

AMENDED IN SENATE AUGUST 28, 2000

AMENDED IN SENATE AUGUST 18, 2000

AMENDED IN SENATE AUGUST 8, 2000

AMENDED IN SENATE JUNE 21, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1813

Introduced by Assembly Member Wildman

February 3, 2000

An act to amend Section 17072.13 of the Education Code, ~~relating to school facilities~~, and to add Section 25358.6.1 to 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.

Existing

(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, notwithstanding those provisions, authorize the department to advertise and award contracts for engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services pursuant to the hazardous substance act or the law regulating hazardous waste, if the contract is individually in an amount equal to, or less than, \$1,000,000. The bill would specify procedures for the selection and ranking of prequalified firms and would authorize the department to adopt regulations to implement those procedures.

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:



1 17072.13. In addition to the amounts provided
2 pursuant to Sections 17072.10 and 17072.12, the board may
3 provide funding as follows:

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

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

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

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

37 (A) The remedial action plan for the site approved by
38 the Department of Toxic Substances Control, pursuant to
39 Section 17213, is estimated by the Department of Toxic



1 Substances Control to take six months or more to
2 complete.

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

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

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

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

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

26 (d) The cost incurred by the school districts when
27 complying with any requirement identified in this section
28 are allowable costs for purposes of an applicant under this
29 chapter and may be reimbursed in accordance with
30 Section 17072.12. The site acquisition funding is subject to
31 the funding limits provided in subdivision (a) or (b) and
32 may not result in an increase in the funding limits
33 available to a school district under this section.

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 25358.6.1 is added to the Health and*
39 *Safety Code, to read:*



1 25358.6.1. (a) For purposes of this section, the
2 following definitions shall apply:

3 (1) “Engineering, architectural, environmental,
4 landscape architectural, construction project
5 management, or land surveying services” includes
6 professional services of an engineering, architectural,
7 environmental, landscape architectural, construction
8 project management, land surveying, or similar nature, as
9 well as incidental services that members of these
10 professions and those in their employ may logically or
11 justifiably perform.

12 (2) “Firm” means any individual, firm, partnership,
13 corporation, association, or other legal entity permitted
14 by law to practice the profession of engineering,
15 architecture, environmental, landscape architecture,
16 construction project management, or land surveying.

17 (3) “Prequalified list” means a list of engineering,
18 architectural, environmental, landscape architectural,
19 construction project management, or land surveying
20 firms that possess the qualifications established by the
21 department to perform specific types of engineering,
22 architectural, environmental, land surveying services,
23 with each firm ranked in order of its qualifications and
24 costs.

25 (b) Notwithstanding Chapter 10 (commencing with
26 Section 4525) of Division 5 of Title 1 of the Government
27 Code, the department may advertise and award a
28 contract, in accordance with this section, for engineering,
29 architectural, environmental, landscape architectural,
30 construction project management, or land surveying
31 services pursuant to this chapter or Chapter 6.5
32 (commencing with Section 25100), if the contract is
33 individually in an amount equal to, or less than, one
34 million dollars (\$1,000,000).

35 (c) The department may establish prequalified lists of
36 engineering, architectural, environmental, landscape
37 architectural, construction project management, or land
38 surveying firms in accordance with the following process:

39 (1) For each type of engineering, architectural,
40 environmental, landscape architectural, construction



1 project management, or land surveying services work for
2 which the department elects to use this section for
3 advertising and awarding contracts, the department shall
4 request annual statements of qualifications from
5 interested firms. The request for statements of
6 qualifications shall be announced statewide through the
7 California State Contracts Register and publications,
8 internet websites, or electronic bulletin boards of
9 respective professional societies that are intended,
10 designed, and maintained by the professional societies to
11 communicate with their memberships. Each
12 announcement shall describe the general scope of
13 services to be provided within each generic project
14 category for engineering, architectural, environmental,
15 landscape architectural, construction project
16 management, or land surveying services that the
17 department anticipates may be awarded during the
18 period covered by the announcement.

19 (2) The department shall define a generic project
20 category so that each specific project to be awarded
21 within that generic project category is substantially
22 similar to all other projects within that generic project
23 category, may be within the same size range and
24 geographical area, and requires substantially similar skills
25 and magnitude of professional effort as every other
26 project within that generic project category. The generic
27 categories shall provide a basis for evaluating and
28 establishing the type, quality, and costs, including hourly
29 rates for personnel and field activities and equipment, of
30 the services that would be provided by the firm.

31 (3) The department shall evaluate the statements of
32 qualifications received pursuant to paragraph (1) and the
33 department shall develop a short list of the most qualified
34 firms that meet the criteria established and published by
35 the department. The department shall hold discussions
36 regarding each firm's qualifications with all firms listed on
37 the short list. The department shall then rank the firms
38 listed on the short list according to each firm's
39 qualifications and the evaluation criteria established and
40 published by the department.



1 (4) The department shall maintain prequalified lists of
2 civil engineering, architectural, environmental,
3 landscape architectural, construction project
4 management, or land surveying firms ranked pursuant to
5 paragraph (3) on an ongoing basis, except that no firm
6 may remain on a list developed pursuant to paragraph (3)
7 based on a single qualification statement for more than
8 three years. The department shall include in each
9 prequalified list adopted pursuant to paragraph (3) no
10 less than three firms, unless the department certifies that
11 the scope of the prequalified list is appropriate for the
12 department's needs, taking into account the nature of the
13 work, that the department made reasonable efforts to
14 solicit qualification statements from qualified firms, and
15 that the efforts were unsuccessful in producing three
16 firms that met the established criteria. A firm may remain
17 on the prequalified list up to three years without
18 resubmitting a qualification statement, but the
19 department may add additional firms to that list and may
20 annually rank these firms. For purposes of annual
21 adjustment to the ranking of firms already on the
22 prequalified list developed pursuant to paragraph (3),
23 the department shall rely on that firm's most recent
24 annual qualification statement, if the statement is not
25 more than three years old.

26 (5) During the term of the a prequalified list
27 developed pursuant to paragraph (3), as specific projects
28 are identified by the department as being eligible for
29 contracting under the procedures adopted pursuant to
30 subdivision (d), the department shall contact the highest
31 ranked firm on the appropriate prequalified list to
32 determine if that firm has sufficient staff and is available
33 for performance of the project. If the highest ranked firm
34 is not available, the department shall continue to contact
35 firms on the prequalified list in order of rank until a firm
36 that is available is identified.

37 (6) The department may enter into a contract for the
38 services with a firm identified pursuant to paragraph (5),
39 if the contract is for a total price that the department
40 determines is fair and reasonable to the department and



1 otherwise conforms to all matters and terms previously
2 identified and established upon participation in the
3 prequalified list.

4 (7) If the department is unable to negotiate a
5 satisfactory contract with a firm identified pursuant to
6 paragraph (6), the department shall terminate the
7 negotiations with that firm and the department shall
8 undertake negotiations with the next ranked firm that is
9 available for performance. If a satisfactory contract
10 cannot be negotiated with the second identified firm, the
11 department shall terminate these negotiations and the
12 department shall continue the negotiation process with
13 the remaining qualified firms, in order of their ranking,
14 until the department negotiates a satisfactory contract. If
15 the department is unable to negotiate a satisfactory
16 contract with a firm on two separate occasions, the
17 department may remove that firm from the prequalified
18 list. The department may award a contract to a firm on
19 a prequalified list that is to be executed, including
20 amendments, for a term that extends beyond the
21 expiration date of that firm's tenure on the prequalified
22 list.

23 (8) Once a satisfactory contract is negotiated and
24 awarded to a firm from any prequalified list for a generic
25 project category involving a site or facility investigation
26 or characterization, a feasibility study, or a remedial
27 design, for a specific response action or corrective action,
28 including, but not limited to, a corrective action carried
29 out pursuant to Section 25200.10, the department shall not
30 enter into a contract with that firm for purposes of
31 construction or implementation of any part of that same
32 response action or corrective action.

33 (d) The department may adopt guidelines or
34 regulations as necessary, and consistent with this section,
35 to define the manner of advertising, generic project
36 categories, type, quantity and cost of services,
37 qualification standards and evaluation criteria, content
38 and submittal requirements for statements of
39 qualification, procedures for ranking of firms and
40 administration of the prequalified list, the scope of



1 *matters addressed by participation on a prequalified list,*
2 *manner of notification of, negotiation with, and awarding*
3 *of contracts to, prequalified firms, and procedures for*
4 *protesting the award of contracts under this section, or*
5 *any other matter that is appropriate for implementation*
6 *of this section,*

7 *(e) Any removal or remedial action taken or*
8 *contracted by the department pursuant to Section 25354*
9 *or subdivision (a) of Section 25358.3 is exempt from this*
10 *section.*

11 *(f) This section does not exempt any contract from*
12 *compliance with Article 4 (commencing with Section*
13 *19130) of Chapter 5 of Division 5 of Title 2 of the*
14 *Government Code.*

