee to designate a legally domiciled*
15 *member of the employee's household as being eligible for benefits.*

16 (3) *Elect not to provide benefits to employees' spouses or to*
17 *employees' domestic partners.*

18 (f) This section shall be construed so as not to conflict with
19 applicable federal laws, rules, or regulations. In the event that a
20 court or agency of competent jurisdiction holds that federal law,
21 rule, or regulation invalidates any clause, sentence, paragraph, or
22 section of this code or the application thereof to any person or
23 circumstances, it is the intent of the state that the court or agency
24 sever that clause, sentence, paragraph, or section so that the
25 remainder of this section shall remain in effect.

