

ASSEMBLY BILL

No. 508

Introduced by Assembly Member Swanson

February 15, 2011

An act to amend Sections 1070 and 1071 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 508, as introduced, Swanson. Displaced public transit, solid waste handling, and recycling services employees.

Existing law requires a local government agency letting a public transit service contract out to bid to give a bidding preference for contractors and subcontractors who agree to retain, for a period of at least 90 days, certain employees who were employed to perform essentially the same services by the previous contractor or subcontractor. Under this law, contractors or subcontractors who agree to retain employees must offer employment to those employees except for reasonable and substantiated cause. Additionally, the law provides that if a successor contractor or subcontractor determines that fewer employees are needed than under the prior contract, qualified employees must be retained by seniority within the job classification. Further, the existing contractor, when required by the awarding authority, must provide employment information relating to wage rates, benefits, dates of hire, and job classifications of employees under the existing service contract to the awarding authority or a successor contractor.

This bill would add employees of solid waste handling and recycling contractors and subcontractors to those provisions. By requiring local agencies to give a bidding preference to such contractors and subcontractors, this bill would impose a state-mandated local program.

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.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 1070 of the Labor Code is amended to
2 read:

3 1070. The Legislature finds and declares all of the following:
4 (a) That when public-transit agencies *with jurisdiction over*
5 *public transit, solid waste handling, or recycling services* award
6 contracts to operate bus and rail, *solid waste handling, or recycling*
7 services to a new contractor, qualified employees of the prior
8 contractor who are not reemployed by the successor contractor
9 face significant economic dislocation as a result.

10 (b) That those displaced employees rely unnecessarily upon the
11 unemployment insurance system, public social services, and health
12 programs, increasing costs to these vital government programs
13 and placing a significant burden upon both the government and
14 the taxpayers.

15 (c) That it serves an important social purpose to establish
16 incentives for contractors who bid ~~public transit~~ *for public transit,*
17 *solid waste handling, or recycling* services contracts to retain
18 qualified employees of the prior contractor to perform the same
19 or similar work.

20 SEC. 2. Section 1071 of the Labor Code is amended to read:

21 1071. The following definitions apply throughout this chapter:
22 (a) "Awarding authority" means any local government agency,
23 including any city, county, special district, transit district, joint
24 powers authority, or nonprofit corporation that awards or otherwise
25 enters into contracts for public transit, *solid waste handling, or*
26 *recycling* services performed within the State of California.

1 (b) “Bidder” means any person who submits a bid to an
2 awarding agency for a public transit ~~service~~, *solid waste handling*,
3 *or recycling services* contract or subcontract.

4 (c) “Contractor” means any person who enters into a public
5 transit ~~service~~, *solid waste handling*, *or recycling services* contract
6 with an awarding authority.

7 (d) “Employee” means any person who works for a contractor
8 or subcontractor under a contract. “Employee” does not include
9 an executive, administrative, or professional employee exempt
10 from the payment of overtime compensation within the meaning
11 of subdivision (a) of Section 515 or any person who is not an
12 “employee” as defined under Section 2(3) of the National Labor
13 Relations Act (29 U.S.C. Sec. 152(3)).

14 (e) “Person” means any individual, proprietorship, partnership,
15 joint venture, corporation, limited liability company, trust,
16 association, or other entity that may employ individuals or enter
17 into contracts.

18 (f) “Public transit services” means the provision of passenger
19 transportation services to the general public, including paratransit
20 service.

21 (g) ~~“Service”~~ “*Recycling*” *has the same meaning as that term is*
22 *defined in Section 40180 of the Public Resources Code.*

23 (h) “Service contract” means any contract the principal purpose
24 of which is to provide public transit, *solid waste handling*, *or*
25 *recycling* services through the use of service employees.

26 (i) “*Solid waste handling*” *has the same meaning as that term*
27 *is defined in Section 40195 of the Public Resources Code.*

28 ~~(h)~~

29 (j) “Subcontractor” means any person who is not an employee
30 who enters into a contract with a contractor to assist the contractor
31 in performing a service contract.

32 SEC. 3. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.