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SB-1476 Water replenishment districts: contracts. (2021-2022)

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Senate Bill No. 1476

CHAPTER 891

An act to amend Section 60622 of, to repeal Sections 60606, 60608, 60610, 60612, and 60616 of, to repeal and add Section 60604 of, and to repeal, add, and repeal Section 60602 of, the Water Code, relating to water.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1476, Bradford. Water replenishment districts: contracts.

The Water Replenishment District Act provides for the formation of water replenishment districts with prescribed powers for the purposes of replenishing the groundwater supplies within the district. The act requires a district to advertise for bids before making any contract totaling \$25,000 or more within any 12-month period and, when work is to be done, to give notice calling for bids by publication, as prescribed. The act requires contracts and other documents executed by a district that require or authorize the district to expend \$10,000 or more to be authorized by the board of directors and signed by the president and the secretary, except as specified.

This bill would revise and recast the provisions establishing the competitive bidding and related public notice procedures for water replenishment districts, including, among other revisions, only until January 1, 2028, deleting the requirement that a district advertise for bids before making any contract totaling \$25,000 or more within any 12-month period, and instead requiring a district expenditure for the erection, construction, alteration, repair, or improvement of a public structure or building of \$25,000 or more be let by contract by formal bidding procedure. The bill would also require, only until January 1, 2028, a district to adopt policies and procedures governing contracts for professional services, materials, supplies, and equipment. The bill would prohibit the estimated cost of any improvement or unit of work done by district personnel from exceeding \$25,000, except as specified. The bill would increase from \$10,000 to \$40,000 the threshold amount for contracts and other documents that require authorization by the board of directors and would make related changes.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 60602 of the Water Code is repealed.

SEC. 2. Section 60602 is added to the Water Code, to read:

60602. (a) An expenditure for the erection, construction, alteration, repair, or improvement of a public structure or building of twenty-five thousand dollars (\$25,000) or more shall be let by contract by formal bidding procedure, consistent with the applicable provisions of the Public Contract Code.

(b) The district shall adopt policies and procedures, including formal and informal bidding requirements, governing contracts for professional services, materials, supplies, and equipment, provided that private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be selected pursuant to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(c) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 3. Section 60602 is added to the Water Code, to read:

60602. (a) Before making any contract totaling twenty-five thousand dollars (\$25,000) or more within any 12-month period, the district shall advertise for bids.

(b) Notwithstanding subdivision (a), if a proposed expenditure described in the annual district budget for any item of supplies or services equals or exceeds twenty-five thousand dollars (\$25,000), the district shall advertise for bids before making any contract for that item during the year to which that budget applies.

(c) This section does not apply to any of the following contracts:

(1) The recruitment, hiring, and dismissal of district employees and officers.

(2) Contracts with other public entities pursuant to subdivision (i) of Section 60230.

(3) Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered.

(4) Contracts solely for the purpose of retaining expert witnesses for litigation.

(5) Contracts for proprietary information or systems.

(6) Contracts for professional services, including, but not limited to, architectural, engineering, environmental, land surveying, or construction project management services, that are let on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required pursuant to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(7) Contracts for legal services that are let on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services.

(d) The district may adopt other procurement, advertising, and bidding rules that are more restrictive than those contained in the Public Contract Code and those more restrictive rules shall govern the procurement, advertising, and bidding practices of the district.

(e) This section shall become operative on January 1, 2028.

SEC. 4. Section 60604 of the Water Code is repealed.

SEC. 5. Section 60604 is added to the Water Code, to read:

60604. (a) For any improvement or unit of work done by district personnel, the estimated cost of the work shall not exceed twenty-five thousand dollars (\$25,000), except under either of the following circumstances:

(1) The work consists of maintenance work, as defined in subdivision (d) of Section 22002 of the Public Contract Code.

(2) The work consists of emergency work.

(b) Notice of a contract for any improvement or work shall be made by the district after publication pursuant to Section 6064 of the Government Code. The notice shall set forth all of the following information:

(1) Plans and specifications of the work to be done can be seen at the office of the district.

(2) The board will receive sealed bids.

(3) The contract will be let to the lowest responsible bidder.

(4) The bids will be opened in public at a given time and place.

(c) If less than the whole work provided for in the plans and specifications is to be done, the portion to be done shall be particularly described in the notice.

(d) All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

(1) Cash.

(2) A cashier's check made payable to the district.

(3) A certified check made payable to the district.

(4) A bidder's bond executed by an admitted surety insurer, made payable to the district.

(e) Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period, but in no event shall that security be held by the district beyond 60 days from the time the award is made.

(f) The board may do any of the following:

(1) Let the work to the lowest responsible bidder.

(2) Reject any or all bids and readvertise for proposals.

(3) Proceed to construct the work under its own superintendence.

SEC. 6. Section 60606 of the Water Code is repealed.

SEC. 7. Section 60608 of the Water Code is repealed.

SEC. 8. Section 60610 of the Water Code is repealed.

SEC. 9. Section 60612 of the Water Code is repealed.

SEC. 10. Section 60616 of the Water Code is repealed.

SEC. 11. Section 60622 of the Water Code is amended to read:

60622. (a) Contracts and other documents executed by the district that require or authorize the district to expend forty thousand dollars (\$40,000) or more shall be authorized by the board of directors and signed by the president and the secretary except that the board may, by resolution, authorize a specific contract or other document, not to exceed one hundred thousand dollars (\$100,000), to be signed by the district manager and one other district representative.

(b) Contracts and other documents executed by the district that require or authorize the district to expend less than forty thousand dollars (\$40,000) may be approved and signed by the district manager and one other district representative authorized by the board of directors, provided, however, that the manager shall not execute multiple contracts or documents on behalf of the district with the same person or entity within a one-year period that cumulatively total forty thousand dollars (\$40,000) or more, without the board's prior approval.