

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 175**

---

---

**Introduced by Senator Corbett**  
(Coauthor: Assembly Member Wieckowski)

February 7, 2011

---

---

An act to add Article 7 (commencing with Section 10390) to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as amended, Corbett. Public contracts: bid preferences: solar photovoltaic system.

Existing law imposes various requirements with respect to contracting by state agencies.

This bill would require a state agency that accepts bids or proposals for a contract for the purchase or installation of a solar photovoltaic system, as defined, to provide a 5% preference to a business that certifies that all of the solar panels installed as part of the solar photovoltaic system have been manufactured or assembled in California, in accordance with specified criteria.

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. The Legislature finds and declares all of the  
2 following:

1 (a) California faces the most severe economic downturn since  
2 the Great Depression. Over two million Californians are out of  
3 work and California’s unemployment rate is one of the highest in  
4 the nation.

5 (b) At a time of scarce state resources, state purchases should  
6 be used to stimulate our state economy and put people back to  
7 work.

8 (c) Former Governor Schwarzenegger’s Green Building  
9 Executive Order (S-20-04) mandated that state agencies evaluate  
10 the merits of using clean and renewable onsite energy generation  
11 technologies in all new building or large renovation projects.

12 (d) California has several companies that manufacture solar  
13 panels in the state, employing Californians and helping our  
14 economy.

15 (e) In the manufacturing of solar panels, it is the creation of the  
16 solar cells that convert sunlight into electrical power that generates  
17 the most value to the economy. Production of solar cells requires  
18 the highest percentage of skilled workers, the highest capital  
19 investment, and supports the highest amount of collateral  
20 infrastructure in the form of additional local businesses and jobs.

21 (f) California is the nation’s largest clean economy. More than  
22 12,000 clean technology companies, including solar manufacturers,  
23 call California home and are creating jobs at nearly 10 times the  
24 rate as the state’s other industries. A number of these companies  
25 have developed novel solar cell technologies and it is in the interest  
26 of the state to incentivize these companies to establish and grow  
27 manufacturing operations within the state. This will create both  
28 construction and permanent manufacturing jobs in California.

29 (g) It is the intent of the Legislature that whenever a solar  
30 photovoltaic system is placed on state buildings or property, there  
31 should be a preference for a solar photovoltaic system  
32 manufactured in California.

33 SEC. 2. Article 7 (commencing with Section 10390) is added  
34 to Chapter 2 of Part 2 of Division 2 of the Public Contract Code,  
35 to read:

36  
37 Article 7. Preference for California-Manufactured Solar Panels  
38 on State Property

39  
40 10390. For the purposes of this article:

1 ~~(a) “Assemble,” “assembled,” or “assembler” means the~~  
2 ~~manufacture or assembly of solar panels, which may include the~~  
3 ~~installation of a solar photovoltaic system.~~

4 *(a) “Assemble,” “assembled,” or “assembler” means*  
5 *connecting individual solar cells into larger groups whereby the*  
6 *solar panel or module is the end product.*

7 (b) “Manufacture,” “manufactured,” or “manufacturing” means  
8 the transformation of raw materials into a solar panel, including  
9 both the manufacture of the solar cells and the final assembly of  
10 the solar panels.

11 (c) “Power purchase agreement” means a financial arrangement  
12 in which a third-party developer owns, operates, and maintains a  
13 solar photovoltaic system, and a state agency agrees to site the  
14 system on its roof or elsewhere on its property and purchases the  
15 system’s electric output, not the system itself, from the third-party  
16 developer for a predetermined period of time.

17 (d) “Solar cells” means the basic building block of photovoltaic  
18 (PV) technologies. “Solar cells” are functional semiconductors,  
19 made by processing and treating crystalline silicon or other  
20 photosensitive materials to create a layered product that generates  
21 electricity by absorbing light photons.

22 (e) “Solar panels” means individual solar cells assembled into  
23 larger groups whereby the solar panel or module is the end product,  
24 and consists of a series of solar cells to capture and transfer  
25 solar-generated electricity, a backing surface, and a covering to  
26 protect the cells from weather and other types of damage.

27 (f) “Solar photovoltaic system” means a system created by  
28 installing multiple solar panels in the same location to increase the  
29 electrical generating capacity. In a “solar photovoltaic system” the  
30 solar panels and solar cells represent the highest intellectual content  
31 and dollar-value items associated with solar photovoltaic energy  
32 generation.

33 10391. (a) A state agency that accepts bids or proposals for a  
34 contract for the purchase or installation of a solar photovoltaic  
35 system through a power purchase agreement, or through a direct  
36 purchase, shall provide a preference of 5 percent to a business that  
37 certifies that all of the solar panels installed as part of such a solar  
38 photovoltaic system have been manufactured or assembled in this  
39 state. The preference shall be provided as follows:

1 (1) For solicitations to be awarded to the lowest responsible  
2 bidder meeting specifications, the preference to a business that  
3 certifies that all of the solar panels installed as part of the solar  
4 photovoltaic system have been manufactured or assembled in this  
5 state shall be 5 percent of the bid price of the lowest responsible  
6 bidder meeting specifications.

7 (2) For solicitations to be awarded to the highest scored bidder  
8 based on evaluation factors in addition to price, the preference to  
9 a business that certifies that all of the solar panels installed as part  
10 of the solar photovoltaic system have been manufactured or  
11 assembled in this state shall be 5 percent of the total score of the  
12 highest scored bidder.

13 (3) A preference awarded pursuant to paragraph (1) or (2) shall  
14 not be awarded to a noncompliant bidder and shall not be used to  
15 satisfy any applicable minimum requirements.

16 (4) In order to be eligible for the 5-percent preference authorized  
17 pursuant to this section, a business shall submit all required  
18 substantiating documentation and information needed by the state  
19 agency to determine if the business is eligible for the preference,  
20 including, but not limited to, documentation regarding who the  
21 manufacturer or assembler of the solar photovoltaic system will  
22 be and the location or locations where the solar photovoltaic system  
23 will be manufactured or assembled.

24 (5) If, after application of the preferences set forth in this section,  
25 the bids submitted by an assembler and a manufacturer are tied as  
26 the lowest responsible bid or the highest scored bid, then the tie  
27 shall be resolved in favor of the manufacturer.

28 (b) The Department of General Services shall establish a process  
29 to verify that a business meets the criteria for the 5-percent  
30 preference.