

SENATE THIRD READING
SB 674 (Durazo)
As Amended August 30, 2021
Majority vote

SUMMARY

Requires the Labor and Workforce Development Agency (LWDA) or its designee to create a California Jobs Plan Program (CJPP) and a United States Jobs Plan Program (USJPP) that includes a form to be utilized as a component to applications for transportation infrastructure-related public contracts to support the creation and retention of quality, non-temporary and full-time jobs.

Major Provisions

- 1) Defines "applicant" to mean a private entity that applies, bids, or seeks qualification for a covered public contract. "Applicant" may be more than a single entity. It does not include a firm, as defined in Government Code Section 4525.
- 2) Defines "covered public contract" to mean the base term of any public investment in transportation infrastructure, as specified, with a present value of \$10 million or more to which a relevant public agency is a party or a transportation-related subsidy, grant, or loan with a present value of \$10 million or more that is provided, granted, or guaranteed by a relevant public agency. This definition excludes contracts for the construction or design of infrastructure, including, but not limited to, roads, bridges, or highways.
- 3) Defines "California Jobs Plan" to mean the component of an application submitted by applicants for covered public contracts where applicants state the minimum number of jobs, proposed wages, benefits, investment in training, specific protections for worker health and safety, and targeted hiring plans for displaced workers and individuals facing barriers to jobs created or retained in California in exchange for relevant public contracts covered under this chapter.
- 4) Defines "displaced worker" to mean either of the following:
 - a) Any employee who was employed by the employer for 6 months or more in the 12 months preceding the January 31, 2020, declaration of a national state of emergency by the President, and whose most recent separation from active service was due to a public health directive, government shutdown order, lack of business, a reduction in force, or other economic, nondisciplinary reason related to the COVID-19 pandemic.
 - b) Any employee whose most recent separation from active service was due to lack of business, a reduction in force, or other economic, nondisciplinary reason related to the transition from the fossil fuel industry to renewable energy.
- 5) Requires the LWDA to create a CJPP, for contracts using entirely state or local funds, and a USJPP, for contracts using any amount of federal funds, that meet specified objectives relating to the creation and retention of quality jobs and the hiring of displaced or disadvantaged workers.

- 6) Requires an applicant for a covered public contract under the CJPP and the USJPP to state in the Jobs Plan the minimum numbers of proposed jobs and other related information that are projected to be retained and created if the applicant wins the covered public contract in the following categories:
 - a) The number of full-time nontemporary jobs proposed to be retained and created.
 - b) The number of full-time temporary jobs proposed to be retained and created.
 - c) The number of part-time temporary jobs proposed to be retained and created.
 - d) The number of part-time nontemporary jobs proposed to be retained and created.
 - e) The number of jobs classified as "employees," as specified in Labor Code Section 2750.
 - f) The number of positions classified as "independent contractors," as specified in Labor Code Section 2750.5.
 - g) The number of all jobs proposed to be retained or created for individuals facing barriers to employment.
 - h) The number of all jobs proposed to be retained or created for displaced workers.
 - i) The wage levels by job classification.
 - j) Proposed amounts to be paid for fringe benefits by job classification.
 - k) Proposed amounts to be paid for worker training by job classification.
 - l) Information on training programs for individuals facing barriers to employment and displaced workers.
 - m) Whether the project, or the product produced by the project, meets specified environmental and energy conservation goals.
- 7) Requires the LWDA, by September 1, 2022, in consultation with relevant public agencies, federal agencies, and if they choose to participate, local transportation agencies, to create procedures and criteria for relevant public agencies to evaluate applicants for covered public contracts. The procedures and criteria shall award additional consideration to applicants who do, among other things:
 - a) Enhance the state's commitment to energy conservation, pollution and greenhouse gas emissions reduction, and transportation efficiency.
 - b) Retain the greatest number of full-time, nontemporary employees compensated at a wage rate at or above the living wage rate as established in the living wage calculator published by the Massachusetts Institute of Technology, as specified.
 - c) Make concrete commitments to create the greatest number of full-time, nontemporary employees compensated at a wage rate at or above the living wage rate in the living wage calculator published by the Massachusetts Institute of Technology, as specified.

- d) Make concrete commitments to maintaining at least 90 percent of the labor on a contract performed by properly classified employees.
 - e) Offer targeted training and opportunities for individuals facing barriers to employment and displaced workers.
- 8) Requires, beginning December 1, 2022, the California Jobs Plan and the United States Jobs Plan to be scored as a part of the overall application for the covered public contract, but not to exceed more than 15% of the overall score. To the extent that a subsidy or other covered public contract is noncompetitive, applicants shall still be required to complete the California or the United States Jobs Plan application form. Each plan shall then be included in the awarded public contract as a material term.
- 9) Requires the LWDA to develop a web-based portal to track California and United States Jobs Plan commitments and compliance. The portal shall be designed in such a manner that, if the information entered into the portal indicates noncompliance with the commitments made, then an automatic notice of noncompliance would be sent to the relevant public agency respective to the contract.
- 10) Requires, beginning January 1, 2024, and annually thereafter, recipients of covered public contracts to upload progress reports on the commitments made in the California or the United States Jobs Plan for the duration of the covered public contract. At a minimum, the information provided pursuant to this subdivision shall include all of the following:
- a) The number of full-time temporary and nontemporary jobs and part time temporary and nontemporary jobs to be retained and created.
 - b) The number of jobs classified as "employees" and as "independent contractors."
 - c) The number of all jobs to be retained or created for individuals facing barriers to employment and for displaced workers.
 - d) The wage levels by job classification.
 - e) Any amounts that will be paid for fringe benefits by job classification.
 - f) Any amounts that will be paid for worker training by job classification and information on training programs targeted specifically towards individuals facing barriers to employment and displaced workers.
 - g) Whether the project, or the product produced by the project, meets specified environmental and energy conservation goals.
- 11) Mandates that all California and United States Jobs Plan compliance reporting is accessible to the public through the web-based portal.
- 12) States that the above provisions are repealed as of January 1, 2028.

COMMENTS

The California Jobs Plan established under this bill is largely modeled after the United States Employment Plan (USEP). The USEP is a federal program that has been in place since 2012 and can be used by cities, states, and public agencies in their contract bidding process. When a public entity uses the USEP, applicants are required to disclose more than project specifications but also "the number, type, and location of jobs the contract will create and retain, as well as salaries, benefits, training programs, and their plan to recruit and train historically marginalized workers."¹ In doing so, the program helps create jobs and ensure employment equity across various populations. In California, the Los Angeles (LA) Metro has used the USEP eight times and created over 550 jobs and many more jobs indirectly. In 2018, LA Metro committed to replacing their entire fleet and anticipates supporting up to 22,000 U.S. jobs as a result.²

According to the Author

"Partnerships with business can lead to prosperity for everyone and a sustainable, healthy future for our state. This last year has pulled back the curtain on the inequities across so many of our institutions. It's made clear who is hurt hardest in an economic crisis - communities of color and women. Communities of color are under immense strain from COVID-19. Women are struggling in the COVID economy, reflected most starkly in a December jobs report showing 140,000 jobs lost, all held by women.

Last year's AB 398 report to the Legislature - "Putting California on the High Road: A Jobs and Climate Action Plan for 2030," - identifies goods movement and movement of people as the biggest single contributor of pollution. The report emphasizes that "At the same time, the transportation system underpins our economy, the freight system moves trillions of dollars of goods each year, supporting nearly one-third of the state economy and more than 5 million jobs." It is not enough to say we want to create good jobs. We need clear criteria, enforcement of these commitments and access for the public to information related to promises made in contracts they've funded. The California Jobs Plan Act will ensure state transportation funds support the creation of high-quality jobs and access to these jobs for those historically excluded from meaningful employment in these sectors. I introduced Senate Bill 674 to support the creation of equitable high-quality transportation and related manufacturing and infrastructure jobs in our state.

President Biden has been clear that public dollars should create community benefits. We must use our dollars to invest in California and put Californians back to work in better jobs. We have an opportunity to work together to realize the goals of the Future of Work Commission as reflected in "A New Social Compact for work and workers" to help create inclusive, long-term economic growth and ensure Californians share in that success. SB 674 is a mechanism to achieve this bold and urgent vision."

Arguments in Support

The Transport Workers Union is in support and states, "The state and federal government are making significant investments in transportation-related projects, especially in programs that make progress to meeting climate goals. California has numerous programs to fund transportation projects the reduce greenhouse gas emissions and that funding is expected to

¹ See: <https://jobstomoveamerica.org/resource/u-s-employment-plan-2/>.

² *Ibid.*

increase. Green investments create more jobs than other infrastructure investments and these jobs are accessible and well-paying. Every \$1.0 million in spending on renewable energy creates 7.5 full-time jobs.

Green jobs, however, are not inherently good jobs. A critical component to achieving good jobs is a requirement in public contracts that the applicant will create high-quality jobs with living wages, benefits and a commitment to equitable hiring and training.

SB 674 requires that transportation-related contracts include the California Jobs Plan which would require good job creation as part of the contractual agreement. Required information includes the number of jobs created and retained in California, the number of jobs classified as "employees" and "independent contractors" pursuant to current law, the number of jobs for displaced workers and individuals facing barriers to employment, proposed wage levels, benefits and worker training by job classification.

Job quality standards on public funds will help address the stark income inequality in the state while at the same time investing in critical transportation projects that drive economic recovery."

Arguments in Opposition

CALSTART is opposed and states that this bill "appears aimed at job creation in California but would in fact negatively impact the growth of clean energy/transportation jobs in our state. This bill would negatively impact zero-emission bus (ZEB) and related refueling/charging infrastructure procurements by transit and school districts because it would slow down procurement timelines and thus create barriers for job creation. Importantly, this bill would interfere with transit agencies' implementation of the Innovative Clean Transit Rule, and delay zero-emission vehicle technology adoption by transit agencies and school districts, who have led the state on the transition to zero emission vehicles."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs of approximately \$1 million annually to the California Workforce Development Board (CWDB), the department likely designated by the LWDA to administer the two jobs plan programs, to develop the programs' criteria and public portal with other state, local and federal stakeholders and to build and maintain new technology systems.
- 2) Costs of an unknown, but potentially significant, amount to the state if the two jobs plan programs result in the selection of higher-cost bids. DGS notes that for each \$10 million contract, a 1% price increase would result in costs of \$100,000. DGS staff has identified at least 17 existing statewide contracts totaling \$131 million, not including contracts entered into by other agencies, that may qualify as a "covered public contract" under this bill.
- 3) Minor and absorbable costs to DGS to evaluate each applicant's jobs plan form and provide enforcement upon notice of non-compliance. However, if identified issues are not cured, requiring eventual termination of the contract and a solicitation for new bids, the accompanying administrative and legal workload may be significant. DGS also notes that other impacted contracting agencies may not be able to readily absorb such costs.

- 4) By requiring school districts to follow additional contracting procedures, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service, a school district could claim reimbursement for costs.

VOTES

SENATE FLOOR: 31-7-2

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Nielsen, Ochoa Bogh

ABS, ABST OR NV: Melendez, Wilk

ASM LABOR AND EMPLOYMENT: 5-0-2

YES: Kalra, Lorena Gonzalez, Jones-Sawyer, Reyes, Ward

ABS, ABST OR NV: Flora, Seyarto

ASM TRANSPORTATION: 11-3-1

YES: Friedman, Berman, Daly, Gipson, Kalra, Lee, Medina, Nazarian, Luz Rivas, Ward, Wicks

NO: Fong, Davies, Nguyen

ABS, ABST OR NV: Cunningham

ASM APPROPRIATIONS: 12-4-0

YES: Lorena Gonzalez, Bryan, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Kalra

NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

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