

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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~~ *emissions-intensive products, as defined*, in projects within the jurisdiction of the department. The *bill would require the emissions total* ~~shall~~ to take into account the greenhouse gas emissions that are produced when the ~~energy-intensive emissions-intensive~~ product is manufactured or produced and the greenhouse gas emissions associated with the transportation of the ~~energy-intensive emissions-intensive~~ product from the site of its manufacture to the project site. The bill would require the department, as of ~~January, 1~~ *January 1, 2018*, to incorporate the greenhouse gas emissions information into its procurement processes, including bid specifications, to procure ~~energy-intensive emissions-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 emissions-intensive~~ products that are used
- 5 in major infrastructure projects and funded in whole or in part with
- 6 state funds. This program would reduce the greenhouse gas
- 7 emissions associated with ~~energy-intensive emissions-intensive~~
- 8 products by providing a market for high-quality goods with the
- 9 lowest overall greenhouse gas emissions.
- 10 (b) If ~~energy-intensive emissions-intensive~~ products are sourced
- 11 from facilities that do not comply with California’s climate energy
- 12 goals or if a product is transported a long distance to the job site,
- 13 it creates a large amount of greenhouse gas emissions that is part
- 14 of the emissions total California is seeking to reduce by 2020. By
- 15 ignoring these emissions, California is shifting the burden of
- 16 emissions reductions to other portions of the economy and this
- 17 places additional burden on California’s businesses and consumers.
- 18 It would be better for consumers if the state acknowledges the
- 19 emissions associated with large infrastructure projects and crafts

1 a procurement process to procure a green product, a product that
2 lowers greenhouse gas emissions while still meeting quality
3 standards.

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

11 SEC. 2. Section 10130 is added to the Public Contract Code,
12 to read:

13 10130. (a) As used in this section:

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

17 (2) ~~“Energy-intensive product”~~ “*Emissions-intensive product*”
18 means a product that is produced by ~~a company~~ *the following*
19 *industry sectors, as identified by the cap-and-trade program of the*
20 *State Air Resources Board as energy emissions intensive, trade*
21 ~~exposed.~~ *exposed:*

22 (A) *Cement manufacturing.*

23 (B) *Flat glass manufacturing.*

24 (C) *Iron and steel mills.*

25 (D) *Rolled shape manufacturing.*

26 (b) (1) On or before January 1, 2018, the department shall
27 prepare and submit to the Legislature and the Governor a report
28 on the greenhouse gas emissions that are associated with
29 ~~energy-intensive~~ *emissions-intensive* products in projects within
30 the jurisdiction of the department. The emissions total shall take
31 into account the greenhouse gas emissions that are produced when
32 the ~~energy-intensive~~ *emissions-intensive* product is manufactured
33 or produced and the greenhouse gas emissions associated with the
34 transportation of the ~~energy-intensive~~ *emissions-intensive* product
35 from the site of its manufacture to the project site.

36 (2) A report submitted pursuant to paragraph (1) shall be
37 submitted in accordance with Section 9795 of the Government
38 Code.

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

4 (c) As of January 1, 2018, the department shall incorporate the
5 greenhouse gas emissions information described in subdivision
6 (b) into its procurement processes, including bid specifications, to
7 procure ~~energy-intensive~~ *emissions-intensive* products with the
8 lowest greenhouse gas emissions profile that meet standards
9 imposed by a state agency for quality or safety purposes.

10 SEC. 3. Section 10503.5 is added to the Public Contract Code,
11 to read:

12 10503.5. (a) As used in this section:

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

16 (2) ~~“Energy-intensive product”~~ “*Emissions-intensive product*”
17 means a product that is produced by ~~a company~~ *the following*
18 *industry sectors, as* identified by the cap-and-trade program of the
19 State Air Resources Board as ~~energy emissions~~ *intensive*, trade
20 ~~exposed~~ *exposed*:

21 (A) *Cement manufacturing.*

22 (B) *Flat glass manufacturing.*

23 (C) *Iron and steel mills.*

24 (D) *Rolled shape manufacturing.*

25 (b) (1) On or before January 1, 2018, the Regents of the
26 University of California shall prepare and submit to the Legislature
27 and the Governor a report on the greenhouse gas emissions that
28 are associated with ~~energy-intensive~~ *emissions-intensive* products
29 in projects within the jurisdiction of the Regents of the University
30 of California. The emissions total shall take into account the
31 greenhouse gas emissions that are produced when the
32 ~~energy-intensive~~ *emissions-intensive* product is manufactured or
33 produced and the greenhouse gas emissions associated with the
34 transportation of the ~~energy-intensive~~ *emissions-intensive* product
35 from the site of its manufacture to the project site.

36 (2) A report submitted pursuant to paragraph (1) shall be
37 submitted in accordance with Section 9795 of the Government
38 Code.

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

4 (c) As of January 1, 2018, the Regents of the University of
5 California shall incorporate the greenhouse gas emissions
6 information described in subdivision (b) into University of
7 California procurement processes, including bid specifications, to
8 procure ~~energy-intensive~~ *emissions-intensive* products with the
9 lowest greenhouse gas emissions profile that meet standards
10 imposed by a state agency for quality or safety purposes.

11 SEC. 4. Section 10727 is added to the Public Contract Code,
12 to read:

13 10727. (a) As used in this section:

14 (1) "Project" means a project for infrastructure subject to this
15 chapter that is estimated to cost one million dollars (\$1,000,000)
16 or more.

17 (2) ~~"Energy-intensive product"~~ *"Emissions-intensive product"*
18 means a product that is produced by ~~a company~~ *the following*
19 *industry sectors, as* identified by the cap-and-trade program of the
20 State Air Resources Board as ~~energy emissions~~ *emissions-intensive*, trade
21 ~~exposed.~~ *exposed:*

22 (A) *Cement manufacturing.*

23 (B) *Flat glass manufacturing.*

24 (C) *Iron and steel mills.*

25 (D) *Rolled shape manufacturing.*

26 (b) (1) On or before January 1, 2018, the trustees shall prepare
27 and submit to the Legislature and the Governor a report on the
28 greenhouse gas emissions that are associated with ~~energy-intensive~~
29 *emissions-intensive* products in projects within the jurisdiction of
30 the trustees. The emissions total shall take into account the
31 greenhouse gas emissions that are produced when the
32 ~~energy-intensive~~ *emissions-intensive* product is manufactured or
33 produced and the greenhouse gas emissions associated with the
34 transportation of the ~~energy-intensive~~ *emissions-intensive* product
35 from the site of its manufacture to the project site.

36 (2) A report submitted pursuant to paragraph (1) shall be
37 submitted in accordance with Section 9795 of the Government
38 Code.

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

4 (c) As of January 1, 2018, the trustees shall incorporate the
5 greenhouse gas emissions information described in subdivision
6 (b) into California State University procurement processes,
7 including bid specifications, to procure—energy-intensive
8 *emissions-intensive* products with the lowest greenhouse gas
9 emissions profile that meet standards imposed by a state agency
10 for quality or safety purposes.