

AMENDED IN SENATE AUGUST 31, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1853

**Introduced by Assembly Member ~~Huffman De La Torre~~
(~~Coauthors: Assembly Members Jones and Torlakson~~)**

February 12, 2010

An act to add ~~Chapter 2.3 (commencing with Section 2030) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts. Section 32132.6 to the Health and Safety Code, relating to health care districts, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1853, as amended, ~~Huffman De La Torre. Public contracts: bid preferences: employee health care expenditures. Corcoran District Hospital: design-build.~~

Existing law provides for local health care districts that are authorized to own and operate certain health facilities, including hospitals. Each health care district has specific duties and powers respecting the creation, administration, and maintenance of the districts, including to purchase, receive, take, hold, lease, use, and enjoy property of every kind and description of property within the district.

Existing law permits the Sonoma Valley Health Care District, upon the approval of its board of directors, to use a prescribed design-build procedure set forth in a specific code section when assigning contracts for the construction of a building and improvements directly related to a hospital or health facility building at the Sonoma Valley Hospital.

Under existing law, that code section would be repealed on January 1, 2011, unless that date is deleted or extended.

This bill would also allow the Corcoran District Hospital, upon approval by its board of directors, to use the above-mentioned design-build procedure described in that code section to award contracts for the construction of an outpatient care facility, but would make these provisions inoperative if the project does not meet specified requirements.

Existing law requires that, under the existing design-build procedure, a health care district would be required to pay a fee into the continuously appropriated State Public Works Enforcement Fund, the moneys in which are used by the Department of Industrial relations to enforce applicable prevailing wage and labor requirements.

Because this bill would authorize additional fees to be paid into a continuously appropriated fund, the bill would constitute an appropriation.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Corcoran District Hospital.

~~Existing law imposes various requirements with respect to contracting by public entities:~~

~~This bill would require a state agency awarding a public works contract to provide a 2% bid preference to a bidder or subcontractor meeting specified criteria related to providing employee health care coverage. This bill would require a bidder and its subcontractors to submit statements certifying that they qualify for the bid preference, would require the bidder and contractors to continue to make employee health care expenditures, as specified, and would impose civil penalties in connection therewith, as provided. This bill would become operative on January 1, 2012, and would not apply to contracts advertised for bid on or after January 1, 2017.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Corcoran District Hospital is an essential service to an*
- 4 *underprivileged population of approximately 50,000 residents in*
- 5 *the City of Corcoran and surrounding areas.*

1 (b) This underprivileged population is 63 percent Latino,
2 unemployment is 16 percent, and Corcoran District Hospital is
3 the only medical care available within a distance of more than 20
4 miles.

5 (c) Corcoran District Hospital is also specially secured and
6 equipped to provide health care services to the 5,500 inmates and
7 2,300 personnel at Corcoran State Prison.

8 (d) In the fiscal year ending June 20, 2010, Corcoran District
9 Hospital provided health care services to more than 1,100 inmates.
10 The cost to the state for these services will triple if the Corcoran
11 District Hospital is unable to provide these services and they are,
12 instead, supplied by the next closest secure hospital, which is
13 located 65 miles from Corcoran.

14 (e) Corcoran District Hospital is facing a 2013 deadline to
15 update its facility to comply with seismic safety requirements for
16 the facility.

17 (f) Corcoran District Hospital has undertaken a project to
18 expand its facility to include an outpatient care facility that would
19 provide the necessary revenue stream to complete the mandated
20 seismic safety upgrades, which will result in approximately 100
21 new construction jobs immediately and 10 new health care jobs
22 upon completion of construction.

23 (g) Corcoran District Hospital will use the design-bid-build
24 procedure to construct the new acute care hospital which will
25 result in approximately 200 new construction jobs immediately
26 and 15 new health care jobs upon completion of construction.

27 (h) To accomplish this urgent need, the Corcoran District
28 Hospital has applied for a United States Department of Agriculture
29 rural development loan funded with federal stimulus funds from
30 the federal American Recovery and Reinvestment Act of 2009
31 (Public Law 111-5).

32 (i) These funds are in short supply and funding from the federal
33 American Recovery and Reinvestment Act of 2009 (Public Law
34 111-5) will terminate as of October 1, 2010.

35 (j) However, without legislative approval, the Corcoran District
36 Hospital cannot access these funds.

37 (k) The use of design-build process for Corcoran District
38 Hospital, which would be authorized by this act, pursuant to
39 Section 32132.6 of the Health and Safety Code, would be used
40 solely for construction of an outpatient care facility and not for

1 other infrastructure, including, but not limited to, streets, highways,
 2 public rail transit, roads, bridges, other water resources facilities,
 3 and related infrastructures.

4 SEC. 2. Section 32132.6 is added to the Health and Safety
 5 Code, to read:

6 32132.6. (a) Notwithstanding Section 32132 or any other
 7 provision of law, upon approval by the board of directors of the
 8 Corcoran District Hospital, the design-build procedure described
 9 in Section 20133 of the Public Contract Code may be used to award
 10 contracts for construction of an outpatient care facility, funded in
 11 part by funds provided pursuant to the federal American Recovery
 12 and Reinvestment Act of 2009 (Public Law 111-5) and administered
 13 by the United States Department of Agriculture, Rural
 14 Development, to which Corcoran District Hospital made final
 15 application in May 2010.

16 (b) For purposes of this section, all references in Section 20133
 17 of the Public Contract Code to “county” and “board of
 18 supervisors” shall mean the Corcoran District Hospital and its
 19 board of directors.

20 (c) An outpatient care facility utilizing the design-build process
 21 authorized by subdivision (a) shall be reviewed and inspected in
 22 accordance with the standards and requirements of the Alfred E.
 23 Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1
 24 commencing with Section 129675) of Part 7 of Division 107.

25 (d) Subdivisions (a) to (c), inclusive, shall become inoperative
 26 if the outpatient care facility authorized by subdivision (a) does
 27 not meet both of the following requirements:

28 (1) Funding for the outpatient care facility is obligated by the
 29 United States Department of Agriculture, Rural Development by
 30 October 1, 2010.

31 (2) Construction on the outpatient care facility begins by March
 32 1, 2011.

33 SEC. 3. The Legislature finds and declares that a special law
 34 is necessary and that a general law cannot be made applicable
 35 within the meaning of Section 16 of Article IV of the California
 36 Constitution because of the unique circumstances served by the
 37 Corcoran District Hospital.

38 SECTION 1. ~~Chapter 2.3 (commencing with Section 2030) is~~
 39 ~~added to Part 1 of Division 2 of the Public Contract Code, to read:~~

1 2034. ~~(a) A bidder may claim an employee health care~~
2 ~~expenditure bid preference by submitting separate statements from~~
3 ~~the bidder and all of the bidder's listed subcontractors, each~~
4 ~~certifying that it qualifies for the bid preference. The Department~~
5 ~~of General Services, working with the Department of Industrial~~
6 ~~Relations, shall develop a form for this purpose, and a bidder that~~
7 ~~seeks the bid preference under this chapter, and all the bidder's~~
8 ~~listed subcontractors, shall use that form.~~

9 (b) ~~A person or entity that knowingly provides false information~~
10 ~~in the certification required by this section shall be subject to a~~
11 ~~civil penalty for each violation in the minimum amount of two~~
12 ~~thousand five hundred dollars (\$2,500) and the maximum amount~~
13 ~~of twenty-five thousand dollars (\$25,000). An action for a civil~~
14 ~~penalty under this section may be brought by any public prosecutor~~
15 ~~in the name of the people of the State of California.~~

16 2035. (a) ~~If the winning bidder has claimed an employee health~~
17 ~~care expenditure bid preference, at the request of the state agency,~~
18 ~~the bidder and the bidder's listed subcontractors shall supply to~~
19 ~~the state agency records sufficient to show that the bidder is entitled~~
20 ~~to the preference. The failure to supply the records within a~~
21 ~~reasonable time shall result in denial of the bid preference.~~

22 (b) ~~If the winning bidder is denied the employee health care~~
23 ~~expenditure bid preference because of the failure of a listed~~
24 ~~subcontractor to establish its entitlement to the bid preference, the~~
25 ~~winning bidder shall be granted 14 days to substitute a new~~
26 ~~subcontractor that is entitled to the bid preference, and the original~~
27 ~~subcontractor shall be liable to the winning bidder for any~~
28 ~~reasonable increase in the cost of the new subcontract.~~

29 2036. ~~For purposes of this chapter, the following terms have~~
30 ~~the following meanings:~~

31 (a) ~~“Credible health care coverage” means any group policy,~~
32 ~~contract, or program that is written or administered by a disability~~
33 ~~insurer, health care service plan, fraternal benefits society,~~
34 ~~self-insured employer plan, or any other entity, in this state or~~
35 ~~elsewhere, and that arranges or provides medical, hospital, and~~
36 ~~surgical coverage not designated to supplement other private or~~
37 ~~governmental plans.~~

38 (b) ~~“State agency” means a department, division, board, bureau,~~
39 ~~commission, or agency of the executive branch of government.~~

40 2037. ~~This chapter shall become operative on January 1, 2012.~~

1 ~~2038. This chapter shall not apply to contract advertised for~~
2 ~~bid on or after January 1, 2017.~~

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