

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1991**

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**Introduced by Assembly Member Jones**

February 16, 2016

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An act to ~~amend Section 10101 of~~ *add Section 6103* to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1991, as amended, Jones. ~~State Contract Act.~~ *agencies: award of contracts: noncompetitive bid basis.*

*The State Contract Act governs the bidding and award of public works contracts by specific state departments and requires an awarding department, before entering into any contract for a project, to prepare full, complete, and accurate plans and specifications and estimates of cost. That act prohibits, except in specified circumstances, a state agency responsible for letting public works contracts from drafting bid specifications in a manner that limits the bidding to any one concern or product, except under certain circumstances.*

*Existing law relating to the state acquisition of goods and services requires all contracts for the acquisition or lease of goods in an amount of \$25,000, or a higher amount as established by the Director of General Services, to be made or entered into with the lowest responsible bidder meeting specifications, except in certain cases, including when the acquiring agency and the Department of General Services agree that an article of a specified brand or trade name is the only article that will properly meet the needs of the agency. That existing law, with respect to contracts for services, requires the department to prescribe the conditions under which a contract may be awarded without*

competition, and the methods and criteria to be used in determining the reasonableness of contract costs when a contract is awarded without competition. Existing law specifically relating to the acquisition and disposal of information technology goods and services requires the acquisition of such goods and services to be conducted through competitive means, with certain exceptions, including if the director determines the goods and services proposed for acquisition are the only goods and services that can meet the state’s need.

This bill would require a state agency, as defined, that seeks to award a contract on a noncompetitive bid basis in an amount of \$1,000,000 or more to notify the appropriate policy and fiscal committees of both houses of the Legislature of that proposed award. The bill would require that notification to include information explaining the necessity of contracting on a noncompetitive bid basis and the efforts of the state agency to ascertain that there is only one source capable of fulfilling the contract. The bill would prohibit the state agency from awarding the contract until 90 days after the date of notification.

The bill would authorize the Legislature in a case of bona fide emergency to waive the 90-day waiting period by adoption of a concurrent resolution.

~~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. 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 6103 is added to the Public Contract
- 2 Code, to read:
- 3 6103. (a) “State agency” means the state, including every
- 4 state agency, office, department, division, bureau, board, or
- 5 commission, the California State University, and the University
- 6 of California.
- 7 (b) A state agency subject to this code that seeks to award a
- 8 contract on a noncompetitive bid basis in an amount of one million
- 9 dollars (\$1,000,000) or more shall notify the appropriate policy

1 and fiscal committees of both houses of the Legislature of that  
2 proposed award. The notification shall include information  
3 explaining the necessity of contracting on a noncompetitive bid  
4 basis and the efforts of the state agency to ascertain that there is  
5 only one source capable of fulfilling the contract. The state agency  
6 shall not award the contract until 90 days after the date of  
7 notification pursuant to this section.

8 (c) The Legislature may in a case of bona fide emergency waive  
9 the 90-day waiting period established in subdivision (b) by  
10 adoption of a concurrent resolution.

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

13 ~~10101. (a) Contracts for the purchase of supplies or materials,~~  
14 ~~which are purchased pursuant to Chapter 2 (commencing with~~  
15 ~~Section 10290), are not subject to this chapter, even though the~~  
16 ~~seller is required to perform some incidental work or service in~~  
17 ~~connection with the delivery of the material or supplies.~~

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