

AMENDED IN SENATE AUGUST 29, 2005

AMENDED IN SENATE JUNE 16, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 414**

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**Introduced by Assembly Member Klehs**

February 15, 2005

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An act to amend Section 1771.7 of the Labor Code, relating to labor compliance programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 414, as amended, Klehs. Labor compliance programs: third-party providers.

Existing law requires an awarding body, as defined, that chooses to use funds from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project to initiate and enforce, or contract with a 3rd party to initiate and enforce, a labor compliance program, as defined, for that public works project.

This bill would specify that a 3rd party that contracts with an awarding body to initiate and enforce a labor compliance program, for purposes of these provisions ~~must be independent from contractors and subcontractors performing the project and must be independent from construction managers that have a financial interest in the project, as specified,~~ *may not review the payroll records of its own employees or the employees of its subcontractors, and the awarding body or an independent third party must review these payroll records for purposes of the labor compliance program.*

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 1771.7 of the Labor Code is amended to  
2 read:

3 1771.7. (a) (1) An awarding body that chooses to use funds  
4 derived from either the Kindergarten-University Public  
5 Education Facilities Bond Act of 2002 or the  
6 Kindergarten-University Public Education Facilities Bond Act of  
7 2004 for a public works project, shall initiate and enforce, or  
8 contract with a third party to initiate and enforce, a labor  
9 compliance program, as described in subdivision (b) of Section  
10 1771.5, with respect to that public works project.

11 (2) If an awarding body described in paragraph (1) chooses to  
12 contract with a third party to initiate and enforce a labor  
13 compliance program for a project described in paragraph (1), ~~that~~  
14 ~~third party shall be independent from the general contractor and~~  
15 ~~the subcontractors performing the project and shall be~~  
16 ~~independent from a construction manager that has a financial~~  
17 ~~interest in the completion of construction work performed on the~~  
18 ~~project. Notwithstanding the preceding sentence, a construction~~  
19 ~~manager that serves in an unpaid advisory role to an awarding~~  
20 ~~body on a project may provide labor compliance program~~  
21 ~~services for that project. *that third party shall not review the*~~  
22 *payroll records of its own employees or the employees of its*  
23 *subcontractors, and the awarding body or an independent third*  
24 *party shall review these payroll records for purposes of the labor*  
25 *compliance program.*

26 (b) This section applies to public works that commence on or  
27 after April 1, 2003. For purposes of this subdivision, work  
28 performed during the design and preconstruction phases of  
29 construction, including, but not limited to, inspection and land  
30 surveying work, does not constitute the commencement of a  
31 public work.

32 (c) (1) For purposes of this section, if any campus of the  
33 California State University chooses to use the funds described in  
34 subdivision (a), then the “awarding body” is the Chancellor of  
35 the California State University. For purposes of this subdivision,

1 if the chancellor is required by subdivision (a) to initiate and  
2 enforce, or to contract with a third party to initiate and enforce,  
3 the labor compliance program described in that subdivision, then  
4 in addition to the requirements imposed upon an awarding body  
5 by subdivision (b) of Section 1771.5, the Chancellor of the  
6 California State University shall review the payroll records  
7 described in paragraphs (3) and (4) of subdivision (b) of Section  
8 1771.5 on at least a monthly basis to ensure the awarding body's  
9 compliance with the labor compliance program.

10 (2) For purposes of this subdivision, if an awarding body  
11 described in subdivision (a) is the University of California or any  
12 campus of that university, and that awarding body is required by  
13 subdivision (a) to initiate and enforce, or to contract with a third  
14 party to initiate and enforce, the labor compliance program  
15 described in that subdivision, then in addition to the requirements  
16 imposed upon an awarding body by subdivision (b) of Section  
17 1771.5, the payroll records described in paragraphs (3) and (4) of  
18 subdivision (b) of Section 1771.5 shall be reviewed on at least a  
19 monthly basis to ensure the awarding body's compliance with the  
20 labor compliance program.

21 (d) (1) An awarding body described in subdivision (a) shall  
22 make a written finding that the awarding body has initiated and  
23 enforced, or has contracted with a third party to initiate and  
24 enforce, the labor compliance program described in subdivision  
25 (a).

26 (2) (A) If an awarding body described in subdivision (a) is a  
27 school district, the governing body of that district shall transmit  
28 to the State Allocation Board, in the manner determined by that  
29 board, a copy of the finding described in paragraph (1).

30 (B) The State Allocation Board may not release the funds  
31 described in subdivision (a) to an awarding body that is a school  
32 district until the State Allocation Board has received the written  
33 finding described in paragraph (1).

34 (C) If the State Allocation Board conducts a postaward audit  
35 procedure with respect to an award of the funds described in  
36 subdivision (a) to an awarding body that is a school district, the  
37 State Allocation Board shall verify, in the manner determined by  
38 that board, that the school district has complied with the  
39 requirements of this subdivision.

1 (3) If an awarding body described in subdivision (a) is a  
2 community college district, the Chancellor of the California State  
3 University, or the office of the President of the University of  
4 California or any campus of the University of California, that  
5 awarding body shall transmit, in the manner determined by the  
6 Director of the Department of Industrial Relations, a copy of the  
7 finding described in paragraph (1) to the director of that  
8 department, or the director of any successor agency that is  
9 responsible for the oversight of employee wage and employee  
10 work hours laws.

11 (e) Notwithstanding Section 17070.63 of the Education Code,  
12 for purposes of this act, the State Allocation Board shall increase  
13 the grant amounts as described in Chapter 12.5 (commencing  
14 with Section 17070.10) of Part 10 of Division 1 of Title 1 of the  
15 Education Code to accommodate the state's share of the  
16 increased costs of a new construction or modernization project  
17 due to the initiation and enforcement of the labor compliance  
18 program.