

Introduced by Senator McPherson

February 21, 2002

An act to add Chapter 1.9 (commencing with Section 1900) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1666, as introduced, McPherson. Public contracts.

Existing law requires state agencies to give small businesses a 5% preference in contracts for construction, the procurement of goods, or the delivery of services.

Existing law also authorizes a local agency to provide for a small business preference in construction, the procurement of goods, or the delivery of services, and establishes a subcontracting participation goal for small businesses on contracts with a preference for those bidders who meet the goal.

This bill would enact the "California First" Procurement Act to express the intent of the Legislature that California-based business bidders have precedence over non-California based business bidders in the application of any bidder preference for which non-California based business bidders may be eligible.

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. Chapter 1.9 (commencing with Section 1900) is
- 2 added to Part 1 of Division 2 of the Public Contract Code, to read:
- 3

1 CHAPTER 1.9. "CALIFORNIA FIRST" PROCUREMENT ACT

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3 1900. This act shall be known and may be cited as the
4 "California First" Procurement Act.

5 1901. The Legislature finds and declares the following:

6 (a) It is the interest of the State of California to encourage all
7 public entities to procure goods and services from
8 California-based businesses.

9 (b) Ensuring that all public entities first look to procure
10 commodities, supplies, technology, property, and services from
11 California-based business enterprises benefits the state and the
12 citizens of the state by increasing incentives to invest in California
13 businesses, expanding job opportunities for California citizens,
14 and strengthening the overall economy of the state.

15 1901.5. Notwithstanding any other provision of law, it is the
16 intent of the Legislature that:

17 (a) To the maximum extent feasible and allowable under law,
18 and where responsibility, quality, and cost are equal, that contracts
19 or subcontracts for commodities, supplies, technology, property,
20 and services be awarded by all public entities to California-based
21 business enterprises.

22 (b) California-based business bidders have precedence over
23 non-California based business bidders in the application of any
24 bidder preference for which non-California based business bidders
25 may be eligible.

26 (c) The preference contained in this chapter may not result in
27 the denial of the award to a small business bidder pursuant to
28 Chapter 6.5 (commencing with Section 14835) of Part 5.5 of
29 Division 3 of Title 2 of the Government Code. This chapter shall
30 apply to those cases where the small business bidder is the lowest
31 responsible bidder, as well as to those cases where the small
32 business bidder is eligible for award as the result of application of
33 the 5 percent small business bidder preference and incentive.

34 1903. For purposes of this chapter:

35 (a) "California-based company" means either of the
36 following:

37 (1) A business or corporation whose principal office is located
38 in California, and the owners, or officers if the entity is a
39 corporation, are domiciled in California.



1 (2) A business or corporation that has a major office or
2 manufacturing facility located in California and that has been
3 licensed by the state on a continuous basis to conduct business
4 within the state and has continuously employed California
5 residents for work within the state during the three years prior to
6 submitting a bid or proposal for a contract.

7 (b) “Contract” means contracts or subcontracts for
8 commodities, supplies, technology, property, and services
9 awarded by a public entity, including:

10 (1) Any agreement or joint development agreement to provide
11 labor, services, material, supplies, or equipment in the
12 performance of a contract, franchise, concession, or lease granted,
13 let, or awarded for and on behalf of the public entity.

14 (2) Purchases made on behalf of the Legislature, whether made
15 by the Senate Committee on Rules, the Assembly Committee on
16 Rules, the Joint Rules Committee, or any other agency of the
17 Legislature.

18 (c) “Public entity” means the state, including every state
19 agency, office, department, division, bureau, board, or
20 commission, a city, county, city and county, including chartered
21 cities and chartered counties, district, special district, public
22 authority, political subdivision, public corporation, or nonprofit
23 transit corporation wholly owned by a public agency and formed
24 to carry out the purposes of the public agency.

25 (d) “Awarding department” means any public entity
26 empowered by law to enter into contracts on behalf of the public
27 entity.

28 (e) “Contractor” means any person or persons, regardless of
29 race, color, sex, ethnic origin or ancestry, or any firm, partnership,
30 corporation, or combination thereof, whether or not a minority or
31 women business enterprise, who submits a bid and enters into a
32 contract with a representative of a public entity empowered by law
33 to enter into contracts.

