

Senate Bill No. 1220

Passed the Senate August 30, 2024

Secretary of the Senate

Passed the Assembly August 29, 2024

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2024, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend, repeal, and add Section 12140 of, and to amend the heading of Chapter 3.7 (commencing with Section 12140) of Part 2 of Division 2 of, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1220, Limón. Public benefits contracts: phone operator jobs.

(1) Existing law prohibits, with specified exceptions, a state agency authorized to enter into contracts relating to public benefit programs from contracting for services provided by a call center that directly serves applicants for, recipients of, or enrollees in, those public benefit programs with a contractor or subcontractor unless that contractor or subcontractor certifies in its bid for the contract that the contract, and any subcontract performed under that contract, will be performed solely with workers employed in California. Existing law provides an exception for contracts between a state agency and a health care service plan or a specialized health care service plan regulated by the Department of Managed Health Care and for contracts between a state agency and a disability insurer or specialized health insurer regulated by the Department of Insurance. Existing law also authorizes the state to terminate a contract relating to services provided by a call center if the contractor or subcontractor performs services with workers not employed in California.

This bill would, until July 1, 2030, instead require any state agency authorized to provide or enter into contracts relating to public benefit programs, or any local government agency authorized to provide or enter into contracts relating to public benefit programs funded by state funds, as specified, to provide services through, or contract for services provided by, a call center that directly serves callers with services performed solely with and by workers employed in California. The bill would also prohibit a state agency or specified local agency from using, or contracting with a call center that uses, artificial intelligence (AI) or automated decision systems (ADS) that would eliminate or automate core job functions of a worker, as specified. The bill would require an

agency that utilizes AI or ADS that impact core job functions of workers to notify the workers, their collective bargaining representatives, and the public within a specified timeframe about prescribed information, including a general description of the AI or ADS system. The bill would require a contractor to certify in its bid that any services provided by the contractor or its subcontractors are to be performed with and by workers employed in California. The bill would also extend these contracting requirements to local government agencies. By imposing new requirements on local government agencies, this bill would impose a state-mandated local program.

This bill would, until July 1, 2030, delete the above-described exception for contracts between a state agency and a health care service plan or a specialized health care service plan regulated by the Department of Managed Health Care and for contracts between a state agency and a disability insurer or specialized health insurer regulated by the Department of Insurance.

This bill would, until July 1, 2030, make the above-described provisions inapplicable to a designated public hospital system, a health care district, or a health care service plan that contracts with the State Department of Health Care Services, as specified.

This bill would, until July 1, 2030, extend the right to terminate a contract to local government agencies. The bill would also extend the right to terminate a contract in the case that the contractor or subcontractor does not employ workers.

This bill would provide that the bill's provisions would not apply to specified contracts or subcontracts, including, among others, extensions of contracts or subcontracts, that result from a request for proposal or bid that occurred before January 1, 2025, and contracts by a county human services agency for translation or interpretation services.

(2) The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. The heading of Chapter 3.7 (commencing with Section 12140) of Part 2 of Division 2 of the Public Contract Code is amended to read:

CHAPTER 3.7. PROHIBITION OF THE OFFSHORING AND FULL
AUTOMATION OF STATE AND LOCAL PUBLIC BENEFITS PHONE
OPERATOR JOBS

SEC. 2. Section 12140 of the Public Contract Code is amended to read:

12140. (a) (1) Notwithstanding any other law, any state agency authorized to provide or enter into contracts relating to public benefit programs, and any local government agency authorized to provide or enter into contracts relating to public benefit programs funded in any part by state funding, shall only provide services through, or contract for services provided by, a call center that directly serves callers with services performed solely with and by workers employed in California.

(2) With regard to contracts specified in paragraph (1), a contractor shall certify in its bid that any services provided by the contractor or its subcontractors are to be performed with and by workers employed in California. A certification required by this paragraph is not made under penalty of perjury. Any contractor that knowingly provides false information in the certification required by this paragraph shall be subject to a civil penalty in an amount of up to ten thousand dollars (\$10,000), in addition to any other civil remedies available to the state agency. An action for a civil penalty under this paragraph may be brought by any public prosecutor in the name of the people of the State of California.

(3) A state agency, or a local agency authorized to provide or enter into contracts relating to public benefit programs funded in any part by state funding to provide call center services related to public benefits shall not use artificial intelligence (AI) or automated

decision systems (ADS) that eliminate or automate the core job function of a worker. That agency shall not contract with a party to provide call center services related to public benefit programs that utilizes AI or ADS to eliminate or automate the core job function of a worker.

(4) If a state agency, or local agency authorized to provide or enter into contracts relating to public benefit programs funded in any part by state funding to provide services related to public benefits uses AI or ADS that impact the core job function of a worker, or contracts with a party to provide call center services related to public benefits utilizing AI or ADS that impact the core job function of a worker, then that agency shall notify the workers, their collective bargaining representatives, and the public 60 days in advance with a general description of the AI or ADS system and the intended purpose for the AI or ADS system.

(5) For purposes of this section, AI or ADS may be used as a tool to support call center workers. Permissive uses of limited AI that do not impact the core job function of a worker and are not subject to the notification requirement under paragraph (4) include all of the following:

(A) Phone trees or prompts that route callers to appropriate staff, information, or options.

(B) Tools that support workers by providing suggestions, AI-powered searches, and support of policy, procedural, or training information.

(C) AI used by workers to assist callers with public benefits or assist workers in service delivery.

(b) For purposes of this section:

(1) “Artificial intelligence,” or “AI,” means an engineered or machine-based system that for explicit or implicit objectives, infers, from the input it receives, how to generate outputs that can influence physical or virtual environments and that may operate with varying levels of autonomy.

(2) “Automated decision systems,” or “ADS” means a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking.

(3) “Call center” means a building, facility, or operation where customer or client services or assistance is provided by telephone, fax, email, text, or web-based interaction.

(4) “Core job functions” means a component of call service delivery that requires the exercise of judgment and discretion to successfully accomplish a complex task.

(5) (A) “Public benefit programs” means California Work Opportunity and Responsibility to Kids (CalWORKs), CalFresh, Medi-Cal, Healthy Families, the California Healthcare Eligibility, Enrollment, and Retention System, Covered California, Employment Development Department Insurance, Child Welfare Services, California Special Supplemental Nutrition Program for Women, Infants, and Children, and other public benefits provided by a local government agency funded in any part by state funding from the California Health and Human Services Agency to provide the same or similar benefits as those described in this section.

(B) “Public benefit programs” do not include emergency services such as 988 and 911.

(6) “State agency” means a state agency authorized to provide or enter into contracts relating to public benefit programs.

(7) “Worker” means a natural person.

(c) (1) The contract shall provide that in the event a contractor or subcontractor performs the contract or the subcontract for call center services without call center workers employed in California during the life of the contract, or who eliminates or automates the core job function of workers through AI or ADS technology as described in paragraph (3) of subdivision (a), the state or local government agency has the right to terminate the contract for noncompliance and the contractor or subcontractor shall pay a penalty to the state agency or local government agency in an amount equal to the amount paid by the state agency or local government agency for the percentage of work that was performed with workers not employed in California or the amount the contractor or subcontractor paid for the cost of AI or ADS to perform core job functions that were eliminated or automated by the AI or ADS.

(2) The penalty authorized in paragraph (1) shall be in addition to any other applicable penalty, including, but not limited to, the penalty provided in paragraph (2) of subdivision (a).

(d) (1) Notwithstanding subdivision (a), a state agency may conduct a solicitation without applying this section if the California Health and Human Services Agency or the board of the California Health Benefit Exchange makes any of the following determinations:

(A) A prior solicitation was conducted and the bids received were priced unreasonably high as a result of including these provisions.

(B) A prior solicitation was conducted and no bids were received as a result of including these provisions.

(C) The services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety.

(2) If the agency or board makes a determination described in paragraph (1), that entity shall submit a report to the Assembly Committee on Jobs, Economic Development and the Economy and to the Senate Committee on Labor and Industrial Relations on or before the last day of the quarter following the quarter in which the determination was made. The report shall include the reason for making the determination.

(e) This section shall not apply to the following:

(1) A contract or subcontract, if implementation would violate the specific terms of the Agreement on Government Procurement of the World Trade Organization or any other bilateral or regional free trade agreement to which the State of California has consented.

(2) A contract or subcontract, including extensions of that contract or subcontract, that results from a request for proposal or bid that occurred before the effective date of the act that adds this chapter.

(3) A contract for a public benefit program between a state or local agency and a health care service plan or a specialized health care service plan regulated by the Department of Managed Health Care, and any subcontract performed under that contract, or a disability insurer or specialized health insurer regulated by the Department of Insurance, and any subcontract performed under that contract.

(4) Emergency services such as 988 and 911.

(5) Call center services provided for a local public benefit program in response to an emergency or disaster, including mutual aid, or temporary staff relocations during the emergency or disaster,

and until normal operations have been restored. This shall include nonemergency or nondisaster services that have been disrupted by the emergency or disaster.

(6) A contract or subcontract by a county human services agency for translation or interpretation services.

(7) A service not related to public benefit eligibility, enrollment, or related public benefit-related administrative service provided by a call center within a designated public hospital system, including any designated public hospital, as defined in subdivision (f) of Section 14184.101 of the Welfare and Institutions Code, and its affiliated governmental health care settings.

(8) A service not related to public benefit eligibility, enrollment, or related public benefit-related administrative service within a health care district, or a nonprofit corporation that is affiliated with the health care district hospital owner by means of the district's status as the nonprofit corporation's sole corporate member.

(9) A health care service plan that contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other law, this section shall apply to call center services for public benefit programs regardless of the state or local agency or contractor that administers the program or provides the public benefit.

(g) This section shall be construed so as to not conflict with, and be applied consistent with, federal law.

(h) The amendments made to this section by the act adding this subdivision shall not apply for contracts or subcontracts, including extensions of contracts or subcontracts, that result from a request for proposal or bid that occurred before January 1, 2025.

(i) This section shall remain operative only until July 1, 2030, and as of that date is repealed.

SEC. 3. Section 12140 is added to the Public Contract Code, to read:

12140. (a) Notwithstanding any other law, any state agency authorized to enter into contracts relating to public benefit programs shall only contract for services provided by a call center that directly serves applicants for, recipients of, or enrollees in, those public benefit programs with a contractor that certifies in its

bid for the contract that the services provided under the contract and any subcontract performed under that contract, to applicants for, recipients of, or enrollees in, those public benefit programs, will be performed solely with workers employed in California. Any contractor that knowingly provides false information in the certification required by this subdivision shall be subject to a civil penalty in an amount of up to ten thousand dollars (\$10,000), in addition to any other remedies available to the state agency. An action for a civil penalty under this subdivision may be brought by any public prosecutor in the name of the people of the State of California.

(b) For purposes of this section:

(1) “Call center” means a building, facility, or operation where customer or client service or assistance is provided by telephone, fax, email, text, or Web-based interaction.

(2) “Public benefit programs” means California Work Opportunity and Responsibility to Kids (CalWORKs), CalFresh, Medi-Cal, Healthy Families, and the California Healthcare Eligibility, Enrollment, and Retention System.

(c) (1) The contract shall provide that in the event a contractor or subcontractor performs the contract or the subcontract for call center services with workers not employed in California during the life of the contract, the state has the right to terminate the contract for noncompliance and the contractor or subcontractor shall pay a penalty to the state agency in an amount equal to the amount paid by the state agency for the percentage of work that was performed with workers not employed in California.

(2) The penalty authorized in paragraph (1) shall be in addition to any other applicable penalty, including, but not limited to, the penalty provided in subdivision (a).

(d) (1) Notwithstanding subdivision (a), a state agency may conduct a solicitation without applying this section if the California Health and Human Services Agency or the board of the California Health Benefit Exchange makes any of the following determinations:

(A) A prior solicitation was conducted and the bids received were priced unreasonably high as a result of including these provisions.

(B) A prior solicitation was conducted and fewer than two bids were received as a result of including these provisions.

(C) The services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety.

(2) If the agency or board makes a determination described in paragraph (1), that entity shall submit a report to the Assembly Committee on Jobs, Economic Development and the Economy and to the Senate Committee on Labor and Industrial Relations on or before the last day of the quarter following the quarter in which the determination was made. The report shall include the reason for making the determination.

(e) This section shall not apply to the following:

(1) A contract or subcontract, if implementation would violate the specific terms of the Agreement on Government Procurement of the World Trade Organization or any other bilateral or regional free trade agreement to which the State of California has consented.

(2) A contract or subcontract, including extensions of that contract or subcontract, that results from a request for proposal or bid that occurred prior to the effective date of the act that adds this chapter.

(3) A contract for a public benefit program between a state agency and a health care service plan or a specialized health care service plan regulated by the Department of Managed Health Care, and any subcontract performed under that contract, or a disability insurer or specialized health insurer regulated by the Department of Insurance, and any subcontract performed under that contract.

(f) This section shall be construed so as to not conflict with, and be applied consistent with, federal law.

(g) This section shall become operative on July 1, 2030.

SEC. 4. The Legislature finds and declares that retaining good paying jobs for Californians is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act amending Section 12140 of the Public Contract Code applies to all cities, including charter cities.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2024

Governor