

AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 175

Introduced by Senator Corbett

(Coauthor: Senator Alquist)

(Coauthor: Assembly Member Wieckowski)

February 7, 2011

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 175, as amended, Corbett. Public contracts: bid preferences: solar photovoltaic system.

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 a contract for the purchase or installation of a solar photovoltaic system, as defined, to provide a 5% preference to a business that certifies that all of the solar panels installed as part of the solar photovoltaic system have been manufactured or assembled in California, in accordance with specified criteria.

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 purchases should
8 be used to stimulate our state economy and put people back to
9 work.

10 (c) Former Governor Schwarzenegger's Green Building
11 Executive Order (S-20-04) mandated that state agencies evaluate
12 the merits of using clean and renewable onsite energy generation
13 technologies in all new building or large renovation projects.

14 (d) California has several companies that manufacture solar
15 panels in the state, employing Californians and helping our
16 economy.

17 (e) In the manufacturing of solar panels, it is the creation of the
18 solar cells that convert sunlight into electrical power that generates
19 the most value to the economy. Production of solar cells requires
20 the highest percentage of skilled workers, the highest capital
21 investment, and supports the highest amount of collateral
22 infrastructure in the form of additional local businesses and jobs.

23 (f) California is the nation's largest clean economy. More than
24 12,000 clean technology companies, including solar manufacturers,
25 call California home and are creating jobs at nearly 10 times the
26 rate as the state's other industries. A number of these companies
27 have developed novel solar cell technologies and it is in the interest
28 of the state to incentivize these companies to establish and grow
29 manufacturing operations within the state. This will create both
30 construction and permanent manufacturing jobs in California.

31 (g) It is the intent of the Legislature that whenever a solar
32 photovoltaic system is placed on state buildings or property, there
33 should be a preference for a solar photovoltaic system
34 manufactured in California.

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

1 Article 7. Preference for California-Manufactured Solar Panels
2 on State Property
3

4 10390. For the purposes of this article:

5 (a) “Assemble,” “assembled,” or “assembler” means connecting
6 individual solar cells into larger groups whereby the solar panel
7 or module is the end product.

8 (b) “Manufacture,” “manufactured,” or “manufacturing” means
9 the transformation of raw materials into a solar panel, including
10 ~~both the manufacture of the solar cells and the final assembly of~~
11 ~~the solar panels.~~ *the manufacture of solar wafers, the*
12 *postprocessing of solar cells, or the manufacture of solar cells.*

13 (c) “Power purchase agreement” means a financial arrangement
14 in which a third-party developer owns, operates, and maintains a
15 solar photovoltaic system, and a state agency agrees to site the
16 system on its roof or elsewhere on its property and purchases the
17 system’s electric output, not the system itself, from the third-party
18 developer for a predetermined period of time.

19 (d) “Solar cells” means the basic building block of photovoltaic
20 (PV) technologies. “Solar cells” are functional semiconductors,
21 made by processing and treating crystalline silicon or other
22 photosensitive materials to create a layered product that generates
23 electricity by absorbing light photons.

24 (e) “Solar panels” means individual solar cells assembled into
25 larger groups whereby the solar panel or module is the end product,
26 and consists of a series of solar cells to capture and transfer
27 solar-generated electricity, a backing surface, and a covering to
28 protect the cells from weather and other types of damage, *and may*
29 *include an affixed power quality, product efficiency, power*
30 *conversion, balance of systems (BOS), and enhancements to the*
31 *panel.*

32 (f) “Solar photovoltaic system” means a system created by
33 installing multiple solar panels in the same location to increase the
34 electrical generating capacity. In a “solar photovoltaic system” the
35 solar panels and solar cells represent the highest intellectual content
36 and dollar-value items associated with solar photovoltaic energy
37 generation.

38 10391. (a) A state agency that accepts bids or proposals for a
39 contract for the purchase or installation of a solar photovoltaic
40 system through a power purchase agreement, or through a direct

1 purchase, shall provide a preference of 5 percent to a business that
2 certifies that all of the solar panels installed as part of such a solar
3 photovoltaic system have been manufactured or assembled in this
4 state. The preference shall be provided as follows:

5 (1) For solicitations to be awarded to the lowest responsible
6 bidder meeting specifications, the preference to a business that
7 certifies that all of the solar panels installed as part of the solar
8 photovoltaic system have been manufactured or assembled in this
9 state shall be 5 percent of the bid price of the lowest responsible
10 bidder meeting specifications.

11 (2) For solicitations to be awarded to the highest scored bidder
12 based on evaluation factors in addition to price, the preference to
13 a business that certifies that all of the solar panels installed as part
14 of the solar photovoltaic system have been manufactured or
15 assembled in this state shall be 5 percent of the total score of the
16 highest scored bidder.

17 (3) A preference awarded pursuant to paragraph (1) or (2) shall
18 not be awarded to a noncompliant bidder and shall not be used to
19 satisfy any applicable minimum requirements.

20 (4) In order to be eligible for the 5-percent preference authorized
21 pursuant to this section, a business shall submit all required
22 substantiating documentation and information needed by the state
23 agency to determine if the business is eligible for the preference,
24 including, but not limited to, documentation regarding who the
25 manufacturer or assembler of the solar photovoltaic system will
26 be and the location or locations where the solar photovoltaic system
27 will be manufactured or assembled.

28 (5) If, after application of the preferences set forth in this section,
29 the bids ~~submitted by an assembler and a manufacturer~~ are tied as
30 the lowest responsible bid or the highest scored bid, then the tie
31 shall be resolved in favor of the ~~manufacturer~~ *entity that has the*
32 *higher number of full-time assembly or manufacturing employees*
33 *in California at the time of the tie.*

34 (b) The Department of General Services shall establish a process
35 to verify that a business meets the criteria for the 5-percent
36 preference.

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