

AMENDED IN ASSEMBLY JUNE 11, 2001

AMENDED IN SENATE APRIL 16, 2001

**SENATE BILL**

**No. 974**

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**Introduced by Senator Torlakson**  
*(Coauthor: Assembly Member Wiggins)*

February 23, 2001

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An act to add Section 1100.7 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Torlakson. Public contracts: cities.

The Public Contract Code contains various definitions of a "public entity," all of which include a city as a public entity. Under the California Constitution, a city may, as an alternative to being entirely subject to the general law of the state, elect to operate pursuant to a charter that authorizes the enactment of ordinances and regulations superseding the general law of the state with respect to municipal affairs.

This bill would state that the Public Contract Code is the basis of contracts between most public entities and their contractors and subcontractors. This bill would further state, with regard to charter cities, that this code applies in the absence of an express exemption or a charter city ordinance ~~or regulation~~ that is in direct conflict with that code.

The bill would state that these provisions are declaratory of existing law.

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. The Legislature finds and declares that there is  
 2 considerable ambiguity as to how certain provisions of the Public  
 3 Contract Code that refer to a “city” should be construed. To end  
 4 this ambiguity, and to state the Legislature’s intent that charter  
 5 cities be subject to all provisions of the Public Contract Code, in  
 6 the absence of a specific exemption or a direct conflict with a city  
 7 charter, it is necessary in this act to add Section 1100.7 to the Public  
 8 Contract Code to codify the holding in *Howard Contracting, Inc.*  
 9 *v. G. A. MacDonald Construction Co.* (1998) 71 Cal.App.4th 38.

10 SEC. 2. Section 1100.7 is added to the Public Contract Code,  
 11 to read:

12 1100.7. This code is the basis of contracts between most  
 13 public entities in this state and their contractors and  
 14 subcontractors. With regard to charter cities, this code applies in  
 15 the absence of an express exemption or a charter city ordinance or  
 16 regulation that is in direct conflict with the relevant provision of  
 17 this code.

18 SEC. 3. The Legislature finds and declares that Section  
 19 1100.7 of the Public Contract Code, as added by this act, is  
 20 declaratory of existing law.

