

Assembly Bill No. 806

Passed the Assembly March 11, 2004

Chief Clerk of the Assembly

Passed the Senate January 28, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 19134 of the Government Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 806, Wiggins. State contracts: personal services.

Existing law permits state agencies to enter into personal services contracts when certain conditions are met. These conditions include requiring a state agency that enters into a personal services contract for janitorial and housekeeping services, custodians, food service workers, laundry workers, window cleaners, and security guards to include provisions for employee benefits that are valued at least 85% of the state's cost of providing comparable benefits to state employees performing similar duties. For these purposes, existing law defines "benefits" to include health, dental, and vision benefits.

Effective July 1, 2003, existing law (1) requires that state contracts for these types of services also include provisions for employee wages to be valued at least 85% of the wages provided to state employees performing similar duties, (2) defines "benefits" as also including retirement benefits, holiday pay, sick pay, and vacation pay, as provided, and (3) applies these provisions to wages and benefits of employees of subcontractors providing these services in state-leased facilities where the facility is at least 50,000 square feet in area and the state leases all of the occupied floorspace, as defined, of the facility.

This bill, with the exception of the requirements with respect to holiday pay provisions, would exclude from these requirements contracts that are performed by employees of nonprofit organizations that are employed pursuant to a specified license, certificate, community rehabilitation plan, or a habilitation services program.

This bill would take effect immediately as an urgency statute.



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

SECTION 1. Section 19134 of the Government Code is amended to read:

19134. (a) Personal services contracts entered into by a state agency in accordance with Section 19130 for persons providing janitorial and housekeeping services, custodians, food service workers, laundry workers, window cleaners, and security guard services shall include provisions for employee wages and benefits that are valued at least 85 percent of the state employer cost of wages and benefits provided to state employees for performing similar duties.

(b) For purposes of this section, “benefits” includes “health, dental, retirement, and vision benefits, and holiday, sick, and vacation pay.”

(c) (1) The Department of Personnel Administration shall establish annually the state employer wage and benefit costs for workers covered pursuant to this section.

(2) Benefit costs shall be established using rates based on single employee, employee plus one dependent, and employee plus two or more dependents, or the costs may be based on a blended rate, subject to the determination of the Department of Personnel Administration.

(d) In lieu of providing actual benefits, contractors may comply with this section by a cash payment to employees equal to the applicable determination under subdivision (c).

(e) Failure to provide benefits or cash-in-lieu to employees as required under this section shall be deemed to be a material breach for any contract for personal services covered by this section.

(f) The Department of General Services and the Department of Personnel Administration may adopt guidelines and regulations to implement the requirements of this section.

(g) This section applies to all contracts exceeding 90 days.

(h) Holiday pay shall be provided to employees of contractors providing services specified in subdivision (a) on any state holiday that the state facility in which the services are being provided is closed.

(i) This section also applies to wages and benefits of employees of subcontractors providing services specified in subdivision (a) in state-leased facilities where the facility is at least 50,000 square



feet in area and the state leases all of the occupied floorspace of the facility.

(j) With the exception of subdivision (h), this section does not apply to personal services contracts for the services described in subdivision (a) performed by employees of nonprofit organizations that are employed in accordance with any of the following:

(1) A special license issued pursuant to Section 1191.5 of the Labor Code.

(2) A special certificate issued pursuant to Section 214 of Title 29 of the United States Code.

(3) A community rehabilitation plan described in Sections 19152 and 19404 of the Welfare and Institutions Code.

(4) A habilitation services program as described in Sections 19352 and 19356.6 of the Welfare and Institutions Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve eligibility to bid on state contracts for contractors employing persons with developmental disabilities, it is necessary that this act take effect immediately.



Approved _____, 2004

Governor

