

AMENDED IN SENATE AUGUST 29, 2005

AMENDED IN SENATE JULY 6, 2005

AMENDED IN ASSEMBLY MAY 26, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 524**

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**Introduced by Assembly Member Chan**  
**(Coauthors: Assembly Members Hancock, Koretz, Lieber, and**  
**Pavley)**  
(Coauthor: Senator Romero)

February 16, 2005

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An act to ~~amend Section 10335 of, and to add and repeal Section 10360 of, the Public Contract Code, add and repeal Section 10360 of the Public Contract Code,~~ relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 524, as amended, Chan. Public contracts: offshore jobs.

Existing law authorizes the Department of General Services, or any other department with authority to enter into contracts for services, as specified.

This bill would require the department, until January 1, 2009, when any portion of a public contract for services will be performed by subcontractors or employees outside of the United States, to require from all successful bidders the completion of a standard form of questionnaire including a complete description of any or all portions of the contract that will be performed by subcontractors or employees outside of the United States and the percentage of the entire contract that the work to be performed outside of the United States represents.

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 10335 of the Public Contract Code is~~  
2     ~~amended to read:~~  
3     ~~10335. (a) This article shall apply to all contracts, including~~  
4     ~~amendments, entered into by any state agency for services to be~~  
5     ~~rendered to the state, whether or not the services involve the~~  
6     ~~furnishing or use of equipment, materials, or supplies or are~~  
7     ~~performed by an independent contractor. Except as provided in~~  
8     ~~Sections 10351 and 10360, all contracts subject to this article are~~  
9     ~~of no effect unless and until approved by the department. Each~~  
10    ~~contract shall be transmitted with all papers, estimates, and~~  
11    ~~recommendations concerning it to the department and, if~~  
12    ~~approved by the department, shall be effective from the date of~~  
13    ~~approval. This article shall apply to any state agency that by~~  
14    ~~general or specific statute is expressly or impliedly authorized to~~  
15    ~~enter into the transactions referred to in this section. This article~~  
16    ~~shall not apply to contracts for the construction, alteration,~~  
17    ~~improvement, repair, or maintenance of real or personal property,~~  
18    ~~contracts for services subject to Chapter 10 (commencing with~~  
19    ~~Section 4525) of Division 5 of Title 1 of the Government Code,~~  
20    ~~to contracts that are listed as exceptions in Section 10295,~~  
21    ~~contracts of less than five thousand dollars (\$5,000) in amount,~~  
22    ~~contracts of less than five thousand dollars (\$5,000) where only~~  
23    ~~per diem or travel expenses, or a combination thereof, are to be~~  
24    ~~paid, contracts between state agencies, or contracts between a~~  
25    ~~state agency and local agency or federal agency.~~  
26    ~~(b) In exercising its authority under this article with respect to~~  
27    ~~contracts for the services of legal counsel, other than the~~  
28    ~~Attorney General, entered into by any state agency that is subject~~  
29    ~~to Section 11042 or Section 11043 of the Government Code, the~~  
30    ~~department, as a condition of approval of the contract, shall~~  
31    ~~require the state agency to demonstrate that the consent of the~~  
32    ~~Attorney General to the employment of the other counsel has~~  
33    ~~been granted pursuant to Section 11040 of the Government Code.~~  
34    ~~This consent shall not be construed in a manner that would~~  
35    ~~authorize the Attorney General to establish a separate program~~

1 for reviewing and approving contracts in the place of, or in  
2 addition to, the program administered by the department pursuant  
3 to this article.

4 (e) ~~Until January 1, 2001, the department shall maintain a list~~  
5 ~~of contracts approved pursuant to subdivision (b). This list shall~~  
6 ~~be filed quarterly with the Senate Committee on Budget and~~  
7 ~~Fiscal Review and the Assembly Committee on Budget. The list~~  
8 ~~shall be limited to contracts with a consideration in excess of~~  
9 ~~twenty thousand dollars (\$20,000) during the life of the contract~~  
10 ~~and shall include sufficient information to identify the provider~~  
11 ~~of legal services, the length of each contract, applicable hourly~~  
12 ~~rates, and the need for the services. The department shall add a~~  
13 ~~contract that meets these conditions to the list within 10 days~~  
14 ~~after approval. A copy of the list shall be made available to any~~  
15 ~~requester. The department may charge a fee to cover the cost of~~  
16 ~~supplying the list as provided in Section 6253 of the Government~~  
17 ~~Code.~~

18 (d) ~~Contracts subject to the approval of the department shall~~  
19 ~~also have the department's approval for a modification or~~  
20 ~~amendment thereto, with the following exceptions:~~

21 (1) ~~An amendment to a contract that only extends the original~~  
22 ~~time for completion of performance for a period of one year or~~  
23 ~~less is exempt. If the original contract was subject to approval by~~  
24 ~~the department, one fully executed copy including transmittal~~  
25 ~~document, explaining the reason for the extension, shall be sent~~  
26 ~~to the legal office of the department. A contract may only be~~  
27 ~~amended once under this exemption.~~

28 (2) ~~Contracts let or awarded on the basis of a law requiring~~  
29 ~~competitive bidding may be modified or amended only if the~~  
30 ~~contract so provides or if authorized by the law requiring~~  
31 ~~competitive bidding.~~

32 (3) ~~If an amendment to a contract has the effect of giving the~~  
33 ~~contract as amended an increase in monetary amount, or an~~  
34 ~~agreement by the state to indemnify or save harmless any person,~~  
35 ~~the amendment shall be approved by the department.~~

36 ~~SEC. 2.~~

37 *SECTION 1.* Section 10360 is added to the Public Contract  
38 Code, to read:

39 10360. (a) When any portion of a public contract for services  
40 will be performed by subcontractors or employees outside of the

1 United States, the Department of General Services shall require  
2 from all successful bidders the completion of a standard form of  
3 questionnaire that includes a complete description of any or all  
4 portions of the contract that will be performed by subcontractors  
5 or employees outside of the United States and the percentage of  
6 the total contract that represents the work to be performed  
7 outside of the United States.

8 (b) This section shall remain in effect only until January 1,  
9 2009, and as of that date is repealed.

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