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AB-846 Local Agency Public Construction Act: job order contracting. (2021-2022)

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Assembly Bill No. 846

CHAPTER 303

An act to amend Sections 20665.23, 20665.33, 20919.23, and 20919.33 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 24, 2021. Filed with Secretary of State September 24, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 846, Low. Local Agency Public Construction Act: job order contracting.

Existing law, the Local Agency Public Construction Act, authorizes job order contracting for school districts and community college districts until January 1, 2022. Existing law requires job order contractors to submit a questionnaire to the school district or community college district containing specified information verified under oath.

This bill would change the January 1, 2022, repeal date to January 1, 2027, thereby extending the authorization for job order contracting for school districts and community college districts, and make conforming changes. By extending the operation of those provisions that expand the crime of perjury, this bill would impose a state-mandated local program.

Existing law establishes requirements that apply when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce, which requires, among other conditions, that all the workers performing work in an apprenticeable occupation, as defined, in the building and construction trades are either skilled journeypersons or registered apprentices. Existing law also authorizes a public entity to require that a bidder, contractor, or other entity use a skilled and trained workforce to complete a contract or project, regardless of whether the public entity is required to do so by a statute or regulation.

This bill would require an entity awarded a job order contract in excess of \$25,000 to provide an enforceable commitment to the school district or community college district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the job order contract that falls within an apprenticeable occupation in the building and construction trades, as specified, unless a project labor agreement already specifies that a skilled and trained workforce will perform the job order contract.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 20665.23 of the Public Contract Code is amended to read:

20665.23. (a) A community college district may utilize job order contracting pursuant to this article only if the community college district has entered into a project labor agreement or agreements that will apply to all public works awarded through job order contracting and to all other public works of the community college district that exceed a monetary threshold set by the community college district until January 1, 2027, regardless of what contracting procedure is used to award that work.

(b) A community college district shall prepare an execution plan for all modernization projects that may be eligible for job order contracting pursuant to this article. The community college district shall select from that plan a sufficient number of projects to be initiated as job order contracts during each calendar year and shall determine for each selected project that job order contracting will reduce the total cost of that project. Job order contracting shall not be used if the community college district finds that it will increase the total cost of the project.

(c) (1) An entity awarded a job order contract in excess of twenty-five thousand dollars (\$25,000) shall provide an enforceable commitment to the community college district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the job order contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(2) Paragraph (1) shall not apply if the job order contract is subject to a project labor agreement that will bind all contractors and subcontractors performing work on the job order contract to use a skilled and trained workforce to perform the job order contract.

SEC. 2. Section 20665.33 of the Public Contract Code is amended to read:

20665.33. This article shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 3. Section 20919.23 of the Public Contract Code is amended to read:

20919.23. (a) The school district may utilize job order contracting pursuant to this article only if the school district has entered into a project labor agreement or agreements that will apply to all public works awarded through job order contracting and to all other public works of the school district that exceed a monetary threshold set by the school district until January 1, 2027, regardless of what contracting procedure is used to award that work.

(b) The school district shall prepare an execution plan for all modernization projects that may be eligible for job order contracting pursuant to this article. The school district shall select from that plan a sufficient number of projects to be initiated as job order contracts during each calendar year and shall determine for each selected project that job order contracting will reduce the total cost of that project. Job order contracting shall not be used if the school district finds that it will increase the total cost of the project.

(c) (1) An entity awarded a job order contract in excess of twenty-five thousand dollars (\$25,000) shall provide an enforceable commitment to the school district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the job order contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(2) Paragraph (1) shall not apply if the job order contract is subject to a project labor agreement that will bind all contractors and subcontractors performing work on the job order contract to use a skilled and trained workforce to perform the job order contract.

SEC. 4. Section 20919.33 of the Public Contract Code is amended to read:

20919.33. This article shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.

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