

AMENDED IN ASSEMBLY APRIL 26, 2012

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2672

Introduced by Committee on Jobs, Economic Development, and the Economy (Assembly Members V. Manuel Pérez (Chair), Beall, Block, and Hueso)

March 5, 2012

An act to amend Sections 7084 and 7118 of the Government Code, and to amend Section 10349 of the Public Contract Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2672, as amended, Committee on Jobs, Economic Development, and the Economy. Procurement omnibus bill.

(1) Existing law requires the state to provide bidding preferences, as specified, to companies meeting specified requirements and making specified declarations related to work within an enterprise zone or a local agency military base recovery area.

This bill would require each awarding department to submit a report every January 1 to the Department of General Services on the number of businesses that claim enterprise zone preferences *and local agency military base recovery area preferences*, as specified. The bill would require the Department of General Services to report to the Department of Housing and Community Development on the number of businesses that claim enterprise zone preferences *and local agency military base recovery area preferences*, as specified.

(2) Existing law requires the Department of Personnel Administration to establish a program for training state agency contracting personnel in contract administration and contract management.

This bill would require the training program to address certain requirements, as specified, including, but not limited to, small business preferences, disabled veteran-owned business preferences, *local agency military base recovery area preferences*, and enterprise zone preferences.

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. Section 7084 of the Government Code is amended
2 to read:

3 7084. (a) Whenever the state prepares a solicitation for a
4 contract for goods in excess of one hundred thousand dollars
5 (\$100,000), except a contract in which the worksite is fixed by the
6 provisions of the contract, the state shall award a 5-percent
7 preference to California-based companies that demonstrate and
8 certify under penalty of perjury that of the total labor hours required
9 to manufacture the goods and perform the contract, at least 50
10 percent of the hours shall be accomplished at an identified worksite
11 or worksites located in an enterprise zone.

12 (b) In evaluating proposals for contracts for services in excess
13 of one hundred thousand dollars (\$100,000), except a contract in
14 which the worksite is fixed by the provisions of the contract, the
15 state shall award a 5-percent preference on the price submitted by
16 California-based companies that demonstrate and certify under
17 penalty of perjury that not less than 90 percent of the labor hours
18 required to perform the contract shall be accomplished at an
19 identified worksite or worksites located in an enterprise zone.

20 (c) Where a bidder complies with subdivision (a) or (b), the
21 state shall award a 1-percent preference for bidders who certify
22 under penalty of perjury to hire persons living within a targeted
23 employment area or are enterprise zone eligible employees equal
24 to 5 to 9 percent of its workforce during the period of contract
25 performance; a 2-percent preference for bidders who shall agree
26 to hire persons living within a targeted employment area or are
27 enterprise zone eligible employees equal to 10 to 14 percent of its
28 workforce during the period of contract performance; a 3-percent

1 preference for bidders who shall agree to hire persons living within
2 a targeted employment area or are enterprise zone eligible
3 employees equal to 15 to 19 percent of its workforce during the
4 period of contract performance; and a 4-percent preference for
5 bidders who shall agree to hire persons living within a targeted
6 employment area or are enterprise zone eligible employees equal
7 to 20 or more percent of its workforce during the period of contract
8 performance.

9 (d) The maximum preference a bidder may be awarded pursuant
10 to this chapter and any other law shall be 15 percent. However, in
11 no case shall the maximum preference cost under this section
12 exceed fifty thousand dollars (\$50,000) for any bid, nor shall the
13 combined cost of preferences granted pursuant to this section and
14 any other law exceed one hundred thousand dollars (\$100,000).
15 In those cases where the 15-percent cumulated preference cost
16 would exceed the one hundred thousand dollar (\$100,000)
17 maximum preference cost limit, the one hundred thousand dollar
18 (\$100,000) maximum preference cost limit shall apply.

19 (e) Notwithstanding any other provision of this section, small
20 business bidders qualified under Section 14838 shall have
21 precedence over nonsmall business bidders in that the application
22 of any bidder preference for which nonsmall business bidders may
23 be eligible, including the preference contained in this section, shall
24 not result in the denial of the award to a small business bidder.
25 This subdivision shall apply to those cases where the small business
26 bidder is the lowest responsible bidder, as well as to those cases
27 where the small business bidder is eligible for award as the result
28 of application of the 5-percent small business bidder incentive.

29 (f) All state contracts issued to bidders who are awarded
30 preferences under this section shall contain conditions to ensure
31 that the contractor performs the contract at the location specified
32 and meets any commitment to employ persons with high risk of
33 unemployment.

34 (g) (1) A business that requests and is given the preference
35 provided for in subdivision (a) or (b) by reason of having furnished
36 a false certification, and that by reason of this certification has
37 been awarded a contract to which it would not otherwise have been
38 entitled, shall be subject to all of the following:

1 (A) Pay to the state any difference between the contract amount
2 and what the state's cost would have been if the contract had been
3 properly awarded.

4 (B) In addition to the amount specified in subparagraph (A), be
5 assessed a penalty in an amount of not more than 10 percent of
6 the amount of the contract involved.

7 (C) Be ineligible to directly or indirectly transact any business
8 with the state for a period of not less than six months and not more
9 than 36 months.

10 (2) Before the imposition of any sanction under this subdivision,
11 the business shall be entitled to a public hearing and to five days'
12 notice of the time and place thereof. The notice shall state the
13 reasons for the hearing.

14 (h) In each instance in this section an enterprise zone shall also
15 mean any enterprise zone or program area previously authorized
16 under any other state law.

17 (i) As used in this section, "enterprise zone eligible employees"
18 means employees who meet any of the requirements of clause (iv)
19 of subparagraph (A) of paragraph (4) of subdivision (b) of Section
20 17053.74, or clause (iv) of subparagraph (A) of paragraph (4) of
21 subdivision (b) of Section 23622.5, of the Revenue and Taxation
22 Code.

23 (j) Commencing on January 1, 2013, and on January 1 of each
24 year thereafter, each awarding department shall submit a report to
25 the Department of General Services on the number of businesses
26 that claim enterprise zone preferences as identified in this section.

27 (k) Commencing on January 1, 2013, and on January 1 of each
28 year thereafter, the Department of General Services shall report
29 to the Department of Housing and Community Development on
30 the number of businesses that claim enterprise zone preferences
31 as identified in this section.

32 SEC. 2. Section 7118 of the Government Code is amended to
33 read:

34 7118. (a) Whenever the state prepares a solicitation for a
35 contract for goods in excess of one hundred thousand dollars
36 (\$100,000), except a contract in which the worksite is fixed by the
37 provisions of the contract, the state shall award a 5-percent
38 preference to California-based companies who demonstrate and
39 certify under penalty of perjury that of the total labor hours required
40 to manufacture the goods and perform the contract, at least 50

1 percent of the hours shall be accomplished at an identified worksite
2 or worksites located in a local agency military base recovery area.

3 (b) In evaluating proposals for contracts for services in excess
4 of one hundred thousand dollars (\$100,000), except a contract in
5 which the worksite is fixed by the provisions of the contract, the
6 state shall award a 5-percent preference on the price submitted by
7 California-based companies who demonstrate and certify under
8 penalty of perjury that not less than 90 percent of the labor hours
9 required to perform the contract shall be accomplished at an
10 identified worksite or worksites located in a local agency military
11 base recovery area.

12 (c) Where a bidder complies with subdivision (a) or (b), the
13 state shall award a 1-percent preference for bidders who certify
14 under penalty of perjury to hire persons living within a local agency
15 military base recovery area equal to 5 to 9 percent of its workforce
16 during the period of contract performance; a 2-percent preference
17 for bidders who shall agree to hire persons living within a local
18 agency military base recovery area equal to 10 to 14 percent of its
19 workforce during the period of contract performance; a 3-percent
20 preference for bidders who shall agree to hire persons living within
21 a local agency military base recovery area equal to 15 to 19 percent
22 of its workforce during the period of contract performance; and a
23 4-percent preference for bidders who shall agree to hire persons
24 living within a local agency military base recovery area equal to
25 20 or more percent of its workforce during the period of contract
26 performance.

27 (d) The maximum preference a bidder may be awarded pursuant
28 to this chapter and any other law shall be 15 percent. However, in
29 no case shall the maximum preference cost under this section
30 exceed fifty thousand dollars (\$50,000) for any bid, nor shall the
31 combined cost of preferences granted pursuant to this section and
32 any other law exceed one hundred thousand dollars (\$100,000).
33 In those cases where the 15-percent cumulated preference cost
34 would exceed the one hundred thousand dollar (\$100,000)
35 maximum preference cost limit, the one hundred thousand dollar
36 (\$100,000) maximum preference cost limit shall apply.

37 (e) Notwithstanding any other provision of this section, small
38 business bidders qualified under Section 14838 shall have
39 precedence over nonsmall business bidders in that the application
40 of any bidder preference for which nonsmall business bidders may

1 be eligible, including the preference contained in this section, shall
2 not result in the denial of the award to a small business bidder.
3 This subdivision shall apply to those cases where the small business
4 bidder is the lowest responsible bidder, as well as to those cases
5 where the small business bidder is eligible for award as the result
6 of application of the 5-percent small business bidder preference.

7 (f) All state contracts issued to bidders who are awarded
8 preferences under this section shall contain conditions to ensure
9 that the contractor performs the contract at the location specified
10 and meets any commitment to employ persons with high risk of
11 unemployment.

12 (g) (1) A business that requests and is given the preference
13 provided for in subdivision (a) or (b) by reason of having furnished
14 a false certification, and that by reason of this certification has
15 been awarded a contract to which it would not otherwise have been
16 entitled, shall be subject to all of the following:

17 (A) Pay to the state any difference between the contract amount
18 and what the state's cost would have been if the contract had been
19 properly awarded.

20 (B) In addition to the amount specified in subparagraph (A), be
21 assessed a penalty in an amount of not more than 10 percent of
22 the amount of the contract involved.

23 (C) Be ineligible to directly or indirectly transact any business
24 with the state for a period of not less than six months and not more
25 than 36 months.

26 (2) Before the imposition of any sanction under this subdivision,
27 the business shall be entitled to a public hearing and to five days'
28 notice of the time and place thereof. The notice shall state the
29 reasons for the hearing.

30 (h) In each instance in this section, a local agency military base
31 recovery area shall also mean any local agency military base
32 recovery area previously authorized under any other state law.

33 (i) Commencing on January 1, 2013, and on January 1 of each
34 year thereafter, each awarding department shall submit a report to
35 the Department of General Services on the number of businesses
36 that claim ~~enterprise zone~~ *local agency military base recovery*
37 *area* preferences as identified in this section.

38 (j) Commencing on January 1, 2013, and on January 1 of each
39 year thereafter, the Department of General Services shall report
40 to the Department of Housing and Community Development on

1 the number of businesses that claim ~~enterprise zone~~ *local agency*
2 *military base recovery area* preferences as identified in this section.

3 SEC. 3. Section 10349 of the Public Contract Code is amended
4 to read:

5 10349. (a) The Department of Personnel Administration shall
6 establish a program for training state agency contracting personnel
7 in contract administration and contract management. The cost of
8 training state agency contracting personnel shall be paid by state
9 agencies out of their appropriations for personnel training. The
10 Department of Personnel Administration shall, before establishing
11 the training program required by this section, consult with the
12 department concerning the training curriculum and the development
13 of a training manual on contract administration.

14 (b) The training program shall address the requirements in
15 existing law relating to state contract administration and
16 management, including, but not limited to, small business
17 preferences, disabled veteran-owned business preferences, *local*
18 *agency military base recovery area preferences*, and enterprise
19 zone preferences.