

AMENDED IN SENATE AUGUST 13, 2014
AMENDED IN ASSEMBLY APRIL 29, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 972

Introduced by Assembly Member Ian Calderon

February 22, 2013

~~An act to amend Section 1776 of the Labor Code, relating to employment.~~ *An act to add Section 768.3 to the Public Utilities Code, relating to public utilities.*

LEGISLATIVE COUNSEL'S DIGEST

AB 972, as amended, Ian Calderon. ~~Employment: electricians: certification.~~ *Electrical corporations: underground electrical facilities: worker safety.*

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 Public Utilities Act authorizes the Public Utilities Commission to require public utilities, including electrical corporations, to construct, maintain, and operate their facilities and equipment to promote and safeguard the health and safety of its employees. A violation of the Public Utilities Act, or any decision, rule, direction, demand, or requirement of the commission would be a crime.

This bill would require the commission, on or before January 1, 2016, to adopt a rule regulating work performed in underground electrical facilities by, or on behalf of, an electrical corporation that is consistent with certain worker safety protections. Because a violation of the rule would be 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 768.3 is added to the Public Utilities
- 2 Code, to read:
- 3 768.3. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) Electrical equipment, including transformers and switches,
- 6 housed in underground facilities, such as manholes and vaults,
- 7 present an extremely hazardous working environment if work is
- 8 attempted while the equipment is energized.
- 9 (2) There have been numerous fatalities and serious injuries
- 10 when work has been performed in underground electrical facilities
- 11 while the equipment was energized.
- 12 (3) California has thousands of underground electrical facilities.
- 13 The commission has provided electrical corporations with limited
- 14 authority to avoid installing additional underground electrical
- 15 facilities.

1 (4) Work is performed in underground electrical facilities by
2 both employees of the electrical corporation and by employees of
3 outside contractors. Some of these employees do not have the
4 technical training to know how to deenergize the equipment, to
5 perform a hot scan or gas test, to determine if the equipment has
6 been deenergized and make safe a confined space working
7 environment, or to determine if equipment adjacent to the
8 workspace presents a hazard. These employees can be at severe
9 risk if electrical equipment is not properly deenergized and set to
10 avoid automatically becoming reenergized.

11 (5) Only a qualified electrical worker has the training and
12 qualifications to ensure that an underground electrical facility has
13 been fully deenergized and that it is safe to proceed with the work
14 in the facility.

15 (b) On or before January 1, 2016, the commission shall adopt
16 a rule regulating work performed in underground electrical
17 facilities by, or on behalf of, an electrical corporation that does
18 all of the following:

19 (1) Prohibits work on energized underground electrical
20 equipment.

21 (2) Requires a qualified electrical worker to determine that
22 underground electrical equipment has been deenergized and is in
23 a mode that would make the equipment safe to be worked on.

24 (3) Requires a qualified electrical worker to ensure that all
25 other adjacent equipment and circuitry in the underground
26 electrical facility is placed in a mode suspending the reclosing
27 relays.

28 (4) Requires a qualified electrical worker to be present when
29 any work is being performed in an underground electrical facility
30 containing underground electrical equipment.

31 (c) For the purposes of this section, the following terms mean
32 the following:

33 (1) “Qualified electrical worker” has the same meaning as set
34 forth in Section 2700 of Title 8 of the California Code of
35 Regulations.

36 (2) “Underground electrical equipment” means equipment
37 normally energized in excess of 600 volts and all or part of the
38 equipment is in an underground electrical facility.

39 (3) “Underground electrical facility” means a vault, manhole,
40 or other subsurface confined structure.

1 *SEC. 2. No reimbursement is required by this act pursuant to*
 2 *Section 6 of Article XIII B of the California Constitution because*
 3 *the only costs that may be incurred by a local agency or school*
 4 *district will be incurred because this act creates a new crime or*
 5 *infraction, eliminates a crime or infraction, or changes the penalty*
 6 *for a crime or infraction, within the meaning of Section 17556 of*
 7 *the Government Code, or changes the definition of a crime within*
 8 *the meaning of Section 6 of Article XIII B of the California*
 9 *Constitution.*

10 ~~SECTION 1. Section 1776 of the Labor Code is amended to~~
 11 ~~read:~~

12 ~~1776. (a) Each contractor and subcontractor shall keep accurate~~
 13 ~~payroll records, showing the name, address, social security number,~~
 14 ~~work classification, straight time and overtime hours worked each~~
 15 ~~day and week, and the actual per diem wages paid to each~~
 16 ~~journeyman, apprentice, worker, or other employee employed by~~
 17 ~~him or her in connection with the public work. In addition, projects~~
 18 ~~that require the use of an electrician shall also provide the~~
 19 ~~electrician's state certification number on the payroll records below~~
 20 ~~his or her name. Each payroll record shall contain or be verified~~
 21 ~~by a written declaration that it is made under penalty of perjury,~~
 22 ~~stating both of the following:~~

23 ~~(1) The information contained in the payroll record is true and~~
 24 ~~correct.~~

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

28 ~~(b) The payroll records enumerated under subdivision (a) shall~~
 29 ~~be certified and shall be available for inspection at all reasonable~~
 30 ~~hours at the principal office of the contractor on the following~~
 31 ~~basis:~~

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

35 ~~(2) A certified copy of all payroll records enumerated in~~
 36 ~~subdivision (a) shall be made available for inspection or furnished~~
 37 ~~upon request to a representative of the body awarding the contract~~
 38 ~~and the Division of Labor Standards Enforcement of the~~
 39 ~~Department of Industrial Relations.~~

1 ~~(3) A certified copy of all payroll records enumerated in~~
2 ~~subdivision (a) shall be made available upon request by the public~~
3 ~~for inspection or for copies thereof. However, a request by the~~
4 ~~public shall be made through either the body awarding the contract~~
5 ~~or the Division of Labor Standards Enforcement. If the requested~~
6 ~~payroll records have not been provided pursuant to paragraph (2),~~
7 ~~the requesting party shall, prior to being provided the records,~~
8 ~~reimburse the costs of preparation by the contractor, subcontractors,~~
9 ~~and the entity through which the request was made. The public~~
10 ~~may not be given access to the records at the principal office of~~
11 ~~the contractor.~~

12 ~~(e) The certified payroll records shall be on forms provided by~~
13 ~~the Division of Labor Standards Enforcement or shall contain the~~
14 ~~same information as the forms provided by the division. The~~
15 ~~payroll records may consist of printouts of payroll data that are~~
16 ~~maintained as computer records, if the printouts contain the same~~
17 ~~information as the forms provided by the division and the printouts~~
18 ~~are verified in the manner specified in subdivision (a).~~

19 ~~(d) A contractor or subcontractor shall file a certified copy of~~
20 ~~the records enumerated in subdivision (a) with the entity that~~
21 ~~requested the records within 10 days after receipt of a written~~
22 ~~request.~~

23 ~~(e) Except as provided in subdivision (f), any copy of records~~
24 ~~made available for inspection as copies and furnished upon request~~
25 ~~to the public or any public agency by the awarding body or the~~
26 ~~Division of Labor Standards Enforcement shall be marked or~~
27 ~~obliterated to prevent disclosure of an individual's name, address,~~
28 ~~and social security number. The name and address of the contractor~~
29 ~~awarded the contract or the subcontractor performing the contract~~
30 ~~shall not be marked or obliterated. Any copy of records made~~
31 ~~available for inspection by, or furnished to, a joint~~
32 ~~labor-management committee established pursuant to the federal~~
33 ~~Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a)~~
34 ~~shall be marked or obliterated only to prevent disclosure of an~~
35 ~~individual's name and social security number. A joint labor~~
36 ~~management committee may maintain an action in a court of~~
37 ~~competent jurisdiction against an employer who fails to comply~~
38 ~~with Section 1774. The court may award restitution to an employee~~
39 ~~for unpaid wages and may award the joint labor management~~
40 ~~committee reasonable attorney's fees and costs incurred in~~

1 maintaining the action. An action under this subdivision may not
2 be based on the employer's misclassification of the craft of a
3 worker on its certified payroll records. Nothing in this subdivision
4 limits any other available remedies for a violation of this chapter.

5 (f) (1) Notwithstanding any other provision of law, agencies
6 that are included in the Joint Enforcement Strike Force on the
7 Underground Economy established pursuant to Section 329 of the
8 Unemployment Insurance Code and other law enforcement
9 agencies investigating violations of law shall, upon request, be
10 provided nonredacted copies of certified payroll records. Any
11 copies of records or certified payroll made available for inspection
12 and furnished upon request to the public by an agency included in
13 the Joint Enforcement Strike Force on the Underground Economy
14 or to a law enforcement agency investigating a violation of law
15 shall be marked or redacted to prevent disclosure of an individual's
16 name, address, and social security number.

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

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

24 (h) The contractor or subcontractor has 10 days in which to
25 comply subsequent to receipt of a written notice requesting the
26 records enumerated in subdivision (a). In the event that the
27 contractor or subcontractor fails to comply within the 10-day
28 period, he or she shall, as a penalty to the state or political
29 subdivision on whose behalf the contract is made or awarded,
30 forfeit one hundred dollars (\$100) for each calendar day, or portion
31 thereof, for each worker, until strict compliance is effectuated.
32 Upon the request of the Division of Labor Standards Enforcement,
33 these penalties shall be withheld from progress payments then due.
34 A contractor is not subject to a penalty assessment pursuant to this
35 section due to the failure of a subcontractor to comply with this
36 section.

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

39 (j) The director shall adopt rules consistent with the California
40 Public Records Act (Chapter 3.5 (commencing with Section 6250))

1 of Division 7 of Title 1 of the Government Code) and the
2 Information Practices Act of 1977 (Title 1.8 (commencing with
3 Section 1798) of Part 4 of Division 3 of the Civil Code) governing
4 the release of these records, including the establishment of
5 reasonable fees to be charged for reproducing copies of records
6 required by this section.

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.