

Measure J324

INSTRUCTIONS:

Please carefully read the following description of a ballot measure that was written by a disinterested expert. Feel free to take notes or outline passages as you read.

This should take approximately 5 minutes.

BALLOT MEASURE J324

BACKGROUND

Under California law, services provided by state agencies generally must be performed by state civil service employees. These services cover a broad range of activities--such as clerical support, building maintenance and security, and legal services. In some cases, however, the state may contract with private firms to obtain services. Such contracting is allowed, for example, if services needed by the state are: (1) of a temporary nature, (2) not available within the civil service, or (3) of a highly specialized or technical nature. Unlike the state, local governments are not subject to constitutional restrictions on contracting for services.

The state and local governments frequently contract with private firms for construction-related services, which include architecture, engineering, and environmental impact studies. State and local governments enter into these contracts through a process of advertising for the service, selecting the firm that is determined to be best qualified, and negotiating a contract with that firm. Neither the state nor local governments competitively bid for these services. By comparison, competitive bidding generally is used to acquire goods and for construction of projects.

PROPOSAL

This proposition, a constitutional amendment, requires public entities to use a new process prior to awarding a contract for the following construction-related services: engineering, architecture, landscape architecture, surveying, environmental studies, and geologic studies. (The proposition would not affect contracting out for other types of services.) The new process would apply to:

- All state agencies, except the University of California and the California State University.
- Many local governments and private entities (see below).

What Is Involved in This New Contracting Process?

The Cost Comparison. Under the process established by the proposition, the State Controller would be required to prepare an analysis for each proposed contract and compare the following:

- The cost of contracting with a private firm for the services. This would include the anticipated amount a private firm would charge to provide the services plus the cost to bid, award, administer, and monitor the contract.
- The “additional direct costs” if state employees provide the same services.

Generally, the service could be contracted out if the Controller's analysis indicated that the contract was less costly than using state employees. On the other hand, the work would have to be done by state employees if the analysis showed they could do it at lower cost.

Competitive Bidding. As noted earlier, public entities currently negotiate contract terms for construction-related services. This proposition requires that such contracts costing more than \$50,000 be competitively bid to select the lowest qualified bidder. Competitive bidding would not have to be used if it would delay a project and the delay would endanger public health or safety.

What Contracts Are Covered Under the Proposition?

Direct Contracting by the State. State agencies would have to use this new process if they wanted to contract for construction-related services. In recent years, state agencies have averaged about \$150 million annually in spending on these types of contracts. This amount varies annually depending on the state's level of construction activity.

Contracts Awarded by Local Governments and Private Entities. Local governments and private entities would also have to use this new process in the following situations:

- **State Funding of Services for Local Government or Private Projects.** Historically, the state has provided significant funding to local governments for various types of facilities--K-12 schools, local roads, community colleges, jails, and parks. Under the proposition, a local government would have to use the new process if it uses state funds to pay a private firm for any part of a construction-related service.
- **State Ownership, Liability, or Responsibility for a Project.** In many cases, the state assumes ownership, liability, or responsibility for construction, operation, or maintenance of a local project. This is the case, for example, with regard to the building of K-12 and community college buildings and many locally funded highway projects.



STOP!

Please go to the online survey, enter the 4-character code for this ballot measure (printed at the top and bottom of this page) and answer the survey questions.