

AMENDED IN ASSEMBLY JUNE 22, 2011

AMENDED IN SENATE MAY 19, 2011

AMENDED IN SENATE APRIL 28, 2011

SENATE BILL

No. 136

Introduced by Senator Yee

January 31, 2011

~~An act to amend Section 14132.725 of the Welfare and Institutions Code, relating to Medi-Cal. An act to amend Section 4217.12 of the Government Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 136, as amended, Yee. ~~Medi-Cal: telemedicine. Energy services contracts: prevailing wages.~~

Existing law defines "public works," for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. Existing law further requires that, except as specified, not less than the general prevailing rate of per diem wages be paid to workers employed on public works and imposes misdemeanor penalties for a violation of this requirement. Existing law provides that for the purposes of provisions of law relating to the payment of prevailing wages, "public works" includes specified types of construction, alteration, demolition, installation, and repair work.

Existing law authorizes public agencies to enter into energy service contracts and any necessarily related facility ground lease on terms that its governing body determines are in the best interests of the public agency, as specified.

This bill would provide that energy services contracts entered into under the above provisions are public works for purposes of the prevailing wage requirements, as specified.

Because the violation of prevailing wage requirements by local public entities when engaged in these public works projects would result in the imposition of misdemeanor penalties, 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 no reimbursement is required by this act for a specified reason.

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides, to the extent that federal financial participation is available, that face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for teleophthalmology and teledermatology by store and forward, as defined. Existing law requires the department to report to the Legislature, on or before January 1, 2008, the number and type of services provided, and the payments made related to the application of store and forward telemedicine as a Medi-Cal benefit. Existing law repeals these provisions on January 1, 2013.~~

~~This bill would revise this reporting requirement, as specified, would require the department to require providers to use the appropriate billing code, and would extend the implementation of these provisions until January 1, 2018.~~

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

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

- 1 SECTION 1. Section 4217.12 of the Government Code is
- 2 amended to read:
- 3 4217.12. (a) Notwithstanding any other ~~provision of law, a~~
- 4 public agency may enter into an energy service contract and any
- 5 necessarily related facility ground lease on terms that its governing

1 body determines are in the best interests of the public agency if
2 the determination is made at a regularly scheduled public hearing,
3 public notice of which is given at least two weeks in advance, and
4 if the governing body finds:

5 (1) That the anticipated cost to the public agency for thermal
6 or electrical energy or conservation services provided by the energy
7 conservation facility under the contract will be less than the
8 anticipated marginal cost to the public agency of thermal, electrical,
9 or other energy that would have been consumed by the public
10 agency in the absence of those purchases.

11 (2) That the difference, if any, between the fair rental value for
12 the real property subject to the facility ground lease and the agreed
13 rent, is anticipated to be offset by below-market energy purchases
14 or other benefits provided under the energy service contract.

15 (b) State agency heads may make these findings without holding
16 a public hearing.

17 (c) *Energy service contracts entered into pursuant to this section*
18 *shall constitute public works projects and comply with Chapter 1*
19 *(commencing with Section 1720) of Part 7 of Division 2 of the*
20 *Labor Code.*

21 *SEC. 2. No reimbursement is required by this act pursuant to*
22 *Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*

30 ~~SECTION 1. Section 14132.725 of the Welfare and Institutions~~
31 ~~Code is amended to read:~~

32 ~~14132.725. (a) For purposes of this section,~~
33 ~~“teleophthalmology and teledermatology by store and forward”~~
34 ~~means an asynchronous transmission of medical information to~~
35 ~~be reviewed at a later time by a physician at a distant site who is~~
36 ~~trained in ophthalmology or dermatology or, for teleophthalmology,~~
37 ~~by an optometrist who is licensed pursuant to Chapter 7~~
38 ~~(commencing with Section 3000) of Division 2 of the Business~~
39 ~~and Professions Code, where the physician or optometrist at the~~

1 distant site reviews the medical information without the patient
2 being present in real time.

3 ~~(b) (1) Commencing July 1, 2006, to the extent that federal~~
4 ~~financial participation is available, face-to-face contact between~~
5 ~~a health care provider and a patient shall not be required under the~~
6 ~~Medi-Cal program for teleophthalmology and teledermatology by~~
7 ~~store and forward. Services appropriately provided through the~~
8 ~~store and forward process are subject to billing and reimbursement~~
9 ~~policies developed by the department.~~

10 ~~(2) Commencing with the next available general provider~~
11 ~~bulletin after January 1, 2012, the department shall require~~
12 ~~providers billing for store and forward teleophthalmology and~~
13 ~~teledermatology to use the appropriate billing code.~~

14 ~~(3) A patient receiving teleophthalmology or teledermatology~~
15 ~~by store and forward shall be notified of the right to receive~~
16 ~~interactive communication with the distant specialist physician or~~
17 ~~optometrist, and shall receive an interactive communication with~~
18 ~~the distant specialist physician or optometrist, upon request. If~~
19 ~~requested, communication with the distant specialist physician or~~
20 ~~optometrist may occur either at the time of the consultation, or~~
21 ~~within 30 days of the patient's notification of the results of the~~
22 ~~consultation. If the reviewing optometrist identifies a disease or~~
23 ~~condition requiring consultation or referral pursuant to Section~~
24 ~~3041 of the Business and Professions Code, that consultation or~~
25 ~~referral shall be with an ophthalmologist or other appropriate~~
26 ~~physician and surgeon, as required.~~

27 ~~(e) Notwithstanding Chapter 3.5 (commencing with Section~~
28 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code,~~
29 ~~the department may implement, interpret, and make specific this~~
30 ~~section by means of all-county letters, provider bulletins, and~~
31 ~~similar instructions.~~

32 ~~(d) The health care provider shall comply with the informed~~
33 ~~consent provisions of subdivisions (e) to (g), inclusive, of, and~~
34 ~~subdivisions (i) and (j) of, Section 2290.5 of the Business and~~
35 ~~Professions Code when a patient receives teleophthalmology or~~
36 ~~teledermatology by store and forward.~~

37 ~~(e) The department shall report to the appropriate policy and~~
38 ~~fiscal committees of the Legislature no later than January 1, 2015,~~
39 ~~and again no later than January 1, 2017, all of the following:~~

- 1 ~~(1) The number and dollar amount of claims billed under the~~
2 ~~program established by this section for every year that it has been~~
3 ~~implemented.~~
4 ~~(2) The number and dollar amount of all ophthalmology and~~
5 ~~dermatology claims for all years that the program established by~~
6 ~~this section has been implemented.~~
7 ~~(3) The number and dollar amount of all ophthalmology and~~
8 ~~dermatology claims for the three years prior to the authorization~~
9 ~~of store and forward.~~
10 ~~(f) This section shall remain in effect only until January 1, 2018,~~
11 ~~and as of that date is repealed, unless a later enacted statute, that~~
12 ~~is enacted before January 1, 2018, deletes or extends that date.~~