

ASSEMBLY BILL

No. 2181

Introduced by Assembly Member Brown

February 18, 2016

An act to add Sections 10130, 10503.5, and 10727 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2181, as introduced, Brown. Public contracts: contract specifications.

The State Contract Act 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.

Other existing law establishes specific requirements for competitive bidding for building and improvement projects by the Regents of the University of California, including the manner and type of specifications.

The California State University Contract Law governs contracting for building and improvement projects by the California State University and imposes specific competitive bidding requirements for the Trustees of the California State University, including the preparation of specifications for a project.

This bill would require an awarding department, on or before January 1, 2018, to prepare and submit to the Legislature and the Governor a report on the greenhouse gas emissions that are associated with energy-intensive products in projects within the jurisdiction of the

department. The emissions total shall take into account the greenhouse gas emissions that are produced when the energy-intensive product is manufactured or produced and the greenhouse gas emissions associated with the transportation of the energy-intensive product from the site of its manufacture to the project site. The bill would require the department, as of January, 1 2018, to incorporate the greenhouse gas emissions information into its procurement processes, including bid specifications, to procure energy-intensive products with the lowest greenhouse gas emissions profile that meet standards imposed by a state agency for quality or safety purposes.

The bill would impose similar requirements on the Regents of the University of California and the Trustees of the California State University.

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. (a) It is the intent of the Legislature to create a
2 green infrastructure program that would encourage state agencies
3 to account for and reduce the greenhouse gas emissions associated
4 with energy-intensive products that are used in major infrastructure
5 projects and funded in whole or in part with state funds. This
6 program would reduce the greenhouse gas emissions associated
7 with energy-intensive products by providing a market for
8 high-quality goods with the lowest overall greenhouse gas
9 emissions.

10 (b) If energy-intensive products are sourced from facilities that
11 do not comply with California’s climate energy goals or if a
12 product is transported a long distance to the job site, it creates a
13 large amount of greenhouse gas emissions that is part of the
14 emissions total California is seeking to reduce by 2020. By ignoring
15 these emissions, California is shifting the burden of emissions
16 reductions to other portions of the economy and this places
17 additional burden on California’s businesses and consumers. It
18 would be better for consumers if the state acknowledges the
19 emissions associated with large infrastructure projects and crafts
20 a procurement process to procure a green product, a product that
21 lowers greenhouse gas emissions while still meeting quality
22 standards.

1 (c) Executive Order B-30-15 issued by Governor Edmund G.
2 Brown Jr. stipulates that “State agencies shall take climate change
3 into account in their planning and investment decisions and employ
4 full life-cycle cost accounting to evaluate and compare
5 infrastructure investments and alternatives.” It also notes that state
6 agencies’ planning investments shall be guided by principles that
7 build climate preparedness and reduce greenhouse gas emissions.

8 SEC. 2. Section 10130 is added to the Public Contract Code,
9 to read:

10 10130. (a) As used in this section:

11 (1) “Project” means a project for infrastructure subject to this
12 chapter that is estimated to cost one million dollars (\$1,000,000)
13 or more.

14 (2) “Energy-intensive product” means a product that is produced
15 by a company identified by the cap-and-trade program of the State
16 Air Resources Board as energy intensive, trade exposed.

17 (b) (1) On or before January 1, 2018, the department shall
18 prepare and submit to the Legislature and the Governor a report
19 on the greenhouse gas emissions that are associated with
20 energy-intensive products in projects within the jurisdiction of the
21 department. The emissions total shall take into account the
22 greenhouse gas emissions that are produced when the
23 energy-intensive product is manufactured or produced and the
24 greenhouse gas emissions associated with the transportation of the
25 energy-intensive product from the site of its manufacture to the
26 project site.

27 (2) A report submitted pursuant to paragraph (1) shall be
28 submitted in accordance with Section 9795 of the Government
29 Code.

30 (3) The requirement for submitting a report pursuant to this
31 subdivision is inoperative on January 1, 2021, pursuant to Section
32 10231.5 of the Government Code.

33 (c) As of January 1, 2018, the department shall incorporate the
34 greenhouse gas emissions information described in subdivision
35 (b) into its procurement processes, including bid specifications, to
36 procure energy-intensive products with the lowest greenhouse gas
37 emissions profile that meet standards imposed by a state agency
38 for quality or safety purposes.

39 SEC. 3. Section 10503.5 is added to the Public Contract Code,
40 to read:

1 10503.5. (a) As used in this section:

2 (1) “Project” means a project for infrastructure subject to this
3 chapter that is estimated to cost one million dollars (\$1,000,000)
4 or more.

5 (2) “Energy-intensive product” means a product that is produced
6 by a company identified by the cap-and-trade program of the State
7 Air Resources Board as energy intensive, trade exposed.

8 (b) (1) On or before January 1, 2018, the Regents of the
9 University of California shall prepare and submit to the Legislature
10 and the Governor a report on the greenhouse gas emissions that
11 are associated with energy-intensive products in projects within
12 the jurisdiction of the Regents of the University of California. The
13 emissions total shall take into account the greenhouse gas emissions
14 that are produced when the energy-intensive product is
15 manufactured or produced and the greenhouse gas emissions
16 associated with the transportation of the energy-intensive product
17 from the site of its manufacture to the project site.

18 (2) A report submitted pursuant to paragraph (1) shall be
19 submitted in accordance with Section 9795 of the Government
20 Code.

21 (3) The requirement for submitting a report pursuant to this
22 subdivision is inoperative on January 1, 2021, pursuant to Section
23 10231.5 of the Government Code.

24 (c) As of January 1, 2018, the Regents of the University of
25 California shall incorporate the greenhouse gas emissions
26 information described in subdivision (b) into University of
27 California procurement processes, including bid specifications, to
28 procure energy-intensive products with the lowest greenhouse gas
29 emissions profile that meet standards imposed by a state agency
30 for quality or safety purposes.

31 SEC. 4. Section 10727 is added to the Public Contract Code,
32 to read:

33 10727. (a) As used in this section:

34 (1) “Project” means a project for infrastructure subject to this
35 chapter that is estimated to cost one million dollars (\$1,000,000)
36 or more.

37 (2) “Energy-intensive product” means a product that is produced
38 by a company identified by the cap-and-trade program of the State
39 Air Resources Board as energy intensive, trade exposed.

1 (b) (1) On or before January 1, 2018, the trustees shall prepare
2 and submit to the Legislature and the Governor a report on the
3 greenhouse gas emissions that are associated with energy-intensive
4 products in projects within the jurisdiction of the trustees. The
5 emissions total shall take into account the greenhouse gas emissions
6 that are produced when the energy-intensive product is
7 manufactured or produced and the greenhouse gas emissions
8 associated with the transportation of the energy-intensive product
9 from the site of its manufacture to the project site.

10 (2) A report submitted pursuant to paragraph (1) shall be
11 submitted in accordance with Section 9795 of the Government
12 Code.

13 (3) The requirement for submitting a report pursuant to this
14 subdivision is inoperative on January 1, 2021, pursuant to Section
15 10231.5 of the Government Code.

16 (c) As of January 1, 2018, the trustees shall incorporate the
17 greenhouse gas emissions information described in subdivision
18 (b) into California State University procurement processes,
19 including bid specifications, to procure energy-intensive products
20 with the lowest greenhouse gas emissions profile that meet
21 standards imposed by a state agency for quality or safety purposes.