



CLIENT NEWS BRIEF

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NEW LABOR COMPLIANCE PROGRAM REGULATIONS TO TAKE EFFECT ON AUGUST 1, 2010

As we reported in 2009 Client News Brief No. 16, Senate Bill X2 9 ("SBX2 9"), which was signed into law last year, mandates significant changes to how Labor Compliance Program ("LCP") services are provided for school and community college construction projects. Those changes were to take effect upon the adoption of regulations by the Department of Industrial Relations ("DIR") implementing the new procedures. Those new regulations were approved last month, and will take effect on August 1, 2010.

As more fully detailed in [2009 CNB No. 16](#), under SBX2 9, the DIR will directly provide LCP services to school districts for a mandatory fee. This fee will apply to all projects using funds from the 2002 or 2004 Kindergarten-University Public Education Facilities Bond Acts. School districts or community college districts with approved in-house LCP programs may apply to the DIR for an exemption from the fee, but there will be no exemption from the fee for the use of third-party LCP providers on future projects. Third-party LCP providers may continue to monitor projects where the construction contract was entered into before August 1, 2010.

The new regulations set the fee at one-fourth of one percent of the state bond funds released by the funding agency, and are due at the time the funds are released on any portion of the project.

The new regulations also provide for the establishment of a Compliance Monitoring Unit (CMU) within the DIR. Subject to certain exemptions, an educational agency using funds from one of the statewide bonds subject to the LCP requirements must include language in its bid documents and construction contracts notifying contractors that the project is subject to monitoring by CMU, and that the contractor must submit electronic certified payroll records directly to CMU. Agencies may, but are not required to, enroll in an electronic payroll monitoring service provided by CMU in order to review what their contractors are submitting. Notices of the CMU compliance monitoring must also be posted at project sites.

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As a result of SBX2 9 and its implementing regulations, school districts and community college districts with construction projects subject to LCP requirements will have to pay the state to monitor the LCP, except for certain in-house programs and construction contracts entered into prior to August 1, 2010. If a district continues to use a third party provider in other circumstances, it will have to pay twice, once to the state and once to the provider for duplicative programs.

If you would like more information on the new LCP regulations and requirements, please do not hesitate to contact one of our [seven offices](#) located statewide or consult our [website](#).

Written by:

[Harold M. Freiman](#)

Shareholder

Walnut Creek Office

hfreiman@lozanosmith.com

Michael Dunne

Paralegal

Fresno Office

mdunne@lozanosmith.com



As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.