

AMENDED IN ASSEMBLY SEPTEMBER 2, 2011

AMENDED IN ASSEMBLY JUNE 16, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 922

Introduced by Senator Negrete McLeod

February 18, 2011

~~An act to amend Section 120440 of the Health and Safety Code, relating to public health. An act to add Chapter 2.8 (commencing with Section 2500) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 922, as amended, Negrete McLeod. ~~Immunizations: disclosure of information: tuberculosis screening.~~ *Public contracts: public entities: project labor agreements.*

Existing law sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by public entities.

This bill would authorize a public entity to use, enter into, or require contractors to enter into, a project labor agreement for a construction project, if the agreement includes specified taxpayer protection provisions.

This bill would authorize the members of the governing board of a local public entity to choose by majority vote whether to use, enter into, or require contractors to enter into a project labor agreement for a specific project or projects awarded by that entity and whether to allocate funding to a specific project covered by such an agreement. This bill would prohibit a charter provision, initiative, or ordinance

from preventing the governing board of a local public entity, other than a charter city, from exercising this authority on a project-specific basis.

This bill would also provide that if a charter provision, initiative, or ordinance of a charter city prohibits the governing board's consideration of a project labor agreement for a project to be awarded by the city, or prohibits the governing board from considering whether to allocate funds to a city-funded project covered by such an agreement, then state funding or financial assistance may not be used to support that project, as specified.

~~Existing law regulates the sharing of a patient's or client's immunization information between a health care provider, local health department, the State Department of Public Health, and other agencies. Existing law prescribes the process by which a patient or client, or parent or guardian of a patient or client, may refuse to allow the information to be shared and requires the health care provider administering the immunization to provide the patient with designated notice. Existing law permits local health departments and the department to share the name of a patient or client, or parent or guardian of a patient or client, with a state, local health department, health care provider, immunization information system, or any representative of an entity designated by federal or state law to receive this information, and authorizes the department to enter into written agreements to share this information with other states for specified purposes, unless the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared. Under existing law, the patient or client, or parent or guardian of the patient or client, has the right to examine shared immunization-related information and to correct errors in it.~~

~~Under existing law, if the patient or client, or parent or guardian of a patient or client, refuses the sharing of immunization information, the patient's or client's physician is allowed to maintain access to this information for the purpose of patient care or protecting the public health. Existing law also allows the local health department and the department to maintain access to this information for the purpose of protecting the public health.~~

~~This bill would include tuberculosis screening, as defined, in the above immunization information provisions.~~

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

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Project labor agreements can provide significant benefits*
4 *to taxpayers by insulating construction projects against*
5 *uncertainties, promoting transparent competition, and ensuring*
6 *a reliable supply of labor.*

7 *(b) Projects differ and project labor agreements differ. All*
8 *taxpayers' interests are best served by ensuring that:*

9 *(1) All project labor agreements used for public projects must*
10 *contain fundamental taxpayer protections.*

11 *(2) Local governments are free to choose whether to adopt or*
12 *not to adopt project labor agreements containing these taxpayer*
13 *protections for a particular project or projects.*

14 *SEC. 2. Chapter 2.8 (commencing with Section 2500) is added*
15 *to Part 1 of Division 2 of the Public Contract Code, to read:*

16

17 *CHAPTER 2.8. PROJECT LABOR AGREEMENTS*

18

19 2500. *(a) A public entity may use, enter into, or require*
20 *contractors to enter into, a project labor agreement for a*
21 *construction project only if the agreement includes all of the*
22 *following taxpayer protection provisions:*

23 *(1) The agreement prohibits discrimination based on race,*
24 *national origin, religion, sex, sexual orientation, political*
25 *affiliation, or membership in a labor organization in hiring and*
26 *dispatching workers for the project.*

27 *(2) The agreement permits all qualified contractors and*
28 *subcontractors to bid for and be awarded work on the project*
29 *without regard to whether they are otherwise parties to collective*
30 *bargaining agreements.*

31 *(3) The agreement contains an agreed-upon protocol concerning*
32 *drug testing for workers who will be employed on the project.*

33 *(4) The agreement contains guarantees against work stoppages,*
34 *strikes, lockouts, and similar disruptions of the project.*

35 *(5) The agreement provides that disputes arising from the*
36 *agreement shall be resolved by a neutral arbitrator.*

37 *(b) For purposes of this chapter, both of the following definitions*
38 *apply:*

1 (1) “Project labor agreement” means a prehire collective
 2 bargaining agreement that establishes terms and conditions of
 3 employment for a specific construction project or projects and is
 4 an agreement described in Section 158(f) of Title 29 of the United
 5 States Code.

6 (2) “Public entity” means a public entity as defined in Section
 7 1100.

8 2501. The members of the governing board of a local public
 9 entity may choose by majority vote whether to use, enter into, or
 10 require contractors to enter into a project labor agreement that
 11 includes all the taxpayer protection provisions of Section 2500 for
 12 a specific project or projects awarded by that entity and whether
 13 to allocate funding to a specific project covered by such an
 14 agreement. A charter provision, initiative, or ordinance shall not
 15 prevent the governing board of a local public entity, other than a
 16 charter city, from exercising this authority on a project-specific
 17 basis.

18 2502. If a charter provision, initiative, or ordinance of a
 19 charter city prohibits the governing board’s consideration of a
 20 project labor agreement that includes all the taxpayer protection
 21 provisions of Section 2500 for a project to be awarded by the city,
 22 or prohibits the governing board from considering whether to
 23 allocate funds to a city-funded project covered by such an
 24 agreement, then state funding or financial assistance shall not be
 25 used to support that project. This section shall not be applicable
 26 until January 1, 2015, for charter cities in which a charter
 27 provision, initiative, or ordinance in effect prior to November 1,
 28 2011, would disqualify a project from receiving state funding or
 29 financial assistance.

30 ~~SECTION 1. Section 120440 of the Health and Safety Code~~
 31 ~~is amended to read:~~

32 ~~120440. (a) For the purposes of this chapter, the following~~
 33 ~~definitions shall apply:~~

34 (1) ~~“Health care provider” means any person licensed pursuant~~
 35 ~~to Division 2 (commencing with Section 500) of the Business and~~
 36 ~~Professions Code or a clinic or health facility licensed pursuant to~~
 37 ~~Division 2 (commencing with Section 1200).~~

38 (2) ~~“Schools, child care facilities, and family child care homes”~~
 39 ~~means those institutions referred to in subdivision (b) of Section~~

1 120335, regardless of whether they directly provide immunizations
2 to patients or clients.

3 (3) ~~“WIC service provider” means any public or private~~
4 ~~nonprofit agency contracting with the department to provide~~
5 ~~services under the California Special Supplemental Food Program~~
6 ~~for Women, Infants, and Children, as provided for in Article 2~~
7 ~~(commencing with Section 123275) of Chapter 1 of Part 2 of~~
8 ~~Division 106.~~

9 (4) ~~“Health care plan” means a health care service plan as~~
10 ~~defined in subdivision (f) of Section 1345, a government-funded~~
11 ~~program the purpose of which is paying the costs of health care,~~
12 ~~or an insurer as described in Sections 10123.5 and 10123.55 of~~
13 ~~the Insurance Code, regardless of whether the plan directly provides~~
14 ~~immunizations to patients or clients.~~

15 (5) ~~“County welfare department” means a county welfare agency~~
16 ~~administering the California Work Opportunity and Responsibility~~
17 ~~to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing~~
18 ~~with Section 11200.5) of Part 3 of Division 9 of the Welfare and~~
19 ~~Institutions Code.~~

20 (6) ~~“Foster care agency” means any of the county and state~~
21 ~~social services agencies providing foster care services in California.~~

22 (7) ~~“Tuberculosis screening” means an approved intradermal~~
23 ~~tuberculin test or any other test for tuberculosis infection that is~~
24 ~~recommended by the federal Centers for Disease Control and~~
25 ~~Prevention and licensed by the federal Food and Drug~~
26 ~~Administration.~~

27 (b) (1) ~~Local health officers may operate immunization~~
28 ~~information systems pursuant to their authority under Section~~
29 ~~120175, in conjunction with the Immunization Branch of the State~~
30 ~~Department of Public Health. Local health officers and the State~~
31 ~~Department of Public Health may operate these systems in either~~
32 ~~or both of the following manners:~~

33 (A) ~~Separately within their individual jurisdictions.~~

34 (B) ~~Jointly among more than one jurisdiction.~~

35 (2) ~~Nothing in this subdivision shall preclude local health~~
36 ~~officers from sharing the information set forth in paragraphs (1)~~
37 ~~to (10), inclusive, of subdivision (c) with other health officers~~
38 ~~jointly operating the system.~~

39 (e) ~~Notwithstanding Sections 49075 and 49076 of the Education~~
40 ~~Code, Chapter 5 (commencing with Section 10850) of Part 2 of~~

1 ~~Division 9 of the Welfare and Institutions Code, or any other~~
2 ~~provision of law, unless a refusal to permit recordsharing is made~~
3 ~~pursuant to subdivision (c), health care providers, and other~~
4 ~~agencies, including, but not limited to, schools, child care facilities,~~
5 ~~service providers for the California Special Supplemental Food~~
6 ~~Program for Women, Infants, and Children (WIC), health care~~
7 ~~plans, foster care agencies, and county welfare departments, may~~
8 ~~disclose the information set forth in paragraphs (1) to (10),~~
9 ~~inclusive, from the patient's medical record, or the client's record,~~
10 ~~to local health departments operating countywide or regional~~
11 ~~immunization information and reminder systems and the State~~
12 ~~Department of Public Health. Local health departments and the~~
13 ~~State Department of Public Health may disclose the information~~
14 ~~set forth in paragraphs (1) to (10), inclusive, to each other and,~~
15 ~~upon a request for information pertaining to a specific person, to~~
16 ~~health care providers taking care of the patient. Local health~~
17 ~~departments and the State Department of Public Health may~~
18 ~~disclose the information in paragraphs (1) to (7), inclusive, and~~
19 ~~paragraphs (9) and (10), to schools, child care facilities, county~~
20 ~~welfare departments, and family child care homes to which the~~
21 ~~person is being admitted or in attendance, foster care agencies in~~
22 ~~assessing and providing medical care for children in foster care,~~
23 ~~and WIC service providers providing services to the person, health~~
24 ~~care plans arranging for immunization services for the patient, and~~
25 ~~county welfare departments assessing immunization histories of~~
26 ~~dependents of CalWORKs participants, upon request for~~
27 ~~information pertaining to a specific person. Determination of~~
28 ~~benefits based upon immunization of a dependent CalWORKs~~
29 ~~participant shall be made pursuant to Section 11265.8 of the~~
30 ~~Welfare and Institutions Code. The following information shall~~
31 ~~be subject to this subdivision:~~

- 32 ~~(1) The name of the patient or client and names of the parents~~
33 ~~or guardians of the patient or client.~~
- 34 ~~(2) Date of birth of the patient or client.~~
- 35 ~~(3) Types and dates of immunizations received by the patient~~
36 ~~or client.~~
- 37 ~~(4) Manufacturer and lot number for each immunization~~
38 ~~received.~~
- 39 ~~(5) Adverse reaction to immunizations received.~~

1 ~~(6) Other nonmedical information necessary to establish the~~
2 ~~patient's or client's unique identity and record.~~

3 ~~(7) Results of tuberculosis screening.~~

4 ~~(8) Current address and telephone number of the patient or client~~
5 ~~and the parents or guardians of the patient or client.~~

6 ~~(9) Patient's or client's gender.~~

7 ~~(10) Patient's or client's place of birth.~~

8 ~~(d) (1) Health care providers, local health departments, and the~~
9 ~~State Department of Public Health shall maintain the confidentiality~~
10 ~~of information listed in subdivision (c) in the same manner as other~~
11 ~~medical record information with patient identification that they~~
12 ~~possess. These providers, departments, and contracting agencies~~
13 ~~are subject to civil action and criminal penalties for the wrongful~~
14 ~~disclosure of the information listed in subdivision (c), in accordance~~
15 ~~with existing law. They shall use the information listed in~~
16 ~~subdivision (c) only for the following purposes:~~

17 ~~(A) To provide immunization services to the patient or client,~~
18 ~~including issuing reminder notifications to patients or clients or~~
19 ~~their parents or guardians when immunizations are due.~~

20 ~~(B) To provide or facilitate provision of third-party payer~~
21 ~~payments for immunizations.~~

22 ~~(C) To compile and disseminate statistical information of~~
23 ~~immunization status on groups of patients or clients or populations~~
24 ~~in California, without identifying information for these patients or~~
25 ~~clients included in these groups or populations.~~

26 ~~(D) In the case of health care providers only, as authorized by~~
27 ~~Part 2.6 (commencing with Section 56) of Division 1 of the Civil~~
28 ~~Code.~~

29 ~~(2) Schools, child care facilities, family child care homes, WIC~~
30 ~~service providers, foster care agencies, county welfare departments,~~
31 ~~and health care plans shall maintain the confidentiality of~~
32 ~~information listed in subdivision (c) in the same manner as other~~
33 ~~client, patient, and pupil information that they possess. These~~
34 ~~institutions and providers are subject to civil action and criminal~~
35 ~~penalties for the wrongful disclosure of the information listed in~~
36 ~~subdivision (c), in accordance with existing law. They shall use~~
37 ~~the information listed in subdivision (c) only for those purposes~~
38 ~~provided in subparagraphs (A) to (D), inclusive, of paragraph (1)~~
39 ~~and as follows:~~

1 (A) ~~In the case of schools, child care facilities, family child care~~
2 ~~homes, and county welfare departments, to carry out their~~
3 ~~responsibilities regarding required immunization for attendance~~
4 ~~or participation benefits, or both, as described in Chapter 1~~
5 ~~(commencing with Section 120325), and in Section 11265.8 of~~
6 ~~the Welfare and Institutions Code.~~

7 (B) ~~In the case of WIC service providers, to perform~~
8 ~~immunization status assessments of clients and to refer those clients~~
9 ~~found to be due or overdue for immunizations to health care~~
10 ~~providers.~~

11 (C) ~~In the case of health care plans, to facilitate payments to~~
12 ~~health care providers, to assess the immunization status of their~~
13 ~~clients, and to tabulate statistical information on the immunization~~
14 ~~status of groups of patients, without including patient-identifying~~
15 ~~information in these tabulations.~~

16 (D) ~~In the case of foster care agencies, to perform immunization~~
17 ~~status assessments of foster children and to assist those foster~~
18 ~~children found to be due or overdue for immunization in obtaining~~
19 ~~immunizations from health care providers.~~

20 (e) ~~A patient or a patient's parent or guardian may refuse to~~
21 ~~permit recordsharing. The health care provider administering~~
22 ~~immunization and any other agency possessing any patient or client~~
23 ~~information listed in subdivision (c), if planning to provide patient~~
24 ~~or client information to an immunization system, as described in~~
25 ~~subdivision (b), shall inform the patient or client, or the parent or~~
26 ~~guardian of the patient or client, of the following:~~

27 (1) ~~The information listed in subdivision (c) may be shared with~~
28 ~~local health departments and the State Department of Public Health.~~
29 ~~The health care provider or other agency shall provide the name~~
30 ~~and address of the State Department of Public Health or of the~~
31 ~~immunization registry with which the provider or other agency~~
32 ~~will share the information.~~

33 (2) ~~Any of the information shared with local health departments~~
34 ~~and the State Department of Public Health shall be treated as~~
35 ~~confidential medical information and shall be used only to share~~
36 ~~with each other, and, upon request, with health care providers,~~
37 ~~schools, child care facilities, family child care homes, WIC service~~
38 ~~providers, county welfare departments, foster care agencies, and~~
39 ~~health care plans. These providers, agencies, and institutions shall,~~

1 in turn, treat the shared information as confidential, and shall use
2 it only as described in subdivision (d).

3 ~~(3) The patient or client, or parent or guardian of the patient or~~
4 ~~client, has the right to examine any immunization-related~~
5 ~~information or tuberculosis screening results shared in this manner~~
6 ~~and to correct any errors in it.~~

7 ~~(4) The patient or client, or the parent or guardian of the patient~~
8 ~~or client, may refuse to allow this information to be shared in the~~
9 ~~manner described, or to receive immunization reminder~~
10 ~~notifications at any time, or both. After refusal, the patient's or~~
11 ~~client's physician may maintain access to this information for the~~
12 ~~purposes of patient care or protecting the public health. After~~
13 ~~refusal, the local health department and the State Department of~~
14 ~~Public Health may maintain access to this information for the~~
15 ~~purpose of protecting the public health pursuant to Sections~~
16 ~~100325, 120140, and 120175, as well as Sections 2500 to 2643.20,~~
17 ~~inclusive, of Title 17 of the California Code of Regulations.~~

18 ~~(f) (1) The health care provider administering the immunization~~
19 ~~or tuberculosis screening and any other agency possessing any~~
20 ~~patient or client information listed in subdivision (c), may inform~~
21 ~~the patient or client, or the parent or guardian of the patient or~~
22 ~~client, by ordinary mail, of the information in paragraphs (1) to~~
23 ~~(4), inclusive, of subdivision (c). The mailing must include a~~
24 ~~reasonable means for refusal, such as a return form or contact~~
25 ~~telephone number.~~

26 ~~(2) The information in paragraphs (1) to (4), inclusive, of~~
27 ~~subdivision (c) may also be presented to the parent or guardian of~~
28 ~~the patient or client during any hospitalization of the patient or~~
29 ~~client.~~

30 ~~(g) If the patient or client, or parent or guardian of the patient~~
31 ~~or client, refuses to allow the information to be shared, pursuant~~
32 ~~to paragraph (4) of subdivision (c), the health care provider or~~
33 ~~other agency may not share this information in the manner~~
34 ~~described in subdivision (c), except as provided in subparagraph~~
35 ~~(D) of paragraph (1) of subdivision (d).~~

36 ~~(h) (1) Upon request of the patient or client, or the parent or~~
37 ~~guardian of the patient or client, in writing or by other means~~
38 ~~acceptable to the recipient, a local health department or the State~~
39 ~~Department of Public Health that has received information about~~
40 ~~a person pursuant to subdivision (c) shall do all of the following:~~

- 1 (A) Provide the name and address of other persons or agencies
2 with whom the recipient has shared the information.
- 3 (B) Stop sharing the information in its possession after the date
4 of the receipt of the request.
- 5 (2) After refusal, the patient's or client's physician may maintain
6 access to this information for the purposes of patient care or
7 protecting the public health. After refusal, the local health
8 department and the State Department of Public Health may
9 maintain access to this information for the purpose of protecting
10 the public health pursuant to Sections 100325, 120140, and 120175,
11 as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the
12 California Code of Regulations.
- 13 (i) Upon notification, in writing or by other means acceptable
14 to the recipient, of an error in the information, a local health
15 department or the State Department of Public Health that has
16 information about a person pursuant to subdivision (c) shall correct
17 the error. If the recipient is aware of a disagreement about whether
18 an error exists, information to that effect may be included.
- 19 (j) (1) Any party authorized to make medical decisions for a
20 patient or client, including, but not limited to, those authorized by
21 Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section
22 6550), Chapter 2 (commencing with Section 6910) of Part 4, or
23 Chapter 1 (commencing with Section 7000) of Part 6, of Division
24 11 of, the Family Code, Section 1530.6 of the Health and Safety
25 Code, or Sections 727 and 1755.3 of, and Article 6 (commencing
26 with Section 300) of Chapter 2 of Part 1 of Division 2 of, the
27 Welfare and Institutions Code, may permit sharing of the patient's
28 or client's record with any of the immunization information
29 systems authorized by this section.
- 30 (2) For a patient or client who is a dependent of a juvenile court,
31 the court or a person or agency designated by the court may permit
32 this recordsharing.
- 33 (3) For a patient or client receiving foster care, a person or
34 persons licensed to provide residential foster care, or having legal
35 custody, may permit this recordsharing.
- 36 (k) For purposes of supporting immunization information
37 systems, the State Department of Public Health shall assist the
38 Immunization Branch of the State Department of Public Health in
39 both of the following:

1 ~~(1) Providing department records containing information about~~
2 ~~publicly funded immunizations.~~
3 ~~(2) Supporting efforts for the reporting of publicly funded~~
4 ~~immunizations into immunization information systems by health~~
5 ~~care providers and health care plans.~~
6 ~~(f) Subject to any other provisions of state and federal law or~~
7 ~~regulation that limit the disclosure of health information and protect~~
8 ~~the privacy and confidentiality of personal information, local health~~
9 ~~departments and the State Department of Public Health may share~~
10 ~~the information listed in subdivision (e) with a state, local health~~
11 ~~departments, health care providers, immunization information~~
12 ~~systems, or any representative of an entity designated by federal~~
13 ~~or state law or regulation to receive this information. The State~~
14 ~~Department of Public Health may enter into written agreements~~
15 ~~to exchange confidential immunization information with other~~
16 ~~states for the purposes of patient care, protecting the public health,~~
17 ~~entrance into school, child care and other institutions requiring~~
18 ~~immunization prior to entry, and the other purposes described in~~
19 ~~subdivision (d). The written agreement shall provide that the state~~
20 ~~that receives confidential immunization information must maintain~~
21 ~~its confidentiality and may only use it for purposes of patient care,~~
22 ~~protecting the public health, entrance into school, child care and~~
23 ~~other institutions requiring immunization prior to entry, and the~~
24 ~~other purposes described in subdivision (d). Information may not~~
25 ~~be shared pursuant to this subdivision if a patient or client, or parent~~
26 ~~or guardian of a patient or client, refuses to allow the sharing of~~
27 ~~immunization information pursuant to subdivision (e).~~

O