

ASSEMBLY BILL

No. 1669

Introduced by Assembly Member Roger Hernández

January 15, 2016

An act to amend Sections 1070 and 1071 of, and to amend the heading of Chapter 4.6 (commencing with Section 1070) of Part 3 of Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1669, as introduced, Roger Hernández. Displaced employees: solid waste collection and transportation services contracts.

Existing law requires a local government agency letting a public transit service contract out to bid to give a bidding preference for contractors and subcontractors who agree to retain for a specified period certain employees who were employed to perform essentially the same services by the previous contractor or subcontractor. Such a contractor or subcontractor must offer employment to those employees, except for reasonable and substantiated cause. Existing law requires a successor contractor or subcontractor that determines that fewer employees are needed than under the prior contract to retain qualified employees by seniority within the job classification. The existing contractor must provide prescribed information regarding employment under the existing service contract to the awarding authority, any entity that the awarding authority identifies as a bona fide bidder, and the successor contractor.

This bill would add employees of solid waste collection and transportation contractors and subcontractors to those provisions. By requiring local agencies to give a bidding preference to those contractors and subcontractors, 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, 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.

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. The heading of Chapter 4.6 (commencing with
2 Section 1070) of Part 3 of Division 2 of the Labor Code is amended
3 to read:

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5 CHAPTER 4.6. PUBLIC TRANSIT ~~SERVICE~~ AND SOLID WASTE
6 COLLECTION AND TRANSPORTATION SERVICES CONTRACTS
7

8 SEC. 2. Section 1070 of the Labor Code is amended to read:
9 1070. The Legislature finds and declares all of the following:

10 (a) That when public ~~transit~~ agencies *with jurisdiction over*
11 *public transit or solid waste collection and transportation services*
12 *award contracts to operate bus and ~~rail services~~ rail services, or*
13 *to provide solid waste collection and transportation services, to*
14 *a new contractor, qualified employees of the prior contractor who*
15 *are not reemployed by the successor contractor face significant*
16 *economic dislocation as a result.*

17 (b) That those displaced employees rely unnecessarily upon the
18 unemployment insurance system, public social services, and health
19 programs, increasing costs to these vital government programs
20 and placing a significant burden upon both the government and
21 the taxpayers.

22 (c) That it serves an important social purpose to establish
23 incentives for contractors who bid *on public transit ~~services~~ or*
24 *solid waste collection and transportation service* contracts to retain
25 qualified employees of the prior contractor to perform the same
26 or similar work.

27 SEC. 3. Section 1071 of the Labor Code is amended to read:

1 1071. The following definitions apply ~~throughout~~ to this
2 chapter:

3 (a) “Awarding authority” means any local government agency,
4 including any city, county, special district, transit district, joint
5 powers authority, or nonprofit corporation that awards or otherwise
6 enters into contracts for public transit *or solid waste collection*
7 *and transportation* services performed within the State of
8 California.

9 (b) “Bidder” means any person who submits a bid to an
10 awarding agency for a public transit *or solid waste collection and*
11 *transportation* service contract or subcontract.

12 (c) “Contractor” means any person who enters into a public
13 transit *or solid waste collection and transportation* service contract
14 with an awarding authority.

15 (d) “Employee” means any person who works for a contractor
16 or subcontractor under a contract. “Employee” does not include
17 an executive, administrative, or professional employee exempt
18 from the payment of overtime compensation within the meaning
19 of subdivision (a) of Section 515 or any person who is not an
20 “employee” as defined under Section 2(3) of the National Labor
21 Relations Act (29 U.S.C. Sec. 152(3)).

22 (e) “Person” means any individual, proprietorship, partnership,
23 joint venture, corporation, limited liability company, trust,
24 association, or other entity that may employ individuals or enter
25 into contracts.

26 (f) “Public transit services” means the provision of passenger
27 transportation services to the general public, including paratransit
28 service.

29 (g) “Service contract” means any contract the principal purpose
30 of which is to provide public transit *or solid waste collection and*
31 *transportation* services through the use of service employees.

32 (h) “Solid waste” has the same meaning as defined in Section
33 40191 of the Public Resources Code.

34 ~~(h)~~

35 (i) “Subcontractor” means any person who is not an employee
36 who enters into a contract with a contractor to assist the contractor
37 in performing a service contract.

38 SEC. 4. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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