
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 674 (Durazo) - Public Contracts: workforce development: transportation-related contracts

Version: April 29, 2021

Policy Vote: L., P.E. & R. 4 - 1, TRANS.
12 - 2

Urgency: No

Mandate: Yes

Hearing Date: May 10, 2021

Consultant: Robert Ingenito

Bill Summary: SB 674 would (1) create the California Jobs Plan (CAJP) Act of 2021, requiring private entities bidding on covered transportation-related contracts over \$10 million (excluding contracts for road, bridge, or highway construction) to include as part of their application a CAJP form stating information about jobs created and retained, and (2) specify that the CAJP is scored as part of the overall application and included in the awarded contract as a material term.

Fiscal Impact:

- The California Workforce Development Board (within LWDA) would be the lead entity in implementing the bill's provisions, and indicates that it would require increased staff at a cost of \$1 million annually (General Fund).
- The Department of General Service (DGS) is still reviewing the bill and determining its full fiscal effect. However, the bill would likely result in increased costs related to contract awards, protests and enforcement. Annual costs would minimally be in the hundreds of thousands of dollars annually.
- The California Department of Transportation (CalTrans) indicates that the bill would result in minor and absorbable costs.
- By imposing new duties on local public agencies with respect to CAJP, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude of these costs is unknown.

Proposed Law: This bill would, among other things, do the following:

- Require relevant public agencies (including local agencies), as defined, to develop a program, known as CAJP to meet specified objectives, including, as a component of applications for covered public contracts (defined to be in excess of \$10 million), creation of a form that states the minimum numbers of proposed jobs that are projected to be retained and created if the applicant wins the covered public contract, and proposed wages, benefits, and investment in training. That component of the application would be known as the California

Jobs Plan, as defined. Other objectives of the program, pursuant to the bill, would include supporting the hiring of displaced workers and individuals facing barriers to employment, as defined; encouraging the development of the state's long-term green transportation and related infrastructure and manufacturing sector; and protecting public health by supporting the adoption of specific protections for worker health and safety.

- Require LWDA, with input from the relevant public agencies, to create procedures and criteria to evaluate applicants for covered public contracts that would award additional consideration to applicants who meet specified criteria. The bill would also (1) require the applicant's California Jobs Plan to be scored as part of the overall application, (2) require applicants for subsidies and noncompetitive contracts to complete the form, and (3) make the California Jobs Plan submitted by a recipient of a covered public contract a material term of the contract.
- Require LWDA to develop a web-based portal and recipients of covered public contracts, beginning on January 1, 2024. The bill would require the portal to be designed in such a manner that, if the information entered into the portal indicates a failure to comply with the commitments made in the California Jobs Plan submitted by the applicant, then an automatic notice of noncompliance would be sent to the relevant public agency.
- Require LWDA (1) to make publicly available, via the web-based portal, the commitments made in the covered public contracts, (2) to develop a web-based portal to track compliance, as specified, and (3) to make that information publicly available on its website.

Related Legislation:

- SB 46 (Stern) would require a state agency that receives and disburses ARP funds or other federal recovery funds to consider projects' potential impact on specified goals, including, among other things, restoring frontline communities and rapidly accelerating achievement of environmental justice and climate goals, including, but not limited to, climate, environmental, and biodiversity protection, and stimulating growth. The bill is currently pending in the Senate Governmental Organization Committee.
- SB 582 (Stern) would require the Office of Planning and Research, by June 1, 2022, in collaboration with various state entities, to develop a Just Resilience Plan to drive resilience investments in the most vulnerable communities in California. The bill is currently pending in the Senate Appropriations Committee.
- AB 680 (Burke) would require the Labor and Workforce Development Agency to work with the state board to update, by July 1, 2023, the funding guidelines for administering agencies to ensure that all applicants to grant programs funded by the Greenhouse Gas Reduction Fund meet specified standards. The bill is currently pending in the Assembly Appropriations Committee.

- AB 983 (Eduardo Garcia) would authorize a public entity to use, enter into, or require contractors to enter into, a community workforce agreement for specified construction projects, including projects related to renewable energy and installation of emission controls in refineries. The bill is currently pending in the Assembly Appropriations Committee.

Staff Comments: As noted previously, this bill would (1) establish CAJP, which would require private entities bidding on covered transportation-related contracts over \$10 million, to include as part of their application a California Jobs Plan form stating information about jobs created and retained, and (2) specify that the California Jobs Plan is scored as part of the overall application and included in the awarded contract as a material term. As the lead entity, the bill would require LWDA, with input from the relevant public agencies, to create procedures and criteria to evaluate applicants for covered public contracts that would award additional consideration to applicants who meet specified criteria. It also would require LWDA to develop a web-based portal and recipients of covered public contracts and would require the agency to upload progress reports to the portal. The bill would require the portal to be designed in such a manner that, if the information entered into the portal indicates a failure to comply with the commitments made in the California Jobs Plan submitted by the applicant, then an automatic notice of noncompliance would be sent to the relevant public agency. This bill would require the LWDA to make publicly available, via the web-based portal, the commitments made in the covered public contracts. LWDA would delegate the bill's workload to CWDB, which estimates resulting costs to be \$1 million annually for additional staff.

Caltrans expects to develop procedures to administer CAJP statewide at the headquarters level. District staff would then monitor and enforce the agreed-upon stipulations from CAJP associated with each construction project as part of the department's regular contracting process. Caltrans awarded ten contracts in excess of \$10 million in 2018-19.

DGS notes that many of its contracts are awarded using an Invitation for Bid (lowest responsible bidder) method, but this would effectively require the California Jobs Plan to be evaluated using something closer to a Request for Proposal. Such evaluations are more time-consuming because they involve an evaluation committee assigning points to the proposals based on desirable criteria, rather than just evaluating whether minimum requirements have been fulfilled. DGS currently contracts for 25 transportation-related commodity groups that include 181 line items in the price range affected by the bill. Another three contracts are in various stages of development.

DGS would require one additional position to perform the additional workload associated with proposal evaluation, compliance review, and enforcement. DGS notes that the cost impact of the bid preference is inherently difficult to predict and depends, in part, on policy decisions made by LWDA/CWDB as to how heavily various factors should be weighted, both relative to each other and relative to cost. However, bid preferences result in the selection of higher-cost bids over lower-cost bids. For each contract of \$10 million, a cost increase of 1 percent would be \$100,000, and a cost increase of 5 percent would be \$500,000.

If contracts for services that are not inherently transportation-related but may be used for transportation-related purposes (such as a transportation-related agency using a DGS contract for cloud-based services) are included, DGS anticipates requiring additional positions. Costs resulting from bid protests have yet to be determined. Bid protests include workload for the buyer, management personnel, legal counsel, and a hearing officer.

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