

AMENDED IN SENATE JUNE 26, 2013

AMENDED IN ASSEMBLY MAY 20, 2013

AMENDED IN ASSEMBLY APRIL 30, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1333

Introduced by Assembly Member Roger Hernández

February 22, 2013

An act to add Section 53069.86 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1333, as amended, Roger Hernández. Local government: contracts.

Existing law authorizes the legislative body of a city, county, or district to enter into contracts for various services, and, among other things, to include within the contract a time within which the whole or any specified portion of the work contemplated is to be completed.

This bill would require, with a specified exception, *if a contract or memorandum of understanding with a total annual value of \$250,000 or more between a private party and a city, county, city and county, or district contains an automatic renewal clause*, the legislative body of a city, county, or district to review any contract or memorandum of understanding (MOU) with a private party, with a total annual value of \$250,000 or more and containing an automatic renewal clause, at least once every three years on or before the annual date by which the contract may be rescinded the city, county, city and county, or district to, on or before the annual date by which the contract may be rescinded, adopt

a resolution that either exercises or declines to exercise the option to rescind the contract, as specified.

~~This bill would require findings to be made prior to renewal as to, among other things, whether the contract or MOU requires the private party to pay at least the general prevailing rate of per diem wages for work of a similar character in the locality, or a living wage given the locality, whichever is greater, to its employees, and whether the contract or MOU requires the retention of employees of the prior contractor or subcontractor for at least 90 days.~~

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

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

1 SECTION 1. Section 53069.86 is added to the Government
2 Code, to read:

3 ~~53069.86. (a) Except as provided in subdivision (b), the~~
4 ~~legislative body of a city, county, or district shall review any~~
5 ~~contract or memorandum of understanding with a private party. If~~
6 ~~a contract or memorandum of understanding with a total annual~~
7 ~~value of two hundred fifty thousand dollars (\$250,000) or more,~~
8 ~~that more between a private party and a city, county, city and~~
9 ~~county, or district contains an automatic renewal clause, sometimes~~
10 ~~referred to as an “evergreen” provision, at least once every three~~
11 ~~years the legislative body of the city, county, city and county, or~~
12 ~~district shall, on or before the annual date by which the contract~~
13 ~~may be rescinded, adopt a resolution that either exercises or~~
14 ~~declines to exercise the option to rescind the contract. The~~
15 ~~resolution shall be placed on the agenda of a regular meeting of~~
16 ~~the legislative body and shall be adopted after the legislative body~~
17 ~~has provided an opportunity for public comment on the resolution~~
18 ~~in an open and public regular meeting. Prior to the renewal of a~~
19 ~~contract or memorandum of understanding, the legislative body~~
20 ~~shall make findings on the record, including, but not limited to,~~
21 ~~all of the following:~~

22 ~~(1) Whether the contract or memorandum of understanding~~
23 ~~contains updated information.~~

24 ~~(2) Whether the contract or memorandum of understanding fits~~
25 ~~the needs of the legislative body.~~

1 ~~(3) Whether the contract or memorandum of understanding~~
2 ~~includes a provision that requires a contractor to pay at least the~~
3 ~~general prevailing rate of per diem wages for work of a similar~~
4 ~~character in the locality, or a living wage given the locality,~~
5 ~~whichever is greater, to its employees.~~

6 ~~(4) Whether the contract or memorandum of understanding~~
7 ~~includes a provision that requires the retention of employees of~~
8 ~~the prior contractor or subcontractor for at least 90 days if the~~
9 ~~contract is awarded, transferred, or assumed by a subsequent~~
10 ~~contractor.~~

11 (b) This section shall not apply to a contract or memorandum
12 of understanding between a public agency and an employee
13 organization that establishes terms and conditions of employment
14 for the agency's employees.

15 ~~(e) For purposes of this section, the prevailing rate of per diem~~
16 ~~wages shall be determined pursuant to subdivision (b) of Section~~
17 ~~1773.9 of the Labor Code.~~

18 ~~(d) For purposes of this section, "per diem wages" shall include~~
19 ~~the employer payments described in Section 1773.1 of the Labor~~
20 ~~Code.~~