

Assembly Bill No. 3458

CHAPTER 386

An act to amend Section 10335 of the Public Contract Code, relating to state legal services.

[Approved by Governor August 17, 1996. Filed with
Secretary of State August 19, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3458, Speier. State legal services: contracts.

Under existing law, state contracts for the procurement of materials, supplies, equipment, or services, with specified exceptions, are not effective unless reviewed and approved by the Department of General Services.

Existing law prohibits state agencies from employing any legal counsel other than the Attorney General, except for specified agencies, unless the agency has first obtained the written consent of the Attorney General.

This bill would provide that, in approving a contract for legal services, the department would have to require the state agency to demonstrate that the Attorney General has consented to the employment of outside counsel. The bill would also require the department, until January 1, 2001, to maintain a list of approved contracts for legal services with a consideration in excess of \$20,000. The list, which would be provided quarterly to the Legislature, would include the providers, the length of each contract, applicable hourly rates, and the need for the services.

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

SECTION 1. Section 10335 of the Public Contract Code is amended to read:

10335. (a) This article shall apply to all contracts entered into by any state agency for services to be rendered to the state, whether or not the services involve the furnishing or use of equipment, materials, or supplies or are performed by an independent contractor. Except as provided in Section 10351, all contracts subject to this article are of no effect unless and until approved by the department. Each contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of approval. This article shall apply to any state agency that by general or specific statute is expressly or impliedly authorized to enter into the transactions referred to in this section. This article shall

not apply to contracts covered under Article 5 (commencing with Section 10355), contracts for the construction, alteration, improvement, repair, or maintenance of real or personal property, contracts for architectural and engineering services subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, to contracts that are expressly excepted from Section 10295, contracts of less than one thousand dollars (\$1,000) in amount, or to contracts of less than five thousand dollars (\$5,000) where only per diem or travel expenses, or a combination thereof, are to be paid.

(b) In exercising its authority under this article with respect to contracts for the services of legal counsel, other than the Attorney General, entered into by any state agency that is subject to Section 11042 or Section 11043 of the Government Code, the department, as a condition of approval of the contract, shall require the state agency to demonstrate that the consent of the Attorney General to the employment of the other counsel has been granted pursuant to Section 11040 of the Government Code. This consent shall not be construed in a manner that would authorize the Attorney General to establish a separate program for reviewing and approving contracts in the place of, or in addition to, the program administered by the department pursuant to this article.

(c) Until January 1, 2001, the department shall maintain a list of contracts approved pursuant to subdivision (b). This list shall be filed quarterly with the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget. The list shall be limited to contracts with a consideration in excess of twenty thousand dollars (\$20,000) during the life of the contract and shall include sufficient information to identify the provider of legal services, the length of each contract, applicable hourly rates, and the need for the services. The department shall add a contract that meets these conditions to the list within 10 days after approval. A copy of the list shall be made available to any requester. The department may charge a fee to cover the cost of supplying the list as provided in Section 6257 of the Government Code.

