

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1198

Introduced by Assembly Member Jones-Sawyer

February 22, 2013

~~An act to amend Section 2051 of the Penal Code, relating to the Department of Corrections and Rehabilitation. An act to add Sections 10186 and 10324 to the Public Contract Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1198, as amended, Jones-Sawyer. ~~Department of Corrections and Rehabilitation. Public contracts: bidders: employment practices.~~

The State Contract Act generally sets forth the authority and duties of a state agency for bidding and awarding public works contracts. Existing law also sets forth requirements for the procurement of materials, supplies, equipment, and services, and the acquisition of information technology goods and services by state agencies.

This bill would prohibit the state from contracting with a person or entity that asks an applicant for employment who will assist the person or entity in fulfilling the contract with the state to disclose information concerning the conviction history of the applicant, unless the employer has determined that the applicant meets the minimum employment qualifications as stated in any notice issued for the position. The bill would not apply to a position for which an employer is otherwise required by state or federal law to conduct a conviction or criminal history background check or to any contract position with a criminal justice agency, as specified.

~~Existing law authorizes the Department of Corrections and Rehabilitation to contract for provisions, clothing, medicines, forage, fuel, and all other staple supplies needed for the support of the prisons for any period of time, not exceeding one year, and further specifies bidding procedures and other particulars of the bidding process in connection with awarding those contracts.~~

~~This bill would make technical, nonsubstantive changes to those provisions:~~

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

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

1 SECTION 1. Section 10186 is added to the Public Contract
2 Code, to read:

3 10186. (a) The state shall not accept a bid from a person or
4 entity that asks an applicant for employment who will assist the
5 person or entity in fulfilling the contract with the state to disclose
6 information concerning the conviction history of the applicant,
7 unless the employer has determined that the applicant meets the
8 minimum employment qualifications as stated in the notice issued
9 for the position. This subdivision applies to both oral and written
10 disclosures and disclosures made on an initial employment
11 application.

12 (b) This section shall not apply to a position for which an
13 employer is otherwise required by state or federal law to conduct
14 a conviction or criminal history background check or to any
15 contract position with a criminal justice agency, as that term is
16 defined in Section 13101 of the Penal Code.

17 (c) This section shall not be construed to prevent the state from
18 accepting a bid from a person or entity that conducts a conviction
19 history background check after complying with all of the provisions
20 of subdivision (a).

21 SEC. 2. Section 10324 is added to the Public Contract Code,
22 to read:

23 10324. (a) The state shall not accept a bid from a person or
24 entity that asks an applicant for employment who will assist the
25 person or entity in fulfilling the contract with the state to disclose
26 information concerning the conviction history of the applicant,
27 unless the employer has determined that the applicant meets the

1 *minimum employment qualifications as stated in the notice issued*
2 *for the position. This subdivision applies to both oral and written*
3 *disclosures and disclosures made on an initial employment*
4 *application.*

5 *(b) This section shall not apply to a position for which an*
6 *employer is otherwise required by state or federal law to conduct*
7 *a conviction or criminal history background check or to any*
8 *contract position with a criminal justice agency, as that term is*
9 *defined in Section 13101 of the Penal Code.*

10 *(c) This section shall not be construed to prevent the state from*
11 *accepting a bid from a person or entity that conducts a conviction*
12 *history background check after complying with all of the provisions*
13 *of subdivision (a).*

14 ~~SECTION 1. Section 2051 of the Penal Code is amended to~~
15 ~~read:~~

16 ~~2051. The department is hereby authorized to contract for~~
17 ~~provisions, clothing, medicines, forage, fuel, and all other staple~~
18 ~~supplies needed for the support of the prisons for any period of~~
19 ~~time, not exceeding one year, and those contracts shall be limited~~
20 ~~to bona fide dealers in the several classes of articles contracted~~
21 ~~for. Contracts for those articles as the department may desire to~~
22 ~~contract for, shall be given to the lowest bidder at a public letting~~
23 ~~thereof, if the price bid is a fair and reasonable one, and not greater~~
24 ~~than the usual value and prices.~~

25 ~~Each bid shall be accompanied by that security as the department~~
26 ~~may require, conditional upon the bidder entering into a contract~~
27 ~~upon the terms of his or her bid, on notice of the acceptance thereof,~~
28 ~~and furnishing a penal bond with good and sufficient sureties in~~
29 ~~that sum as the department may require, and to its satisfaction that~~
30 ~~the bidder will faithfully perform the bidder's contract.~~

31 ~~If the proper officer of the prison reject any article, as not~~
32 ~~complying with the contract, or if a bidder fail to furnish the articles~~
33 ~~awarded to him or her when required, the proper officer of the~~
34 ~~prison may buy other articles of the kind rejected or called for, in~~
35 ~~the open market, and deduct the price thereof, over the contract~~
36 ~~price, from the amount due to the bidder, or charge the same up~~
37 ~~against the bidder.~~

38 ~~Notice of the time, place, and conditions of the letting of~~
39 ~~contracts shall be given for at least two consecutive weeks in two~~
40 ~~newspapers printed and published in the City and County of San~~

1 ~~Francisco, and in one newspaper printed and published in the~~
2 ~~County of Sacramento, and in the county where the prison to be~~
3 ~~supplied is situated.~~

4 ~~If all the bids made at that letting are deemed unreasonably high,~~
5 ~~the department may, in its discretion, decline to contract and may~~
6 ~~again advertise for that time and in those papers as it sees proper~~
7 ~~for proposals, and may so continue to renew the advertisement~~
8 ~~until satisfactory contracts are made; and in the meantime the~~
9 ~~department may contract with anyone whose offer is regarded as~~
10 ~~just and equitable, or may purchase in the open market.~~

11 ~~No bids shall be accepted, nor a contract entered into in~~
12 ~~pursuance thereof, when that bid is higher than any other bid at~~
13 ~~the same letting for the same class or schedule of articles, quality~~
14 ~~considered, and when a contract can be had at that lower bid.~~

15 ~~When two or more bids for the same article or articles are equal~~
16 ~~in amount, the department may select the one which, all things~~
17 ~~considered, may by it be thought best for the interest of the state,~~
18 ~~or it may divide the contract between the bidders as in its judgment~~
19 ~~may seem proper and right.~~

20 ~~The department shall have power to let a contract in the aggregate~~
21 ~~or they may segregate the items, and enter into a contract with the~~
22 ~~bidder or bidders who may bid lowest on the several articles.~~

23 ~~The department shall have the power to reject the bid of any~~
24 ~~person who had a prior contract and who had not, in the opinion~~
25 ~~of the department, faithfully complied therewith.~~