

AMENDED IN ASSEMBLY MAY 10, 2005

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 499**

**Introduced by Assembly Member Leno**

February 16, 2005

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An act to add and repeal Section 2002.3 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 499, as amended, Leno. Public contracts: preferences: small and local businesses: San Francisco Community College District.

Existing law authorizes a local agency to provide for a small business preference in construction, the procurement of goods, or the delivery of services, and to establish a subcontracting participation goal for small businesses on contracts with a preference for those bidders who meet the goal. Existing law, for purposes of this authority, requires that the term "small business" be defined by each local agency.

This bill would authorize the San Francisco Community College District, pursuant to a *specified* 5-year pilot project, to provide similar preferences to a small and local business, ~~would define "local," for the purposes of the bill, and would require the district to define the term "small and local business" for each contract that is bid under this section, as specified as defined.~~

The bill would require the district to include prescribed data relating to the pilot project in an annual report to the Legislative Analyst.

The bill would declare that unique circumstances applicable to the San Francisco Community College District preclude the enactment of a general statute.

These provisions would be repealed on January 1, 2011.

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

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

1 SECTION 1. Section 2002.3 is added to the Public Contract  
2 Code, to read:

3 2002.3. (a) This section establishes a pilot project that  
4 applies only to the San Francisco Community College District.

5 (b) Notwithstanding any other provision of law requiring a  
6 local agency to award contracts to the lowest responsible bidder,  
7 the district may do any of the following in facilitating contract  
8 awards to small and local businesses:

9 (1) Provide for a small and local business preference, in  
10 construction, the procurement of goods, or the delivery of  
11 services where responsibility and quality are equal. The  
12 preference to a small and local business shall be up to 5 percent  
13 of the lowest responsible bidder meeting specifications.

14 (2) Establish a subcontracting participation goal for small and  
15 local businesses on contracts and grant a preference, up to a  
16 maximum of 5 percent, to those bidders who meet the goal.

17 (3) Require bidders to make good faith efforts to meet a  
18 subcontracting participation goal for small and local business  
19 contracts. Bidders that fail to meet the goal shall demonstrate that  
20 they made good faith efforts to utilize small and local business  
21 contractors.

22 (c) As used in this section:

23 (1) "District" means the San Francisco Community College  
24 District.

25 ~~(2) "Local" refers to an area that is no smaller than, or~~  
26 ~~eoterminous with, the jurisdiction of the San Francisco~~  
27 ~~Community College District and that is no larger than, or~~  
28 ~~eoterminous with, an area that consists of the member counties of~~  
29 ~~the Association of Bay Area Governments, which include the~~  
30 ~~Counties of Alameda, Contra Costa, Marin, Napa, San Francisco,~~  
31 ~~San Mateo, Santa Clara, Solano, and Sonoma.~~

1 ~~(3) “Small and local business” shall be defined by the district~~  
2 ~~for each contract to be awarded under this section. The district~~  
3 ~~shall issue this definition no later than the initial solicitation for~~  
4 ~~each contract that is bid under this section. In defining “small and~~  
5 ~~local business” under this paragraph, the district shall adhere to~~  
6 ~~the definition of “local” set forth in paragraph (2).~~

7 (2) *“Small and local business” means a business that meets*  
8 *all of the following criteria:*

9 (A) *Is independently owned and operated by owners or*  
10 *corporate officers who are domiciled in this state.*

11 (B) *Maintains its principal office in this state.*

12 (C) *Does not dominate its field of operation.*

13 (D) *Is either:*

14 (i) *A nonmanufacturing employer that employs no more than*  
15 *100 employees and has earned an average of ten million dollars*  
16 *(\$10,000,000) or less in annual gross receipts for each of the*  
17 *preceding three taxable years.*

18 (ii) *Is a manufacturing employer that employs no more than*  
19 *100 employees.*

20 (E) *Is located in a geographic area to be defined by the*  
21 *district in the initial solicitation for each contract that is bid*  
22 *pursuant to this section. In defining the geographic area for the*  
23 *initial solicitation for each contract, the district shall select an*  
24 *area that is no smaller than, or coterminous with, the jurisdiction*  
25 *of the San Francisco Community College District and that is no*  
26 *larger than, or coterminous with, an area that consists of the*  
27 *member counties of the Association of Bay Area Governments,*  
28 *which include the Counties of Alameda, Contra Costa, Marin,*  
29 *Napa, San Francisco, San Mateo, Santa Clara, Solano, and*  
30 *Sonoma.*

31 (d) For each year of the pilot project established by this  
32 section, the district shall include all of the following in an annual  
33 report to the Legislative Analyst:

34 (1) The number of bidders for each contract that is bid under  
35 this section.

36 (2) The number of bidders that qualified for the small business  
37 preference established under Section 2002 for each contract that  
38 is bid under this section.

1 (3) The number of bidders that qualified for the small and  
2 local business preference for each contract that is bid under this  
3 section.

4 (4) The number of contracts bid under this section in which  
5 the small business preference established under Section 2002 was  
6 the deciding factor in the award of the contract.

7 ~~(4)~~

8 (5) The number of contracts bid under this section in which  
9 the small and local business preference was the deciding factor in  
10 the award of the contract.

11 (e) This section shall remain in effect only until January 1,  
12 2011, and as of that date is repealed, unless a later enacted  
13 statute, that is enacted before January 1, 2011, deletes or extends  
14 that date.

15 SEC. 2. The Legislature finds and declares that, because of  
16 the unique circumstances applicable to the San Francisco  
17 Community College District, a general statute within the  
18 meaning of Section 16 of Article IV of the California  
19 Constitution cannot be enacted. The enactment of Section 1 of  
20 this act is therefore necessary.