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SB-1162 Public contracts: employment compliance reports: apprenticeship programs. (2023-2024)

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Senate Bill No. 1162

CHAPTER 882

An act to amend Section 2602 of, and to add Section 2604 to, the Public Contract Code, relating to public contracts.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1162, Cortese. Public contracts: employment compliance reports: apprenticeship programs.

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 to complete a contract or project. Existing law requires the enforceable commitment to provide that the contractor, bidder, or other entity will provide to the public entity or other awarding body a report on a monthly basis demonstrating its compliance with these requirements. Existing law defines "skilled and trained workforce" for purposes of these provisions to mean that at least 60% of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except for specified occupations.

This bill would require the monthly compliance report to include the full name of, and identify the apprenticeship program name, location, and graduation date of, all workers relied upon to satisfy the apprenticeship graduation percentage requirement.

Existing law authorizes the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations to approve apprenticeship programs in any trade in the state or in a city or trade area, whenever the apprentice training needs justify the establishment.

This bill would require the division, on or before July 1, 2025, to create and maintain a public online database to verify that a worker graduated from a California apprenticeship program. The bill would require the database to be searchable by using the first name, last name, and the graduation date of the worker.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 2602 of the Public Contract Code is amended to read:

2602. (a) When a contractor, bidder, or other entity is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the public entity or other awarding body that provides both of the following:

- (1) The contractor, bidder, or other entity, and its contractors and subcontractors at every tier, will comply with this chapter.

(2) The contractor, bidder, or other entity will provide to the public entity or other awarding body, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with this chapter. The required monthly report demonstrating compliance with this chapter shall include the full name of, and identify the apprenticeship program name, location, and graduation date of, each worker relied upon to satisfy the apprenticeship graduation percentage requirements of paragraph (2) of subdivision (d) of Section 2601.

(b) If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the public agency or other awarding body shall withhold further payments until a complete report is provided. If a monthly report is incomplete due to the failure of a subcontractor to timely submit the required information to the contractor, bidder, or other entity, the public agency or awarding body shall only withhold an amount equal to 150 percent of the value of the monthly billing for the relevant subcontractor. If a public agency or other awarding body withholds amounts pursuant to this subdivision, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor until the subcontractor provides the contractor, bidder, or other entity a complete report, and the public agency or awarding body subsequently pays the contractor, bidder, or other entity the withheld payments. If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to provide a complete report, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(c) If a monthly report does not demonstrate compliance with this chapter, the public agency or other awarding body shall do all of the following:

(1) Withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this chapter, with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. All of the following shall apply to the withholding of payments under this paragraph:

(A) The public agency or awarding body shall withhold an amount equal to 150 percent of the value of the monthly billing for the entity that failed to comply with this chapter, or 150 percent of the value of the monthly billing for the subcontractor that failed to comply with this chapter. If a public agency or other awarding body withholds amounts pursuant to this paragraph, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor that did not demonstrate compliance with this chapter.

(B) If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to demonstrate compliance, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(C) If a contractor, bidder, or other entity submits to the public agency or awarding body a plan to achieve substantial compliance with this chapter, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments unless, within a reasonable time, the public agency or awarding body rejects the plan as insufficient and explains the reasons for the rejection.

(2) Forward a copy of the monthly report to the Labor Commissioner for issuance of a civil wage and penalty assessment in accordance with Section 2603.

(3) Forward to the Labor Commissioner a copy of the plan, if any, submitted by the contractor, bidder, or other entity to achieve substantial compliance with this chapter and the response to that plan, if any, by the public agency or awarding body.

(d) A monthly report provided to the public agency or other awarding body shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be open to public inspection.

SEC. 2. Section 2604 is added to the Public Contract Code, to read:

2604. On or before July 1, 2025, the Division of Apprenticeship Standards shall create and maintain a public online database to verify that a worker graduated from a California apprenticeship program. The database shall be searchable by using the first name, last name, and graduation date of the worker.