

AMENDED IN ASSEMBLY FEBRUARY 25, 2014

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE APRIL 29, 2013

AMENDED IN SENATE APRIL 10, 2013

**SENATE BILL**

**No. 124**

**Introduced by Senator Corbett**

**(Coauthor: Senator Correa)**

(Coauthor: Assembly Member Roger Hernández)

January 18, 2013

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An act to amend Sections 4217.11 and 4217.16 of the Government Code, and to add and repeal Section 10780.6 of, and to add and repeal Article 7 (commencing with Section 10390) of Chapter 2 of Part 2 of Division 2 of, the Public Contract Code, relating to public contracts. *relating to human remains.*

LEGISLATIVE COUNSEL'S DIGEST

SB 124, as amended, Corbett. ~~Public contracts: bid preferences: clean energy.~~ *Human remains: Abbot Archimandrite Theodor Micka.*

*Existing law requires the local registrar of births and deaths, if the certificate of death is properly executed and completed, to issue a permit for disposition that specifies where the burial or interment will take place.*

*This bill, notwithstanding the above requirement or any other law, would authorize the local registrar of births and deaths in the County of Alameda to issue a disposition permit for the burial of the Abbot, Archimandrite Theodor Micka on the grounds of the Holy Cross Monastery in the County of Alameda and would allow those remains to be so interred.*

*The bill would make legislative findings and declarations as to the necessity of a special statute for the County of Alameda.*

~~Existing law imposes various requirements with respect to contracting by state agencies and the Trustees of the California State University. Existing law requires state agencies and the Trustees of the California State University to use a competitive bidding process when contracting for goods and services. However, existing law allows a public, as defined, agency to award an energy service contract if the governing body determines it is in the best interest of the agency and costs will be reduced, as specified.~~

~~This bill would authorize a public agency, including, but not limited to, the Trustees of the California State University, to award a contract based on the fact that a clean energy device, technology, or system was manufactured in the state if the contract is an energy service contract determined to be in the best interest of the public agency. The bill would, until January 1, 2020, require state agencies and the Trustees of the California State University that accept bids or proposals for a contract for the purchase or installation of a clean energy device, technology, or system, as defined, to provide a 5% preference to a bidder that certifies that all of the parts of the clean energy device, technology, or system to be installed have been manufactured in the state, in accordance with specified criteria. This bill would also, until January 1, 2020, require the Department of General Services to establish a clarification process to ensure that bidders meet the preference criteria and, with respect to the California State University, to publish related information on the departments' Internet Web site.~~

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

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

- 1     *SECTION 1. Notwithstanding Sections 7054 and 103055 of*
- 2     *the Health and Safety Code, or any other law, the local registrar*
- 3     *of births and deaths in the County of Alameda may issue a*
- 4     *disposition permit for the burial of the Abbot, Archimandrite*
- 5     *Theodor Micka on the grounds of the Holy Cross Monastery in*
- 6     *the County of Alameda and those remains may be so interred.*
- 7     *SEC. 2. The Legislature finds and declares that, because of*
- 8     *the unique circumstances applicable only to the County of*
- 9     *Alameda, a special law is necessary and that a general law cannot*

1 *be made applicable within the meaning of Section 16 of Article IV*  
2 *of the California Constitution.*

3 ~~SECTION 1. The Legislature finds and declares all of the~~  
4 ~~following:~~

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

7 ~~(b) The Green Building Executive Order (B-18-12) mandated~~  
8 ~~that state agencies evaluate the merits of using clean and renewable~~  
9 ~~onsite energy generation technologies in all new building or large~~  
10 ~~renovation projects.~~

11 ~~(c) California has several companies that manufacture clean~~  
12 ~~energy devices, technology, and systems in the state, employing~~  
13 ~~Californians and helping our economy.~~

14 ~~(d) California is a national leader in creating a clean economy.~~  
15 ~~Many clean technology companies call California home. A number~~  
16 ~~of these companies have developed novel technologies, and it is~~  
17 ~~in the interest of the state to establish and grow manufacturing~~  
18 ~~operations within the state, in order to create both construction~~  
19 ~~and permanent manufacturing jobs in California.~~

20 ~~(e) It is the intent of the Legislature that a preference should be~~  
21 ~~allowed for clean energy devices, technology, and systems~~  
22 ~~manufactured in California.~~

23 ~~SEC. 2. Section 4217.11 of the Government Code is amended~~  
24 ~~to read:~~

25 ~~4217.11. The following terms, whenever used in this chapter,~~  
26 ~~have the meanings given in this section, except where the context~~  
27 ~~clearly indicates otherwise:~~

28 ~~(a) “Clean energy device, technology, or system” means devices~~  
29 ~~or technologies used for a renewable electrical generation facility,~~  
30 ~~as defined in paragraph (1) of subdivision (a) of Section 25741 of~~  
31 ~~the Public Resources Code; a combined heat and power system,~~  
32 ~~as defined in Section 2840.2 of the Public Utilities Code;~~  
33 ~~distributed generation and energy storage technologies eligible~~  
34 ~~under the self-generation incentive program pursuant to Section~~  
35 ~~379.6 of the Public Utilities Code, as determined by the Public~~  
36 ~~Utilities Commission; or a facility designed for the production of~~  
37 ~~renewable fuels the efficient use of which reduces the use of fossil~~  
38 ~~or nuclear fuels; and energy efficiency devices or technologies~~  
39 ~~that reduce the need for new electric generation and reduce~~  
40 ~~emissions of toxic and criteria pollutants and greenhouse gases.~~

1 ~~(b) “Conservation services” means the electrical, thermal, or~~  
2 ~~other energy savings resulting from conservation measures, which~~  
3 ~~shall be treated as a supply of that energy.~~

4 ~~(c) “Energy conservation facility” means clean energy devices,~~  
5 ~~technologies, or systems, or conservation measures located in~~  
6 ~~public buildings or on land owned by public agencies.~~

7 ~~(d) “Energy service contract” means a contract entered into by~~  
8 ~~a public agency with any person, pursuant to which the person will~~  
9 ~~provide electrical or thermal energy or conservation services to a~~  
10 ~~public agency from an energy conservation facility.~~

11 ~~(e) “Facility financing contract” means a contract entered into~~  
12 ~~by a public agency with any person whereby the person provides~~  
13 ~~financing for an energy conservation facility in exchange for~~  
14 ~~repayment of the financing and all costs and expenses related~~  
15 ~~thereto by the public agency. A facility financing contract may~~  
16 ~~provide for the person with whom the public agency contracts to~~  
17 ~~provide any combination of feasibility studies for, and design and~~  
18 ~~construction of, all or part of the energy conservation facility in~~  
19 ~~addition to the financing and other related services, and may~~  
20 ~~provide for an installment sale purchase, another form of purchase,~~  
21 ~~or amortized lease of the energy conservation facility by the public~~  
22 ~~agency.~~

23 ~~(f) “Facility ground lease” means a lease of all, or any portion~~  
24 ~~of, land or a public building owned by, or under lease to, a public~~  
25 ~~agency to a person in conjunction with an energy service contract~~  
26 ~~or a facility financing contract. A facility ground lease may include,~~  
27 ~~in addition to the land on which energy conservation facilities will~~  
28 ~~be located, easements, rights-of-way, licenses, and rights of access,~~  
29 ~~for the construction, use, or ownership by the person of the facility~~  
30 ~~and all related utility lines not owned or controlled by the~~  
31 ~~interconnecting utility, and offsite improvements related thereto.~~  
32 ~~A facility ground lease may also include the addition or~~  
33 ~~improvement of utility lines and equipment owned by the~~  
34 ~~interconnecting utility that are necessary to permit interconnection~~  
35 ~~between that utility and an energy conservation facility.~~

36 ~~(g) “Person” means, but is not limited to, any individual,~~  
37 ~~company, corporation, partnership, limited liability company,~~  
38 ~~public agency, association, proprietorship, trust, joint venture, or~~  
39 ~~other entity or group of entities.~~

1 (h) ~~“Public agency” means the state, a county, city and county,~~  
2 ~~city, district, community college district, school district, California~~  
3 ~~State University, joint powers authority or other entity designated~~  
4 ~~or created by a political subdivision relating to energy development~~  
5 ~~projects, and any other political subdivision or public corporation~~  
6 ~~in the state.~~

7 (i) ~~“Public building” includes any structure, building, facility,~~  
8 ~~or work which a public agency is authorized to construct or use,~~  
9 ~~and automobile parking lots, landscaping, and other facilities,~~  
10 ~~including furnishings and equipment, incidental to the use of any~~  
11 ~~structure, building, facility, or work, and also includes the site~~  
12 ~~thereof, and any easements, rights-of-way appurtenant thereto, or~~  
13 ~~necessary for its full use.~~

14 SEC. 3. ~~Section 4217.16 of the Government Code is amended~~  
15 ~~to read:~~

16 ~~4217.16. Prior to awarding or entering into an agreement or~~  
17 ~~lease, the public agency may request proposals from qualified~~  
18 ~~persons. After evaluating the proposals, the public agency may~~  
19 ~~award the contract on the basis of the experience of the contractor,~~  
20 ~~the type of technology employed by the contractor, the cost to the~~  
21 ~~local agency, whether the clean energy device or technology is~~  
22 ~~manufactured in California, and any other relevant considerations.~~  
23 ~~The public agency may utilize the pool of qualified energy service~~  
24 ~~companies established pursuant to Section 388 of the Public~~  
25 ~~Utilities Code and the procedures contained in that section in~~  
26 ~~awarding the contract.~~

27 SEC. 4. ~~Article 7 (commencing with Section 10390) is added~~  
28 ~~to Chapter 2 of Part 2 of Division 2 of the Public Contract Code,~~  
29 ~~to read:~~

30  
31 ~~Article 7. Preference for California-Manufactured Clean Energy~~  
32 ~~Devices, Technology, and Systems~~  
33

34 ~~10390. For the purposes of this article:~~

35 (a) ~~“Clean energy device, technology, or system” means devices~~  
36 ~~or technologies used for a renewable electrical generation facility,~~  
37 ~~as defined in paragraph (1) of subdivision (a) of Section 25741 of~~  
38 ~~the Public Resources Code; a combined heat and power system,~~  
39 ~~as defined in Section 2840.2 of the Public Utilities Code;~~  
40 ~~distributed generation and energy storage technologies eligible~~

1 under the self-generation incentive program pursuant to Section  
 2 379.6 of the Public Utilities Code, as determined by the Public  
 3 Utilities Commission; a solar water heating system, as defined in  
 4 subdivision (g) of Section 2861 of the Public Utilities Code; or a  
 5 facility designed for the production of renewable fuels, the efficient  
 6 use of which reduces the use of fossil or nuclear fuels; and energy  
 7 efficiency devices or technologies that reduce the need for new  
 8 electric generation and reduce emissions of toxic and criteria  
 9 pollutants and greenhouse gases.

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

18 10391. (a) A state agency that accepts bids or proposals for a  
 19 contract for the purchase or installation of a clean energy device,  
 20 technology, or system through a power purchase agreement or a  
 21 direct purchase shall provide a preference of 5 percent to a bidder  
 22 that certifies that all of the parts of the clean energy device,  
 23 technology, or system to be installed have been manufactured in  
 24 this state. The maximum preference a bidder may be awarded  
 25 pursuant to this article is 5 percent, for that portion of a project  
 26 that is for the purchase and installation of a clean energy device,  
 27 technology, or system. The total bid preference resulting from this  
 28 article and any other provision of law shall not exceed 15 percent.  
 29 The preference shall be provided as follows:

30 (1) For solicitations to be awarded to the lowest responsible  
 31 bidder meeting specifications, the preference to a bidder that  
 32 certifies that all of the parts of the clean energy device, technology,  
 33 or system to be installed have been manufactured in this state shall  
 34 be 5 percent of the bid price of the lowest responsible bidder  
 35 meeting specifications.

36 (2) For solicitations to be awarded to the highest scored bidder  
 37 based on evaluation factors in addition to price, the preference to  
 38 a bidder that certifies that all of the parts of the clean energy device,  
 39 technology, or system to be installed have been manufactured in

1 this state shall be 5 percent of the total score of the highest scored  
2 bidder.

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

6 (4) ~~In order to be eligible for the 5-percent preference authorized~~  
7 ~~pursuant to this section, a bidder shall submit all required~~  
8 ~~substantiating documentation and information needed by the state~~  
9 ~~agency to determine if the bidder is eligible for the preference,~~  
10 ~~including, but not limited to, documentation regarding the identity~~  
11 ~~of the manufacturer of the clean energy device, technology, or~~  
12 ~~system and the location or locations where the parts of the clean~~  
13 ~~energy device, technology, or system will be manufactured.~~

14 (5) ~~If, after application of the preferences set forth in this section,~~  
15 ~~more than one bid qualified as the lowest responsible bid or the~~  
16 ~~highest scored bid, the state agency shall award the contract to the~~  
17 ~~bidder that has the highest number of full-time employees who~~  
18 ~~manufacture the parts of the clean energy device, technology, or~~  
19 ~~system in the state when the contract is let.~~

20 (b) ~~The Department of General Services shall establish a process~~  
21 ~~to verify that a bidder meets the criteria for the 5-percent~~  
22 ~~preference.~~

23 10392. ~~This article shall remain in effect only until January 1,~~  
24 ~~2020, and as of that date is repealed, unless a later enacted statute,~~  
25 ~~that is enacted before January 1, 2020, deletes or extends that date.~~

26 SEC. 5. ~~Section 10780.6 is added to the Public Contract Code,~~  
27 ~~to read:~~

28 10780.6. (a) ~~For purposes of this section, “clean energy device,~~  
29 ~~technology, or system” means devices or technologies used for a~~  
30 ~~renewable electrical generation facility, as defined in paragraph~~  
31 ~~(1) of subdivision (a) of Section 25741 of the Public Resources~~  
32 ~~Code; a combined heat and power system, as defined in Section~~  
33 ~~2840.2 of the Public Utilities Code; distributed generation and~~  
34 ~~energy storage technologies eligible under the self-generation~~  
35 ~~incentive program pursuant to Section 379.6 of the Public Utilities~~  
36 ~~Code, as determined by the Public Utilities Commission; a solar~~  
37 ~~water heating system, as defined in subdivision (g) of Section 2861~~  
38 ~~of the Public Utilities Code; or a facility designed for the~~  
39 ~~production of renewable fuels, the efficient use of which reduces~~  
40 ~~the use of fossil or nuclear fuels; and energy efficiency devices or~~

1 technologies that reduce the need for new electric generation and  
2 reduce emissions of toxic and criteria pollutants and greenhouse  
3 gases.

4 (b) The trustees that accept bids or proposals for a contract for  
5 the purchase or installation of a clean energy device, technology,  
6 or system through a power purchase agreement or a direct purchase  
7 shall provide a preference of 5 percent to a bidder that certifies  
8 that all of the parts of the clean energy device, technology, or  
9 system to be installed have been manufactured in this state. The  
10 maximum preference a bidder may be awarded pursuant to this  
11 section is 5 percent, for that portion of a project that is for the  
12 purchase and installation of a clean energy device, technology, or  
13 system. The total bid preference resulting from this section and  
14 any other provision of law shall not exceed 15 percent. The  
15 preference shall be provided as follows:

16 (1) For solicitations to be awarded to the lowest responsible  
17 bidder meeting specifications, the preference to a bidder that  
18 certifies that all of the parts of the clean energy device, technology,  
19 or system to be installed have been manufactured in this state shall  
20 be 5 percent of the bid price of the lowest responsible bidder  
21 meeting specifications.

22 (2) For solicitations to be awarded to the highest scored bidder  
23 based on evaluation factors in addition to price, the preference to  
24 a bidder that certifies that all of the parts of the clean energy device,  
25 technology, or system to be installed have been manufactured in  
26 this state shall be 5 percent of the total score of the highest scored  
27 bidder.

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

31 (4) In order to be eligible for the 5-percent preference authorized  
32 pursuant to this section, a bidder shall submit all required  
33 substantiating documentation and information needed by the  
34 trustees to determine if the bidder is eligible for the preference,  
35 including, but not limited to, documentation regarding the identity  
36 of the manufacturer of the clean energy device, technology, or  
37 system and the location or locations where the parts of the clean  
38 energy device, technology, or system will be manufactured.

39 (5) If, after application of the preferences set forth in this section,  
40 more than one bid qualifies as the lowest responsible bid or the

1 highest scored bid, the trustees shall award the contract to the  
2 bidder that has the highest number of full-time employees who  
3 manufacture the parts of the clean energy device, technology, or  
4 system in the state when the contract is let.

5 (e) (1) The Department of General Services shall establish a  
6 process to verify that a bidder meets the criteria for the 5-percent  
7 preference and publish on its Internet Web site a regularly updated  
8 list of all sites that received bid preferences, including the name  
9 of the manufacturer and the type of clean energy device,  
10 technology, or system utilized.

11 (2) The Department of General Services shall annually publish  
12 data on its Internet Web site, on the employment growth associated  
13 with the clean energy bid preference for women, minority, and  
14 disabled veterans.

15 (d) This section shall remain in effect only until January 1, 2020,  
16 and as of that date is repealed, unless a later enacted statute, that  
17 is enacted before January 1, 2020, deletes or extends that date.