



Agenda Item No. 1.a.

To: Governmental Affairs & Public Information Committee/Committee of the Whole Meeting of February 22, 2008

From: Celia G. Kupersmith, General Manager

Subject: **DISCUSSION AND POSSIBLE ACTION REGARDING AB 117, RELATING TO THE AWARD OF CONTRACTS FOR SUPPLIES, MATERIALS AND EQUIPMENT**

### **Recommendation**

This item is presented for discussion and possible action to seek inclusion of the District in legislation amending procurement procedures for the award of contracts for supplies, materials and equipment.

### **Summary**

Existing law prescribes the powers and duties of the District, including procedures for contracts and procurement. Currently, pursuant to Public Contract Code Section 20916, when a required expenditure for equipment, supplies, or materials exceeds \$20,000, the contract must be let to the lowest responsible bidder and must meet strict notice requirements.

AB 117 is being proposed by Assembly Member Beall on behalf of the Santa Clara Valley Transportation Authority (VTA). The proposed legislation would require expenditures for equipment, supplies, or materials, when the expenditure required exceeds \$100,000, to be let to the lowest responsible bidder or to the responsible bidder who submits a proposal that provides the best value. Best value is defined as “the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to the requirements described in the solicitation documents.” The bill also requires the notice soliciting bids be advertised in a general circulation newspaper at least 10 days before bids are received.

A copy of the proposed legislation is attached. Staff is exploring the possibility of joining in this legislation, as are other Bay Area transit agencies, as it would provide increased flexibility in the procurement of equipment, supplies, or materials.

AB 117 is modeled upon similar legislation that was enacted last year for the Los Angeles County Metropolitan Transportation Authority and the San Francisco Bay Area Rapid Transit District.

Attachment

BILL NUMBER: AB 117      AMENDED  
BILL TEXT

AMENDED IN SENATE    JANUARY 22, 2008  
AMENDED IN ASSEMBLY   MARCH 22, 2007

INTRODUCED BY    Assembly Member Beall

JANUARY 9, 2007

~~An act to add and repeal Section 1463.21 of the Penal Code, and to add and repeal Section 42012 of the Vehicle Code, relating to vehicles.— An act to amend Section 20301 of the Public Contract Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 117, as amended, Beall. ~~Traffic offenses: additional assessment: traffic safety.— Transportation: Santa Clara Valley Transportation Authority: contracts.~~

(1) Existing law creates the Santa Clara Valley Transportation Authority and prescribes the powers and duties of the authority, including procedures for contracts and procurement by the authority. Existing law provides that the purchase of all supplies, equipment, and materials, when the expenditure required exceeds \$25,000, shall be by contract let to the lowest responsible bidder.

This bill instead would require those purchases, when the expenditure required exceeds \$100,000, to be by contract let to the lowest responsible bidder or to the responsible bidder who submits a proposal that provides the best value, as defined. The bill also would require the authority to obtain a minimum of 3 quotations, either written or oral, that permit prices and terms to be compared, whenever the expenditure required for the purchase of supplies, equipment, or materials exceeds \$2,500, but does not exceed \$100,000.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law imposes a base fine, assessments, and other applicable fees and penalties on a person upon a conviction of an offense involving the unsafe operation of a motor vehicle on the highways.~~

~~This bill would authorize, until January 1, 2013, Santa Clara County to elect to levy an additional assessment in the amount of \$2 for every \$10 or fraction thereof, upon each base fine, not including other penalty assessments, fees, or additions, imposed and collected by the county for an offense involving the unsafe operation of a motor vehicle upon the highway in violation of the Vehicle Code or a~~

~~local ordinance adopted pursuant to the Vehicle Code. The bill would require that the collected assessments be deposited in a Traffic Safety Committee Network Fund. The bill would require moneys in the fund, after deducting administrative costs, not to exceed 2% of the amount of the fund, be allocated in a manner so that 85% be used for local traffic safety programs approved by the county board of supervisors, as specified, and 15% be deposited in the county's Courthouse Construction Fund. The bill would require the Santa Clara County Board of Supervisors, if it establishes a fund, to create a countywide community collaboration committee with specified duties, and to submit an annual report to the Legislature regarding the fund and funded projects.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~  
 yes . State-mandated local program: ~~no~~  
 yes .

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

*SECTION 1. Section 20301 of the Public Contract Code is amended to read:*

20301. (a) The purchase of all supplies, equipment, and materials, when the expenditure required exceeds ~~twenty five~~ one hundred thousand dollars ~~(\$25,000)~~ (\$100,000) , shall be by contract let to the lowest responsible bidder ~~— Notice~~ , or in the authority's discretion, to the responsible bidder who submitted a proposal that provides the best value to the authority on the basis of the factors identified in the solicitation. "Best value" means the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to the requirements described in the solicitation documents.

(b) The authority shall obtain a minimum of three quotations, either written or oral, that permit prices and terms to be compared whenever the expected expenditure required for the purchase of supplies, equipment, or materials exceeds two thousand five hundred dollars (\$2,500), but does not exceed one hundred thousand dollars (\$100,000).

(c) Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise at its discretion.

*SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

~~SECTION 1. Section 1463.21 is added to the Penal Code, to read:~~

~~1463.21. (a) If a county establishes a Traffic Safety Committee Network Fund pursuant to Section 42012 of the Vehicle Code, notwithstanding Section 1463, out of moneys deposited with the county treasurer pursuant to Section 1463, the assessment imposed pursuant to Section 42012 of the Vehicle Code shall be deposited in the Traffic Safety Committee Network Fund in the county treasury and~~

~~shall be allocated pursuant to Section 42012 of the Vehicle Code.~~

~~—(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.~~

~~—SEC. 2.— Section 42012 is added to the Vehicle Code, to read:~~

~~—42012. (a) (1) Santa Clara County may by ordinance elect to levy an additional assessment of two dollars (\$2) for every ten dollars (\$10) or fraction thereof, upon each base fine, not including other penalty assessments, fees, or additions, imposed and collected by the courts for an offense involving the unsafe operation of a motor vehicle upon the highways in violation of this code or a local ordinance adopted pursuant to this code.~~

~~—(2) A parking violation that is subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 does not apply to paragraph (1).~~

~~—(b) Assessments shall be collected pursuant to subdivision (a) only if the Santa Clara County Board of Supervisors provides that the increased assessments do not offset or reduce the funding of other local traffic safety programs from other sources, and that these additional revenues result in increased funding to local traffic safety programs and courthouse construction.~~

~~—(c) (1) If Santa Clara County enacts an ordinance pursuant to subdivision (a), the county shall establish a Traffic Safety Committee Network Fund for purposes of receiving deposits under Section 1463.21 of the Penal Code and funding expenditures and disbursements under this section. For purposes of this section, "fund" means the Traffic Safety Committee Network Fund.~~

~~—(2) Prior to the allocation of funds under subdivision (d), the costs of administering the fund shall be reimbursed by the fund, based on the actual administrative costs, not to exceed 2 percent of the amount of the fund.~~

~~—(3) All interest earned on moneys in the fund shall be deposited in the fund for expenditure and disbursement as specified in this section.~~

~~—(d) Moneys in the fund, after deducting the administrative costs under paragraph (2) of subdivision (c), shall be allocated as follows:~~

~~—(1) Eighty five percent of those moneys shall be used for local traffic safety programs approved by the board of supervisors under subdivision (c).~~

~~—(2) Fifteen percent of those moneys shall be deposited in the county's Courthouse Construction Fund established in accordance with Section 76100 of the Government Code.~~

~~—(e) (1) (A) If the Santa Clara County Board of Supervisors establishes a Traffic Safety Committee Network Fund, the county board of supervisors shall create a countywide community collaboration committee for the purpose of developing recommendations for traffic safety programs that are eligible for funding under paragraph (1) of subdivision (d).~~

~~—(B) Prior to the disbursement of funds from the Traffic Safety Committee Network Fund, the county board of supervisors shall require the countywide community collaboration committee created under subparagraph (A) to prepare and submit to the board for the board's approval all of the following:~~

~~—(i) A strategic plan for implementing subparagraph (A). The plan~~

~~shall be made available to the public.~~

~~—(ii) A capital outlay program that identifies state, local, and community based infrastructure needs.~~

~~—(iii) Performance standards or outcome measures.~~

~~—(C) Eligible funding programs are programs that increase local traffic safety and reduce related personal injuries and fatalities through existing local traffic safety programs or the creation of new local traffic safety programs.~~

~~—(2) From the recommended eligible funding programs developed under paragraph (1), the board of supervisors shall select eligible local traffic safety programs for funding.~~

~~—(f) (1) If the board of supervisors establishes a Traffic Safety Community Network Fund under subdivision (e), it shall, on or before the fifth legislative day of 2008, and each year thereafter, submit a report to the Legislature that includes, but is not limited to, a detailed report of the program, including statements to the effect of whether or not fund usage was in accordance with the following:~~

~~—(A) The criteria and processes established pursuant to subdivision (e).~~

~~—(B) Consistent with legal requirements that achieve the intended outcomes developed under clause (iii) of subparagraph (B) of paragraph (1) of subdivision (e).~~

~~—(2) The report shall also include the following:~~

~~—(A) A listing of the projects, programs, or other authorized activities funded and a description of each project funded, as well as the amounts expended for each project.~~

~~—(B) The ongoing in progress actions taken to ensure that funded projects and activities are within the scope and cost projections of those projects and activities.~~

~~—(3) The results of the completed projects, programs, or other authorized activities funded.~~

~~—(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.~~

~~—SEC. 3.— The Legislature finds and declares that due to the fact the successful and unique Traffic Safe Communities Network in Santa Clara County, that has been receiving grant money through the Office of Traffic Safety in the Business, Transportation and Housing Agency, is in jeopardy of losing its funding, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, the special legislation contained in this act is necessarily applicable only to Santa Clara County.~~