

**ASSEMBLY BILL**

**No. 2183**

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**Introduced by Assembly Member Smyth**

February 18, 2010

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An act to add Section 6102 to the Public Contract Code, relating to state contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2183, as introduced, Smyth. State contracts: reciprocal preference.

Existing law requires a state agency, in awarding contracts for construction, to grant a California company, as defined, a reciprocal preference as against a nonresident contractor from any state that gives or requires a preference to be given to contractors from that state on its public entity construction contracts, as specified.

This bill would require a state agency, in awarding a contract for good or services, to grant a resident bidder, as defined, a reciprocal preference as against a nonresident bidder from any state that gives or requires a preference to be given to contractors from that state, as specified. This bill would provide that its provisions do not apply if their application might jeopardize the receipt of federal funds or if the nonresident bidder certifies, under penalty of perjury, in its bid that its state of residency does not give a preference for contractors from that state in the award of its contracts. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 6102 is added to the Public Contract  
2 Code, to read:  
3 6102. (a) As used in this section, the following terms have the  
4 following meanings:  
5 (1) “Principal place of business” means the principal place from  
6 which the trade or business of the bidder is directed or managed.  
7 (2) “Resident bidder” means an individual, sole proprietorship,  
8 partnership, joint venture, corporation, or other business entity that  
9 has paid unemployment taxes or income taxes in California and  
10 whose principal place of business is located in California.  
11 (b) (1) When awarding a contract for goods or services, except  
12 as provided in Section 6107 in regard to contracts for construction,  
13 a state agency shall grant a resident bidder a reciprocal preference  
14 as against a nonresident bidder from any state that gives or requires  
15 a preference to be given contractors from that state on its contracts.  
16 (2) The amount of the reciprocal preference shall be equal to  
17 the amount of the preference applied by the state of the nonresident  
18 bidder with the lowest responsive bid.  
19 (3) If the contractor submitting the lowest responsive bid is not  
20 a resident bidder and has its principal place of business in any state  
21 that gives or requires the giving of a preference on its contracts to  
22 contractors from that state, and if a resident bidder has also  
23 submitted a responsive bid, and, with the benefit of the reciprocal  
24 preference, the resident bidder’s bid is equal to or less than the  
25 original lowest responsive bid, the state agency shall award the  
26 contract to the resident bidder as its submitted bid price.  
27 (c) (1) The bidder shall certify, under penalty of perjury, that  
28 the bidder qualifies as a resident bidder.  
29 (2) A nonresident bidder shall, at the time of bidding, disclose  
30 to the awarding agency any and all bid preferences provided to  
31 the nonresident bidder by the state or country in which the  
32 nonresident bidder has its principal place of business.  
33 (d) The reciprocal preference is waived if the certification  
34 described in paragraph (1) of subdivision (c) does not appear on  
35 the bid.

1 (e) This section does not apply if its application might jeopardize  
2 the receipt of federal funds or the nonresident bidder certifies,  
3 under penalty of perjury, in its bid that its state of residency does  
4 not give a preference for contractors from that state in the award  
5 of its contracts.

6 SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.

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