

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE FEBRUARY 13, 2013

AMENDED IN SENATE FEBRUARY 6, 2013

AMENDED IN SENATE JANUARY 29, 2013

SENATE BILL

No. 54

Introduced by Senator Hancock

December 21, 2012

An act to add ~~Sections 31621.12 and 31676.20 to the Government Code, relating to county employees' retirement, and declaring the urgency thereof, to take effect immediately. Section 25536.7 to the Health and Safety Code, relating to hazardous materials.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, Hancock. ~~Retirement: county employees. Hazardous materials management: stationary sources: skilled and trained workforce.~~

Existing law establishes an accidental release prevention program implemented by the Office of Emergency Services and the appropriate administering agency, as defined, in each city or county. Under existing law, stationary sources subject to the accidental release prevention program for the state are required to prepare a risk management plan (RMP) when required under certain federal regulations or if the administering agency determines there is a significant likelihood of a regulated substances accident risk. Under existing law, the RMP is required to be submitted to the California Environmental Protection Agency and to the administering agency. Existing law imposes criminal penalties upon a stationary source that knowingly violates requirements of the accidental release prevention program.

This bill would require an owner or operator of a stationary source with one or more covered processes that is required to prepare and submit an RMP, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, to require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades, including skilled journeypersons paid at least a rate equivalent to the applicable prevailing hourly wage rate. The bill would not apply to oil and gas extraction operations. Because the bill would make a knowing violation of these requirements a crime, and would otherwise impose new duties upon local agencies administering the program, the bill would impose a state-mandated local program.

This bill would require the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations to approve a curriculum of inperson classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities by January 1, 2016. The bill would define terms for purposes of the bill.

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 specified reasons.

~~The California Public Employees' Pension Reform Act of 2013 requires each county retirement system created pursuant to the County Employees Retirement Law of 1937 to use a retirement formula commonly known as 2.5% at 67 years of age for nonsafety members first hired on or after January 1, 2013, except that a lower retirement formula may be used as specified. The County Employees Retirement Law of 1937 authorizes the Alameda County Board of Supervisors to provide service retirement allowances for general members based on one of 2 formulas commonly known as the 2% at 57 years of age formula or the 1.64% at 57 years of age formula.~~

~~This bill would authorize the Alameda County Board of Supervisors to adopt a resolution that would provide service retirement allowances based on a formula commonly known as the 2% at 65 years of age formula for general members hired after approval of the resolution, as specified.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~-majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(1) The use of unskilled and untrained workers at chemical*
4 *manufacturing and processing facilities that generate, store, treat,*
5 *handle, refine, process, and transport hazardous materials is a*
6 *risk to public health and safety, and the risk to public health and*
7 *safety is particularly high when workers are employed by outside*
8 *contractors because they generally will be less familiar with the*
9 *operations of the facility and its emergency plans and the owner*
10 *or operator of the facility will have less incentive to invest in their*
11 *training.*

12 *(2) Requiring that workers employed by outside contractors at*
13 *these facilities be paid at least at a rate equivalent to the prevailing*
14 *journeyperson wage for the occupation, or be registered in an*
15 *approved apprenticeship program, is necessary to provide an*
16 *economic incentive for employers to use only the most skilled*
17 *workers to perform work that poses a risk to public health and*
18 *safety. The wage scale is also necessary to provide an economic*
19 *incentive for the workers to obtain the mandatory advanced safety*
20 *training required by Section 2 of this act.*

21 *(3) Requiring that apprentices be registered in programs*
22 *approved by the Chief of the Division of Apprenticeship Standards*
23 *is necessary to ensure that these workers are receiving the proper*
24 *training and on-the-job supervision and that the programs are*
25 *subject to proper oversight.*

26 *(4) The requirement that at least 60 percent of the*
27 *journeypersons working for a contractor be graduates of an*
28 *approved apprenticeship program is necessary to ensure that the*
29 *majority of the journeypersons will have had appropriate*
30 *classroom and laboratory instruction for their occupations. A*
31 *phase-in for this requirement will avoid disruption of the industry.*

32 *SEC. 2. Section 25536.7 is added to the Health and Safety*
33 *Code, to read:*

1 25536.7. (a) (1) *An owner or operator of a stationary source*
2 *with one or more covered processes that is required to prepare*
3 *and submit an RMP pursuant to this article, when contracting for*
4 *the performance of construction, alteration, demolition,*
5 *installation, repair, or maintenance work at the stationary source,*
6 *shall require that its contractors and any subcontractors use a*
7 *skilled and trained workforce to perform all onsite work within*
8 *an apprenticeable occupation in the building and construction*
9 *trades. This section shall not apply to oil and gas extraction*
10 *operations.*

11 (2) *The Chief of the Division of Apprenticeship Standards of*
12 *the Department of Industrial Relations may approve a curriculum*
13 *of inperson classroom and laboratory instruction for approved*
14 *advanced safety training for workers at high hazard facilities. That*
15 *safety training may be provided by an apprenticeship program*
16 *approved by the chief or by instruction provided by the Chancellor*
17 *of the California Community Colleges. The chief shall approve a*
18 *curriculum in accordance with this paragraph by January 1, 2016,*
19 *and shall periodically revise the curriculum to reflect current best*
20 *practices. Upon receipt of certification from the apprenticeship*
21 *program or community college, the chief shall issue a certificate*
22 *to a worker who completes the approved curriculum.*

23 (3) *For purposes of paragraph (2) of subdivision (b) of Section*
24 *3075 of the Labor Code, a stationary source covered by this section*
25 *shall be considered a public works site.*

26 (4) *This section shall not apply to contracts awarded before*
27 *January 1, 2014, unless the contract is extended or renewed after*
28 *that date.*

29 (5) *This section shall not apply to the employees of the owner*
30 *or operator of the stationary source or prevent the owner or*
31 *operator of the stationary source from using its own employees to*
32 *perform any work that has not been assigned to contractors while*
33 *the employees of the contractor are present and working.*

34 (6) *The criteria of subparagraph (A) of paragraph (9) of*
35 *subdivision (b), subparagraph (C) of paragraph (9) of subdivision*
36 *(b), and subparagraph (B) of paragraph (10) of subdivision (b)*
37 *shall not apply to either of the following:*

38 (A) *To the extent that the contractor has requested qualified*
39 *workers from the local hiring halls that dispatch workers in the*
40 *apprenticeable occupation and, due to workforce shortages, the*

1 contractor is unable to obtain sufficient qualified workers within
2 48 hours of the request, Saturdays, Sundays, and holidays excepted.
3 This section shall not prevent contractors from obtaining workers
4 from any source.

5 (B) To the extent that compliance is impracticable because an
6 emergency requires immediate action to prevent harm to public
7 health or safety or to the environment, but the criteria shall apply
8 as soon as the emergency is over or it becomes practicable for
9 contractors to obtain a qualified workforce.

10 (b) As used in this section:

11 (1) “Apprenticeable occupation” means an occupation for
12 which the chief has approved an apprenticeship program pursuant
13 to Section 3075 of the Labor Code.

14 (2) “Approved advanced safety training for workers at high
15 hazard facilities” means a curriculum approved by the chief
16 pursuant to paragraph (2) of subdivision (a).

17 (3) “Building and construction trades” has the same meaning
18 as in Section 3075.5 of the Labor Code.

19 (4) “Chief” means the Chief of the Division of the
20 Apprenticeship Standards of the Department of Industrial
21 Relations.

22 (5) “Construction,” “alteration,” “demolition,” “installation,”
23 “repair,” and “maintenance” have the same meanings as in
24 Sections 1720 and 1771 of the Labor Code.

25 (6) “On-site work” shall not include catalyst handling and
26 loading, chemical cleaning, or inspection and testing that was not
27 within the scope of a prevailing wage determination issued by the
28 Director of Industrial Relations as of January 1, 2013.

29 (7) “Prevailing hourly wage rate” means the general prevailing
30 rate of per diem wages, as determined by the Director of Industrial
31 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code,
32 but does not include shift differentials, travel and subsistence, or
33 holiday pay. Notwithstanding subdivision (c) of Section 1773.1 of
34 the Labor Code, the requirement that employer payments not
35 reduce the obligation to pay the hourly straight time or overtime
36 wages found to be prevailing shall not apply if otherwise provided
37 in a bona fide collective bargaining agreement covering the
38 worker.

39 (8) “Registered apprentice” means an apprentice registered in
40 an apprenticeship program approved by the chief pursuant to

1 *Section 3075 of the Labor Code who is performing work covered*
2 *by the standards of that apprenticeship program and receiving the*
3 *supervision required by the standards of that apprenticeship*
4 *program.*

5 (9) *“Skilled journeyperson” means a worker who meets all of*
6 *the following criteria:*

7 (A) *The worker either graduated from an apprenticeship*
8 *program for the applicable occupation that was approved by the*
9 *chief, or has at least as many hours of on-the-job experience in*
10 *the applicable occupation that would be required to graduate from*
11 *an apprenticeship program for the applicable occupation that is*
12 *approved by the chief.*

13 (B) *The worker is being paid at least a rate equivalent to the*
14 *prevailing hourly wage rate for a journeyperson in the applicable*
15 *occupation and geographic area.*

16 (C) *The worker has completed within the prior two calendar*
17 *years at least 20 hours of approved advanced safety training for*
18 *workers at high hazard facilities. This requirement applies only*
19 *to work performed on or after January 1, 2018.*

20 (10) *“Skilled and trained workforce” means a workforce that*
21 *meets both of the following criteria:*

22 (A) *All the workers are either registered apprentices or skilled*
23 *journeypersons.*

24 (B) (i) *As of January 1, 2014, at least 30 percent of the skilled*
25 *journeypersons are graduates of an apprenticeship program for*
26 *the applicable occupation that was either approved by the chief*
27 *pursuant to Section 3075 of the Labor Code or located outside*
28 *California and approved for federal purposes pursuant to the*
29 *apprenticeship regulations adopted by the federal Secretary of*
30 *Labor.*

31 (ii) *As of January 1, 2015, at least 45 percent of the skilled*
32 *journeypersons are graduates of an apprenticeship program for*
33 *the applicable occupation that was either approved by the chief*
34 *pursuant to Section 3075 of the Labor Code or located outside*
35 *California and approved for federal purposes pursuant to the*
36 *apprenticeship regulations adopted by the federal Secretary of*
37 *Labor.*

38 (iii) *As of January 1, 2016, at least 60 percent of the skilled*
39 *journeypersons are graduates of an apprenticeship program for*
40 *the applicable occupation that was either approved by the chief*

1 *pursuant to Section 3075 of the Labor Code or located outside*
2 *California and approved for federal purposes pursuant to the*
3 *apprenticeship regulations adopted by the federal Secretary of*
4 *Labor.*

5 *SEC. 3. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *a local agency or school district has the authority to levy service*
8 *charges, fees, or assessments sufficient to pay for the program or*
9 *level of service mandated by this act or because costs that may be*
10 *incurred by a local agency or school district will be incurred*
11 *because this act creates a new crime or infraction, eliminates a*
12 *crime or infraction, or changes the penalty for a crime or*
13 *infraction, within the meaning of Section 17556 of the Government*
14 *Code, or changes the definition of a crime within the meaning of*
15 *Section 6 of Article XIII B of the California Constitution.*

16 ~~SECTION 1. Section 31621.12 is added to the Government~~
17 ~~Code, to read:~~

18 ~~31621.12. In counties adopting Section 31676.20, the normal~~
19 ~~rates of contribution for members covered by Section 31676.20~~
20 ~~shall be as provided for in Section 7522.30. Employees shall pay~~
21 ~~at least 50 percent of normal costs and the employer shall not pay~~
22 ~~any part of the required employee contribution.~~

23 ~~SEC. 2. Section 31676.20 is added to the Government Code,~~
24 ~~to read:~~

25 ~~31676.20. (a) (1) Notwithstanding any other provision of this~~
26 ~~chapter or of subdivision (b) of Section 7522.02 and Section~~
27 ~~7522.20, this section may be made applicable in a county of the~~
28 ~~fourth class, as defined in Sections 28020 and 28025, as amended~~
29 ~~by Chapter 1204 of the Statutes of 1971, on the first day of the~~
30 ~~month after the board of supervisors of the county adopts a~~
31 ~~resolution by majority vote, as part of or subsequent to the adoption~~
32 ~~of any negotiated memorandum of understanding with a bargaining~~
33 ~~unit that represents general member employees and that was~~
34 ~~adopted on or before December 31, 2012, to employees of that~~
35 ~~bargaining unit hired after approval of the resolution or to~~
36 ~~unrepresented employees hired after approval of the resolution.~~

37 ~~(2) Notwithstanding any other provisions of this chapter or of~~
38 ~~subdivision (b) of Section 7522.02 and Section 7522.20, the defined~~
39 ~~benefit plan shall provide a pension at retirement for service equal~~
40 ~~to the percentage of the member's final compensation set forth~~

1 opposite the member's age at retirement, taken to the preceding
 2 quarter year, in the following table, multiplied by the number of
 3 years of service in the system as a nonsafety member. A member
 4 may retire for service under this section after five years of service
 5 and upon reaching 52 years of age.

Age of Retirement	Fraction
52.....	-1.00
52 1/4.....	-1.025
52 1/2.....	-1.050
52 3/4.....	-1.075
53.....	-1.100
53 1/4.....	-1.125
53 1/2.....	-1.150
53 3/4.....	-1.175
54.....	-1.1883
54 1/4.....	-1.2022
54 1/2.....	-1.2160
54 3/4.....	-1.2299
55.....	-1.2436
55 1/4.....	-1.2585
55 1/2.....	-1.2733
55 3/4.....	-1.2882
56.....	-1.3031
56 1/4.....	-1.3192
56 1/2.....	-1.3353
56 3/4.....	-1.3514
57.....	-1.3675
57 1/4.....	-1.3850
57 1/2.....	-1.4025
57 3/4.....	-1.4200
58.....	-1.4375
58 1/4.....	-1.4565
58 1/2.....	-1.4757
58 3/4.....	-1.4947
59.....	-1.5138
59 1/4.....	-1.5346
59 1/2.....	-1.5554
59 3/4.....	-1.5763

1	60.....	-1.5972
2	60 ¹ / ₄	-1.6126
3	60 ¹ / ₂	-1.6282
4	60 ³ / ₄	-1.6438
5	61.....	-1.6593
6	61 ¹ / ₄	-1.6801
7	61 ¹ / ₂	-1.7010
8	61 ³ / ₄	-1.7219
9	62.....	-1.7428
10	62 ¹ / ₄	-1.7649
11	62 ¹ / ₂	-1.7871
12	62 ³ / ₄	-1.8092
13	63.....	-1.8314
14	63 ¹ / ₄	-1.8549
15	63 ¹ / ₂	-1.8785
16	63 ³ / ₄	-1.9021
17	64.....	-1.9257
18	64 ¹ / ₄	-1.9510
19	64 ¹ / ₂	-1.9763
20	64 ³ / ₄	-2.0015
21	65.....	-2.0268
22	65 ¹ / ₄	-2.0268
23	65 ¹ / ₂	-2.0268
24	65 ³ / ₄	-2.0268
25	66.....	-2.0268
26	66 ¹ / ₄	-2.0268
27	66 ¹ / ₂	-2.0268
28	66 ³ / ₄	-2.0268
29	67 and over.....	-2.0268

30
31 ~~(b) Except as provided for in subdivision (a), any requirement~~
32 ~~of the California Public Employees’ Pension Reform Act of 2013~~
33 ~~(Article 4 (commencing with Section 7522) of Chapter 21 of~~
34 ~~Division 7 of Title 1) applicable to employers or members~~
35 ~~participating in county and district retirement systems created~~
36 ~~under this chapter shall also apply to employers and members~~
37 ~~operating under this section.~~

38 ~~(e) Subject to the requirements of Section 7522.30, a resolution~~
39 ~~adopted pursuant to this section or previously adopted resolutions~~
40 ~~of the board may require members to pay all or part of the~~

1 contributions by a member or employer, or both, that would have
2 been required if the section or sections specified within this chapter
3 were or have been adopted by resolution. The payment by a
4 member shall become part of the accumulated contributions of the
5 member.

6 ~~(d) Notwithstanding any other provision of law, the effective~~
7 ~~date of a resolution described in subdivision (a) may be different~~
8 ~~than the date of the resolution.~~

9 ~~(e) This section shall not apply to safety members.~~

10 ~~SEC. 3. This act is an urgency statute necessary for the~~
11 ~~immediate preservation of the public peace, health, or safety within~~
12 ~~the meaning of Article IV of the Constitution and shall go into~~
13 ~~immediate effect. The facts constituting the necessity are:~~

14 ~~In order for the benefits of a memorandum of understanding that~~
15 ~~was negotiated between a county of the fourth class and one of its~~
16 ~~bargaining units to be enacted and applied equitably at the earliest~~
17 ~~possible time, it is necessary that this act take effect immediately.~~