

AMENDED IN ASSEMBLY MARCH 20, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 650

Introduced by Assembly Member Nazarian

February 21, 2013

~~An act to amend Section 10101 of the Public Contract Code, relating to public contracts.~~ *An act to add Section 10299.1 to the Public Contract Code, relating to state government, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 650, as amended, Nazarian. ~~State Contract Act: exemptions.~~ *State government: general services: the Natural Gas Services Program.*

Existing law authorizes the Department of General Services to contract with suppliers to obtain materials, supplies, equipment, and services.

This bill would require the director to operate the Natural Gas Services Program, pursuant to which the Director of General Services shall make the services of the department with respect to the acquisition of natural gas and related services available, under agreed upon terms and conditions, to any city, county, city and county, district, other local governmental body, or corporation empowered to expend public funds, and shall enter into interagency agreements for acquisition of natural gas and related services, as defined.

The bill would require agencies that are in the executive branch of state government to use the department's natural gas program for noncore gas purchases of natural gas. The bill would authorize the department to hire employees as required for this program. The bill would create the Department of General Services Natural Gas Services

Program Account which would be continuously appropriated to the department for purposes of operating the Natural Gas Services Program.

~~The State Contract Act prescribes the procedures and requirements applicable to various state agency contracts, and exempts from these procedures and requirements specified contracts for which emergency work or remedial measures are required related to the accidental or unplanned release of toxic substances.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 SECTION 1. Section 10299.1 is added to the Public Contract
2 Code, to read:

3 10299.1. (a) Notwithstanding any other law, the director shall
4 operate the Natural Gas Services Program to consolidate and
5 address the needs of multiple state agencies for the procurement
6 of natural gas and related services.

7 (b) Procurement of natural gas and related services is vital to
8 public sector facilities in California and, due to the volumes and
9 costs involved, this section authorizes the following:

10 (1) The director shall make the services of the department with
11 respect to the acquisition of natural gas and related services
12 available, under agreed upon terms and conditions, to any city,
13 county, city and county, district, or other local governmental body,
14 or any corporation empowered to expend public funds.

15 (2) The department is authorized to enter into interagency
16 agreements with the entities listed in paragraph (1) for the
17 acquisition of natural gas and related services. The department
18 may enter into contracts, master agreements, multiple award
19 schedules, cooperative agreements, agreements with entities
20 outside the state, and other types of agreements that leverage the
21 state's buying power through the use of a competitive bidding
22 process. The state shall not incur financial responsibility in
23 connection with the contracting of nonstate agencies under this
24 section.

25 (3) The department may buy, sell, exchange, transfer, or
26 otherwise dispose of natural gas acquired by the department
27 pursuant to this section, and may recover the department's

1 acquisition and other costs to operate the program through
2 customer charges or fees.

3 (4) The department may enter into gas purchase transactions
4 for a term longer than five years, if specifically approved by the
5 director.

6 (5) The program shall adjust to changes in customer
7 requirements and market conditions and create and manage an
8 ongoing pool of gas suppliers.

9 (6) The department is authorized to provide additional services
10 to customers related to the environmental aspects of energy use
11 and the requirements related to greenhouse gas regulations,
12 renewable energy requirements, and similar programs and
13 requirements.

14 (7) Notwithstanding any other law, the department is not
15 required to include in contracts or other agreements for the
16 purchase of natural gas and related services entered into pursuant
17 to this section disabled veteran business enterprise requirements,
18 unless the department determines that the application of those
19 provisions is necessary to accomplish the purposes of this section.

20 (c) Agencies that are in the executive branch of the state
21 government shall use the department's natural gas program for
22 noncore gas purchases of natural gas to ensure maximum
23 participation resulting in the best discounts and prices for the
24 commodity. The Director of General Services may allow
25 exemptions to this requirement.

26 (d) The department may hire and appoint employees as required
27 for this program, at salary levels determined by the director to be
28 competitive to attract and retain persons with the necessary
29 expertise and skills. Prior to hiring or appointing an employee at
30 a salary in excess of a salary approved by the Department of
31 Human Resources (CalHR), the director shall submit a proposed
32 salary to the Director of Finance who shall submit it to the
33 Legislature in accordance with the annual Budget Act.

34 (e) For purposes of this section, "natural gas" includes, but is
35 not limited to, natural gas, methane, biomethane, compressed
36 natural gas, liquefied natural gas, and other energy commodity
37 that is similar to natural gas, and related services, including, but
38 not limited to, gas storage, gas transportation, and forward
39 purchases of natural gas.

1 (f) During any period in which a Budget Act has not been
 2 approved, the department shall continue to receive payment
 3 transfers from agencies that are not in the executive branch of the
 4 state government and agencies that are in the executive branch of
 5 state government that are able to pay because they operate with
 6 funds that are continuously appropriated. The department is
 7 specifically authorized to pay program vendors when the Budget
 8 Act is delayed.

9 (g) The department is authorized to charge, collect, and hold
 10 funds from a customer that voluntarily requests prepaid long-term
 11 natural gas supplies, for a period not to exceed 20 years.

12 (h) The Department of General Services Natural Gas Services
 13 Program Account is hereby established in the State Treasury, funds
 14 from which are to be continuously appropriated to the department
 15 without regard to fiscal year, for the purposes of operating the
 16 Natural Gas Services Program.

17 (1) All revenues payable to the department for natural gas and
 18 related services shall be deposited in this account. Any payments
 19 from this account shall only be made for those purposes described
 20 in and consistent with this section.

21 (2) The Natural Gas Services Program’s customer fee revenues
 22 cannot be shifted or borrowed from the account.

23 (3) If at the end of any fiscal year, there are unexpended
 24 revenues, those revenues shall be retained in the account and
 25 reserved for future Natural Gas Services Program expenses.

26 SECTION 1. ~~Section 10101 of the Public Contract Code is~~
 27 ~~amended to read:~~

28 ~~10101. (a) Contracts for the purchase of supplies or materials,~~
 29 ~~which are purchased pursuant to Chapter 2 (commencing with~~
 30 ~~Section 10290), are not subject to this chapter, even though the~~
 31 ~~seller is required to perform some incidental work or service in~~
 32 ~~connection with the delivery of the material or supplies.~~

33 ~~(b) Contracts for which emergency work or remedial measures~~
 34 ~~are required are not subject to this chapter if the work or remedial~~
 35 ~~measures are necessary in order to immediately avert, alleviate,~~
 36 ~~repair, or mitigate destruction of property caused by the accidental~~
 37 ~~or unplanned release of toxic substances and are necessary in order~~
 38 ~~to protect the health, safety, and welfare of the general public.~~