

AMENDED IN ASSEMBLY AUGUST 16, 2010

AMENDED IN SENATE JUNE 1, 2010

SENATE BILL

No. 967

**Introduced by Senators Correa and DeSaulnier
(Coauthors: Senators Negrete McLeod and Pavley)**

February 5, 2010

An act to add Article 7 (commencing with Section 10390) to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 967, as amended, Correa. Public contracts: bid preferences.

Existing law imposes various requirements with respect to contracting by state agencies.

This bill would, require a state agency that accepts bids or proposals for contracts for goods or services, *exceeding \$1,000,000*, or for the distribution of funds pursuant to the federal American Recovery and Reinvestment Act of 2009, *on or before July 1, 2011*, to provide a ~~credit~~ of 5% ~~of the bid price or quotation preference, as provided~~, to a business that directly provides the goods or services; when 90% of the employees of the business performing work on the contract reside in the state. *This bill would state that these bidding preferences are not applicable to contracts that are subject to the State Contract Act and contracts for specified professional services.*

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. The Legislature finds and declares all of the
2 following:

3 (a) California faces the most severe economic downturn since
4 the Great Depression. Over two million Californians are out of
5 work and California's unemployment rate is one of the highest in
6 the nation.

7 (b) At a time of scarce state resources, state contracts should be
8 used to stimulate our state economy and put people back to work.

9 (c) The purpose of this act is to revive local communities by
10 creating new jobs and stimulating the economy.

11 SEC. 2. Article 7 (commencing with Section 10390) is added
12 to Chapter 2 of Part 2 of Division 2 of the Public Contract Code,
13 to read:

14
15 Article 7. Preference for Businesses that Employ State Residents
16

17 10390. (a) On or before July 1, 2011, any state agency that
18 accepts bids or proposals for a contract for ~~goods or services~~ *goods*
19 *or services exceeding one million dollars (\$1,000,000)* shall
20 provide a ~~credit~~ *preference* of 5 percent to a business that would
21 directly provide the goods or services and certifies that at least 90
22 percent of the ~~business's~~ *business's* employees performing work
23 on the contract are residents of this state. The preference shall be
24 provided as follows:

25 (1) For solicitations to be awarded to the lowest responsible
26 bidder meeting specifications, the preference to a business that
27 certifies that at least 90 percent of the ~~business's~~ *business's*
28 employees performing work on the contract are residents of this
29 state shall be 5 percent *of the bid price* of the lowest responsible
30 bidder meeting specifications.

31 (2) For solicitations to be awarded to the highest scored bidder
32 based on evaluation factors in addition to price, the preference to
33 a business that certifies that at least 90 percent of the ~~business's~~
34 *business's* employees performing work on the contract are residents
35 of this state shall be 5 percent of the total score of the highest
36 responsible bidder.

37 (3) The preferences awarded pursuant to ~~subparagraph~~
38 *paragraph* (1) or (2) shall not be awarded to a noncompliant bidder

1 and shall not be used to satisfy any applicable minimum
2 requirements.

3 (4) In order to be eligible for the 5-percent-~~credit preference~~
4 authorized pursuant to this section, a business shall submit all
5 required substantiating documentation and information needed by
6 the state agency to determine if the business is eligible for the
7 ~~credit preference~~.

8 (b) On or before July 1, 2011, the Department of General
9 Services shall establish a process to verify that a business meets
10 the criteria for the 5-percent-~~credit preference~~.

11 10391. (a) On or before July 1, 2011, any state agency that
12 accepts bids or proposals for the distribution of funds pursuant to
13 the federal American Recovery and Reinvestment Act of 2009
14 (Public Law 111-5) shall provide a-~~credit preference~~ of 5 percent
15 of the bid price or-~~quotation total score~~ to a business that certifies
16 that 90 percent of the-~~business~~² *business's* employees performing
17 work on the qualifying project are residents of this state. The
18 preference shall be provided as follows:

19 (1) For solicitations to be awarded to the lowest responsible
20 bidder meeting specifications, the preference to a business that
21 certifies that at least 90 percent of the-~~business~~² *business's*
22 employees performing work on the contract are residents of this
23 state shall be 5 percent *of the bid price* of the lowest responsible
24 bidder meeting specifications.

25 (2) For solicitations to be awarded to the highest scored bidder
26 based on evaluation factors in addition to price, the preference to
27 a business that certifies that at least 90 percent of the-~~business~~²
28 *business's* employees performing work on the contract are residents
29 of this state shall be 5 percent of the total score of the highest
30 responsible bidder.

31 (3) The preferences awarded pursuant to-~~subparagraph~~
32 *paragraph* (1) or (2) shall not be awarded to a noncompliant bidder
33 and shall not be used to satisfy any applicable minimum
34 requirements.

35 (4) In order to be eligible for the 5-percent-~~credit preference~~
36 authorized pursuant to this section, a business shall submit all
37 required substantiating documentation and information needed by
38 the state agency to determine if the business is eligible for the
39 ~~credit preference~~.

1 (b) On or before July 1, 2011, using existing resources, the
2 Department of General Services shall establish a process to verify
3 that a business meets the criteria for the 5-percent ~~credit~~ preference.

4 (c) *This section shall be implemented only to the extent permitted*
5 *by the American Recovery and Reinvestment Act of 2009 (Public*
6 *Law 111-5).*

7 *10392. This article shall not apply to a contract that is subject*
8 *to Chapter 1 (commencing with Section 10100) of Part 2 of*
9 *Division 2 of this code, or Chapter 10 (commencing with Section*
10 *4525) or Chapter 10.1 (commencing with Section 4529.10) of*
11 *Division 5 of Title 1 of the Government Code.*

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