

AMENDED IN ASSEMBLY MAY 20, 2013

AMENDED IN ASSEMBLY APRIL 30, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1333**

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**Introduced by Assembly Member Roger Hernández**

February 22, 2013

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An act to add Section 53069.86 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1333, as amended, Roger Hernández. Local government: contracts.

Existing law authorizes the legislative body of a city, county, or district to enter into contracts for various services, and, among other things, to include within the contract a time within which the whole or any specified portion of the work contemplated is to be completed.

This bill would require, *with a specified exception*, the legislative body of a city, county, or district to review any contract *or memorandum of understanding (MOU)* with a private party, with a total annual value of \$250,000 or more and containing an automatic renewal clause, at least once every three years on or before the annual date by which the contract may be rescinded.

~~This bill would require the review of the contract to include a consideration findings to be made prior to renewal as to, among other things, whether the contract or MOU requires the private party pays to pay at least the general prevailing rate of per diem wages for work of a similar character in the locality to its employees. This bill would require the contract to be rescinded unless the review of the contract~~

contains findings that the private party pays at least the general prevailing rate of per diem wages for work of a similar character in the locality, or a living wage given the locality, whichever is greater, to its employees, and ~~whether the contractor retains the contract or MOU requires the retention of~~ employees of the prior contractor or subcontractor for at least 90 days.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 53069.86 is added to the Government  
2 Code, to read:

3 53069.86. (a) ~~The~~ *Except as provided in subdivision (b), the*  
4 *legislative body of a city, county, or district shall review any*  
5 *contract or memorandum of understanding with a private party,*  
6 *with a total annual value of two hundred fifty thousand dollars*  
7 *(\$250,000) or more, that contains an automatic renewal clause,*  
8 *sometimes referred to as an “evergreen” provision, at least once*  
9 *every three years on or before the annual date by which the contract*  
10 *may be rescinded. Prior to the renewal of a contract or*  
11 *memorandum of understanding, the legislative body shall make*  
12 *findings on the record, including, but not limited to, whether the*  
13 ~~contract contains updated information and whether the contract~~  
14 ~~fits the needs of the legislative body.~~ *all of the following:*

15 (1) *Whether the contract or memorandum of understanding*  
16 *contains updated information.*

17 (2) *Whether the contract or memorandum of understanding fits*  
18 *the needs of the legislative body.*

19 (b) ~~Any contract with an evergreen provision as described in~~  
20 ~~subdivision (a) shall be rescinded unless the review of the contract~~  
21 ~~contains both of the following findings:~~

22 (1) ~~The~~

23 (3) *Whether the contract or memorandum of understanding*  
24 *includes a provision that requires a contractor pay to pay at least*  
25 *the general prevailing rate of per diem wages for work of a similar*  
26 *character in the locality, or a living wage given the locality,*  
27 *whichever is greater, to its employees.*

28 (2) ~~The contractor retains the employees of the prior contractor~~  
29 ~~or subcontractor for at least 90 days.~~

1     (4) *Whether the contract or memorandum of understanding*  
2 *includes a provision that requires the retention of employees of*  
3 *the prior contractor or subcontractor for at least 90 days if the*  
4 *contract is awarded, transferred, or assumed by a subsequent*  
5 *contractor.*

6     (b) *This section shall not apply to a contract or memorandum*  
7 *of understanding between a public agency and an employee*  
8 *organization that establishes terms and conditions of employment*  
9 *for the agency's employees.*

10    (c) For purposes of this section, the prevailing rate of per diem  
11 wages shall be determined pursuant to subdivision (b) of Section  
12 1773.9 of the Labor Code.

13    (d) For purposes of this section, "per diem wages" shall include  
14 the employer payments described in Section 1773.1 of the Labor  
15 Code.

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