

AMENDED IN ASSEMBLY JUNE 2, 2009

AMENDED IN ASSEMBLY MAY 19, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1409

**Introduced by Assembly Member John A. Perez
(Coauthors: Assembly Members Miller and Solorio)**

February 27, 2009

An act to amend Section 20395 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1409, as amended, John A. Perez. Public contracts: county highways: work authorizations.

Existing law sets forth procedures pursuant to which work being done by contract on county highways may be done. Existing law specifies that in any county that has appointed a road commissioner, or in any county that has abolished the office of road commissioner, as prescribed, the board of supervisors of the county may authorize the road commissioner, or a registered civil engineer under the direction of the county director of transportation, to have any work upon county highways done under his or her supervision and direction. In this connection, existing law provides that the work on those contracts may be done by: (1) letting a contract covering both work and material, as provided; (2) purchasing the material and letting a contract for the performance of the work, as provided; or (3) purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

This bill would revise that provision authorizing the work on those county highway contracts to be done by (1) purchasing the material and having the work done by day labor, *as defined*, only after advertising and requesting bids, as provided, and the board passing a resolution making a specified finding; or (2) purchasing the material and having the work done by ~~day labor for any work classified as maintenance work, as prescribed~~ *specified employees, as defined*.

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 20395 of the Public Contract Code is
2 amended to read:
3 20395. In any county that has appointed a road commissioner
4 pursuant to Section 2006 of the Streets and Highways Code, or in
5 any county that has abolished the office of road commissioner and
6 complied with Section 2006.1 of the Streets and Highways Code,
7 the board may authorize the road commissioner, or a registered
8 civil engineer under the direction of the county director of
9 transportation, to have any work upon county highways done under
10 his or her supervision and direction. The work may be done in any
11 of the following ways:
12 (a) By letting a contract covering both work and material. In
13 that event, the contract shall be let to the lowest responsible bidder
14 as provided in this article.
15 (b) By purchasing the material and letting a contract for the
16 performance of the work. In that event, the material shall be bought
17 at the lowest possible cost and the contract let to the lowest
18 responsible bidder as provided in this article.
19 (c) By purchasing the material and having the work done by
20 day labor, only after advertising and requesting bids as provided
21 in this article, and the board has passed a resolution making a
22 finding that either no bids were received or all of the bids received
23 exceeded the cost of having the work done by day labor. *For*
24 *purposes of this subdivision, "day labor" means nonpermanent,*
25 *part-time, or temporary employees who are not represented by a*
26 *collective bargaining unit.*
27 (d) *By purchasing the material and having the work done by*
28 *force account. For purposes of this subdivision, force account*

1 *means full-time or permanent county employees, or part-time or*
2 *temporary employees who are represented by a collective*
3 *bargaining unit.*

4 ~~(d)~~

5 (e) (1) By authorizing the county road commissioner or a
6 registered civil engineer under the direction of the county director
7 of transportation to execute changes for any contract pursuant to
8 this section in an amount not to exceed five thousand dollars
9 (\$5,000) for contracts of fifty thousand dollars (\$50,000) or less,
10 or 10 percent for contracts over fifty thousand dollars (\$50,000)
11 but not to exceed two hundred fifty thousand dollars (\$250,000).
12 In no event shall any change exceed a net total addition of
13 twenty-five thousand dollars (\$25,000).

14 (2) For contracts whose original cost exceeds two hundred fifty
15 thousand dollars (\$250,000), the extra cost for any change or
16 addition to the work so ordered shall not exceed twenty-five
17 thousand dollars (\$25,000), plus 5 percent of the amount of the
18 original contract costs in excess of two hundred fifty thousand
19 dollars (\$250,000). In no event shall any change or alteration
20 exceed one hundred fifty thousand dollars (\$150,000).

21 ~~(e)~~

22 (f) By purchasing the material and letting a contract for the work
23 or by letting a contract covering both work and material without
24 advertising for bids when the estimated cost of emergency work
25 necessitated by the imminence or occurrence of a landslide, flood,
26 storm damage, or other emergency exceeds twenty-five thousand
27 dollars (\$25,000) and the public interest and necessity demand
28 immediate action to safeguard life, health, or property.

29 ~~(f) By purchasing the material and having the work done by day~~
30 ~~labor for any work classified as maintenance work, which includes,~~
31 ~~but is not limited to, work required to keep county roads open~~
32 ~~during inclement weather.~~