

AMENDED IN ASSEMBLY APRIL 29, 2013  
AMENDED IN ASSEMBLY MARCH 21, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 972**

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**Introduced by Assembly Member Ian Calderon**

February 22, 2013

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An act to amend ~~Sections 108.2 and~~ *Section 1776* of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 972, as amended, Ian Calderon. Employment: electricians: certification.

~~Existing law requires the Division of Labor Standards Enforcement of the Department of Industrial Relations to maintain minimum standards for the competency and training of electricians through a system of testing and certification. Existing law requires an individual who performs work as an electrician for contractors licensed as class C-10 electrical contractors, as specified, to become certified.~~

~~This bill would require an individual employed on a construction job site by a class C-10 electrical contractor to display his or her license on his or her person while on the job site. Under the bill, only an individual displaying his or her license at the time of a site inspection is considered a licensee for purposes of determining compliance.~~

~~Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Under existing law, contractors and subcontractors are required to keep payroll records that include, among other things, the name,~~

address, and work classification of each journeyman, apprentice, worker, or other employee employed in connection with the public works project. A contractor or subcontractor, or agent or representative thereof, doing public work who neglects to comply with those provisions is guilty of a misdemeanor.

This bill would require payroll records for projects that use an electrician to include the electrician’s state certification number. By expanding the scope of a crime, 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.

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 108.2 of the Labor Code is amended to~~  
 2     ~~read:~~  
 3     ~~108.2. (a) Persons who perform work as electricians shall~~  
 4     ~~become certified pursuant to Section 108. Uncertified persons shall~~  
 5     ~~not perform electrical work for which certification is required.~~  
 6     ~~(b) (1) Certification is required only for those persons who~~  
 7     ~~perform work as electricians for contractors licensed as class C-10~~  
 8     ~~electrical contractors under the Contractors’ State License Board~~  
 9     ~~Rules and Regulations.~~  
 10    ~~(2) Certification is not required for persons performing work~~  
 11    ~~for contractors licensed as class C-7 low voltage systems or class~~  
 12    ~~C-45 electric sign contractors as long as the work performed is~~  
 13    ~~within the scope of the class C-7 or class C-45 license, including~~  
 14    ~~incidental and supplemental work as defined in Section 7059 of~~  
 15    ~~the Business and Professions Code, and regardless of whether the~~  
 16    ~~same contractor is also licensed as a class C-10 contractor.~~  
 17    ~~(3) Certification is not required for work performed by a worker~~  
 18    ~~on a high-voltage electrical transmission or distribution system~~  
 19    ~~owned by a local publicly owned electric utility, as defined in~~  
 20    ~~Section 224.3 of the Public Utilities Code; an electrical corporation,~~  
 21    ~~as defined in Section 218 of the Public Utilities Code; a person,~~

1 as defined in Section 205 of the Public Utilities Code; or a  
2 corporation, as defined in Section 204 of the Public Utilities Code;  
3 when the worker is employed by the utility or a licensed contractor  
4 principally engaged in installing or maintaining transmission or  
5 distribution systems.

6 ~~(4) Individuals desiring to be certified shall submit an~~  
7 ~~application for certification and examination that includes an~~  
8 ~~employment history report from the Social Security Administration.~~  
9 ~~The individual may redact his or her social security number from~~  
10 ~~the employment history report before it is submitted.~~

11 ~~(5) An individual employed on a construction job site by a class~~  
12 ~~C-10 electrical contractor shall visibly display his or her license~~  
13 ~~on his or her person while on the construction job site. Only an~~  
14 ~~individual displaying his or her license at the time of a site~~  
15 ~~inspection shall be considered a licensee when determining~~  
16 ~~compliance with this section.~~

17 ~~(e) The division shall maintain separate certifications for general~~  
18 ~~electrician, fire/life safety technician, residential electrician, voice~~  
19 ~~data video technician, and nonresidential lighting technician.~~

20 ~~(d) Notwithstanding subdivision (a), certification is not required~~  
21 ~~for registered apprentices performing electrical work as part of an~~  
22 ~~apprenticeship program approved under Chapter 4 of Division 3~~  
23 ~~(commencing with Section 3070), a federal Office of~~  
24 ~~Apprenticeship program, or a state apprenticeship program~~  
25 ~~authorized by the federal Office of Apprenticeship. An apprentice~~  
26 ~~who is within one year of completion of his or her term of~~  
27 ~~apprenticeship shall be permitted to take the certification~~  
28 ~~examination and, upon passing the examination, shall be certified~~  
29 ~~immediately upon completion of the term of apprenticeship.~~

30 ~~(e) Notwithstanding subdivision (a), certification is not required~~  
31 ~~for any person employed pursuant to Section 108.4.~~

32 ~~(f) Notwithstanding subdivision (a), certification is not required~~  
33 ~~for a nonresidential lighting trainee (1) who is enrolled in an~~  
34 ~~on-the-job instructional training program approved by the Chief~~  
35 ~~of the Division of Apprenticeship Standards pursuant to Section~~  
36 ~~3090, and (2) who is under the onsite supervision of a~~  
37 ~~nonresidential lighting technician certified pursuant to Section~~  
38 ~~108.~~

39 ~~(g) Notwithstanding subdivision (a), the qualifying person for~~  
40 ~~a class C-10 electrical contractor license issued by the Contractors'~~

1 State License Board need not also be certified pursuant to Section  
2 108 to perform electrical work for that licensed contractor or to  
3 supervise an uncertified person employed by that licensed  
4 contractor pursuant to Section 108.4.

5 (h) The following shall constitute additional grounds for  
6 disciplinary proceedings, including suspension or revocation of  
7 the license of a class C-10 electrical contractor pursuant to Article  
8 7 (commencing with Section 7090) of Chapter 9 of Division 3 of  
9 the Business and Professions Code:

10 (1) The contractor willfully employs one or more uncertified  
11 persons to perform work as electricians in violation of this section.

12 (2) The contractor willfully fails to provide the adequate  
13 supervision of uncertified workers required by paragraph (3) of  
14 subdivision (a) of Section 108.4.

15 (3) The contractor willfully fails to provide adequate supervision  
16 of apprentices performing work pursuant to subdivision (d).

17 (i) The Labor Commissioner shall maintain a process for  
18 referring cases to the Contractors' State License Board when it  
19 has been determined that a violation of this section has likely  
20 occurred. The Labor Commissioner shall have a memorandum of  
21 understanding with the Registrar of Contractors in furtherance of  
22 this section.

23 (j) Upon receipt of a referral by the Labor Commissioner  
24 alleging a violation under this section, the Registrar of Contractors  
25 shall open an investigation. Any disciplinary action against the  
26 licensee shall be initiated within 60 days of the receipt of the  
27 referral. The Registrar of Contractors may initiate disciplinary  
28 action against any licensee upon his or her own investigation, the  
29 filing of any complaint, or any finding that results from a referral  
30 from the Labor Commissioner alleging a violation under this  
31 section. Failure of the employer or employee to provide evidence  
32 of certification or trainee status shall create a rebuttable  
33 presumption of violation of this provision.

34 (k) For the purposes of this section, "electricians" has the same  
35 meaning as the definition set forth in Section 108.

36 ~~SEC. 2.~~

37 *SECTION 1.* Section 1776 of the Labor Code is amended to  
38 read:

39 1776. (a) Each contractor and subcontractor shall keep accurate  
40 payroll records, showing the name, address, social security number,

1 work classification, straight time and overtime hours worked each  
2 day and week, and the actual per diem wages paid to each  
3 journeyman, apprentice, worker, or other employee employed by  
4 him or her in connection with the public work. In addition, projects  
5 that require the use of an electrician shall also provide the  
6 electrician's state certification number on the payroll records below  
7 his or her name. Each payroll record shall contain or be verified  
8 by a written declaration that it is made under penalty of perjury,  
9 stating both of the following:

10 (1) The information contained in the payroll record is true and  
11 correct.

12 (2) The employer has complied with the requirements of  
13 Sections 1771, 1811, and 1815 for any work performed by his or  
14 her employees on the public works project.

15 (b) The payroll records enumerated under subdivision (a) shall  
16 be certified and shall be available for inspection at all reasonable  
17 hours at the principal office of the contractor on the following  
18 basis:

19 (1) A certified copy of an employee's payroll record shall be  
20 made available for inspection or furnished to the employee or his  
21 or her authorized representative on request.

22 (2) A certified copy of all payroll records enumerated in  
23 subdivision (a) shall be made available for inspection or furnished  
24 upon request to a representative of the body awarding the contract  
25 and the Division of Labor Standards Enforcement of the  
26 Department of Industrial Relations.

27 (3) A certified copy of all payroll records enumerated in  
28 subdivision (a) shall be made available upon request by the public  
29 for inspection or for copies thereof. However, a request by the  
30 public shall be made through either the body awarding the contract  
31 or the Division of Labor Standards Enforcement. If the requested  
32 payroll records have not been provided pursuant to paragraph (2),  
33 the requesting party shall, prior to being provided the records,  
34 reimburse the costs of preparation by the contractor, subcontractors,  
35 and the entity through which the request was made. The public  
36 may not be given access to the records at the principal office of  
37 the contractor.

38 (c) The certified payroll records shall be on forms provided by  
39 the Division of Labor Standards Enforcement or shall contain the  
40 same information as the forms provided by the division. The

1 payroll records may consist of printouts of payroll data that are  
2 maintained as computer records, if the printouts contain the same  
3 information as the forms provided by the division and the printouts  
4 are verified in the manner specified in subdivision (a).

5 (d) A contractor or subcontractor shall file a certified copy of  
6 the records enumerated in subdivision (a) with the entity that  
7 requested the records within 10 days after receipt of a written  
8 request.

9 (e) Except as provided in subdivision (f), any copy of records  
10 made available for inspection as copies and furnished upon request  
11 to the public or any public agency by the awarding body or the  
12 Division of Labor Standards Enforcement shall be marked or  
13 obliterated to prevent disclosure of an individual's name, address,  
14 and social security number. The name and address of the contractor  
15 awarded the contract or the subcontractor performing the contract  
16 shall not be marked or obliterated. Any copy of records made  
17 available for inspection by, or furnished to, a joint  
18 labor-management committee established pursuant to the federal  
19 Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a)  
20 shall be marked or obliterated only to prevent disclosure of an  
21 individual's name and social security number. A joint labor  
22 management committee may maintain an action in a court of  
23 competent jurisdiction against an employer who fails to comply  
24 with Section 1774. The court may award restitution to an employee  
25 for unpaid wages and may award the joint labor management  
26 committee reasonable attorney's fees and costs incurred in  
27 maintaining the action. An action under this subdivision may not  
28 be based on the employer's misclassification of the craft of a  
29 worker on its certified payroll records. Nothing in this subdivision  
30 limits any other available remedies for a violation of this chapter.

31 (f) (1) Notwithstanding any other provision of law, agencies  
32 that are included in the Joint Enforcement Strike Force on the  
33 Underground Economy established pursuant to Section 329 of the  
34 Unemployment Insurance Code and other law enforcement  
35 agencies investigating violations of law shall, upon request, be  
36 provided nonredacted copies of certified payroll records. Any  
37 copies of records or certified payroll made available for inspection  
38 and furnished upon request to the public by an agency included in  
39 the Joint Enforcement Strike Force on the Underground Economy  
40 or to a law enforcement agency investigating a violation of law

1 shall be marked or redacted to prevent disclosure of an individual's  
2 name, address, and social security number.

3 (2) An employer shall not be liable for damages in a civil action  
4 for any reasonable act or omission taken in good faith in  
5 compliance with this subdivision.

6 (g) The contractor shall inform the body awarding the contract  
7 of the location of the records enumerated under subdivision (a),  
8 including the street address, city, and county, and shall, within five  
9 working days, provide a notice of a change of location and address.

10 (h) The contractor or subcontractor has 10 days in which to  
11 comply subsequent to receipt of a written notice requesting the  
12 records enumerated in subdivision (a). In the event that the  
13 contractor or subcontractor fails to comply within the 10-day  
14 period, he or she shall, as a penalty to the state or political  
15 subdivision on whose behalf the contract is made or awarded,  
16 forfeit one hundred dollars (\$100) for each calendar day, or portion  
17 thereof, for each worker, until strict compliance is effectuated.  
18 Upon the request of the Division of Labor Standards Enforcement,  
19 these penalties shall be withheld from progress payments then due.  
20 A contractor is not subject to a penalty assessment pursuant to this  
21 section due to the failure of a subcontractor to comply with this  
22 section.

23 (i) The body awarding the contract shall cause to be inserted in  
24 the contract stipulations to effectuate this section.

25 (j) The director shall adopt rules consistent with the California  
26 Public Records Act (Chapter 3.5 (commencing with Section 6250)  
27 of Division 7 of Title 1 of the Government Code) and the  
28 Information Practices Act of 1977 (Title 1.8 (commencing with  
29 Section 1798) of Part 4 of Division 3 of the Civil Code) governing  
30 the release of these records, including the establishment of  
31 reasonable fees to be charged for reproducing copies of records  
32 required by this section.

33 ~~SEC. 3.~~

34 *SEC. 2.* No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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