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SB-978 Department of Resources Recycling and Recovery: wildfire debris cleanup and removal: contracts. (2021-2022)

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Senate Bill No. 978

CHAPTER 472

An act to add Article 4 (commencing with Section 40520) to Chapter 3 of Part 1 of Division 30 of the Public Resources Code, relating to disaster cleanup.

[Approved by Governor September 22, 2022. Filed with Secretary of State September 22, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 978, McGuire. Department of Resources Recycling and Recovery: wildfire debris cleanup and removal: contracts.

Existing law, the California Disaster Assistance Act, is administered by the Director of Emergency Services. Existing law requires a state agency, upon request of the Director of Emergency Services and to the extent that funds are allocated therefor, to render services and perform duties within its area of responsibility when considered necessary to carry out the purposes of the act. Existing law requires the Director of Emergency Services to adopt regulations, as necessary, to govern the administration of a disaster assistance program that includes specific project eligibility requirements, a procedure for local governments to request the implementation of programs, and a method for evaluating these requests by the Office of Emergency Services. Regulations of the Office of Emergency Services make debris removal from publicly and privately owned lands and waters, undertaken in response to a state of emergency proclamation by the Governor, eligible for state financial assistance.

Existing law establishes in the California Environmental Protection Agency the Department of Resources Recycling and Recovery (CalRecycle), administered under the control of an executive officer known as the Director of Resources Recycling and Recovery. At the direction of the Office of Emergency Services, CalRecycle manages wildfire debris removal operations throughout the state.

This bill would require the department, defined as CalRecycle or another state agency tasked to manage wildfire debris cleanup and removal by the Office of Emergency Services, within the office of the Governor, to prequalify contractors to enter into contracts to perform prescribed wildfire debris cleanup and removal work in communities impacted by wildfires. The bill would require the department to require any contractor seeking to enter into a contract before the onset of major damage to obtain and submit to the department a standard form of questionnaire and financial statement, verified under oath. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would prohibit the department from awarding a contract to any bidder for the performance of any portion of a wildfire debris cleanup and removal project, unless the bidder meets prescribed eligibility requirements.

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.

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

SECTION 1. Article 4 (commencing with Section 40520) is added to Chapter 3 of Part 1 of Division 30 of the Public Resources Code, to read:

Article 4. Debris Cleanup and Removal

40520. (a) As used in this section:

(1) "Contract" means a contract between the department and a contractor to perform wildfire debris cleanup and removal.

(2) "The department" means either the Department of Resources Recycling and Recovery or another state agency tasked to manage contracts for wildfire debris cleanup and removal by the Office of Emergency Services, within the office of the Governor, in accordance with the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(b) (1) The department shall prequalify contractors to enter into contracts in communities impacted by wildfires. These contracts may be entered into before the onset of major damage in order to retain the contractor in readiness to respond to incidents as needed. Work performed under a contract entered into pursuant to this section shall be limited to preparation, removal, transport, and recycling or disposal of metals, ash, debris, concrete foundations and flatwork, potentially dangerous trees, and contaminated soil on residential and public properties included in the structural debris removal function.

(2) The department shall require any contractor seeking to enter into a contract before the onset of major damage to obtain and submit to the department a standard form of questionnaire and financial statement, including a complete statement of the bidder's financial ability and experience in performing the preparation, removal, transport, and recycling or disposal of metals, ash, debris, concrete foundations and flatwork, potentially dangerous trees, and contaminated soil on residential and public properties. The bidder shall verify the questionnaire and financial statement under oath in the manner in which pleadings in civil actions are verified.

(c) The department shall not award a contract to any bidder for the performance of any portion of a wildfire debris cleanup and removal project, unless the bidder meets the following requirements:

(1) The prime contractor has a valid general engineering contractor license pursuant to the Contractors State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) with a state hazardous substance removal certification as described in Section 7058.7 of the Business and Professions Code.

(2) The prime contractor is registered with the Department of Industrial Relations and qualified to bid pursuant to Sections 1725.5 and 1771.1 of the Labor Code.

(3) The prime contractor provides enforceable commitments to do both of the following:

(A) Use a skilled and trained workforce to perform work under the contract, consistent with federal reimbursement requirements, which falls within an apprenticeshipable occupation pursuant to Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code, for itself and its subcontractors.

(B) Pay prevailing wages and request the dispatch of apprentices, in accordance with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, for itself and its subcontractors.

(4) The prime contractor demonstrates the existence of, for itself and its subcontractors at every tier, an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, that has graduated apprentices in each of the preceding five years.

(5) The prime contractor will self-perform at least 30 percent of the labor hours provided under the contract, as demonstrated by its certified payroll.

(6) The prime contractor's experience modification rate, within the state, for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category, or if the contractor is a party to an alternative dispute resolution system in accordance with Section 3201.5 of the Labor Code.

SEC. 2. 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.