

Senate Bill No. 792

Passed the Senate August 30, 2014

Secretary of the Senate

Passed the Assembly August 30, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 7109.5 to the Public Contract Code, relating to administrative regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 792, Padilla. Administrative regulations: corrosion prevention and mitigation projects.

(1) Existing law contains various provisions relating to contracts by a public entity for the performance of public works of improvement, including provisions for the payment of progress payments and the disbursing and withholding of retention proceeds.

This bill would require a public entity that awards a contract for construction, alteration, demolition, installation, repair, or maintenance work after January 1, 2017, that is paid for in whole or in part with state funds, to require contractors and subcontractors performing corrosion prevention and mitigation work to comply with specified standards to be adopted by the Director of the Department of Industrial Relations in consultation with the Department of Toxic Substances Control. The bill would also exempt work on sheet metal and ventilation systems and plumbing and piping systems, and precast concrete work that is performed offsite, when the work is performed by specified persons, from the standards adopted under these provisions.

(2) Because this bill would require local entities to comply with additional contracting regulations for these projects, it 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

(a) California’s water and transportation infrastructure needs will continue to increase dramatically. The cost of maintaining the health and well-being of California and Californians is directly linked to the safety of its water pipelines and storage tanks, bridges, roads, and industry. Ensuring this depends primarily on two factors: (1) the performance of proper, timely preventive maintenance by certified workers and (2) the extent and severity of structural corrosion or other deterioration.

(b) According to a 2012 American Society of Civil Engineers study, in the “1950s and 1960s, California spent 20 cents of every dollar on capital projects. By the 1980s, that figure dropped to less than five cents on the dollar. Current estimates put infrastructure investment at around a penny on the dollar.” Currently, 2,978 of the 24,812 bridges in California (12 percent) are considered structurally deficient and roughly 8,000 of them are older than the recommended 50-year lifespan. Additionally, corrosion was found to be at a critical level on the suspension span of the new \$6.5 billion San Francisco-Oakland Bay Bridge.

(c) As California prepares for more than \$7 billion in investments in the state’s water infrastructure, preventative measures like corrosion prevention applications should be a part of all new construction, retrofitting, and maintenance work. This protects against deterioration of the infrastructure itself, as well as environmental degradation from leakage, breaks, or release of toxic materials. When steel corrodes, heavy metals are released into storage tanks, pipelines, or other structures, which is hazardous in the case of drinking water.

(d) Corrosion prevention work is necessary for long-term environmental protection. When a coating is properly applied, it can last 10 to 20 years, depending on the product. When applied incorrectly, repairs are necessary within 1 to 3 years, requiring untold costs. Each time the structure surfacing needs to be repaired, the existing coating must be removed. When this removal is not conducted by a competent workforce, the surrounding environment can be exposed to lead or hazardous materials contamination.

(e) The Society for Protective Coatings (SSPC) states that 80 percent of coating failures are due to human error. Whether it be from improper surface preparation, improper coating selection, improper applications, improper drying, curing, or overcoating, a certified professional can help prevent these failures. When certified by an independent third party, such as NACE or SSPC, there is assurance that experienced professionals will complete the project on time and according to the industry specifications.

SEC. 2. Section 7109.5 is added to the Public Contract Code, to read:

7109.5. (a) A public entity, as defined in Section 7200, that awards a contract for construction, alteration, demolition, installation, repair, or maintenance work after January 1, 2017, that is paid for in whole or in part with state funds shall require all contractors and subcontractors performing corrosion prevention and mitigation work to comply with the standards adopted pursuant to this section.

(b) Contractors and subcontractors performing contracts for construction, alteration, demolition, installation, repair, or maintenance work awarded after January 1, 2017, that are paid for in whole or in part with state funds shall, when performing corrosion prevention and mitigation work, comply with the standards adopted pursuant to this section.

(c) On or before January 1, 2016, the Director of the Department of Industrial Relations in consultation with the Department of Toxic Substances Control, shall adopt regulations establishing standards for the performance of corrosion prevention and mitigation work on public projects that reflect industry best practices. Such industry best practices shall include, but are not limited to, all of the following:

(1) Use of trained and certified personnel for surface preparation and application of protective coatings and linings to steel and concrete surfaces.

(2) Use of inspectors to ensure best practices and standards are met.

(3) A plan to prevent environmental degradation, including, but not limited to, careful handling and containment of hazardous materials such as lead paint.

(d) For purposes of this section:

(1) “Trained and certified personnel” means both of the following:

(A) To the maximum extent feasible, workers performing surface preparation and application of protective coatings and linings to steel and concrete surfaces who are classified as journey-level workers shall be certified by an organization generally accepted in the industry as meeting the NACE 13/ACS 1 standard or a similar standard that is generally accepted in the industry.

(B) Workers performing surface preparation and application of protective coatings and linings to steel and concrete surfaces who are classified as apprentices shall be registered in an industrial apprenticeship program approved by the Division of Apprenticeship Standards that provides training to meet the NACE 13/ACS 1 standard or a similar standard that is generally accepted by the industry.

(2) “NACE 13/ACS 1 standard” means the Society for Protective Coatings/NACE International standard for an industrial coating and lining application specialist.

(e) The standards adopted pursuant to this chapter shall not apply to work on sheet metal and ventilation systems or on plumbing and piping systems or to precast concrete work that is performed offsite when the work on these systems or precast concrete work is performed by either:

(1) Skilled journeypersons who are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(2) Apprentices registered in an apprenticeship program for the applicable occupation that was approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2014

Governor