

AMENDED IN SENATE AUGUST 8, 2000

AMENDED IN SENATE JUNE 21, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1813**

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**Introduced by Assembly Member Wildman**

February 3, 2000

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An act to amend Section 17072.13 of the Education Code, and to repeal and add Section 25358.6 of the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1813, as amended, Wildman. School facilities: site contamination funding: hazardous substance contracts.

(1) Existing law authorizes the State Allocation Board to provide 50% of the costs of the evaluation of hazardous substances at a site to be acquired by a school district and costs relating to removal of the hazardous substances, not to exceed a prescribed amount, and to provide funding for up to 100% of those costs by a school district eligible for financial hardship assistance, not to exceed a prescribed amount. Existing law further authorizes a school district that meets environmental hardship criteria, as specified, to apply to the board for site acquisition funding prior to approval of construction plans by the Division of the State Architect and State Department of Education.

This bill would provide that site acquisition funding for a school district that meets environmental hardship criteria is

subject to the prescribed funding limits for the evaluation and removal of hazardous substances at sites to be acquired by a school district, and may not result in an increase in those funding limits to a school district.

(2) Existing law authorizes the Department of Toxic Substances Control to prequalify bidders for remedial or removal actions taken pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, by adopting and applying a uniform system of rating bidders.

Existing law requires a state agency head to select professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms pursuant to specified procedures. Existing law imposes specified requirements upon state agencies expending funds for capital outlay projects.

This bill would repeal the prequalification authority of the department and would instead exempt from the provisions regulating professional services, ~~the department's contracts with providers of architectural and engineering services to perform removal and remedial action and with providers of services to implement~~ *for the investigation and characterization of a hazardous substance release site, evaluation of a site, the preparation of the workplan or remedial action plan, the design of the engineering plan, and the implementation of a final remedial action* ~~plans plan or a workplan, at a hazardous substance release sites for which state funds are expended~~ *site*. The bill would require the department to select the ~~vendors of contractors to provide~~ these services pursuant to a specified procedure.

The bill would also exempt, from the capital outlay requirements, ~~the department's contracting with private vendors to perform removal and remedial actions~~ *a response action using response action services provided by contract* at hazardous substance release sites owned by the state.

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 17072.13 of the Education Code  
2 is amended to read:

3 17072.13. In addition to the amounts provided  
4 pursuant to Sections 17072.10 and 17072.12, the board may  
5 provide funding as follows:

6 (a) For 50 percent of the cost of the evaluation of  
7 hazardous materials at a site to be acquired by a school  
8 district and for 50 percent of the other response costs of  
9 the removal of hazardous waste or solid waste, the  
10 removal of hazardous substances, or other remedial  
11 action in connection with hazardous substances at that  
12 site. Except as provided in subdivision (b), the funding  
13 provided pursuant to this section may not exceed 50  
14 percent of a number calculated by subtracting the school  
15 district's cost of the site from what the appraised value of  
16 the site would be after the response action is completed.

17 (b) The board may provide funding for up to 100  
18 percent of the cost of the evaluation of hazardous  
19 materials at a site to be acquired by a school district  
20 eligible for financial hardship assistance pursuant to  
21 Article 8 (commencing with Section 17075.10) and for up  
22 to 100 percent of the other response costs for the site. The  
23 funding provided pursuant to this subdivision may not  
24 exceed 100 percent of a number calculated by subtracting  
25 the school district's cost of the site from what the  
26 appraised value of the site would be after the response  
27 action is completed.

28 (c) A school district with a site that meets the  
29 environmental hardship criteria set forth in paragraph  
30 (1) may apply to the board for site acquisition funding for  
31 that site prior to having construction plans for that site  
32 approved by the Division of the State Architect and State  
33 Department of Education. The site acquisition funding is  
34 subject to the funding limits provided in subdivisions (a)  
35 or (b) and may not result in an increase in the funding  
36 limits available to a school district under this section.

37 (1) A project is eligible for environmental hardship  
38 site acquisition funding if both of the following apply:



1 (A) The remedial action plan for the site approved by  
2 the Department of Toxic Substances Control, pursuant to  
3 Section 17213, is estimated by the Department of Toxic  
4 Substances Control to take six months or more to  
5 complete.

6 (B) The State Department of Education determines  
7 that the site is the best available alternative site.

8 (2) The initial site-specific reservation pursuant to this  
9 subdivision shall be for a period of one year. Extension  
10 may be approved in one-year intervals upon  
11 demonstration to the State Allocation Board of progress  
12 toward acquisition. In the event there is not  
13 demonstrable progress, the State Allocation Board shall  
14 have the option of rescinding the reservation.

15 (3) Environmental hardship site acquisition funds  
16 approved by the State Allocation Board can be used only  
17 for the site identified in the remedial action plan  
18 approved by the Department of Toxic Substances  
19 Control.

20 (4) The date that the State Allocation Board approves  
21 the environmental hardship site acquisition funding will  
22 become the State Allocation Board approval date for the  
23 project's construction funding for that site.

24 (5) A school district may apply to the State Allocation  
25 Board for construction funding for the environmental  
26 hardship site when the project has received final Division  
27 of the State Architect plan approval and final State  
28 Department of Education site and plan approval.

29 (d) The cost incurred by the school districts when  
30 complying with any requirement identified in this section  
31 are allowable costs for purposes of an applicant under this  
32 chapter and may be reimbursed in accordance with  
33 Section 17072.12.

34 (e) The State Allocation Board shall develop  
35 regulations that allow school districts with financial  
36 hardship site acquisition funding prior to ownership of  
37 the site or evidence that the site is in escrow.

38 SEC. 2. Section 25358.6 of the Health and Safety Code  
39 is repealed.



1 SEC. 3. Section 25358.6 is added to the Health and  
2 Safety Code, to read:

3 25358.6. (a) Notwithstanding Chapter 10  
4 (commencing with Section 4525) of Division 5 of Title 1  
5 of the Government Code, the department may enter into  
6 contracts with both of the following for a hazardous  
7 substance release site for which state funds are expended  
8 pursuant to this chapter or Chapter 6.5 (commencing  
9 with Section 25100):

10 (1) Providers of architectural and engineering  
11 services to perform removal and remedial action work,  
12 including construction management.

13 (2) Providers of services to implement a final remedial  
14 action, based upon an approved engineering design, of  
15 the Government Code, response actions initiated or  
16 taken by the department pursuant to this chapter or in  
17 response to a request from another person that is  
18 required, or elects, to take response action pursuant to  
19 this chapter, may be carried out by the department under  
20 contracts that provide for either of the following types of  
21 response action services:

22 (1) The investigation and characterization of the type  
23 and extent of contamination at a hazardous substance  
24 release site, the evaluation of the alternative methods for  
25 responding to the presence of the contamination at a site,  
26 the preparation of the removal action workplan or  
27 remedial action plan for a site, and the design of the  
28 engineering plan for the removal or remedial action at a  
29 site.

30 (2) The implementation of the removal action  
31 workplan or the remedial action plan for a hazardous  
32 substance release site in accordance with the engineering  
33 plan approved by the department for the site.

34 (b) The department shall comply with all of the  
35 following procedures with regard to a contract subject to  
36 contracts authorized by subdivision (a):

37 (1) The department shall select a vendor one or more  
38 contractors for the services specified in paragraph (1) or

39 (2) of subdivision (a) based on demonstrated  
40 competence and the professional qualifications necessary



1 *for the satisfactory performance of the services required,*  
2 *and on responses to a competitive procurement process*  
3 *initiated by the department, which shall include the type,*  
4 *quality, and costs of the services that ~~would~~ will be*  
5 *provided by the ~~vendor~~ contractor.*

6 ~~(2) A contract with a selected vendor shall establish an~~

7 (2) *Each contract shall establish an hourly rate for the*  
8 *various types and levels of technical and clerical*  
9 *personnel that will be used by the ~~vendor~~ contractor to*  
10 *provide services under the contract and shall establish*  
11 *rates for specific types of field activities deemed*  
12 *necessary and appropriate by the department, ~~unless a~~*  
13 *project labor agreement is already in place, in which case*  
14 *the term of that project labor agreement shall govern the*  
15 *hourly rates.*

16 (3) (A) *Except as provided in subparagraph (B), the*  
17 *department shall assign site specific work to a selected*  
18 *~~vendor~~ contractor by issuing a task order based on the*  
19 *department's needs and in consideration of the types of*  
20 *services available from the ~~vendor~~ contractor without*  
21 *any additional bidding or negotiation.*

22 ~~(B) The department shall not assign work to~~  
23 ~~implement an approved remedial action plan or remedial~~  
24 ~~action work plan to the same vendor that performed the~~  
25 ~~site investigation and remedial design for the site.~~

26 ~~(4) A vendor may subcontract with other vendors for~~  
27 ~~the performance of task order work when deemed~~  
28 ~~necessary and appropriate by the department.~~

29 ~~(5) When initiating a competitive procurement~~  
30 ~~process for architectural and engineering services, the~~  
31 ~~department shall notify potential vendors in a manner~~

32 (B) *The department shall not issue a task order to a*  
33 *contractor to provide response action services for a site of*  
34 *the type described in paragraph (2) of subdivision (a) if*  
35 *that contractor provided response action services of the*  
36 *type described in paragraph (1) of subdivision (a) for*  
37 *that site.*

38 (4) *A contractor may subcontract for the performance*  
39 *of response actions assigned to the contractor by a task*



1 order if the department approves the selection of the  
2 subcontractor.

3 (5) The department shall, when it initiates the  
4 competitive procurement process described in  
5 paragraph (1), notify prospective contractors in a  
6 manner consistent with the requirements of Sections  
7 4526 and 4527 of the Government Code.

8 (c) Notwithstanding Section 13332.11 of the  
9 ~~Government Code, the department may contract with a~~  
10 ~~private vendor to perform necessary removal and~~  
11 ~~remedial actions at hazardous substance release sites~~  
12 ~~owned by the state, and the conducting of a removal and~~  
13 ~~remedial action at a site subject to this subdivision is not~~  
14 ~~a capital outlay project for those purposes. Government~~  
15 ~~Code, response action at a hazardous substance release~~  
16 ~~site owned by the state may be carried out by the~~  
17 ~~department using the response action services provided~~  
18 ~~by contracts authorized by this section and the response~~  
19 ~~action is not a capital outlay project for purposes of~~  
20 ~~Section 13332.11 of the Government Code.~~

21 (d) A contract entered into by the department  
22 pursuant to this section may be for a period of three years,  
23 with an additional one-year extension.

24 (e) Notwithstanding this section, the department shall  
25 comply with Chapter 1 (commencing with Section 1720)  
26 of Part 7 of Division 2 of the Labor Code when entering  
27 into a contract pursuant to this section.

