

# California Prevailing Wage Laws

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# California Prevailing Wage Laws

## EDUCATION CODE

Title 1. General Education Code Provisions  
Division 1. General Education Code Provisions  
Part 10. School Bonds  
Chapter 12. State School Building Lease-Purchase Law of 1976  
Article 5 Joint Venture School Facilities Construction Projects

### § 17066. Prevailing wage requirements

This article does not affect any requirement of a school district to comply with the prevailing wage requirements of Article 2 (commencing with Section 1770) of Chapter 2 of Part 7 of Division 2 of the Labor Code with respect to the school facilities portion of a joint venture project under this article.

Title 1. General Education Code Provisions  
Division 1. General Education Code Provisions  
Part 10.5. School Facilities  
Chapter 2.5. Design-Build Contracts

### § 17250.30. Bond requirements

(a) Any design-build entity that is selected to design and build a project pursuant to this chapter shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract. This chapter does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(b) Any payment or performance bond written for the purposes of this chapter shall use a bond form developed by the Department of General Services pursuant to subdivision (g) of Section 14661 of the Government Code. The purpose of this subdivision is to promote uniformity of bond forms to be used on school district design-build projects throughout the state.

(c)(1) All subcontracts that were not listed by the design-build entity in accordance with Section 17250.25 shall be awarded by the design-build entity.

(2) The design-build entity shall do all of the following:

(A) Provide public notice of the availability of work to be subcontracted.

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(B) Provide a fixed date and time on which the subcontracted work will be awarded.

(3) Subcontractors bidding on contracts pursuant to this subdivision shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

(4)(A) If the school district elects to award a project pursuant to this section, retention proceeds withheld by the school district from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(B) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the school district and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the school district and the design-build entity from any payment made by the design-build entity to the subcontractor.

(5) In accordance with the provisions of applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments. Substitutions shall be made in accordance with Section 22300 of the Public Contract Code.

(d)(1) For contracts for public works projects awarded prior to January 1, 2012, the school district shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the school district or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

(2) For contracts for public works projects awarded on or after January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code.

### **§ 17250.45. Project report**

Each school district governing board that adopts the design-build process for a school construction project shall submit to the Legislative Analyst a report on the project at the completion of the project. Completion shall have the same meaning as defined in subdivision (c) of Section 7107 of the Public Contract Code. This report shall be submitted within 60 days after completion of the project. The Legislative Analyst shall submit an interim report to the

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Legislature by January 1, 2004, and a final report to the Legislature by January 1, 2006. The reports shall include, but not be limited to, all of the following information as to each project:

- (a) The type of facility.
- (b) The gross square footage of the facility.
- (c) The company or contractor who was awarded the project.
- (d) The estimated and actual length of time to complete the project.
- (e) The estimated and actual project cost.
- (f) A description of the relative merits of a project procured pursuant to this chapter and similar projects procured pursuant to other provisions of this code.
- (g) A description of any written protest concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protest.
- (h) Other pertinent information that may be instructive in evaluating whether the design-build method of procurement should be continued, expanded, or prohibited.
- (i) The findings established pursuant to Section 17250.20 and a post-completion evaluation as to whether the findings were achieved.
- (j) Any Labor Code violations discovered during the course of construction or following completion of the project, as well as any fines or penalties assessed.

### ***§ 17250.55. Duration of Chapter***

***This chapter shall remain in effect only until January 1, 2025, and as of that date is repealed, unless a later enacted statute, that takes effect before January 1, 2025, deletes or extends that date.***



## California Prevailing Wage Laws

Title 3. Postsecondary Education  
Division 7. Community Colleges  
Part 49. Community Colleges, Education Facilities  
Chapter 3.5. Design-Build Contracts

**§ 81704. Bonds; awards of additional subcontracts; labor compliance program; cost of performing, monitoring and enforcement (sunsets on 01/01/2020)**

(a) Any design-build entity that is selected to design and build a project pursuant to this chapter shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omission insurance coverage sufficient to cover all design and architectural services provided in the contract. This chapter does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(b) Any payment or performance bond written for the purposes of this chapter shall use a bond form developed by the Department of General Services pursuant to subdivision (g) of Section 14661 of the Government Code. The purpose of this subdivision is to promote uniformity of bond forms to be used on community college district design-build projects throughout the state.

(c)(1) All subcontracts that were not listed by the design-build entity in accordance with Section 81703 shall be awarded by the design-build entity in accordance with the design-build process set forth by the community college district in the design-build package.

(2) The design-build entity shall do all of the following:

(A) Provide public notice of the availability of work to be subcontracted.

(B) Provide a fixed date and time on which the subcontracted work will be awarded.

(3) Subcontractors bidding on contracts pursuant to this subdivision shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

(4)(A) If the community college district elects to award a project pursuant to this section, retention proceeds withheld by the community college district from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(B) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the community college district and the design-build entity. If the design-build entity provides written notice to

## California Prevailing Wage Laws

any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the community college district and the design-build entity from any payment made by the design-build entity to the subcontractor.

(5) In accordance with the provisions of applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments. Substitutions shall be made in accordance with Section 22300 of the Public Contract Code.

(d)(1) For contracts for public works projects awarded prior to January 1, 2012, the community college district shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the community college district or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

(2) For contracts for public works projects awarded on or after January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code.

### **§ 81707. Report on the project at the completion of the project; contents**

Each community college district governing board that adopts the design-build process for a project pursuant to this chapter shall submit to the Legislative Analyst a report on the project at the completion of the project. Completion shall have the same meaning as defined in subdivision (c) of Section 7107 of the Public Contract Code. This report shall be submitted within 60 days after completion of the project. The Legislative Analyst shall submit an interim report to the Legislature by January 1, 2005, and a final report to the Legislature by January 1, 2007. The reports shall include, but not be limited to, all of the following information as to each project:

- (a) The type of facility.
- (b) The gross square footage of the facility.
- (c) The company or contractor who was awarded the project.
- (d) The estimated and actual length of time to complete the project.
- (e) The estimated and actual project cost.

## California Prevailing Wage Laws

(f) A description of the relative merits of a project procured pursuant to this chapter and similar projects procured pursuant to other provisions of this code.

(g) A description of any written protest concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protest.

(h) Other pertinent information that may be instructive in evaluating whether the design-build method of procurement should be continued, expanded, or prohibited.

(i) The findings established pursuant to Section 81702 and a postcompletion evaluation as to whether the findings were achieved.

(j) Any Labor Code violations discovered during the course of construction or following completion of the project, as well as any fines or penalties assessed.

# California Prevailing Wage Laws

## FISH & GAME CODE

Division 2. Department of Fish and Game  
Chapter 4 Wildlife Conservation Law of 1947  
Article 3. Powers and Purposes

### **§ 1350. Construction of facilities; acceptance of federal grants and receipt of gifts, donations, and other financial support; award of grants or loans by the board**

(a) The department shall, when authorized by the board, construct in accordance with law such facilities as are suitable for the purpose for which the real property or rights in real property or water, or water rights were acquired. Each completed project shall be managed and maintained by the department.

The department, with the approval of the board, may enter into agreements with any other department or agency of this state, any local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the board, and such other department or agency of this state, local agency, or nonprofit organization, and each of them may construct, manage, or maintain those facilities pursuant to the agreement. Work performed by a local agency or nonprofit organization under those agreements is exempt from Chapter 3 (commencing with Section 14250), of Part 5 of Division 3 of Title 2 of the Government Code. However, nothing in this section shall be construed to exempt any work from Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

(b) The department, when authorized by the board, may apply for and accept federal grants, and receive gifts, donations, and other financial support from public or private sources to be used for fish and wildlife habitat enhancement, including riparian habitat restoration projects on real property or waters for which the state obtains an interest. Funds received from any of those sources shall be deposited in the Wildlife Restoration Fund.

(c) The board may award grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for the purposes of fish and wildlife habitat restoration, enhancement, management, protection and improvement of riparian resources, and for development of compatible public access facilities in the same manner and subject to the same terms and conditions as prescribed in Section 31116 of the Public Resources Code. Proceeds from repayment of any loans and the interest thereon shall be deposited in the Wildlife Restoration Fund.

## California Prevailing Wage Laws

Division 2. Department of Fish and Game  
Chapter 5. Fish and Game Management  
Article 1. Generally

### **§ 1501.5. Contracts and state aid for fish and wildlife habitat preservation, restoration and enhancement**

(a) The department may enter into contracts for fish and wildlife habitat preservation, restoration, and enhancement with public and private entities whenever the department finds that the contracts will assist in meeting the department's duty to preserve, protect, and restore fish and wildlife.

(b) The department may grant funds for fish and wildlife habitat preservation, restoration, and enhancement to public agencies, Indian tribes, and nonprofit entities whenever the department finds that the grants will assist it in meeting its duty to preserve, protect, and restore fish and wildlife.

(c) Contracts authorized under this section are contracts for services and are governed by Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code. No work under this section is public work or a public improvement, and is not subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(d) This section does not apply to contracts for any of the following:

(1) Construction of office, storage, garage, or maintenance buildings.

(2) Drilling wells and installation of pumping equipment.

(3) Construction of permanent hatchery facilities, including raceways, water systems, and bird enclosures.

(4) Construction of permanent surfaced roadways and bridges.

(5) Any project requiring engineered design or certification by a registered engineer.

(6) Any contract, except contracts with public agencies, nonprofit organizations, or Indian tribes that exceed fifty thousand dollars (\$50,000) in cost, excluding the cost for gravel, for fish and wildlife habitat preservation, restoration, and enhancement for any one of the following:

(A) Fish screens, weirs, and ladders.

(B) Drainage or other watershed improvements.

## California Prevailing Wage Laws

- (C) Gravel and rock removal or placement.
- (D) Irrigation and water distribution systems.
- (E) Earthwork and grading.
- (F) Fencing.
- (G) Planting trees or other habitat vegetation.
- (H) Construction of temporary storage buildings.

# California Prevailing Wage Laws

## GOVERNMENT CODE

### Title 1. General Division 6. Public Bonds and Obligations Chapter 14. Infrastructure Financing

#### **§ 5956.1. Legislative intent; local flexibility and authority**

It is the intent of the Legislature that local governmental agencies have the authority and flexibility to utilize private investment capital to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, fee-producing infrastructure facilities. Without the ability to utilize private sector investment capital to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, fee-producing infrastructure facilities, the Legislature finds that some local governmental agencies will not be able to adequately, competently, or satisfactorily retrofit, reconstruct, repair, or replace existing infrastructure and will not be able to adequately, competently, or satisfactorily design and construct new infrastructure.

#### **§ 5956.8. Plans and specifications; standards; design and construction; facilities leased to private entities**

The plans and specifications for each project constructed pursuant to this chapter shall comply with all applicable governmental design standards for that particular infrastructure project. The private entity designing, constructing, operating, and maintaining infrastructure facilities pursuant to this chapter shall utilize private sector design and construction firms to design and construct the infrastructure facilities. However, a facility subject to this chapter and leased to a private entity shall, during the term of the lease, be deemed to be public property for purposes of identification, maintenance, enforcement of laws and for purposes of Division 3.6 (commencing with Section 810). All public works constructed pursuant to this chapter shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

#### **§ 5956.9. Private financing**

In order to use the authority conferred by this chapter to the maximum extent, a governmental agency may use private infrastructure financing pursuant to this chapter as the exclusive revenue source or as a supplemental revenue source with federal or local funds. The governmental agency involved may be a local governmental agency or a combination of local governmental agencies. The governmental agency may work cooperatively with the California Infrastructure and Economic Development Board with regard to the design, construction, operation, and

## California Prevailing Wage Laws

financing of privately financed facilities, but the projects will not be subject to the review or approval of that board.

Title 1. General  
Division 7. Miscellaneous  
Chapter 5. Joint Exercise of Powers  
Article 1. Joint Powers Agreements

**§ 6531. San Diego Model School Development Agency; legislative findings and declarations; joint powers agreement relating to development and construction of model school project in City Heights Project Area**

(a) The Legislature finds and declares all of the following:

(1) It is in the best interests of communities located within the City of San Diego for the local public agencies that have jurisdiction within the city to form a joint powers agency to provide for the orderly and coordinated acquisition, construction, and development of model school projects. These projects may include the acquisition of land by negotiation or eminent domain, the construction of schools, the construction of recreational facilities or park sites or both, and the construction of replacement and other housing, including market rate, moderate-income, and low-income housing.

(2) The coordinated construction of these projects by redevelopment agencies, school districts, housing authorities, housing commissions, and the city is of great public benefit and will save public money and time in supplying much needed replacement housing lost when schools are constructed within existing communities.

(3) Legislation is needed to allow redevelopment agencies, school districts, housing authorities, housing commissions, and the city to use their powers to the greatest extent possible to expedite, coordinate, and streamline the construction and eventual operation of such projects.

(b)(1) Notwithstanding any other provision of law, the Redevelopment Agency of the City of San Diego, the Housing Authority of the City of San Diego, the San Diego Housing Commission, the San Diego Unified School District, and the City of San Diego may enter into a joint powers agreement to create and operate a joint powers agency for the development and construction of a model school project located within the City Heights Project Area. The agency created pursuant to this section shall be known as the San Diego Model School Development Agency. The San Diego Model School Development Agency shall have all the powers of a redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, all of the powers of a housing authority pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, and all of the powers of the San Diego Unified School District, as well as all the powers of a joint powers



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agency granted pursuant to this chapter, to acquire property and to construct and improve and finance one or more schools, housing projects, parks, recreational facilities, and any other facilities reasonably necessary for their proper operation. Further, the San Diego Model School Development Agency shall have all of the powers of the City of San Diego pursuant to its charter and state law to acquire property and to finance and operate parks and recreational facilities and any other facilities reasonably necessary for their proper operation.

(2) Notwithstanding paragraph (1), neither the San Diego Model School Development Agency nor the Redevelopment Agency of the City of San Diego shall expend any property tax increment revenues to acquire property, and to construct, improve, and finance a school within the City Heights Project Area.

(3) Nothing in this section shall relieve the San Diego Model School Development Agency or the Redevelopment Agency of the City of San Diego from its obligations to increase, improve, and preserve the community's supply of low- and moderate-income housing, including, but not limited to, the obligation to provide relocation assistance, the obligation to provide replacement housing, the obligation to meet housing production quotas, and the obligation to set aside property tax increment funds for those purposes.

(4) The San Diego Model School Development Agency shall perform any construction activities in accordance with the applicable provisions of the Public Contract Code, the Education Code, and the Labor Code that apply, respectively, to the redevelopment agency, housing authority, housing commission, school district, or city creating the San Diego Model School Development Agency. Funding pursuant to Proposition MM, a local San Diego County bond measure enacted by the voters for the purpose of school construction, shall be used only for the design, development, construction, and financing of school-related facilities and improvements, including schools, as authorized and to the extent authorized under Proposition MM.

(c) Any member of the joint powers agency, including the school district, may, to the extent permitted by law, transfer and contribute funds to the agency, including bond funds, to be deposited into and to be held in a facility fund to be expended for purposes of the acquisition of property for, and the development and construction of, any school, housing project, or other facility described in this section.

(d) Nothing contained in this section shall preclude the joint powers agency from distributing funds, upon completion of construction, the school, housing project, park, recreational facility, or other facility to a member of the agency to operate the school, housing project, park, or other facility that the member is otherwise authorized to operate. These distribution provisions shall be set forth in the joint powers agreement, if applicable.

(e) The San Diego Model School Development Agency may construct a school in the City Heights Project Area pursuant to Chapter 2.5 (commencing with Section 17250.10) of Part 10.5 of the Education Code.

## California Prevailing Wage Laws

(f)(1) For contracts for public works projects awarded prior to January 1, 2012, the San Diego Model School Development Agency shall establish and enforce, with respect to construction contracts awarded by the joint powers agency, a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing those requirements. This requirement shall not apply to projects where the agency has entered into a collective bargaining agreement that binds all of the contractors and subcontractors performing work on the project, but nothing shall prevent the joint powers agency from operating a labor compliance program with respect to those projects.

(2) For contracts for public works projects awarded on or after January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code.

(g) Construction workers employed as apprentices by contractors and subcontractors on contracts awarded by the San Diego Model School Development Agency shall be enrolled in a registered apprenticeship program, approved by the California Apprenticeship Council, that has graduated apprentices in the same craft in each of the preceding five years. This graduation requirement shall be applicable for any craft that was first deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft prior to January 1, 1998. A contractor or subcontractor need not submit contract award information to an apprenticeship program that does not meet the graduation requirements of this subdivision. If no apprenticeship program meets the graduation requirements of this subdivision for a particular craft, the graduation requirements shall not apply for that craft.

Title 2. Government of the State of California  
Division 3. Executive Department  
Part 1. State Departments and Agencies  
Chapter 3.5. Administrative Regulations and Rulemaking  
Article 1. General

### **§ 11340.9. Application of chapter**

This chapter does not apply to any of the following:

- (a) An agency in the judicial or legislative branch of the state government.
- (b) A legal ruling of counsel issued by the Franchise Tax Board or State Board of Equalization.
- (c) A form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation on any requirement that a regulation be adopted pursuant to this chapter when one is needed to implement the law under which the form is issued.

## California Prevailing Wage Laws

- (d) A regulation that relates only to the internal management of the state agency.
- (e) A regulation that establishes criteria or guidelines to be used by the staff of an agency in performing an audit, investigation, examination, or inspection, settling a commercial dispute, negotiating a commercial arrangement, or in the defense, prosecution, or settlement of a case, if disclosure of the criteria or guidelines would do any of the following:
  - (1) Enable a law violator to avoid detection.
  - (2) Facilitate disregard of requirements imposed by law.
  - (3) Give clearly improper advantage to a person who is in an adverse position to the state.
- (f) A regulation that embodies the only legally tenable interpretation of a provision of law.
- (g) A regulation that establishes or fixes rates, prices, or tariffs.
- (h) A regulation that relates to the use of public works, including streets and highways, when the effect of the regulation is indicated to the public by means of signs or signals or when the regulation determines uniform standards and specifications for official traffic control devices pursuant to Section 21400 of the Vehicle Code.
- (i) A regulation that is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

Title 2. Government of the State of California  
Division 3. Executive Department  
Part 5. Department of Transportation  
Chapter 4. California Transportation Research and Innovation Program

### **§ 14453. Role of department; site evaluation and selection guidelines**

The department's role in this program shall be limited to research and development. The department shall consider the following guidelines in evaluating and selecting a site for a research and development center:

- (a) Sources of funding for the center, with the stipulation that the state's funding share does not exceed one-third of the total costs of the center, with the remaining funds provided from local, federal, and private sources. The department shall seek to maximize private participation in the funding of a center, and state funds shall be expended only for facilities to be used by the state to be located on real property owned by the state, including acquisition of real property to be owned by the state in fee simple or pursuant to a lease-purchase contract.

## California Prevailing Wage Laws

(b) Accessibility to the center by rail or bus service operating at frequency headways of not less than one-half hour during peak commute hours.

(c) Other criteria to be used in the evaluation of a site for the center, which shall include, but not be limited to, the following:

(1) The ability of the project to enhance environmental quality, including the dedication of open space for preservation of open space, wetlands, and other wildlife habitat.

(2) The ability of the project to rely on existing infrastructure, including water and sewer hookups to existing systems and access by existing roads and transit systems, or alternatively, an assurance by the local jurisdiction or jurisdictions that an infrastructure development plan has been adopted which provides for the timely construction of necessary infrastructure and which is fully funded.

(3) The extent to which the project will result in the least cost to public agencies, direct and indirect, including costs incurred by state and local agencies other than the department.

(4) The extent to which the project provides a return on investment of public funds to public agencies.

(d) Contracting for consultant services to assist it in selecting a site for a center.

(e) Receiving and evaluating proposals for the center, to be ranked in priority order consistent with this section.

(f) Not committing any state funds to the project other than for the development of a request for proposals and the evaluation of proposals received in response to the request, unless funds are specifically appropriated as a separate item in the annual Budget Act for the financing, planning, design, and construction of the center.

(g) Construction of the center shall be subject to prevailing wage laws and minority enterprise and women business enterprise participation laws applicable to the department's highway construction projects.

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Title 2. Government of the State of California  
Division 3. Executive Department  
Part 5.5. Department of General Services  
Chapter 8. Traffic

**§ 14920. Specialized knowledge; purposes; commercial moving services under competitive bid contracts; definitions**

(a) The Department of General Services provides for the specialized consideration of all traffic problems of the state; develops specialized knowledge of rates, tariffs, and traffic problems to the end that all state shipments be accomplished in the most expeditious, economical, and efficient manner possible via carrier or carriers whose drivers and supporting personnel are operating under current collective-bargaining agreements or who are maintaining the prevailing wages, standards and conditions of employment for its driver and supporting personnel employees; insures adequate state representation before administrative rate-setting bodies; disseminates traffic information throughout all state agencies.

(b) In establishing procedures for obtaining commercial moving services under competitive bid contracts the department shall act in accordance with the following: Every contract (and any bid specification therefor) hereby authorized and entered into by the state in excess of two thousand five hundred dollars (\$2,500), the principal purpose of which is to furnish commercial moving services to relocate state offices, facilities and institutions, shall specify that no contractor performing thereunder shall pay any employee actually engaged in the moving or handling of goods being relocated under such contract less than the prevailing wage rate, except consideration may be given to bids not conforming with these employee cost provisions in areas where no such employee wage standards and conditions are reasonably available. The term "prevailing wage rate," as used in this subdivision, means the rate paid to a majority of workmen engaged in the particular craft, classification or type of work within the locality if a majority of such workmen be paid at a single rate; if there be no single rate being paid to a majority, then the rate being paid the greater number. The determination required by this subdivision of wage rates prevailing in a given area shall be made by the Department of Industrial Relations.

(c) The term "supporting personnel" for the purposes of this chapter shall include all employees of a carrier who directly participate in the actual moving and handling of goods. The amendments to this section during the 1975-76 Regular Session, shall not apply to any contract, including those that may be renewed periodically, which affects the wage rates of supporting personnel until the end of the renewal period or the end of the contract, whichever first occurs.

## California Prevailing Wage Laws

### **§ 14921. Personnel; duties**

The director, subject to the State Civil Service Act, shall appoint such personnel as is necessary to perform the following duties:

- (a) Watch the movements of all state freight.
- (b) Audit all freight and other transportation bills involving state shipments in order to determine the most advantageous and economical shipping rates which can be secured via carrier or carriers whose drivers and supporting personnel are operating under current collective-bargaining agreements or who are maintaining the prevailing wages, standards and conditions of employment for its driver and supporting personnel employees and to determine what refunds may be due the state on completed shipments.
- (c) Furnish upon request from any state source the proper routing and tariff description of a given shipment in order to assure the state of the lowest applicable freight charge commensurate with the provisions of Section 14920.
- (d) Establish and maintain such files as may be necessary to expedite shipments, secure special movements, trace and recover strayed and delayed shipments, and divert and reconsign shipments.
- (e) Perform such other duties as may be necessary to the efficient discharge of the rate control function.

The amendments to this section during the 1975-76 Regular Session, shall not apply to any contract, including those that may be renewed periodically, which affects the wage rates of supporting personnel until the end of the renewal period or the end of the contract, whichever first occurs.

Title 2. Government of the State of California  
Division 3. Executive Department  
Part 5.5. Department of General Services  
Chapter 10. State Architect

### **§ 14955. Contracts not susceptible to bids on plans and specifications; rental of equipment; bids; emergency work**

Where work to be performed, excluding regular maintenance work, which would otherwise be subject to the State Contract Act (Chapter 1 (commencing with Section 10100) of Division 2 of the Public Contract Code), does not lend itself to the preparation of plans and specifications to enable bids to be taken on a lump-sum or unit basis, and the director so finds, the department may perform the work by the use of rented tools or equipment, either with operators furnished or

## California Prevailing Wage Laws

unoperated. Contracts for the work may include provision for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. The contracts shall not be subject to the State Contract Act, but shall be subject to all of the provisions of Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

Whenever the total consideration of such a contract exceeds two thousand five hundred dollars (\$2,500), it shall be awarded to the lowest responsible bidder, after competitive bidding on such reasonable notice as the department may prescribe, except in cases of emergency rental of tools or equipment as hereinafter provided. Posting of notice for five days in a public place in the Sacramento and Los Angeles offices of the Office of Architecture and Construction of the department is sufficient. Those contracts involving a consideration in excess of two thousand five hundred dollars (\$2,500) shall be accompanied by labor and material bonds. The department may require faithful performance bonds when considered necessary. The notice for each contract shall state whether or not a bond shall be required. Where a faithful performance bond is required, labor and material bonds shall be required.

In cases of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, accident, or other casualty, tools or equipment may be rented for a period of not to exceed 10 days without competitive bidding.

Title 2. Government of the State of California  
Division 3. Executive Department  
Part 5.5. Department of General Services  
Chapter 11. Emergencies

### **§ 14974. Accomplishment of work by day labor, contract; exemption from compliance with State Contract Act**

Any work to be done as provided for in this chapter may be accomplished by day labor, negotiated contract, contract made upon informal bids or a combination thereof without the necessity of complying with the State Contract Act or any part thereof.

### **§ 14975. Payment bond**

Notwithstanding the provisions of Section 9550 of the Civil Code, the contractor under any contract made under this chapter need not provide a payment bond before the commencement of the work but must provide a payment bond as otherwise required by law prior to payment under the contract.

## California Prevailing Wage Laws

### **§ 14976. Prevailing wage rates**

Notwithstanding any provisions to the contrary contained in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code, the director need not determine the prevailing wage rates before the work under any such contract is commenced. However, such contract shall contain a provision that the contractor shall pay prevailing wages for the crafts or trades so utilized which wage rates shall be ascertained as of the date of such contract by the director as soon thereafter as is reasonably possible.

Title 2. Government of the State of California  
Division 3. Executive Department  
Part 10b. State Building Construction  
Chapter 3.14. Financing of San Quentin State Prison Central Health Services Facilities

### **§ 15820.105. Compliance with building codes; project deemed governed by mechanics lien law; application of Labor Code provisions; use of private sector methods**

- (a) Plans and specifications for the project shall comply with applicable building codes.
- (b) The project is hereby deemed to be governed by Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.
- (c) The provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code shall apply to all public works contracts entered into for the project.
- (d) Other than as provided in this section and Sections 15820.101 to 15820.104, inclusive, private sector methods may be used to deliver the project. Specifically, the procurement and contracting for the delivery of the project is not subject to the State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code) or any other provision of California law governing public procurement or public works projects.



## California Prevailing Wage Laws

Title 3. Government of Counties  
Division 2. Officers  
Part 2. Board of Supervisors  
Chapter 5. County Property  
Article 7. Purchasing Agents

### **§ 25502.6. Splitting work prohibited in counties of 900,000 or more**

It is unlawful for the purchasing agent in any county having a population of 900,000 or more to split or separate into smaller work orders or projects any public work project for the purpose of evading the provisions of this chapter or of any other law requiring public work to be done by contract after competitive bidding. Every purchasing agent who violates the provisions of this section is guilty of a misdemeanor.

Title 3. Government of Counties  
Division 2. Officers  
Part 2. Board of Supervisors  
Chapter 13. Miscellaneous Powers

### **§ 26227. Establishment of programs for social needs; property availability; financing**

The board of supervisors of any county may appropriate and expend money from the general fund of the county to establish county programs or to fund other programs deemed by the board of supervisors to be necessary to meet the social needs of the population of the county, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education, and legal services, and the needs of physically, mentally and financially handicapped persons and aged persons.

The board of supervisors may contract with other public agencies or private agencies or individuals to operate those programs which the board of supervisors determines will serve public purposes. In the furtherance of those programs, the board of supervisors may make available to a public agency, nonprofit corporation, or nonprofit association any real property of the county which is not and, during the time of possession, will not be needed for county purposes, to be used to carry out the programs, upon terms and conditions determined by the board of supervisors to be in the best interests of the county and the general public, and the board of supervisors may finance or assist in the financing of the acquisition or improvement of real property and furnishings to be owned or operated by any public agency, nonprofit corporation, or nonprofit association to carry out the programs, through a lease, installment sale, or other transaction, in either case without complying with any other provisions of this code relating to acquiring, improving, leasing, or granting the use of or otherwise disposing of county property.

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A program may consist of a community support program including a charitable fund drive conducted in cooperation with one or more nonprofit charitable organizations if the board of supervisors deems a program will assist in meeting the social needs of the population of the county. If the board establishes a program, the officers and employees of the county shall have the authority to carry out the program, using county funds and property if authorized by the board. During working hours, a program may include direct solicitation by county officers and employees and the assignment of officers and employees to attend or assist in the administration of program activities if authorized by the board.

Title 5. Local Agencies  
Division 2. Cities, Counties, and Other Agencies  
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies  
Chapter 4. Financial Affairs  
Article 3. Federal Aid

### **§ 53702. Compliance with federal laws and regulations**

A county, city, district, political subdivision, or a public or municipal corporation, may comply with all applicable requirements of federal laws and regulations and orders issued pursuant to the law relating to the awarding of contracts for public work, the hours of labor, employment preferences, and other matters covered by the law, regulation, or order, if such compliance is a prerequisite to the loan or grant of federal funds.

Title 5. Local Agencies  
Division 2. Cities, Counties, and Other Agencies  
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies  
Chapter 5. Property  
Article 10. The Local Government Privatization Act of 1985

### **§ 54253. Agreements with privatizers; prerequisites**

No proposed franchise, license, or service agreement for a privatization project pursuant to this article shall be entered into between a local agency and a privatizer unless and until all of the following occur:

(a) The local agency has selected the privatizer through a competitive procedure which is not based solely on the price offered by the privatizer.

## California Prevailing Wage Laws

(b) The local agency has evaluated the project's design, capacity, financial feasibility, and cost compared with other conventional financing methods, as well as other alternatives to the project and found that the project's costs will be equal to, or lower than, conventional financing.

(c) The local agency has conducted a noticed public hearing on the proposed franchise, license, or service agreement. The notice for the public hearing shall be published pursuant to Section 6062 and shall contain, at a minimum, all of the following:

(1) A statement describing the proposed privatization project, including its cost and service area.

(2) A statement of the time and place of the public hearing to be held for the purpose of hearing public comments on the proposed franchise, license, or service agreement for the privatization project.

(3) A statement of where and when the proposed franchise, license, or service agreement will be available for public inspection prior to the hearing.

(d) The local agency has adopted the contingent franchise, license, or service agreement for a privatization project by ordinance which states that it is subject to the provisions for referendum applicable to a local agency and to approval by the commission pursuant to Section 10013 of the Public Utilities Code.

(e) The local agency retains ownership over any treated effluent from the privatization project that is not consigned to an outfall sewer but is made available for commercial or agricultural use.

(f) The agreement contains provisions stating it shall be subject to the state's prevailing wage laws.

(g) The local agency has met and conferred with all affected employee organizations under whose jurisdiction the work or service proposed under the franchise, license, or service agreement would normally be performed. The local agency shall make all reasonable efforts to avoid reducing its existing work force or demoting its existing employees as a result of entering into the franchise, license, or service agreement. If any adverse impacts which are raised by either party during the meet and confer process are necessary, the local agency shall adopt by resolution detailed findings explaining the necessity for the adverse impacts.

(h) The local agency finds that the privatizer has the expertise to ensure the continued operation and maintenance of the privatization project. This expertise shall include, but not be limited to, an adequate number of personnel certified in wastewater treatment plant operations pursuant to Chapter 9 (commencing with Section 13625) of Division 7 of the Water Code.

(i) The agreement contains provisions to ensure that the privatization project is operated to meet any applicable federal or state water quality standards or other laws.

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Title 6.7. Infrastructure Finance  
Division 1. The Bergeson-Peace Infrastructure and Economic Development Bank Act  
Chapter 2. California Infrastructure and Economic Development Bank  
Article 1. Creation of the Bank

### **§ 63021. Infrastructure and Economic Development Bank**

- (a) There is within the Business, Transportation and Housing Agency the Infrastructure and Economic Development Bank which shall be responsible for administering this division.
- (b) The bank shall be under the direction of an executive director appointed by the Governor, and who shall serve at the pleasure of the Governor. The appointment shall be subject to confirmation by the Senate.

Title 6.7. Infrastructure Finance  
Division 1. The Bergeson-Peace Infrastructure and Economic Development Bank Act  
Chapter 2. California Infrastructure and Economic Development Bank  
Article 2. General Provisions

### **§ 63036. Coordination with growth management strategies**

It is the intent of the Legislature that the activities of the bank be fully coordinated with any future legislative plan involving growth management strategies designed to protect California's land resource, and ensure its preservation and use it in ways which are economically and socially desirable. Further, all public works financed pursuant to this division, including those projects financed through the use of industrial development bonds under Title 10 (commencing with Section 91500), shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

Title 7. Planning and Land Use  
Division 1. Planning and Zoning  
Chapter 3. Local Planning  
Article 9. Transit Priority Project Program

### **§ 65470. Transit Priority Project Program; legislative intent; participation; requirements; local design guidelines; reimbursement for costs; application of article**

- (a) (1) It is the intent of the Legislature to provide a process for cities and counties to create development patterns in the form of transit priority projects that comply with Chapter 4.2

## California Prevailing Wage Laws

(commencing with Section 21155) of Division 13 of the Public Resources Code, create jobs, reduce vehicle miles traveled, expand the availability of accessible open-space, build the density needed for transit viability, and meet regional housing targets.

(2) It is the intent of the Legislature that, when implemented, a Transit Priority Project Program will help a development project in meeting the standards for expedited review under paragraph (2) of subdivision (a) of Section 65950.

(b) (1) A city or county may participate in the Transit Priority Project Program by adopting an ordinance indicating its intent to participate in the program and by forming an infrastructure financing district pursuant to Article 1 (commencing with Section 53395) of Chapter 2.8 of Part 1 of Title 5.

(2) Nothing in this article shall be construed to add to the definitions of or to the requirements to implement Chapter 4.2 (commencing with Section 21155) of Division 13 of the Public Resources Code.

(c) If a city or county elects to participate in the program by adopting the ordinance described in subdivision (b) and forms an infrastructure financing district, the city or county shall amend, if necessary, the general plan and any related specific plan to authorize participating developers to build at an increased height of a minimum of three stories within the boundaries of the infrastructure financing district created pursuant to subdivision (b).

(d) A Transit Priority Project Program development project shall meet all of the following requirements:

(1) Is located in a designated transit priority project and within one-half of one mile of a transit station, pursuant to Section 21155 of the Public Resources Code.

(2) Is located within a zone in which buildings of three stories or more are authorized.

(3) Meets State Air Resources Board land use guidelines with respect to distance from major emitters.

(4) Provides onsite bicycle parking.

(5) Provides for car sharing if a car sharing program is available in the city or county. The car sharing area may be onsite, or the developer may pay a fee to the city or county to cover the cost of providing for car sharing at an offsite location near the project. The developer shall provide one car share for the first 20 units and one car share for every 50 units thereafter.

(6) Provides unbundled parking.

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(7) Provides to all units transit passes for 10 years as part of the rent or condo fees if transit passes are available from local providers.

(8) Provides to tenants recycling for bottles, cans, paper, and plastic containers.

(9) Provides open space onsite, including, but not limited to, accessible roof gardens, or pays a fee into a fund established for local open space. The fee shall not exceed 10 cents (\$0.10) per square foot.

(10) Provides 20 percent affordable units in rental or owner occupied housing for low- or moderate-income persons and families, or pays a fee in an amount equivalent to the cost to provide affordable units elsewhere within the city's or county's jurisdiction, as determined by the city or county. The developer shall require, by covenants or restrictions, that the housing units built pursuant to this paragraph shall remain available at affordable housing cost to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(11) Pays prevailing wages to construction workers for residential projects over 100 units pursuant to Sections 1770, 1773, and 1773.1 of the Labor Code.

(12) For purposes of this subdivision, "unbundled parking" means renting a parking space for the residential units separately from the residential units, or pays a fee to the appropriate local transit management fund to cover one-half of the cost to provide a parking space.

(e) (1) A development project that meets the criteria established in subdivision (d) shall comply with any local design guidelines that were adopted prior to the submission of the project application.

(2) The infrastructure financing district formed pursuant to subdivision (b) may reimburse a developer of a project that is consistent with the requirements established in subdivision (d) for any permit costs, or costs associated with the construction of the affordable housing units required pursuant to paragraph (10) of subdivision (d).

(f) This article shall not apply to a city or county that has adopted language in its charter or by ordinance or resolution that does either of the following:

(1) Provides that the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code do not apply to some or all work awarded or funded by the city or county that would otherwise be subject to those requirements.

(2) Prohibits a contractor, subcontractor, or other person or firm engaged in the construction, rehabilitation, alteration, conversion, extension, maintenance, repair, or improvement of public works, from executing or otherwise becoming a party to any prehire, collective bargaining, or similar agreement entered into with one or more labor organizations, employees, or employee

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representatives that establishes the terms and conditions of employment on a construction project, or the city or county from incorporating such an agreement into the bid specifications or contract for a construction project, or the governing body of the city or county from deciding that the city or county should enter into such an agreement for a particular construction project or projects.

Title 8. The Organization and Government of Courts  
Chapter 5.7. Superior Court Facilities  
Article 7. Authority and Responsibility

### **§ 70391.7. Contracting and procurement of court facilities; design-build entities**

(a) For purposes of this section, the definitions in subdivision (a) of Section 13332.19 shall apply. For purposes of subdivision (a) of Section 13332.19, references to the Department of General Services shall be deemed to be references to the Judicial Council.

(b) Notwithstanding any provision of the Public Contract Code or any other law, when the Legislature appropriates funds for a specific project, the Judicial Council may contract and procure court facilities pursuant to this section.

(c) Prior to contracting with a design-build entity for the procurement of a court facility under this section, the Judicial Council shall:

(1) Prepare a program setting forth the performance criteria for the design-build project. The performance criteria shall be prepared by a design professional duly licensed and registered in the State of California.

(2) (A) Establish a competitive prequalification and selection process for design-build entities, including any subcontractors listed at the time of bid, that clearly specifies the prequalification criteria, and states the manner in which the winning design-build entity will be selected.

(B) Prequalification shall be limited to consideration of all of the following criteria:

(i) Possession of all required licenses, registration, and credentials in good standing that are required to design and construct the project.

(ii) Submission of evidence that establishes that the design-build entity members have completed, or demonstrated the capability to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

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(iii) Submission of a proposed project management plan that establishes that the design-build entity has the experience, competence, and capacity needed to effectively complete the project.

(iv) Submission of evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the Judicial Council that the design-build entity has the capacity to complete the project.

(v) Provision of a declaration certifying that applying members of the design-build entity have not had a surety company finish work on any project within the last five years.

(vi) Provision of information and a declaration providing detail concerning all of the following:

(I) Any construction or design claim or litigation totaling more than five hundred thousand dollars (\$500,000) or 5 percent of the annual value of work performed, whichever is less, settled against any member of the design-build entity over the last five years.

(II) Serious violations of the California Occupational Safety and Health Act of 1973, as provided in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, settled against any member of the design-build entity.

(III) Violations of federal or state law, including, but not limited to, those laws governing the payment of wages, benefits, or personal income tax withholding, or of Federal Insurance Contributions Act (FICA) withholding requirements, state disability insurance withholding, or unemployment insurance payment requirements, settled against any member of the design-build entity over the last five years. For purposes of this subclause, only violations by a design-build member as an employer shall be deemed applicable, unless it is shown that the design-build entity member, in his or her capacity as an employer, had knowledge of his or her subcontractor's violations or failed to comply with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code.

(IV) Information required by Section 10162 of the Public Contract Code.

(V) Violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations or complaints.

(VI) Any conviction of any member of the design-build entity of submitting a false or fraudulent claim to a public agency over the last five years.

(vii) Provision of a declaration that the design-build entity will comply with all other provisions of law applicable to the project, including, but not limited to, the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.



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(C) The Judicial Council, when requested by the design-build entity, shall hold in confidence any information required by clauses (i) to (vi), inclusive, of subparagraph (B).

(D) Any declaration required under subparagraph (B) shall state that reasonable diligence has been used in its preparation and that it is true and complete to the best of the signer's knowledge. A person who certifies as true any material matter that he or she knows to be false is guilty of a misdemeanor and shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both the fine and imprisonment.

(3) (A) Determine, as the Judicial Council deems in the best interests of the state, which of the following methods listed in subparagraph (B) will be used as the process for the winning design-build entity. The Judicial Council shall provide a notification to the State Public Works Board, regarding the method selected for determining the winning design-build entity, at least 30 days prior to publicizing the design-build solicitation package.

(B) The Judicial Council shall make its determination by choosing one of the following methods:

(i) A design-build competition based upon performance, price, and other criteria set forth by the Judicial Council in the design-build solicitation package. The Judicial Council shall establish technical criteria and methodology, including price, to evaluate proposals and shall describe the criteria and methodology in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value in meeting the interests of the Judicial Council and meeting the objectives of the project. A project with an approved budget of ten million dollars (\$10,000,000) or more may be awarded pursuant to this clause.

(ii) A design-build competition based upon performance and other criteria set forth by the Judicial Council in the design-build solicitation package. Criteria used in this evaluation of proposals may include, but need not be limited to, items such as proposed design approach, life-cycle costs, project features, and functions. However, any criteria and methods used to evaluate proposals shall be limited to those contained in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value, for the lowest price, meeting the interests of the Judicial Council and meeting the objectives of the project. A project with an approved budget of ten million dollars (\$10,000,000) or more may be awarded pursuant to this clause.

(iii) A design-build competition based upon program requirements and a detailed scope of work, including any performance criteria and concept drawings set forth by the Judicial Council in the design-build solicitation package. Award shall be made on the basis of the lowest responsible bid. A project with an approved budget of two hundred fifty thousand dollars (\$250,000) or more may be awarded pursuant to this clause.

(4) For purposes of this subdivision, the following definitions shall apply:

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(A) “Best interest of the state” means a design-build process that is projected by the Judicial Council to reduce the project delivery schedule and total cost of a project while maintaining a high level of quality workmanship and materials, when compared to the traditional design-bid-build process.

(B) “Best value” means a value determined by objective criteria that may include, but are not limited to, price, features, functions, life-cycle costs, experience, and other criteria deemed appropriate by the Judicial Council.

(d) The Legislature recognizes that the design-build entity is charged with performing both design and construction. Because a design-build contract may be awarded prior to the completion of the design, it is often impracticable for the design-build entity to list all subcontractors at the time of the award. As a result, the subcontractor listing requirements contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code can create a conflict with the implementation of the design-build process by requiring all subcontractors to be listed at a time when a sufficient set of plans may not be available. It is the intent of the Legislature to establish a clear process for the selection and award of subcontracts entered into pursuant to this section in a manner that retains protection for subcontractors while enabling design-build projects to be administered in an efficient fashion. Therefore, all of the following requirements shall apply to subcontractors, licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, that are employed on design-build projects undertaken pursuant to this section:

(1) The Judicial Council, in each design-build solicitation package, may identify types of subcontractors, by subcontractor license classification, that will be listed by the design-build entity at the time of the bid. In selecting the subcontractors that will be listed by the design-build entity, the Judicial Council shall limit the identification to only those license classifications deemed essential for proper completion of the project. In no event, however, may the Judicial Council specify more than five licensed subcontractor classifications. In addition, at its discretion, the design-build entity may list an additional two subcontractors, identified by subcontractor license classification, that will perform design or construction work, or both, on the project. In no event shall the design-build entity list at the time of bid a total number of subcontractors that will perform design or construction work, or both, in a total of more than seven subcontractor license classifications on a project. All subcontractors that are listed at the time of bid shall be afforded all of the protection contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code. All subcontracts that were not listed by the design-build entity at the time of bid shall be awarded in accordance with paragraph (2).

(2) All subcontracts that were not to be performed by the design-build entity in accordance with paragraph (1) shall be competitively bid and awarded by the design-build entity, in accordance with the design-build process set forth by the Judicial Council in the design-build solicitation package. The design-build entity shall do all of the following:

## California Prevailing Wage Laws

(A) Provide public notice of the availability of work to be subcontracted in accordance with Section 10140 of the Public Contract Code.

(B) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with Section 10141 of the Public Contract Code.

(C) As authorized by the Judicial Council, establish reasonable prequalification criteria and standards, limited in scope to those detailed in paragraph (2) of subdivision (c).

(D) Provide that the subcontracted work shall be awarded to the lowest responsible bidder.

(e) This section shall not be construed and is not intended to extend or limit the authority specified in Section 19130.

(f) Any design-build entity that is selected to design and construct a project pursuant to this section shall possess or obtain sufficient bonding consistent with applicable provisions of the Public Contract Code. Nothing in this section shall prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(g) Any payment or performance bond written for the purposes of this section shall use a bond form developed by the Judicial Council. In developing the bond form, the Judicial Council shall consult with the surety industry to achieve a bond form that is consistent with surety industry standards, while protecting the interests of the state.

(h) The Judicial Council shall submit to the Joint Legislative Budget Committee, before January 1, 2014, a report containing a description of each public works project procured through the design-build process described in this section that is completed after January 1, 2009, and before December 1, 2013. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.

(2) The gross square footage of the project.

(3) The design-build entity that was awarded the project.

(4) The estimated and actual project costs.

(5) An assessment of the prequalification process and criteria.

(6) An assessment of the effect of any retention on the project made under the law.

## California Prevailing Wage Laws

(7) A description of the method used to award the contract. If the best value method was used, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(i) The authority under this section and Section 14661.1 shall apply to a total of not more than five state office facilities, prison facilities, or court facilities, which shall be determined pursuant to this subdivision.

(1) In order to enter into a contract utilizing the procurement method authorized under this section, the Judicial Council shall submit a request to the Department of Finance.

(2) The Department of Finance shall make a determination whether to approve or deny a request made pursuant to paragraph (1) if the design-build project requested will not exceed the five facilities maximum set forth in this section and Section 14661.1.

(3) After receiving notification that the Department of Finance has approved the request and that the Legislature has appropriated funds for a specific project, the Judicial Council may enter into a design-build contract under this section.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available under the law.

Title 10. California Industrial Development Financing Act  
Chapter 1. California Industrial Development Financing  
Article 2. Industrial Development Authorities

### **§ 91533. Project agreements**

Authorities shall undertake projects by entry into project agreements in substance not inconsistent with the following:

(a) The company shall comply with (or cause to be complied with) all legal requirements relating to the project and the operation, repair, and maintenance of the facilities, including (1) obtaining any rezonings or variances, building, development, and other permits and approvals, and licenses and other entitlements for use, without regard to any exemption for public projects and (2) securing the issuance of any certificates of need, convenience, and necessity or other certificates or franchises; and shall provide satisfactory evidence of compliance.

(b) The company shall comply with all conditions imposed by the public agency in its approval of the project pursuant to subdivision (f) of Section 91530.

## California Prevailing Wage Laws

(c) The company shall provide, or cause to be provided by others, all amounts required for the project and all property relating to the project that are not to be provided as or by expenditure of bond proceeds, and in the case of any amounts and property that the company proposes to cause to be provided by others, as by contract, grant, subsidy, loan, or other form of assistance, shall provide satisfactory evidence that those amounts and property will be provided when required.

(d) Expenditure of bond proceeds shall be supervised to assure proper application to the project.

(e) The company shall at its own expense insure, repair, and maintain the facilities, pay taxes with respect to its interests in the property relating to the project as Part 1 (commencing with Section 101) of Division 1 of the Revenue and Taxation Code requires, and pay assessments and other public charges secured by liens, upon those interests as constitute the tax base for property taxation on the same basis as other property, or shall cause the same to be provided by others to the satisfaction of the authority.

(f) The amounts payable pursuant to the project agreements to or for the benefit of an authority shall in the aggregate not be less than amounts sufficient (1) to pay any bonds that shall be issued by the authority to pay the cost of the project, (2) to maintain any required reserves, (3) to make payments as may be required into any sinking fund or other similar fund, and (4) to pay those administration expenses that relate to the administration of the project agreements, the indenture, and the bonds.

(g) The term shall extend at least until the date on which all those bonds and all other obligations incurred by an authority in connection with a project shall have been paid in full or adequate funds for that payment shall have been otherwise provided.

(h) The additional provisions as in the determination of the board are necessary or appropriate to effectuate the purposes of this article, including provisions for the following:

(1) For payments pursuant to the project agreements that include amounts for administration expenses in addition to the amounts that the agreement is required to obligate the company or others to pay.

(2) For payment before a facility exists or becomes functional, or after a facility has ceased to exist or be functional to any extent and from any cause.

(3) For payment whether or not the company is in possession or is entitled to be in possession of the facilities or for payment in the event of sale or other transfer of ownership of or the encumbering of the facilities.

(4) Relating to the carrying out and completion of the project, including the allocation of responsibility between the authority and the company regarding the payment of administrative expenses and costs of issuance, the acquisition of property, the making of other purchases, the contracting for construction of the facilities, with or without competitive bidding, and the

## California Prevailing Wage Laws

payment therefor and the designation of particular deposits or investments otherwise authorized for the deposit, investment, and reinvestment of revenues.

(5) That some or all of the obligations of a company shall be unconditional and shall be binding and enforceable in all circumstances whatsoever notwithstanding any other law.

(6) Relating to the use, maintenance, repair, insurance, and replacement of property relating to the project, such as the authority and the company deem necessary for the protection of themselves or others, including, but not limited to, liability insurance, and indemnification in the event of default.

(7) Defining events of default and providing remedies therefor, which may include an acceleration of future payments thereunder.

(i) The company shall provide for the payment of relocation assistance as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, and shall reimburse the authority or the public agency, as the case may be, for relocation assistance services, and notwithstanding any other provision of this title, the authority shall determine that those services are provided and that relocation assistance payments are made.

(j) Notwithstanding any other provision of this title, projects undertaken and carried out pursuant to this title shall be consistent with the requirements of the general plan as contained in Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 at the time of entry into the project agreement, or in the event inconsistent at that time, then at the time of delivery of any bonds.

(k) The company may, pursuant to project agreements, provide or cause to be provided other security, such as, but not limited to, an agreement of guaranty, either of itself or another person, or other consideration directly to the bondholders, their agent or the trustee under an indenture, and neither the company nor any such other person shall be precluded by the project agreements from having other contractual relationships with those bondholders or that agent or trustee.

(l) Authorities shall require, whether or not authorities, companies, or others are the contract-awarding bodies, that on any construction, improvement, reconstruction, or rehabilitation financed in whole or in part by means of bonds issued pursuant to this title, the resolution of intention for which is adopted on or after January 1, 1983, all workers employed in that work, exclusive of maintenance work, shall be paid not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work. Those rates shall be determined by the Director of Industrial Relations in accordance with the standards set forth in Section 1773 of the Labor Code. The director's determination shall be final, and Sections 1773.1, 1773.5, 1774, and 1776 (excepting subdivision (f) of Section 1776) of the Labor Code shall apply.

# California Prevailing Wage Laws

## HEALTH & SAFETY CODE

Division 23. Hospital Districts  
Chapter 2. Board of Directors  
Article 2. Powers

### **§ 32132.5. Construction of hospital or health facility building at Sonoma Valley Hospital; design-build procedure that may be used to assign contracts; review standards**

(a) Notwithstanding Section 32132 or any other law, upon approval by the board of directors of the Sonoma Valley Health Care District or the Marin Healthcare District, as applicable, the design-build procedure described in Chapter 4 (commencing with Section 22160) of Part 3 of Division 2 of the Public Contract Code may be used to assign contracts for the construction of a building or improvements directly related to construction of a hospital or health facility building at the Sonoma Valley Hospital or the Marin General Hospital.

(b) For purposes of this section, except where the context otherwise requires, all references in Chapter 4 (commencing with Section 22160) of Part 3 of Division 2 of the Public Contract Code to “local agency” shall mean the Sonoma Valley Health Care District and the Marin Healthcare District.

(c) A hospital building project utilizing the design-build process authorized by subdivision (a) shall be reviewed and inspected in accordance with the standards and requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675) of Part 7 of Division 107).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

Division 24. Community Development and Housing  
Part 1. Community Redevelopment Law  
Chapter 4. Redevelopment Procedures and Activities  
Article 10. Demolition, Clearance, Project Improvements, and Site Preparation

### **§ 33425. Penalty for noncompliance with prevailing wage**

As a penalty to the agency which awarded the contract, the contractor shall forfeit ten dollars (\$10) for each calendar day or portion thereof for each workman paid less than the stipulated prevailing rates for any public work done under the contract by him or by any subcontractor under him. A stipulation to this effect shall be included in the contract.



# California Prevailing Wage Laws

Division 31. Housing and Home Finance  
Part 2. Department of Housing and Community Development  
Chapter 6.7. Multifamily Housing Programs

## § 50675.4. Loan eligibility

(a) To be eligible to receive a loan, a proposed project shall involve one or more of the following activities:

- (1) The development and construction of a new transitional or rental housing development.
- (2) The rehabilitation, or acquisition and rehabilitation, of a transitional or rental housing development.
- (3) The conversion of a nonresidential structure to a transitional or rental housing development.

(b) In the case of rehabilitation projects, to be eligible to receive a loan, the loan shall be necessary to avoid increases in monthly debt service that have either of the following effects:

- (1) Result in rent increases causing permanent displacement of persons of lower income residing in the development prior to rehabilitation.
- (2) Make it economically infeasible to accept subsidies available to provide affordable rents to persons of lower income, if the sponsor agrees to accept the subsidies.

(c) To be eligible to receive a loan, the sponsor shall agree to both of the following:

- (1) To set and maintain affordable rent levels for assisted units.
- (2) To the payment of prevailing wage rates with respect to construction assisted through the program. In implementing this paragraph, it is the intent of the Legislature that this requirement apply to construction work that is dependent on the commitment of program funds in order for construction to proceed. Notwithstanding any other provision of law, the department's enforcement responsibilities shall be limited to the imposition of this requirement through the lending documents. The department shall require, as a condition of loan closing, a signed certificate that prevailing wages have been, or will be, paid in conformance with the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of the Labor Code and that labor records shall be made available to any enforcement agency upon request. The requirements of this paragraph shall not apply to projects for which program funds are used exclusively to achieve lower rents and to pay associated administrative costs.



# California Prevailing Wage Laws

Division 31. Housing and Home Finance  
Part 2. Department of Housing and Community Development  
Chapter 9. Rental Housing Construction Program  
Article 2. Rental Construction Incentive Program

## **§ 50746. Contracts; recording or referencing in recorded document; contents**

Each contract pursuant to Section 50745 shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California. The contract shall contain at least the following provisions:

- (a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments.
- (b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying assisted units within the rental housing development.
- (c) Projected rent levels for all units, and the number of units to be occupied by eligible households.
- (d) Requirements for payment of prevailing wage rates on construction.
- (e) A requirement for a periodic report to be made at least annually by the agency or local finance entity which shall include, at a minimum, information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households.
- (f) A provision for department approval prior to the execution of the terms of the regulatory agreement to be entered into between the sponsor and the agency or local finance entity pursuant to Section 50749.
- (g) A provision that failure to operate the rental housing development in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as the case may be. In the alternative or in addition, the contract may contain a lien on the rental housing development for the purpose of securing performance of the agreement. Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien upon the assisted real property.
- (h) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

## California Prevailing Wage Laws

(i) Provisions sufficient to ensure that dwelling units in the rental housing development available to and occupied by eligible households in accordance with Section 50736 and in accordance with the written agreement required by Section 50739 remain available to such households for a period of not less than 30 years or the duration of the long-term financing, whichever is greater.

(j) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state.

(k) A provision making the covenants and conditions of the contract binding upon successors in interest of the sponsor.

(l) When the sponsor is not a nonprofit housing sponsor or a local public entity, a provision limiting distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development. The department may allow an earnings distribution of no greater than 10 percent on a nonelderly rental housing development if the department finds it necessary to do so to fulfill the requirements of Section 50736. With respect to such nonelderly rental housing developments, the department may adopt regulations consistent with this section governing the conditions under which an earnings distribution over 6 percent but not to exceed 10 percent may be allowed.

(m) A provision which specifies the conditions under which the department and agency may enforce the regulatory agreement with respect to a rental housing development financed by the agency.

(n) Provisions necessary for the administration, disbursement, and protection of annuity fund payments including provisions specifying the conditions under which the department may recover or reallocate all or any part of such payments for the benefit of eligible households in existing or additional assisted units.

(o) Provisions (1) governing the recovery and reallocation by the department of rent revenues derived by the sponsor from the assisted units and which are not necessary to defray costs of operation attributable to such units and (2) specifying the return on the sponsor's investment pursuant to subdivision (b). Such rent revenue shall be handled by the department in the same manner as annuity payments recovered pursuant to subdivision (n).

(p) Authorization for the agency or local finance entity to fix and alter rents pursuant to the provisions of subdivision (c) of Section 50749.

(q) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

## California Prevailing Wage Laws

### **§ 50749. Regulatory agreement between sponsor and agency or local finance entity; recording or referencing in recorded document; contents; duration; enforcement**

Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the agency or local finance entity. Such regulatory agreements shall be recorded or referenced in a recorded document in the office of the county recorder for the county in which the rental housing development is located. The regulatory agreements shall contain at least all of the following:

- (a) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739.
- (b) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring.
- (c) The authorization for the agency or local finance entity to fix and alter, from time to time, a schedule of rents such as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the maintenance of the financial integrity of the rental housing development.

With respect to rental housing developments financed by the agency, no housing sponsor may increase rents except in accordance with the provisions of Section 51200. With respect to units under the supervision of a local finance entity, no housing sponsor shall increase the rent without the prior permission of such entity which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development. Prior to the time any rent increase is effective, the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing finance entity pursuant to this subdivision.

Notwithstanding Section 51200 with respect to rental housing developments assisted under this article, if the agency or local finance entity does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved.

Thirty days' notice of any rent increase shall be given in writing.

- (d) Provisions implementing standards governing selection of tenants by sponsors to ensure initial and continued occupancy by eligible households consistent with the requirements of Sections 50736 and 50739.
- (e) Provisions implementing the terms of occupancy agreements.

## California Prevailing Wage Laws

(f) Provisions necessary for the administration and protection of annuity trust funds established pursuant to Section 50748 and for recovery and reallocation of annuity fund payments and rent revenues pursuant to subdivisions (n) and (o) of Section 50746.

(g) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

The regulatory agreement shall remain in effect so long as any financing for the rental housing development provided by the agency or local finance entity remains outstanding, but in any event not less than 30 years. The regulatory agreement shall be enforceable as specified in subdivision (m) of Section 50746 by the department, the agency or local finance entity or by any intended beneficiary of housing assisted under this chapter as against the sponsor or any successor in interest of the sponsor.

Division 31. Housing and Home Finance  
Part 2. Department of Housing and Community Development  
Chapter 9. Rental Housing Construction Program  
Article 4. Contracts for Development and Construction by Local Housing Authorities

### **§ 50766. Contents; contract containing lien; recording or referencing in recorded document**

Each contract pursuant to Section 50765 shall contain at least the following provisions:

- (a) The timing, amount, and terms of payments to be provided under this article, including specific items to be covered by such payments.
- (b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development.
- (c) A description of the rental housing development, projected rent levels for all units and the number of units to be occupied by eligible households.
- (d) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739.
- (e) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring.
- (f) A requirement for periodic reports by the housing authority, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households.

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(g) Provisions sufficient to ensure that assisted units shall be available to or occupied by eligible households for a period of not less than 30 years.

(h) A provision which specifies the conditions under which the department and any intended beneficiary may enforce the contract.

(i) A provision that failure to operate the assisted units in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as the case may be. In the alternative, or in addition, the contract may contain a lien on the rental housing development for the purpose of securing performance of the contract. Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien on the assisted property.

(j) Provisions necessary for the administration, disbursement, and protection of annuity fund payments including provisions specifying the conditions under which the department may recover or reallocate all or any part of such payments for the benefit of eligible households in additional or existing assisted units.

(k) Provisions governing the recovery and reallocation by the department of rent revenues derived by the sponsor from the assisted units, which are not necessary to defray the costs of operation attributable to such units. Such revenues shall be handled by the department in the same manner as annuity payments recovered pursuant to subdivision (j).

(l) Authorization for the local housing authority to fix and alter rents pursuant to the provisions of subdivision (a) of Section 50767.

(m) Any other provisions necessary to carry out the purposes and exercise the powers granted by this chapter.

Any contract pursuant to Section 50765 containing a lien shall be recorded or referenced in a document recorded in the county in which the real property subject to the lien is located and shall be indexed by the recorder in the grantor index to the name of the local housing authority and in the grantee index to the name of the State of California.

Division 31. Housing and Home Finance  
Part 2. Department of Housing and Community Development  
Chapter 18. Downtown Rebound Program

### **§ 50898.2. Use of funds**

(a) Funds awarded pursuant to Item 2240-107-0001 of Section 2.00 of the Budget Act of 2000 for the purposes of the Downtown Rebound Program established pursuant to this chapter shall

## California Prevailing Wage Laws

not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(b) The department may use up to 5 percent of the amounts appropriated for this program for administration.

(c) With respect to the appropriation in Item 2240-107-0001 of Section 2.00 of the Budget Act of 2000 for the Downtown Rebound Program established pursuant to this chapter, the following provisions shall apply:

(1) Seventy-six percent of that appropriation shall be used by the department for the purpose of making loans to project sponsors for the adaptive reuse of vacant or underused commercial or industrial structures into residential rental housing units for initial rental to households having an income not exceeding 150 percent of the area median income. Each project shall be located within an elementary school attendance boundary where 50 percent or more of the students are eligible for free meals under the federal school lunch program, as determined by the local school district at the time of application to the Downtown Rebound Program. Each project shall also be subject to the following restrictions:

(A) Loans for units not subject to subparagraph (D) shall be at 5 percent simple interest. Loans for units subject to subparagraph (D) shall be at 3 percent simple interest. All principal and interest shall be due and payable in 20 years.

(B) Assistance for units not subject to subparagraph (D) shall not exceed thirty-five thousand dollars (\$35,000) per unit. Assistance for units subject to subparagraph (D) shall not exceed fifty-five thousand dollars (\$55,000) per unit.

(C) The amount of the loan, in combination with all debt recorded in a senior position to the loan, shall not exceed 90 percent of the appraised after-rehabilitation value of the security for the loan.

(D) Twenty percent of the units in the project shall be reserved for households having an income equal to 50 percent or less of the area median income, or 40 percent of the units shall be reserved for households having an income equal to 60 percent or less of the area median income. The department shall ensure the continued affordability of all units designated by the sponsor to fulfill these requirements for a period of 20 years. However, notwithstanding subparagraph (A), if assistance is provided for these units through any program funded through Chapter 6.7 (commencing with Section 50675) of Part 2, the units shall be subject to the use restrictions, limitations, and provisions contained in that chapter. These units shall be reasonably distributed within each building contained in the project, with no less than 10 percent of the units in each building fulfilling the requirements of this subdivision.

(E) The sponsor shall agree to the payment of prevailing wage rates with respect to construction assisted through the program. In implementing this subparagraph, it is the intent of the

## California Prevailing Wage Laws

Legislature that this requirement apply to construction work that is dependent on the commitment of program funds in order for construction to proceed. Notwithstanding any other provision of law, the department's enforcement responsibilities shall be limited to the imposition of this requirement through the lending documents. The department shall require, as a condition of loan closing, a signed certificate that prevailing wages have been, or will be, paid in conformance with the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of the Labor Code and that labor records shall be made available to any enforcement agency upon request.

(2) Two million four hundred thousand dollars (\$2,400,000) of that appropriation shall be used by the department for planning grants as specified in subdivision (b) of Section 50898.1.

(3) The balance of that appropriation shall be available for uses authorized by subdivision (a) of Section 50898.1.

(b) An Affected Contractor or Subcontractor may appeal any such notice served between April 1, 2001 and June 30, 2001 by filing a Request for Review with the Enforcing Agency that issued the notice, in the manner and form specified in Rule 22 [Section 17222] above. Any such Request for Review shall be in writing and shall include a statement indicating the date upon which the contractor or subcontractor was served with the notice of withholding or forfeiture.

(c) This Rule shall not extend the time available to appeal the notice under the former law. A Request for Review of a notice issued prior to July 1, 2001 must be filed with the Enforcing Agency within ninety (90) days after service of the notice.

(d) A contractor or subcontractor who has sought review of a notice issued prior to July 1, 2001 by filing a court action under the repealed provisions of Labor Code sections 1731-1733 on or after July 1, 2001, shall, if said action would have been timely under those sections, be afforded the opportunity to dismiss the action without prejudice, after entering into a stipulation that the proceeding be transferred to the Director for hearing in accordance with these Rules. The stipulation shall also provide that the time for commencing a hearing under Rule 41 [Section 17241] shall not begin to run until the case has been formally transferred to and received by the Office of the Director.

(e) Any hearing request made pursuant to Labor Code section 1771.7 [repealed effective July 1, 2001] that has not been heard and decided by a Hearing Officer prior to July 1, 2001 shall be handled in accordance with these Rules.



## California Prevailing Wage Laws

Division 31. Housing and Home Finance  
Part 3. California Housing Finance Agency  
Chapter 2. Purposes and General Provisions

### **§ 50953. Construction of division and part; law governing**

No provision of this division shall be construed as a restriction or limitation upon any powers which the agency or any local public entity might otherwise have under any laws of this state, and this part is cumulative with respect to these powers. This division shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this part need not comply with the requirements of any other law applicable to the issuance of bonds, and in the construction or acquisition of a housing development or a residential structure pursuant to this division, the agency need not comply with the requirements of any other law applicable to construction or acquisition of public works, except as specifically provided in this division. The agency shall adopt regulations for review of construction contracts for the construction or rehabilitation of housing developments and residential structures financed under this division and shall require that on construction of this housing which is financed by a construction loan from the agency, other than mutual self-help housing developments, all workers employed in the construction, exclusive of maintenance work, shall be paid not less than the general prevailing rate or per diem wages for work of a similar character in the locality in which the construction is performed, and not less than the prevailing rate of per diem wages for holiday and overtime work. The agency shall determine or require determination of the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773 of the Labor Code. Apprentices shall be employed in the construction of housing developments in accordance with the regulations of the agency, which shall impose the same requirements as contained in Section 1777.5 of the Labor Code, except as to differences necessitated by the methods of awarding construction contracts for housing developments financed under this division.

Division 106. Personal Health Care (Including Maternal, Child, and Adolescent)  
Part 5. Hereditary Diseases/Congenital Defects  
Chapter 3. California Stem Cell Research and Cures Bond Act  
Article 1. California Stem Cell Research and Cures Act

### **§ 125290.65. Scientific and Medical Facilities Working Group**

Scientific and Medical Facilities Working Group

(a) Membership



## California Prevailing Wage Laws

The Scientific and Medical Research Facilities Working Group shall have 11 members as follows:

(1) Six members of the Scientific and Medical Research Funding Working Group.

(2) Four real estate specialists. To be eligible to serve on the Scientific and Medical Research Facilities Working Group, a real estate specialist shall be a resident of California, shall be prohibited from receiving compensation from any construction or development entity providing specialized services for medical research facilities, and shall not provide real estate facilities brokerage services for any applicant for, or any funding by the Scientific and Medical Research Facilities Working Group and shall not receive compensation from any recipient of institute funding grants.

(3) The Chairperson of the ICOC.

(b) Functions

The Scientific and Medical Research Facilities Working Group shall perform the following functions:

(1) Make recommendations to the ICOC on interim and final criteria, requirements, and standards for applications for, and the awarding of, grants and loans for buildings, building leases, and capital equipment; those standards and requirements shall include, among others:

(A) Facility milestones and timetables for achieving such milestones.

(B) Priority for applications that provide for facilities that will be available for research no more than two years after the grant award.

(C) The requirement that all funded facilities and equipment be located solely within California.

(D) The requirement that grantees comply with reimbursable building cost standards, competitive building leasing standards, capital equipment cost standards, and reimbursement standards and terms recommended by the Scientific and Medical Facilities Funding Working Group, and adopted by the ICOC.

(E) The requirement that grantees shall pay all workers employed on construction or modification of the facility funded by facilities grants or loans of the institute, the general prevailing rate of per diem wages for work of a similar character in the locality in which work on the facility is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(F) The requirement that grantees be not-for-profit entities.

## California Prevailing Wage Laws

(G) The requirement that awards be made on a competitive basis, with the following minimum requirements:

(i) That the grantee secure matching funds from sources other than the institute equal to at least 20 percent of the award. Applications of equivalent merit, as determined by the Scientific and Medical Research Funding Working Group, considering research opportunities to be conducted in the proposed research facility, shall receive priority to the extent that they provide higher matching fund amounts. The Scientific and Medical Research Facilities Working Group may recommend waiving the matching fund requirement in extraordinary cases of high merit or urgency.

(ii) That capital equipment costs and capital equipment loans be allocated when equipment costs can be recovered in part by the grantee from other users of the equipment.

(2) Make recommendations to the ICOC on oversight procedures to ensure grantees' compliance with the terms of an award.

# California Prevailing Wage Laws

## LABOR CODE

Division 2. Employment Regulation and Supervision  
Part 7. Public Works and Public Agencies  
Chapter 1. Public Works  
Article 1. Scope and Operation

***§ 1720. Public works defined; paid for in whole or in part out of public funds defined; exception for private residential projects; exclusions***

(a) As used in this chapter, “public works” means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, “construction” includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, “installation” includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

(2) Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. “Public work” does not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Section 1778 relating to retaining wages.

(3) Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether the political subdivision or district operates under a freeholder's charter or not.

(4) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

(5) The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.

(6) Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.

(7) (A) Infrastructure project grants from the California Advanced Services Fund pursuant to Section 281 of the Public Utilities Code.

## California Prevailing Wage Laws

(B) For purposes of this paragraph, the Public Utilities Commission is not the awarding body or the body awarding the contract, as defined in Section 1722.

(b) For purposes of this section, “paid for in whole or in part out of public funds” means all of the following:

(1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.

(2) Performance of construction work by the state or political subdivision in execution of the project.

(3) Transfer by the state or political subdivision of an asset of value for less than fair market price.

(4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.

(5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.

(6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.

(c) Notwithstanding subdivision (b):

(1) Private residential projects built on private property are not subject to the requirements of this chapter unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority.

(2) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.

(3) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public subsidy to a private development project that is de minimis in the context of the project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

## California Prevailing Wage Laws

(4) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of Section 33334.2 of the Health and Safety Code that are paid for solely with moneys from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Health and Safety Code or that are paid for by a combination of private funds and funds available pursuant to Section 33334.2 or 33334.3 of the Health and Safety Code do not constitute a project that is paid for in whole or in part out of public funds.

(5) “Paid for in whole or in part out of public funds” does not include tax credits provided pursuant to Section 17053.49 or 23649 of the Revenue and Taxation Code.

(6) Unless otherwise required by a public funding program, the construction or rehabilitation of privately owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:

(A) The project is a self-help housing project in which no fewer than 500 hours of construction work associated with the homes are to be performed by the home buyers.

(B) The project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as temporary or transitional housing for homeless persons with a total project cost of less than twenty-five thousand dollars (\$25,000).

(C) Assistance is provided to a household as either mortgage assistance, downpayment assistance, or for the rehabilitation of a single-family home.

(D) The project consists of new construction, expansion, or rehabilitation work associated with a facility developed by a nonprofit organization to be operated on a not-for-profit basis to provide emergency or transitional shelter and ancillary services and assistance to homeless adults and children. The nonprofit organization operating the project shall provide, at no profit, not less than 50 percent of the total project cost from nonpublic sources, excluding real property that is transferred or leased. Total project cost includes the value of donated labor, materials, architectural, and engineering services.

(E) The public participation in the project that would otherwise meet the criteria of subdivision (b) is public funding in the form of below-market interest rate loans for a project in which occupancy of at least 40 percent of the units is restricted for at least 20 years, by deed or regulatory agreement, to individuals or families earning no more than 80 percent of the area median income.

(d) Notwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter:

(1) Qualified residential rental projects, as defined by Section 142(d) of the Internal Revenue Code, financed in whole or in part through the issuance of bonds that receive allocation of a

## California Prevailing Wage Laws

portion of the state ceiling pursuant to Chapter 11.8 (commencing with Section 8869.80) of Division 1 of Title 2 of the Government Code on or before December 31, 2003.

(2) Single-family residential projects financed in whole or in part through the issuance of qualified mortgage revenue bonds or qualified veterans' mortgage bonds, as defined by Section 143 of the Internal Revenue Code, or with mortgage credit certificates under a Qualified Mortgage Credit Certificate Program, as defined by Section 25 of the Internal Revenue Code, that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 (commencing with Section 8869.80) of Division 1 of Title 2 of the Government Code on or before December 31, 2003.

(3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code, or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

*(e) Notwithstanding paragraph (1) of subdivision (a), construction, alteration, demolition, installation, or repair work on the electric transmission system located in California constitutes a public works project for the purposes of this chapter.*

*(f)* If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project.

*(g)* For purposes of this section, references to the Internal Revenue Code mean the Internal Revenue Code of 1986, as amended, and include the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.

*(h)* The amendments made to this section by either Chapter 938 of the Statutes of 2001 or the act adding this subdivision shall not be construed to preempt local ordinances requiring the payment of prevailing wages on housing projects.

### **§ 1720.2. Public works; private contracts; conditions**

For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, “public works” also means any construction work done under private contract when all of the following conditions exist:

(a) The construction contract is between private persons.

(b) The property subject to the construction contract is privately owned, but upon completion of the construction work, more than 50 percent of the assignable square feet of the property is leased to the state or a political subdivision for its use.

## California Prevailing Wage Laws

(c) Either of the following conditions exist:

(1) The lease agreement between the lessor and the state or political subdivision, as lessee, was entered into prior to the construction contract.

(2) The construction work is performed according to plans, specifications, or criteria furnished by the state or political subdivision, and the lease agreement between the lessor and the state or political subdivision, as lessee, is entered into during, or upon completion of, the construction work.

### **§ 1720.3. Public works; hauling refuse from public works site**

(a) For the limited purposes of Article 2 (commencing with Section 1770), “public works” also means the hauling of refuse from a public works site to an outside disposal location, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state.

(b) For purposes of this section, the “hauling of refuse” includes, but is not limited to, hauling soil, sand, gravel, rocks, concrete, asphalt, excavation materials, and construction debris. The “hauling of refuse” shall not include the hauling of recyclable metals such as copper, steel, and aluminum that have been separated from other materials at the jobsite prior to transportation and that are to be sold at fair market value to a bona fide purchaser.

### **§ 1720.4. Work performed by volunteers, volunteer coordinators, or conservation corps members; exemption from chapter**

This chapter shall not apply to any of the following work:

(a) Any work performed by a volunteer. For purposes of this section, “volunteer” means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

(1) An individual shall be considered a volunteer only when his or her services are offered freely and without pressure and coercion, direct or implied, from an employer.

(2) An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

## California Prevailing Wage Laws

(3) An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (A) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (B) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that receives payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

(b) Any work performed by a volunteer coordinator. For purposes of this section, “volunteer coordinator” means an individual paid by a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, to oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some nonsupervisory work on a project alongside the volunteers, so long as the individual's primary responsibility on the project is to oversee or supervise the volunteers rather than to perform nonsupervisory work.

(c) Any work performed by the California Conservation Corps or by Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

(d) This section shall remain in effect only until *January 1, 2024*, and as of that date is repealed, unless a later enacted statute, *that* is enacted before *January 1, 2024*, deletes or extends that date.

### § 1720.6. Public work defined

For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, “public work” also means any construction, alteration, demolition, installation, or repair work done under private contract when the following conditions exist:

(a) The work is performed in connection with the construction or maintenance of renewable energy generating capacity or energy efficiency improvements.

(b) The work is performed on the property of the state or a political subdivision of the state.

(c) Either of the following conditions exists:

(1) More than 50 percent of the energy generated is purchased or will be purchased by the state or a political subdivision of the state.

(2) The energy efficiency improvements are primarily intended to reduce energy costs that would otherwise be incurred by the state or a political subdivision of the state.



## California Prevailing Wage Laws

### ***§ 1720.7. “Public works” additional definition; “general acute care hospital” and “rural general acute care hospital” defined***

***For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, “public works” also means any construction, alteration, demolition, installation, or repair work done under private contract on a project for a general acute care hospital, except on a project for a rural general acute care hospital with a maximum of 76 beds, when the project is paid for, in whole or in part, with the proceeds of conduit revenue bonds, as defined in Section 5870 of the Government Code, issued on or after January 1, 2016, by a public agency. For purposes of this section, “general acute care hospital” and “rural general acute care hospital” have the same meaning as each term is defined in subdivision (a) of Section 1250 of the Health and Safety Code.***

### ***§ 1720.9. Entities hauling or delivering ready-mixed concrete for public works contracts awarded on or after July 1, 2016; prevailing wage rate; written subcontract agreements; submission of certified copies of payroll records***

***(a) For the limited purposes of Article 2 (commencing with Section 1770), “public works” also means the hauling and delivery of ready-mixed concrete to carry out a public works contract, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state.***

***(b) For purposes of this section, “ready-mixed concrete” means concrete that is manufactured in a factory or a batching plant, according to a set recipe, and then delivered in a liquefied state by mixer truck for immediate incorporation into a project.***

***(c) For purposes of this section, the “hauling and delivery of ready-mixed concrete to carry out a public works contract” means the job duties for a ready mixer driver that are used by the director in determining wage rates pursuant to Section 1773, and includes receiving the concrete at the factory or batching plant and the return trip to the factory or batching plant.***

***(d) For purposes of this section, the applicable prevailing wage rate shall be the current prevailing wage, as determined by the director, for the geographic area in which the factory or batching plant is located.***

***(e) The entity hauling or delivering ready-mixed concrete to carry out a public works contract shall enter into a written subcontract agreement with the party that engaged the entity to supply the ready-mixed concrete. The written agreement shall require compliance with the requirements of this chapter. The entity hauling or delivering ready-mixed concrete shall be considered a subcontractor solely for the purposes of this chapter.***

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*(f) The entity hauling or delivering ready-mixed concrete to carry out a public works contract shall submit a certified copy of the payroll records required by subdivision (a) of Section 1776 to the party that engaged the entity and to the general contractor within three working days after the employee has been paid, accompanied by a written time record that shall be certified by each driver for the performance of job duties in subdivision (c).*

*(g) This section applies to public works contracts that are awarded on or after July 1, 2016.*

### **§ 1721. Political subdivision defined**

“Political subdivision” includes any county, city, district, public housing authority, or public agency of the state, and assessment or improvement districts.

### **§ 1722. Awarding body and body awarding the contract defined**

“Awarding body” or “body awarding the contract” means department, board, authority, officer or agent awarding a contract for public work.

### **§ 1722.1. Contractor; subcontractor defined**

For the purposes of this chapter, “contractor” and “subcontractor” include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on public works pursuant to this article and Article 2 (commencing with Section 1770).

### **§ 1723. Worker defined**

“Worker” includes laborer, worker, or mechanic.

### **§ 1724. Locality in which public work is performed defined**

“Locality in which public work is performed” means the county in which the public work is done in cases in which the contract is awarded by the State, and means the limits of the political subdivision on whose behalf the contract is awarded in other cases.

### **§ 1725.5. Registration of contractors; mandatory registration; qualifications and application; fees; exempt contractors**

A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in

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the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, “contractor” includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) Beginning July 1, 2014, register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of three hundred dollars (\$300) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers’ Compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers’ compensation Insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

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(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2) of this subdivision.

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work, as defined in this chapter, entered into on or after April 1, 2015.

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### **§ 1726. Cognizance of violations in execution of contracts; reports; withholding procedures; actions to recover wages; costs and attorney's fees**

(a) The body awarding the contract for public work shall take cognizance of violations of this chapter committed in the course of the execution of the contract, and shall promptly report any suspected violations to the Labor Commissioner.

(b) If the awarding body determines as a result of its own investigation that there has been a violation of this chapter and withholds contract payments, the procedures in Section 1771.6 shall be followed.

(c) A contractor may bring an action in a court of competent jurisdiction to recover from an awarding body the difference between the wages actually paid to an employee and the wages that were required to be paid to an employee under this chapter, any penalties required to be paid under this chapter, and costs and attorney's fees related to this action, if either of the following is true:

(1) The awarding body previously affirmatively represented to the contractor in writing, in the call for bids, or otherwise, that the work to be covered by the bid or contract was not a “public work,” as defined in this chapter.

(2) The awarding body received actual written notice from the Department of Industrial Relations that the work to be covered by the bid or contract is a “public work,” as defined in this chapter, and failed to disclose that information to the contractor before the bid opening or awarding of the contract.

### **§ 1727. Withholding to satisfy wage and penalty assessments**

(a) Before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy any civil wage and penalty assessment issued by the Labor Commissioner under this chapter. The amounts required to satisfy a civil wage and penalty assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

(b) If the awarding body has not retained sufficient money under the contract to satisfy a civil wage and penalty assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. These amounts shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

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### **§ 1728. Acceptance of cash in lieu of withholding**

In cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained, or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full.

### **§ 1729. Withholding of amounts from subcontractors**

It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the subcontractor's failure to comply with the terms of this chapter, and if payment has already been made to the subcontractor the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

### **§ 1730. List of sections relating to prevailing rate of per diem wage requirements for public work project employees; internet posting; updating**

The Director of Industrial Relations shall post a list of every California code section and the language of those sections that relate to the prevailing rate of per diem wage requirements for workers employed on a public work project on the Internet Web site of the Department of Industrial Relations on or before June 1, 2013, and shall update that list each February 1 thereafter.

### **§ 1734. Disposition of fines and penalties collected by court**

Any court collecting any fines or penalties under the criminal provisions of this chapter or any of the labor laws pertaining to public works shall as soon as practicable after the receipt thereof deposit same with the county treasurer of the county in which such court is situated. Amounts so deposited shall be paid at least once a month by warrant of the county auditor drawn upon requisition of the judge or clerk of said court, to the State Treasurer for deposit in the General Fund.

### **§ 1735. Discrimination in employment**

A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section

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12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.

### **§ 1736. Investigations; confidentiality of names of employees reporting violations of this chapter**

During any investigation conducted under this part, the Division of Labor Standards Enforcement shall keep confidential the name of any employee who reports a violation of this chapter and any other information that may identify the employee.

### **§ 1740. Public contracts; modification to comply with federal wage schedules without republication**

Notwithstanding any other provision of this chapter or any other law of this State, except limitations imposed by the Constitution, the legislative body of a political subdivision which has received or is to receive a loan or grant of funds from the Federal Government or a federal department or agency for public works of that political subdivision, may provide in its call for bids in connection with such public works that all bid specifications and contracts and other procedures in connection with bids or contracts shall be subject to modification to comply with revisions in federal minimum wage schedules without the necessity of republication or duplication of other formal statutory requirements.

### **§ 1741. Determination of violations; civil wage and penalty assessments; service interest on due and unpaid wages; list of violators**

(a) If the Labor Commissioner or his or her designee determines after an investigation that there has been a violation of this chapter, the Labor Commissioner shall with reasonable promptness issue a civil wage and penalty assessment to the contractor or subcontractor or both. The assessment shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures due and shall include the basis for the assessment. The assessment shall be served not later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 18 months after acceptance of the public work, whichever occurs last. Service of the assessment shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor, subcontractor, and awarding body. The assessment shall advise the contractor and subcontractor of the procedure for obtaining review of the assessment. The Labor Commissioner shall, to the extent practicable, ascertain the identity of any bonding company issuing a bond that secures the payment of wages covered by the assessment and any surety on a bond, and shall serve a copy of the assessment by certified mail to the bonding company or surety at the same time service is made to the



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contractor, subcontractor, and awarding body. However, no bonding company or surety shall be relieved of its responsibilities because it failed to receive notice from the Labor Commissioner.

(b) Interest shall accrue on all due and unpaid wages at the rate described in subdivision (b) of Section 3289 of the Civil Code. The interest shall accrue from the date that the wages were due and payable, as provided in Part 7 (commencing with Section 1720) of Division 2, until the wages are paid.

(c)(1) The Labor Commissioner shall maintain a public list of the names of each contractor and subcontractor who has been found to have committed a willful violation of Section 1775 or to whom a final order, which is no longer subject to judicial review, has been issued.

(2) The list shall include the date of each assessment, the amount of wages and penalties assessed, and the amount collected.

(3) The list shall be updated at least quarterly, and the contractor's or subcontractor's name shall remain on that list until the assessment is satisfied, or for a period of three years beginning from the date of the issuance of the assessment, whichever is later.

### **§ 1741.1. Tolling of period for service of assessments; duration of tolling period; notice**

(a) The period for service of assessments shall be tolled for the period of time required by the Director of Industrial Relations to determine whether a project is a public work, including a determination on administrative appeal, if applicable, pursuant to subdivisions (b) and (c) of Section 1773.5. The period for service of assessments shall also be tolled for the period of time that a contractor or subcontractor fails to provide in a timely manner certified payroll records pursuant to a request from the Labor Commissioner or a joint labor-management committee under Section 1776, or an approved labor compliance program under Section 1771.5 or 1771.7.

(b) (1) The body awarding the contract for public work shall furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work filed in the office of the county recorder, or a document evidencing the awarding body's acceptance of the public work on a particular date, whichever occurs later, by first-class mail addressed to the office of the Labor Commissioner that is listed on the written request. If, at the time of receipt of the Labor Commissioner's written request, a valid notice of completion has not been filed by the awarding body in the office of the county recorder and there is no document evidencing the awarding body's acceptance of the public work on a particular date, the awarding body shall so notify the office of the Labor Commissioner that is listed on the written request. Thereafter, the awarding body shall furnish copies of the applicable document within 10 days after filing a valid notice of completion with the county recorder's office, or within 10 days of the awarding body's acceptance of the public work on a particular date.



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(2) If the awarding body fails to timely furnish the Labor Commissioner with the documents identified in paragraph (1), the period for service of assessments under Section 1741 shall be tolled until the Labor Commissioner's actual receipt of the valid notice of completion for the public work or a document evidencing the awarding body's acceptance of the public work on a particular date.

(c) The tolling provisions in this section shall also apply to the period of time for commencing an action brought by a joint labor-management committee pursuant to Section 1771.2.

### **§ 1742. Review of wage and penalty assessments; hearing procedure**

(a) An affected contractor or subcontractor may obtain review of a civil wage and penalty assessment under this chapter by transmitting a written request to the office of the Labor Commissioner that appears on the assessment within 60 days after service of the assessment. If no hearing is requested within 60 days after service of the assessment, the assessment shall become final.

(b) Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the Labor Commissioner subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

The contractor or subcontractor shall have the burden of proving that the basis for the civil wage and penalty assessment is incorrect. The assessment shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the Labor Commissioner. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director shall adopt regulations setting forth procedures for hearings under this subdivision.

(c) An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5

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of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

(f) An awarding body that has withheld funds in response to a civil wage and penalty assessment under this chapter shall, upon receipt of a certified copy of a final order that is no longer subject to judicial review, promptly transmit the withheld funds, up to the amount of the certified order, to the Labor Commissioner.

(g) This section shall provide the exclusive method for review of a civil wage and penalty assessment by the Labor Commissioner under this chapter or the decision of an awarding body to withhold contract payments pursuant to Section 1771.5.

### **§ 1742.1. Liability of contractor, subcontractor, or surety; settlements**

(a) After 60 days following the service of a civil wage and penalty assessment under Section 1741 or a notice of withholding under subdivision (a) of Section 1771.6, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment or notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment or notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid.

Additionally, if the contractor or subcontractor demonstrates to the satisfaction of the director that he or she had substantial grounds for appealing the assessment or notice with respect to a portion of the unpaid wages covered by the assessment or notice, the director may exercise his or her discretion to waive payment of the liquidated damages with respect to that portion of the unpaid wages. Any liquidated damages shall be distributed to the employee along with the unpaid wages. Section 203.5 shall not apply to claims for prevailing wages under this chapter.

(b) Notwithstanding subdivision (a), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department

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of Industrial Relations, within 60 days following service of the assessment or notice, for the department to hold in escrow pending administrative and judicial review. The department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

(c) The Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a civil wage and penalty assessment under Section 1741, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment without the need for formal proceedings. The awarding body shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a notice of withholding under subdivision (a) of Section 1771.6, afford the contractor or subcontractor the opportunity to meet with the designee of the awarding body to attempt to settle a dispute regarding the notice without the need for formal proceedings. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking administrative review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. The assessment or notice shall advise the contractor or subcontractor of the opportunity to request a settlement meeting.

(d) This section shall become operative on January 1, 2007.

### **§ 1743. Joint and several liability; order of collection; application of amounts collected; payment of workers; bonding company liability**

(a) The contractor and subcontractor shall be jointly and severally liable for all amounts due pursuant to a final order under this chapter or a judgment thereon. The Labor Commissioner shall first exhaust all reasonable remedies to collect the amount due from the subcontractor before pursuing the claim against the contractor.

(b) From the amount collected, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers.

(c) Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund.

(d) A final order under this chapter or a judgment thereon shall be binding, with respect to the amount found to be due, on a bonding company issuing a bond that secures the payment of

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wages and a surety on a bond. The limitations period of any action on a payment bond shall be tolled pending a final order that is no longer subject to judicial review.

Division 2. Employment Regulation and Supervision  
Part 7. Public Works and Public Agencies  
Chapter 1. Public Works  
Article 1.5. Right of Action

**§ 1750. Second lowest bidder or legal entity with contract with second lowest bidder; damage due to acceptance of successful bidder who violated provisions of Workers' Compensation or Unemployment Insurance Code; rebuttable presumption; costs and fees**

(a) (1) The second lowest bidder, and any person, firm, association, trust, partnership, labor organization, corporation, or other legal entity which has, prior to the letting of the bids on the public works project in question, entered into a contract with the second lowest bidder, that suffers damage as a proximate result of a competitive bid for a public works project, as defined in subdivision (b), not being accepted due to the successful bidder's violation, as evidenced by the conviction of the successful bidder therefor, of any provision of Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code, may bring an action for damages in the appropriate state court against the violating person or legal entity.

(2) There shall be a rebuttable presumption that a successful bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of this code or of the Unemployment Insurance Code, or of both, was awarded the bid because that successful bidder was able to lower the bid due to this violation or these violations occurring on the contract for public work awarded by the public agency.

(b) For purposes of this article:

(1) "Public works project" means the construction, repair, remodeling, alteration, conversion, modernization, improvement, rehabilitation, replacement, or renovation of a public building or structure.

(2) "Second lowest bidder" means the second lowest qualified bidder deemed responsive by the public agency awarding the contract for public work.

(3) The "second lowest bidder" and the "successful bidder" may include any person, firm, association, corporation, or other legal entity.

(c) In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees, in an amount to be determined in the court's discretion, to the prevailing party.

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(d) For purposes of an action brought pursuant to this section, employee status shall be determined pursuant to Division 4 (commencing with Section 3200) with respect to alleged violations of that division, pursuant to the Unemployment Insurance Code with respect to alleged violations of that code, and pursuant to Section 2750.5 with respect to alleged violations of either Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code.

(e) The right of action established pursuant to this article shall not be construed to diminish rights of action established pursuant to Section 19102 of, and Article 1.8 (commencing with Section 20104.70) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code.

(f) A second lowest bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or both, within one year prior to filing the bid for public work, and who has failed to take affirmative steps to correct that violation or those violations, is prohibited from taking any action authorized by this section.

Division 2. Employment Regulation and Supervision  
Part 7. Public Works and Public Agencies  
Chapter 1. Public Works  
Article 2. Wages

### **§ 1770. Determination of general prevailing rate**

The Director of the Department of Industrial Relations shall determine the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773, and the director's determination in the matter shall be final except as provided in Section 1773.4. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any workman employed on public work. Nothing in this act shall permit any overtime work in violation of Article 3 of this chapter.

### **§ 1771. Payment of general prevailing rate**

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

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### § 1771.1. Registration and qualifications of contractors; use of subcontractors

(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

## California Prevailing Wage Laws

(g) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015.

### **§ 1771.2. Action by joint labor-management committee against employer that fails to pay prevailing wage to its employees**

A joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) may bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees, as required by this article. This action shall be commenced not later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 18 months after acceptance of the public work, whichever occurs last.

(b) (1) In an action brought pursuant to this section, the court shall award restitution to an employee for unpaid wages, plus interest, under Section 3289 of the Civil Code from the date that the wages became due and payable, and liquidated damages equal to the amount of unpaid wages owed, and may impose civil penalties, only against an employer that failed to pay the prevailing wage to its employees, in accordance with Section 1775, injunctive relief, or any other appropriate form of equitable relief. The court shall follow the same standards and have the same discretion in setting the amount of penalties as are provided by subdivision (a) of Section 1775. The court shall award a prevailing joint labor-management committee its reasonable attorney's fees and costs incurred in maintaining the action, including expert witness fees.

(2) An action pursuant to this section shall not be based on the employer's misclassification of the craft of a worker in its certified payroll records.

(3) Liquidated damages shall be awarded only if the complaint alleges with specificity the wages due and unpaid to the individual workers, including how that amount was calculated, and the defendant fails to pay the wages, deposit that amount with the court to be held in escrow, or provide proof to the court of an adequate surety bond to cover the wages, within 60 days of service of the complaint. Liquidated damages shall be awarded only on the wages found to be due and unpaid. Additionally, if the defendant demonstrates to the satisfaction of the court that the defendant had substantial grounds for contesting that a portion of the allegedly unpaid wages were owed, the court may exercise its discretion to waive the payment of the liquidated damages with respect to that portion of the unpaid wages.

(4) This subdivision does not limit any other available remedies for a violation of this chapter.

### **§ 1771.3. State Public Works Enforcement Fund; deposit and distribution of funds; short-term loans to the fund**



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(a) The State Public Works Enforcement Fund is hereby created as a special fund in the State Treasury to be available upon appropriation of the Legislature. All registration fees collected pursuant to Section 1725.5 and any other moneys as are designated by statute or order shall be deposited in the fund for the purposes specified in subdivision (b).

(b) Moneys in the State Public Works Enforcement Fund shall be used only for the following purposes:

(1) The reasonable costs of administering the registration of contractors and subcontractors to perform public work pursuant to Section 1725.5.

(2) The costs and obligations associated with the administration and enforcement of the requirements of this chapter by the Department of Industrial Relations.

(3) The monitoring and enforcement of any requirement of this code by the Labor Commissioner on a public works project or in connection with the performance of public work as defined pursuant to this chapter.

(c) The annual contractor registration renewal fee specified in subdivision (a) of Section 1725.5, and any adjusted application or renewal fee, shall be set in amounts that are sufficient to support the annual appropriation approved by the Legislature for the State Public Works Enforcement Fund and not result in a fund balance greater than 25 percent of the appropriation. Any yearend balance in the fund greater than 25 percent of the appropriation shall be applied as a credit when determining any fee adjustments for the subsequent fiscal year.

(d) To provide adequate cashflow for the purposes specified in subdivision (b), the Director of Finance, with the concurrence of the Secretary of the Labor and Workforce Development Agency, may approve a short-term loan each fiscal year from the Labor and Workforce Development Fund to the State Public Works Enforcement Fund.

(1) The maximum amount of the annual loan allowable may be up to, but shall not exceed 50 percent of the appropriation authority of the State Public Works Enforcement Fund in the same year in which the loan was made.

(2) For the purposes of this section, a “short-term loan” is a transfer that is made subject to both of the following conditions:

(A) Any amount loaned is to be repaid in full during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the annual Budget Act for the subsequent fiscal year.

(B) Loans shall be repaid whenever the funds are needed to meet cash expenditure needs in the loaning fund or account.



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### § 1771.4. Additional requirements when bidding and awarding public works contracts

(a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) of this section if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) (1) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(2) The requirements of paragraph (3) of subdivision (a) shall only apply to the following projects:

(A) Projects that were subject to a requirement to furnish records to the Compliance Monitoring Unit pursuant to Section 16461 of Title 8 of the California Code of Regulations, prior to the effective date of this section.

(B) Projects for which the initial contract is awarded on or after April 1, 2015.

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(C) Any other ongoing project in which the Labor Commissioner directs the contractors or subcontractors on the project to furnish records in accordance with paragraph (3) of subdivision (a).

(D) All projects, whether new or ongoing, on or after January 1, 2016.

### **§ 1771.5. Election of awarding body to initiate labor compliance program in lieu of certain per diem wage requirements; labor compliance program requirements; revocation**

(a) Notwithstanding Section 1771, an awarding body may choose not to require the payment of the general prevailing rate of per diem wages or the general prevailing rate of per diem wages for holiday and overtime work for any public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction work, or for any public works project of fifteen thousand dollars (\$15,000) or less when the project is for alteration, demolition, repair, or maintenance work, if the awarding body elected to initiate and has been approved by the Director of Industrial Relations to enforce a labor compliance program pursuant to subdivision (b) for every public works project under the authority of the awarding body.

(b) For purposes of this section, a labor compliance program shall include, but not be limited to, the following requirements:

(1) All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter.

(2) A prejob conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.

(3) Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under penalty of perjury.

(4) The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with this chapter.

(5) The awarding body shall withhold contract payments when payroll records are delinquent or inadequate.

(6) The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.

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(7) The awarding body shall comply with any other prevailing wage monitoring and enforcement activities that are required to be conducted by labor compliance programs by the Department of Industrial Relations.

(c) For purposes of this chapter, “labor compliance program” means a labor compliance program that is approved, as specified in state regulations, by the Director of Industrial Relations.

(d) For purposes of this chapter, the Director of Industrial Relations may revoke the approval of a labor compliance program in the manner specified in state regulations.

(e) An awarding body that elects to use a labor compliance program pursuant to subdivision (a) shall use the labor compliance program for all contracts for public works projects awarded prior to the effective date of the regulations adopted by the department as specified in subdivision (g). For contracts for public works projects awarded on or after the effective date of regulations adopted by the department as specified in subdivision (g), the awarding body may also elect to continue operating an existing previously approved labor compliance program in lieu of reimbursing the Department of Industrial Relations for the cost of monitoring and enforcing compliance with prevailing wage requirements on the awarding body's public works projects if it has not contracted with a third party to conduct its labor compliance program and if it requests and receives approval from the department to continue its existing program.

(f) An awarding body that elects to reimburse the department for the cost of monitoring and enforcing compliance with prevailing wage requirements for public works projects of the awarding body, pursuant to subdivision (a), shall, for all of its contracts for public works projects awarded on or after the effective date of the regulations adopted by the department as specified in subdivision (g) do all of the following:

(1) Ensure that all bid invitations and public works contracts contain appropriate language concerning the requirements of this chapter.

(2) Conduct a prejob conference with the contractor and subcontractor to discuss federal and state labor law requirements applicable to the contract.

(3) Enter into an agreement with the department to reimburse the department for its costs of performing the service of monitoring and enforcing compliance with applicable prevailing wage requirements on the awarding bodies' projects.

(g) The Department of Industrial Relations shall adopt regulations implementing this section specifying the activities that the department shall undertake to monitor and enforce compliance with the prevailing wage requirements on the public works projects, including, but not limited to, monthly review, and audit if appropriate, of payroll records.

(h) (1) The Department of Industrial Relations shall, in accordance with paragraphs (3) and (4) of subdivision (a) of Section 1771.3, determine the rate or rates, which the department may from

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time to time amend, that the department will charge for reimbursement from an awarding body for the reasonable and directly related costs of performing the specified monitoring and enforcement services for public works projects.

(2) Notwithstanding paragraph (1), for public works projects paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state, the amount charged by the department shall not exceed one-fourth of 1 percent of the state bond proceeds used for the public works project, with any other remaining costs of monitoring and enforcing compliance to be paid by the awarding body from other funds authorized to be used to finance the project.

(i) All amounts collected by the Department of Industrial Relations for its services pursuant to this section shall be deposited in the State Public Works Enforcement Fund.

### **§ 1771.6. Deposits of penalties or forfeitures withheld from contract payment**

(a) Any awarding body that enforces this chapter in accordance with Section 1726 or 1771.5 shall provide notice of the withholding of contract payments to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments.

The awarding body shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on a bond, if their identities are known to the awarding body.

(b) The withholding of contract payments in accordance with Section 1726 or 1771.5 shall be reviewable under Section 1742 in the same manner as if the notice of the withholding was a civil penalty order of the Labor Commissioner under this chapter. If review is requested, the Labor Commissioner may intervene to represent the awarding body.

(c) Pending a final order, or the expiration of the time period for seeking review of the notice of the withholding, the awarding body shall not disburse any contract payments withheld.

(d) From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers.

(e) Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the awarding body that has enforced this chapter pursuant to Section 1771.5.

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### **§ 1771.7. Awarding body choosing to use funds derived from Kindergarten-University Public Education Facilities Bond Act for public works project; initiating and enforcing labor compliance program**

(a) (1) For contracts specified in subdivision (f), an awarding body that chooses to use funds derived from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project, shall initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program, as described in subdivision (b) of Section 1771.5, with respect to that public works project.

(2) If an awarding body described in paragraph (1) chooses to contract with a third party to initiate and enforce a labor compliance program for a project described in paragraph (1), that third party shall not review the payroll records of its own employees or the employees of its subcontractors, and the awarding body or an independent third party shall review these payroll records for purposes of the labor compliance program.

(b) This section applies to public works that commence on or after April 1, 2003. For purposes of this subdivision, work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, does not constitute the commencement of a public work.

(c) (1) For purposes of this section, if any campus of the California State University chooses to use the funds described in subdivision (a), then the “awarding body” is the Chancellor of the California State University. For purposes of this subdivision, if the chancellor is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, a labor compliance program, then in addition to the requirements described in subdivision (b) of Section 1771.5, the Chancellor of the California State University shall review the payroll records on at least a monthly basis to ensure the awarding body's compliance with the labor compliance program.

(2) For purposes of this subdivision, if an awarding body described in subdivision (a) is the University of California or any campus of that university, and that awarding body is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, a labor compliance program, then in addition to the requirements described in subdivision (b) of Section 1771.5, the payroll records shall be reviewed on at least a monthly basis to ensure the awarding body's compliance with the labor compliance program.

(d) (1) An awarding body described in subdivision (a) shall make a written finding that the awarding body has initiated and enforced, or has contracted with a third party to initiate and enforce, the labor compliance program described in subdivision (a).

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(2) (A) If an awarding body described in subdivision (a) is a school district, the governing body of that district shall transmit to the State Allocation Board, in the manner determined by that board, a copy of the finding described in paragraph (1).

(B) The State Allocation Board shall not release the funds described in subdivision (a) to an awarding body that is a school district until the State Allocation Board has received the written finding described in paragraph (1).

(C) If the State Allocation Board conducts a postaward audit procedure with respect to an award of the funds described in subdivision (a) to an awarding body that is a school district, the State Allocation Board shall verify, in the manner determined by that board, that the school district has complied with the requirements of this subdivision.

(3) If an awarding body described in subdivision (a) is a community college district, the Chancellor of the California State University, or the office of the President of the University of California or any campus of the University of California, that awarding body shall transmit, in the manner determined by the Director of Industrial Relations, a copy of the finding described in paragraph (1) to the director of that department, or the director of any successor agency that is responsible for the oversight of employee wage and employee work hours laws.

(e) Because the reasonable costs directly related to monitoring and enforcing compliance with the prevailing wage requirements are necessary oversight activities, integral to the cost of construction of the public works projects, notwithstanding Section 17070.63 of the Education Code, the grant amounts as described in Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code for the costs of a new construction or modernization project shall include the state's share of the reasonable and directly related costs of the labor compliance program used to monitor and enforce compliance with prevailing wage requirements.

(f) This section shall only apply to contracts awarded prior to January 1, 2012.

### **§ 1772. Employees of contractors and subcontractors**

Workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work.

### **§ 1773. Method of determining general prevailing rates; holidays; adoption of rates established by collective bargaining**

The body awarding any contract for public work, or otherwise undertaking any public work, shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the public work is to be performed for each

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craft, classification, or type of worker needed to execute the contract from the Director of Industrial Relations. The holidays upon which those rates shall be paid need not be specified by the awarding body, but shall be all holidays recognized in the applicable collective bargaining agreement. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code.

In determining the rates, the Director of Industrial Relations shall ascertain and consider the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works, within the locality and in the nearest labor market area. Where the rates do not constitute the rates actually prevailing in the locality, the director shall obtain and consider further data from the labor organizations and employers or employer associations concerned, including the recognized collective bargaining representatives for the particular craft, classification, or type of work involved. The rate fixed for each craft, classification, or type of work shall be not less than the prevailing rate paid in the craft, classification, or type of work.

If the director determines that the rate of prevailing wage for any craft, classification, or type of worker is the rate established by a collective bargaining agreement, the director may adopt that rate by reference as provided for in the collective bargaining agreement and that determination shall be effective for the life of the agreement or until the director determines that another rate should be adopted.

### **§ 1773.1. Employer payments included in per diem wages**

(a) Per diem wages, when the term is used in this chapter or in any other statute applicable to public works, shall be deemed to include employer payments for the following:

- (1) Health and welfare.
- (2) Pension.
- (3) Vacation.
- (4) Travel.
- (5) Subsistence.
- (6) Apprenticeship or other training programs authorized by Section 3093, to the extent that the cost of training is reasonably related to the amount of the contributions.
- (7) Worker protection and assistance programs or committees established under the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a), to the extent that the



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activities of the programs or committees are directed to the monitoring and enforcement of laws related to public works.

(8) Industry advancement and collective bargaining agreements administrative fees, provided that these payments are required under a collective bargaining agreement pertaining to the particular craft, classification, or type of work within the locality or the nearest labor market area at issue.

(9) Other purposes similar to those specified in paragraphs (1) to (8), inclusive.

(b) Employer payments include all of the following:

(1) The rate of contribution irrevocably made by the employer to a trustee or third person pursuant to a plan, fund, or program.

(2) The rate of actual costs to the employer reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program communicated in writing to the workers affected.

(3) Payments to the California Apprenticeship Council pursuant to Section 1777.5.

(c) Employer payments are a credit against the obligation to pay the general prevailing rate of per diem wages. However, credit shall not be granted for benefits required to be provided by other state or federal law, or for payments made to monitor and enforce laws related to public works if those payments are not made to a program or committee established under the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a). Credits for employer payments also shall not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing. However, an increased employer payment contribution that results in a lower hourly straight time or overtime wage shall not be considered a violation of the applicable prevailing wage determination if all of *the* following conditions are met:

(1) The increased employer payment is made pursuant to criteria set forth in a collective bargaining agreement.

(2) The basic hourly rate and increased employer payment are no less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the director's general prevailing wage determination.

(3) The employer payment contribution is irrevocable unless made in error.

(d) An employer may take credit for an employer payment specified in subdivision (b), even if contributions are not made, or costs are not paid, during the same pay period for which credit is taken, if the employer regularly makes the contributions, or regularly pays the costs, for the plan, fund, or program on no less than a quarterly basis.



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(e) The credit for employer payments shall be computed on an annualized basis when the employer seeks credit for employer payments that are higher for public works projects than for private construction performed by the same employer, unless where one or more of the following occur:

- (1) The employer has an enforceable obligation to make the higher rate of payments on future private construction performed by the employer.
- (2) The higher rate of payments is required by a project labor agreement.
- (3) The payments are made to the California Apprenticeship Council pursuant to Section 1777.5.
- (4) The director determines that annualization would not serve the purposes of this chapter.

(f) (1) For the purpose of determining those per diem wages for contracts, the representative of any craft, classification, or type of worker needed to execute contracts shall file with the Department of Industrial Relations fully executed copies of the collective bargaining agreements for the particular craft, classification, or type of work involved. The collective bargaining agreements shall be filed after their execution and thereafter may be taken into consideration pursuant to Section 1773 whenever they are filed 30 days prior to the call for bids. If the collective bargaining agreement has not been formalized, a typescript of the final draft may be filed temporarily, accompanied by a statement under penalty of perjury as to its effective date.

(2) When a copy of the collective bargaining agreement has previously been filed, fully executed copies of all modifications and extensions of the agreement that affect per diem wages or holidays shall be filed.

(3) The failure to comply with filing requirements of this subdivision shall not be grounds for setting aside a prevailing wage determination if the information taken into consideration is correct.

### **§ 1773.2. Specification of general wage rate in call for bids, in bid specifications and in contract; posting at job site**

The body awarding any contract for public work, or otherwise undertaking any public work, shall specify in the call for bids for the contract, and in the bid specifications and in the contract itself, what the general rate of per diem wages is for each craft, classification, or type of worker needed to execute the contract.

In lieu of specifying the rate of wages in the call for bids, and in the bid specifications and in the contract itself, the awarding body may, in the call for bids, bid specifications, and contract, include a statement that copies of the prevailing rate of per diem wages are on file at its principal office, which shall be made available to any interested party on request. The awarding body shall

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also cause a copy of the determination of the director of the prevailing rate of per diem wages to be posted at each job site.

### **§ 1773.3. Notice of awarded public works contracts; notice contents; public access via the internet**

(a) (1) An awarding agency shall provide notice to the Department of Industrial Relations of any public works contract subject to the requirements of this chapter, within five days of the award.

(2) The notice shall be transmitted electronically in a format specified by the department and shall include the name of the contractor, any subcontractor listed on the successful bid, the bid and contract award dates, the contract amount, the estimated start and completion dates, job site location, and any additional information the department specifies that aids in the administration and enforcement of this chapter.

(b) In lieu of responding to any specific request for contract award information, the department may make the information provided by awarding bodies pursuant to this section available for public review on its Internet Web site.

### **§ 1773.4. Review of determination of prevailing wages**

Any prospective bidder or his representative, any representative of any craft, classification or type of workman involved, or the awarding body may, within 20 days after commencement of advertising of the call for bids by the awarding body, file with the Director of Industrial Relations a verified petition to review the determination of any such rate or rates upon the ground that they have not been determined in accordance with the provision of Section 1773 of this code. Within two days thereafter, a copy of such petition shall be filed with the awarding body. The petition shall set forth the facts upon which it is based.

The Director of Industrial Relations or his authorized representative shall, upon notice to the petitioner, the awarding body and such other persons as he deems proper, including the recognized collective bargaining representatives for the particular crafts, classifications or types of work involved, institute an investigation or hold a hearing. Within 20 days after the filing of such petition, or within such longer period as agreed upon by the director, the awarding body, and all the interested parties, he shall make a determination and transmit the same in writing to the awarding body and to the interested parties.

Such determination shall be final and shall be the determination of the awarding body. Upon receipt by it of the notice of the filing of such petition the body awarding the contract or authorizing the public work shall extend the closing date for the submission of bids or the starting of work until five days after the determination of the general prevailing rates of per diem wages pursuant to this section.

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Upon the filing of any such petition, notice thereof shall be set forth in the next and all subsequent publications by the awarding body of the call for bids. No other notice need be given to bidders by the awarding body by publication or otherwise. The determination of the director shall be included in the contract.

### **§ 1773.5. Rules and regulations; determination of project as public work; administrative appeal**

(a) The Director of Industrial Relations may establish rules and regulations for the purpose of carrying out this chapter, including, but not limited to, the responsibilities and duties of awarding bodies under this chapter.

(b) When a request is made to the director for a determination of whether a specific project or type of work awarded or undertaken by a political subdivision is a public work, he or she shall make that determination within 60 days receipt of the last notice of support or opposition from any interested party relating to that project or type of work that was not unreasonably delayed, as determined by the director. If the director deems that the complexity of the request requires additional time to make that determination, the director may have up to an additional 60 days if he or she certifies in writing to the requestor, and any interested party, the reasons for the extension. If the requestor is not a political subdivision, the requester shall, within 15 days of the request, serve a copy of the request upon the political subdivision, in which event the political subdivision shall, within 30 days of its receipt, advise the director of its position regarding the request. For projects or types of work that are otherwise private development projects receiving public funds, as specified in subdivision (b) of Section 1720, the director shall determine whether a specific project or type of work is a public work within 120 days of receipt of the last notice of support or opposition relating to that project or type of work from any interested party that was not unreasonably delayed, as determined by the director.

(c) If an administrative appeal of the director's determination is made, it shall be made within 30 days of the date of the determination. The director shall issue a determination on the administrative appeal within 120 days after receipt of the last notice of support or opposition relating to that appeal from any interested party that was not unreasonably delayed, as determined by the director. The director may have up to an additional 60 days if he or she certifies in writing to the party requesting the appeal the reason for the extension.

(d) The director shall have quasi-legislative authority to determine coverage of projects or types of work under the prevailing wage laws of this chapter. A final determination on any administrative appeal is subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure. These determinations, and any determinations relating to the general prevailing rate of per diem wages and the general prevailing rate for holiday, shift rate, and overtime work, shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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### **§ 1773.6. Determination of change in prevailing wages during quarter; availability to awarding body**

If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality he shall make such change available to the awarding body and his determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published.

### **§ 1773.7. Exemption of special funds of state agencies from charges for services**

The provisions of Section 11250 of the Government Code shall not be applicable to Sections 1773, 1773.4, and 1773.6.

### **§ 1773.8. Employer payment contribution resulting in lower taxable wage**

An increased employer payment contribution that results in a lower taxable wage shall not be considered a violation of the applicable prevailing wage determination so long as all of the following conditions are met:

- (a) The increased employer payment is made pursuant to criteria set forth in a collective bargaining agreement.
- (b) The increased employer payment and hourly straight time and overtime wage combined are no less than the general prevailing rate of per diem wages.
- (c) The employer payment contribution is irrevocable unless made in error.

### **§ 1773.9. General prevailing rate of per diem wages; method of determining; rates established by collective bargaining agreements**

(a) The Director of Industrial Relations shall use the methodology set forth in subdivision (b) to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed.

(b) The general prevailing rate of per diem wages includes all of the following:

(1) The basic hourly wage rate being paid to a majority of workers engaged in the particular craft, classification, or type of work within the locality and in the nearest labor market area, if a majority of the workers is paid at a single rate. If no single rate is being paid to a majority of the workers, then the single rate being paid to the greatest number of workers, or modal rate, is

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prevailing. If a modal rate cannot be determined, then the director shall establish an alternative rate, consistent with the methodology for determining the modal rate, by considering the appropriate collective bargaining agreements, federal rates, rates in the nearest labor market area, or other data such as wage survey data.

(2) Other employer payments included in per diem wages pursuant to Section 1773.1 and as included as part of the total hourly wage rate from which the basic hourly wage rate was derived. In the event the total hourly wage rate does not include any employer payments, the director shall establish a prevailing employer payment rate by the same procedure set forth in paragraph (1).

(3) The rate for holiday and overtime work shall be those rates specified in the collective bargaining agreement when the basic hourly rate is based on a collective bargaining agreement rate. In the event the basic hourly rate is not based on a collective bargaining agreement, the rate for holidays and overtime work, if any, included with the prevailing basic hourly rate of pay shall be prevailing.

(c) (1) If the director determines that the general prevailing rate of per diem wages is the rate established by a collective bargaining agreement, and that the collective bargaining agreement contains definite and predetermined changes during its term that will affect the rate adopted, the director shall incorporate those changes into the determination. Predetermined changes that are rescinded prior to their effective date shall not be enforced.

(2) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but has not published, at the time of the effective date of the predetermined change, the allocation of the predetermined change as between the basic hourly wage and other employer payments included in per diem wages pursuant to Section 1773.1, a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change to either the basic hourly wage or other employer payments included in per diem wages for up to 60 days following the director's publication of the specific allocation of the predetermined change.

(3) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but the allocation of that predetermined change as between the basic hourly wage and other employer payments included in per diem wages pursuant to Section 1773.1 is subsequently altered by the parties to a collective bargaining agreement described in paragraph (1), a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change in accordance with either the originally published allocation or the allocation as altered in the collective bargaining agreement.

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### **§ 1773.11. Private entity's employees; prevailing rate of per diem wages and holiday and overtime work; determinations**

(a) Notwithstanding any other provision of law and except as otherwise provided by this section, if the state or a political subdivision thereof agrees by contract with a private entity that the private entity's employees receive, in performing that contract, the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, the director shall, upon a request by the state or the political subdivision, do both of the following:

(1) Determine, as otherwise provided by law, the wage rates for each craft, classification, or type of worker that are needed to execute the contract.

(2) Provide these wage rates to the state or political subdivision that requests them.

(b) This section does not apply to a contract for a public work, as defined in this chapter.

(c) The director shall determine and provide the wage rates described in this section in the order in which the requests for these wage rates were received and regardless of the calendar year in which they were received. If there are more than 20 pending requests in a calendar year, the director shall respond only to the first 20 requests in the order in which they were received. If the director determines that funding is available in any calendar year to determine and provide these wage rates in response to more than 20 requests, the director shall respond to these requests in a manner consistent with this subdivision.

### **§ 1774. Payment of general prevailing rate**

The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

### **§ 1775. Penalties for violations**

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

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(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:



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(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

### **§ 1776. Payroll records; retention; inspection; agencies entitled to receive nonredacted copies of certified records; noncompliance penalties; rules**

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:



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(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations

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of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

### **§ 1777. Violation; misdemeanor**

Any officer, agent, or representative of the State or of any political subdivision who wilfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor.

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### § 1777.1. Violations with intent to defraud; willful violations

(a) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in violation of this chapter with intent to defraud, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(b) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to have committed two or more separate willful violations of this chapter, except Section 1777.5, within a three-year period, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period up to three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(c) Whenever a contractor or subcontractor performing a public works project has failed to provide a timely response to a request by the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards, or the awarding body to produce certified payroll records pursuant to Section 1776, the Labor Commissioner shall notify the contractor or subcontractor that, in addition to any other penalties provided by law, the contractor or subcontractor will be subject to debarment under this section if the certified payroll records are not produced within 30 days after receipt of the written notice. If the commissioner finds that the contractor or subcontractor has failed to comply with Section 1776 by that deadline, unless the commissioner finds that the failure to comply was due to circumstances outside the contractor's or subcontractor's control, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year and not more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(d) (1) In the event a contractor or subcontractor is determined by the Labor Commissioner to have knowingly committed a serious violation of any provision of Section 1777.5, the Labor Commissioner may also deny to the contractor or subcontractor, and to its responsible officers,

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the right to bid on or to be awarded or perform work as a subcontractor on any public works contract for a period of up to one year for the first violation and for a period of up to three years for a second or subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Labor Commissioner becomes a final order.

(2) The Labor Commissioner shall consider, in determining whether a violation is serious, and in determining whether and for how long a party should be debarred for violating Section 1777.5, all of the following circumstances:

(A) Whether the violation was intentional.

(B) Whether the party has committed other violations of Section 1777.5.

(C) Whether, upon notice of the violation, the party took steps to voluntarily remedy the violation.

(D) Whether, and to what extent, the violation resulted in lost training opportunities for apprentices.

(E) Whether, and to what extent, the violation otherwise harmed apprentices or apprenticeship programs.

(e) A willful violation occurs when the contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or deliberately refuses to comply with its provisions.

(f) The Labor Commissioner shall publish on the commissioner's Internet Web site a list of contractors who are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project pursuant to this chapter. The list shall contain the name of the contractor, the Contractors' State License Board license number of the contractor, and the effective period of debarment of the contractor. Contractors shall be added to the list upon issuance of a debarment order and the commissioner shall also notify the Contractors' State License Board when the list is updated. At least annually, the commissioner shall notify awarding bodies of the availability of the list of debarred contractors. The commissioner shall also place advertisements in construction industry publications targeted to the contractors and subcontractors, chosen by the commissioner, that state the effective period of the debarment and the reason for debarment. The advertisements shall appear one time for each debarment of a contractor in each publication chosen by the commissioner. The debarred contractor or subcontractor shall be liable to the commissioner for the reasonable cost of the advertisements, not to exceed five thousand dollars (\$5,000). The amount paid to the commissioner for the advertisements shall be credited against the contractor's or subcontractor's obligation to pay civil fines or penalties for the same willful violation of this chapter.

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(g) For purposes of this section, “contractor or subcontractor” means a firm, corporation, partnership, or association and its responsible managing officer, as well as any supervisors, managers, and officers found by the Labor Commissioner to be personally and substantially responsible for the willful violation of this chapter.

(h) For the purposes of this section, the term “any interest” means an interest in the entity bidding or performing work on the public works project, whether as an owner, partner, officer, manager, employee, agent, consultant, or representative. “Any interest” includes, but is not limited to, all instances where the debarred contractor or subcontractor receives payments, whether cash or any other form of compensation, from any entity bidding or performing work on the public works project, or enters into any contracts or agreements with the entity bidding or performing work on the public works project for services performed or to be performed for contracts that have been or will be assigned or sublet, or for vehicles, tools, equipment, or supplies that have been or will be sold, rented, or leased during the period from the initiation of the debarment proceedings until the end of the term of the debarment period. “Any interest” does not include shares held in a publicly traded corporation if the shares were not received as compensation after the initiation of debarment from an entity bidding or performing work on a public works project.

(i) For the purposes of this section, the term “entity” is defined as a company, limited liability company, association, partnership, sole proprietorship, limited liability partnership, corporation, business trust, or organization.

(j) The Labor Commissioner shall adopt rules and regulations for the administration and enforcement of this section.

### **§ 1777.5. Employment of registered apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions; compliance program**

(a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

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(2) The rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate

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the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.



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(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship standards and requirements under this code.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).



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(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

### **§ 1777.6. Discrimination against apprentices**

An employer or a labor union shall not refuse to accept otherwise qualified employees as registered apprentices on any public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as provided in Section 3077 of this code and Section 12940 of the Government Code.

### **§ 1777.7. Violations of § 1777.5; civil penalty; procedures**

(a) (1) If the Labor Commissioner or his or her designee determines after an investigation that a contractor or subcontractor knowingly violated Section 1777.5, the contractor and any subcontractor responsible for the violation shall forfeit, as a civil penalty to the state or political subdivision on whose behalf the contract is made or awarded, not more than one hundred dollars (\$100) for each full calendar day of noncompliance. The amount of this penalty may be reduced by the Labor Commissioner if the amount of the penalty would be disproportionate to the severity of the violation. A contractor or subcontractor that knowingly commits a second or subsequent violation within a three-year period, if the noncompliance results in apprenticeship training not being provided as required by this chapter, shall forfeit as a civil penalty the sum of not more than three hundred dollars (\$300) for each full calendar day of noncompliance.

(2) In lieu of the penalty provided for in this subdivision, the Labor Commissioner may, for a first-time violation and with the concurrence of an apprenticeship program described in subdivision (d) of Section 1777.5, order the contractor or subcontractor to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.

(b) The Labor Commissioner shall consider, in setting the amount of a monetary penalty, all of the following circumstances:

- (1) Whether the violation was intentional.
- (2) Whether the party has committed other violations of Section 1777.5.
- (3) Whether, upon notice of the violation, the party took steps to voluntarily remedy the violation.

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(4) Whether, and to what extent, the violation resulted in lost training opportunities for apprentices.

(5) Whether, and to what extent, the violation otherwise harmed apprentices or apprenticeship programs.

(c) (1) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties assessed under subdivisions (a) and (b). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(2) For purposes of this section, a determination issued pursuant to subdivision (a) or (b) includes a determination that has been approved by the Labor Commissioner and issued by an awarding body that has been authorized to assist the director in the enforcement of Section 1777.5 pursuant to subdivision (p) of that section. The Labor Commissioner may intervene in any proceeding for review of a determination issued by an awarding body. If the involvement of the Labor Commissioner in a labor compliance program enforcement action is limited to a review of the determination and the matter is resolved without litigation by or against the Labor Commissioner or the department, the awarding body shall enforce any applicable penalties, as specified in this section, and shall deposit any penalties and forfeitures collected in the General Fund.

(d) The determination of the Labor Commissioner as to the amount of the penalty imposed under subdivisions (a) and (b) shall be reviewable only for an abuse of discretion.

(e) If a subcontractor is found to have violated Section 1777.5, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of the subcontractor's failure to comply with the provisions of Section 1777.5 or unless the prime contractor fails to comply with any of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall continually monitor a subcontractor's use of apprentices required to be employed on the public works project pursuant to subdivision (d) of Section 1777.5, including, but not limited to, periodic review of the certified payroll of the subcontractor.

(3) Upon becoming aware of a failure of the subcontractor to employ the required number of apprentices, the contractor shall take corrective action, including, but not limited to, retaining funds due to the subcontractor for work performed on the public works project until the failure is corrected.

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(4) Prior to making the final payment to the subcontractor for work performed on the public works project, the contractor shall obtain a declaration signed under penalty of perjury from the subcontractor that the subcontractor has employed the required number of apprentices on the public works project.

(f) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the division of a complaint that a subcontractor on that public works project knowingly violated Section 1777.5.

(g) The interpretation of Section 1777.5 and the substantive requirements of this section applicable to contractors or subcontractors shall be in accordance with the regulations of the California Apprenticeship Council.

(h) The Director of Industrial Relations may adopt regulations to establish guidelines for the imposition of monetary penalties.

### **§ 1778. Receipt of portion of wages of workman; felony**

Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives, or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

### **§ 1779. Fee for registering or placing person in public work; misdemeanor**

Any person or agent or officer thereof who charges, collects, or attempts to charge or collect, directly or indirectly, a fee or valuable consideration for registering any person for public work, or for giving information as to where such employment may be procured, or for placing, assisting in placing, or attempting to place, any person in public work, whether the person is to work directly for the State, or any political subdivision or for a contractor or subcontractor doing public work is guilty of a misdemeanor.

### **§ 1780. Placement of order for employment of workman; misdemeanor**

Any person acting on behalf of the State or any political subdivision, or any contractor or subcontractor or agent or representative thereof, doing any public work who places any order for the employment of a workman on public work where the filling of the order for employment involves the charging of a fee, or the receiving of a valuable consideration from any applicant for employment is guilty of a misdemeanor.

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### **§ 1781. Actions to recover increased costs incurred; liability; public works; definitions; penalties**

(a) (1) Notwithstanding any other provision of law, a contractor may, subject to paragraphs (2) and (3), bring an action in a court of competent jurisdiction to recover from the body awarding a contract for a public work or otherwise undertaking any public work any increased costs incurred by the contractor as a result of any decision by the body, the Department of Industrial Relations, or a court that classifies, after the time at which the body accepts the contractor's bid or awards the contractor a contract in circumstances where no bid is solicited, the work covered by the bid or contract as a "public work," as defined in this chapter, to which Section 1771 applies, if that body, before the bid opening or awarding of the contract, failed to identify as a "public work," as defined in this chapter, in the bid specification or in the contract documents that portion of the work that the decision classifies as a "public work."

(2) The body awarding a contract for a public work or otherwise undertaking any public work is not liable for increased costs in an action described in paragraph (1) if all of the following conditions are met:

(A) The contractor did not directly submit a bid to, or directly contract with, that body.

(B) The body stated in the contract, agreement, ordinance, or other written arrangement by which it undertook the public work that the work described in paragraph (1) was a "public work," as defined in this chapter, to which Section 1771 applies, and obligated the party with whom the body makes its written arrangement to cause the work described in paragraph (1) to be performed as a "public work."

(C) The body fulfilled all of its duties, if any, under the Civil Code or any other provision of law pertaining to the body providing and maintaining bonds to secure the payment of contractors, including the payment of wages to workers performing the work described in paragraph (1).

(3) If a contractor did not directly submit a bid to, or directly contract with a body awarding a contract for, or otherwise undertaking a public work, the liability of that body in an action commenced by the contractor under subdivision (a) is limited to that portion of a judgment, obtained by that contractor against the body that solicited the contractor's bid or awarded the contract to the contractor, that the contractor is unable to satisfy. For purposes of this paragraph, a contractor may not be deemed to be unable to satisfy any portion of a judgment unless, in addition to other collection measures, the contractor has made a good faith attempt to collect that portion of the judgment against a surety bond, guarantee, or some other form of assurance.

(b) When construction has not commenced at the time a final decision by the Department of Industrial Relations or a court classifies all or part of the work covered by the bid or contract as a "public work," as defined in this chapter, the body that solicited the bid or awarded the contract shall rebid the "public work" covered by the contract as a "public work," any bid that was

## California Prevailing Wage Laws

submitted and any contract that was executed for this work are null and void, and the contractor may not be compensated for any nonconstruction work already performed unless the body soliciting the bid or awarding the contract has agreed to compensate the contractor for this work.

(c) For purposes of this section:

(1) “Awarding body” does not include the Department of General Services, the Department of Transportation, or the Department of Water Resources.

(2) “Increased costs” includes, but is not limited to:

(A) Labor cost increases required to be paid to workers who perform or performed work on the “public work” as a result of the events described in subdivision (a).

(B) Penalties for a violation of this article for which the contractor is liable, and which violation is the result of the events described in subdivision (a).

### **§ 1782. Charter cities; use of state funding or financial assistance for construction projects; compliance with article; list of approved charter cities**

(a) A charter city shall not receive or use state funding or financial assistance for a construction project if the city has a charter provision or ordinance that authorizes a contractor to not comply with the provisions of this article on any public works contract.

(b) A charter city shall not receive or use state funding or financial assistance for a construction project if the city has awarded, within the prior two years, a public works contract without requiring the contractor to comply with all of the provisions of this article. This subdivision shall not apply if the charter city's failure to include the prevailing wage or apprenticeship requirement in a particular contract was inadvertent and contrary to a city charter provision or ordinance that otherwise requires compliance with this article.

(c) A charter city is not disqualified by subdivision (a) from receiving or using state funding or financial assistance for its construction projects if the charter city has a local prevailing wage ordinance for all its public works contracts that includes requirements that in all respects are equal to or greater than the requirements imposed by the provisions of this article and that do not authorize a contractor to not comply with this article.

(d) For purposes of this section, the following shall apply:

(1) A public works contract does not include contracts for projects of twenty-five thousand dollars (\$25,000) or less when the project is for construction work, or projects of fifteen thousand dollars (\$15,000) or less when the project is for alteration, demolition, repair, or maintenance work.

## California Prevailing Wage Laws

(2) A charter city includes any agency of a charter city and any entity controlled by a charter city whose contracts would be subject to this article.

(3) A "construction project" means a project that involves the award of a public works contract.

(4) State funding or financial assistance includes direct state funding, state loans and loan guarantees, state tax credits, and any other type of state financial support for a construction project. State funding or financial assistance does not include revenues that charter cities are entitled to receive without conditions under the California Constitution.

(e) The Director of Industrial Relations shall maintain a list of charter cities that may receive and use state funding or financial assistance for their construction projects.

(f) (1) This section does not restrict a charter city from receiving or using state funding or financial assistance that was awarded to the city prior to January 1, 2015, or from receiving or using state funding or financial assistance to complete a contract that was awarded prior to January 1, 2015.

(2) A charter city is not disqualified by subdivision (b) from receiving or using state funding or financial assistance for its construction projects based on the city's failure to require a contractor to comply with this article in performing a contract the city advertised for bid or awarded prior to January 1, 2015.

### **§ 1784. Action to recover from the hiring party for increased costs; exceptions; time to bring action; notification**

(a) Notwithstanding any other law, a contractor may bring an action in a court of competent jurisdiction to recover from the hiring party that the contractor directly contracts with, any increased costs attributable solely to the provisions of this chapter, including, but not limited to, the difference between the wages actually paid to an employee and the wages that were required to be paid to an employee under this chapter, any penalties or other sums required to be paid under this chapter, and costs and attorney's fees for the action incurred by the contractor as a result of any decision by the Department of Industrial Relations, the Labor and Workforce Development Agency, or a court that classifies, after the time at which the hiring party accepts the contractor's bid, awards the contractor a contract under circumstances when no bid is solicited, or otherwise allows construction by the contractor to proceed, the work covered by the project, or any portion thereof, as a "public work," as defined in this chapter, except to the extent that either of the following is true:

(1) The owner or developer or its agent expressly advised the contractor that the work to be covered by the contract would be a "public work," as defined in this chapter, or is otherwise subject to the payment of prevailing wages.

## California Prevailing Wage Laws

(2) The hiring party expressly advised the contractor that the work subject to the contract would be a “public work,” as defined in this chapter, or is otherwise subject to the payment of prevailing wages.

(b) (1) To be entitled to the recovery of increased costs described in subdivision (a), the contractor shall notify the hiring party and the owner or developer within 30 days after receipt of the notice of a decision by the Department of Industrial Relations or the Labor and Workforce Development Agency, or the initiation of any action in a court alleging, that the work covered by the project, or any portion thereof, is a “public work,” as defined in this chapter.

(2) The notice provided pursuant to this subdivision shall set forth the legal name, address, and telephone number of the contractor, and the name, address, and telephone number of the contractor’s representative, if any, and shall be given by registered or certified mail, express mail, or overnight delivery by an express service carrier.

(c) A contractor is not required to list any prevailing wages or apprenticeship standard violations on a prequalification questionnaire that are the direct result of the failure of the owner or developer or its agent, or a hiring party, to notify the contractor that the project, or any portion thereof, was a “public work,” as defined in this chapter.

(d) This section does not apply to private residential projects built on private property unless the project is built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority.

(e) This section does not apply if the conduct of the contractor caused the project to be a “public work,” as defined in this chapter, or if the contractor has actual knowledge that the work is a “public work,” as defined in this chapter.

(f) A contractor may seek recovery pursuant to this section only from a hiring party with whom the contractor has a direct contract.

(g) For purposes of this section, “contractor” means a person or entity licensed by the Contractors’ State Licensing Board that has a direct contract with the hiring party to provide services on private property or for the benefit of a private owner or developer.

(h) For purposes of this section, “hiring party” means the party that has a direct contract for services provided by the contractor who is seeking recovery pursuant to subdivision (a) on a private works project that was subsequently determined to be a public work by the Department of Industrial Relations or the Labor and Workforce Development Agency, or by the initiation of any action in a court alleging that the work covered by the project, or any portion thereof, was a public work.



# California Prevailing Wage Laws

## Division 2. Employment Regulation and Supervision Part 7. Public Works and Public Agencies Chapter 1. Public Works Article 3. Working Hours

### **§ 1810. Legal day's work**

Eight hours labor constitutes a legal day's work in all cases where the same is performed under the authority of any law of this State, or under the direction, or control, or by the authority of any officer of this State acting in his official capacity, or under the direction, or control or by the authority of any municipal corporation, or of any officer thereof. A stipulation to that effect shall be made a part of all contracts to which the State or any municipal corporation therein is a party.

### **§ 1811. Maximum hours per day and per week**

The time of service of any workman employed upon public work is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week, except as hereinafter provided for under Section 1815.

### **§ 1812. Record of hours of employment; inspection**

Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the awarding body and to the Division of Labor Standards Enforcement.

### **§ 1813. Forfeiture for violations; contract stipulation; report of violations**

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.



## California Prevailing Wage Laws

### **§ 1814. Violation; misdemeanor**

Any officer, agent, or representative of the State or any political subdivision who violates any provision of this article and any contractor or subcontractor or agent or representative thereof doing public work who neglects to comply with any provision of Section 1812 is guilty of a misdemeanor.

### **§ 1815. Overtime**

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

Division 2. Employment Regulation and Supervision  
Part 7. Public Works and Public Agencies  
Chapter 1. Public Works  
Article 5. Securing Workers' Compensation

### **§ 1860. Required contract provision**

The awarding body shall cause to be inserted in every public works contract a clause providing that, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his employees.

### **§ 1861. Certification by contractor**

Each contractor to whom a public works contract is awarded shall sign and file with the awarding body the following certification prior to performing the work of the contract: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

# California Prevailing Wage Laws

Division 2. Employment Regulation and Supervision  
Part 7. Public Works and Public Agencies  
Chapter 2. Public Agencies  
Article 1. Municipal Employees

## **§ 1900. Employees entitled to time off for meals**

Every employee of a city whose hours of labor exceed 120 in a week is entitled to be off duty at least three hours during every twenty-four hours for the purpose of procuring meals. No deduction of salary shall be made by reason thereof.

## **§ 1901. Violation; misdemeanor**

Any officer or agent of a city having supervision and control of employees covered by this article who violates any provision hereof is guilty of a misdemeanor.

# California Prevailing Wage Laws

## PENAL CODE

Part 3. Of Imprisonment and the Death Penalty  
Title 1. Imprisonment of Male Prisoners in State Prisons  
Chapter 5. Employment of Prisoners  
Article 1.5. Joint Venture Program

### **§ 2717.8. Compensation of inmate workers; deductions**

The compensation of prisoners engaged in programs pursuant to contract between the Department of Corrections and joint venture employers for the purpose of conducting programs which use inmate labor shall be comparable to wages paid by the joint venture employer to non-inmate employees performing similar work for that employer. If the joint venture employer does not employ such non-inmate employees in similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. Such wages shall be subject to deductions, as determined by the Director of Corrections, which shall not, in the aggregate, exceed 80 percent of gross wages and shall be limited to the following:

- (1) Federal, state, and local taxes.
- (2) Reasonable charges for room and board, which shall be remitted to the Director of Corrections.
- (3) Any lawful restitution fine or contributions to any fund established by law to compensate the victims of crime of not more than 20 percent, but not less than 5 percent, of gross wages, which shall be remitted to the Director of Corrections for disbursement.
- (4) Allocations for support of family pursuant to state statute, court order, or agreement by the prisoner.

## California Prevailing Wage Laws

Part 3. Of Imprisonment and the Death Penalty  
Title 7. Administration of the State Correctional System  
Chapter 11. Master Plan Construction

**§ 7010. Lease or lease-purchase agreements for establishment of prison facility for Los Angeles County; solicitation of bids, review and approval; compliance with public works provisions**

- (a) The Director of Corrections may solicit bids for any lease or lease-purchase for the establishment of a prison facility for a site in Los Angeles County.
- (b) The director may not accept any lease or lease-purchase bid or execute any lease or lease-purchase agreement unless and until the bid or agreement is submitted for review and approval under the procedure described in Section 7003.
- (c) Any lease or lease-purchase agreement executed pursuant to this section shall contain, as a condition of the agreement, stipulations requiring compliance with the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of the Labor Code in the construction of any facility within the scope of the agreement.

Part 3. Of Imprisonment and the Death Penalty  
Title 9. Punishment  
Chapter 1. Programs with Special Focus on Substance Abuse

**§ 8002. Exemption from wage and hour provisions and § 1025 of Labor Code**

Notwithstanding any other provision of law, the participants, director, and staff of a live-in alternative to incarceration rehabilitation program with special focus on substance abusers, when participating in operations owned and operated by the program, are exempt from the wage and hour provisions and Section 1025 of the Labor Code, so long as all revenues generated by the operation are used for the support of the program. All providers who bid on public work shall include in their bid the prevailing wage rate as required by the request.

# California Prevailing Wage Laws

## PUBLIC CONTRACT CODE

### Division 2. General Provisions Part 1. Administrative Provisions Chapter 4. Subletting and Subcontracting

#### **§ 4104. Contents of bids or offers (operative 07/01/2014)**

Any officer, department, board, or commission taking bids for the construction of any public work or improvement shall provide in the specifications prepared for the work or improvement or in the general conditions under which bids will be received for the doing of the work incident to the public work or improvement that any person making a bid or offer to perform the work, shall, in his or her bid or offer, set forth:

(a) (1) The name, the location of the place of business, and the California contractor license number of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater. (2) An inadvertent error in listing the California contractor license number provided pursuant to paragraph (1) shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted to the public entity by the prime contractor within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor. (3) (A) Subject to subparagraph (B), any information requested by the officer, department, board, or commission concerning any subcontractor who the prime contractor is required to list under this subdivision, other than the subcontractor's name, location of business, and California contractor license number, may be submitted by the prime contractor up to 24 hours after the deadline established by the officer, department, board, or commission for receipt of bids by prime contractors. (B) A state or local agency may implement subparagraph (A) at its option.

(b) The portion of the work that will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid.

(c) This section shall become operative on July 1, 2014.

## California Prevailing Wage Laws

### **§ 4104.5. Invitation to bid; closing of submissions date; extensions**

(a) The officer, department, board, or commission taking bids for construction of any public work or improvement shall specify in the bid invitation and public notice the place the bids of the prime contractors are to be received and the time by which they shall be received. The date and time shall be extended by no less than 72 hours if the officer, department, board, or commission issues any material changes, additions, or deletions to the invitation later than 72 hours prior to the bid closing. Any bids received after the time specified in the notice or any extension due to material changes shall be returned unopened.

(b) As used in this section, the term “material change” means a change with a substantial cost impact on the total bid as determined by the awarding agency.

(c) As used in this section, the term “bid invitation” shall include any documents issued to prime contractors that contain descriptions of the work to be bid or the content, form, or manner of submission of bids by bidders.

Division 2. General Provisions  
Part 1. Administrative Provisions  
Chapter 6.5. The Design-Build Demonstration Program

### **§ 6823. Establishment of labor compliance program for public works projects; exempt projects**

(a) For contracts for public works projects awarded prior to January 1, 2012, a transportation entity authorized to use the design-build method of procurement shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the transportation entity or design-build entity has entered into any collective bargaining agreement that binds all of the contractors performing work on the projects.

(b) For contracts for public works projects awarded on or after January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code.

## California Prevailing Wage Laws

Division 2. General Provisions  
Part 1. Administrative Provisions  
Chapter 6.6. Alternative Project Delivery Program:  
Construction Manager/General Contractor Authority

### **§ 6953. Public works projects subject to certain Labor Code provisions**

Any public works project that is contracted for pursuant to this chapter shall be subject to the requirements of Section 1771.4 of the Labor Code.

Division 2. General Provisions  
Part 2. Contracting by State Agencies  
Chapter 1. State Contract Act  
Article 2. Plans and Specifications

### **§ 10128. Compliance with Labor Code provisions relating to public works contracts**

All contracts awarded under this part shall comply with the applicable provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code relating to public works contracts and shall contain all the contract provisions required therein.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1. Local Agency Public Construction Act  
Article 1. Title

### **§ 20101. Prospective bidders; questionnaires and financial statements; prequalification**

(a) Except as provided in Section 20111.5, a public entity subject to this part may require that each prospective bidder for a contract complete and submit to the entity a standardized questionnaire and financial statement in a form specified by the entity, including a complete statement of the prospective bidder's experience in performing public works. The standardized questionnaire may not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if a violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations. The Department of Industrial Relations, in collaboration with affected agencies and interested parties, shall develop model guidelines for rating bidders, and draft the standardized questionnaire, that may be used by public entities for the purposes of this part. The Department of Industrial Relations, in developing the standardized questionnaire, shall consult with affected public agencies, cities and

## California Prevailing Wage Laws

counties, the construction industry, the surety industry, and other interested parties. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection; however, records of the names of contractors applying for prequalification status shall be public records subject to disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(b) Any public entity requiring prospective bidders to complete and submit questionnaires and financial statements, as described in subdivision (a), shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine both the minimum requirements permitted for qualification to bid, and the type and size of the contracts upon which each bidder shall be deemed qualified to bid. The uniform system of rating prospective bidders shall be based on objective criteria.

(c) A public entity may establish a process for prequalifying prospective bidders pursuant to this section on a quarterly basis and a prequalification pursuant to this process shall be valid for one calendar year following the date of initial prequalification.

(d) Any public entity requiring prospective bidders on a public works project to prequalify pursuant to this section shall establish a process that will allow prospective bidders to dispute their proposed prequalification rating prior to the closing time for receipt of bids. The appeal process shall include the following:

(1) Upon request of the prospective bidder, the public entity shall provide notification to the prospective bidder in writing of the basis for the prospective bidder's disqualification and any supporting evidence that has been received from others or adduced as a result of an investigation by the public entity.

(2) The prospective bidder shall be given the opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the public entity as to why the prospective bidder should be found qualified.

(3) If the prospective bidder chooses not to avail itself of this process, the proposed prequalification rating may be adopted without further proceedings.

(e) For the purposes of subdivision (a), a financial statement shall not be required from a contractor who has qualified as a Small Business Administration entity pursuant to paragraph (1) of subdivision (d) of Section 14837 of the Government Code, when the bid is no more than 25 percent of the qualifying amount provided in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.



## California Prevailing Wage Laws

(f) Nothing in this section shall preclude an awarding agency from prequalifying or disqualifying a subcontractor. The disqualification of a subcontractor by an awarding agency does not disqualify an otherwise prequalified contractor.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1. Local Agency Public Construction Act  
Article 3.5. Counties

**§ 20123.5. Split or separation into smaller work orders or projects; prohibition; misdemeanor**

In any county, it is unlawful to split or separate into smaller work orders or projects any public work project for the purpose of evading the provisions of this article requiring public work to be done by contract after competitive bidding. Every person who willfully violates the provisions of this section is guilty of a misdemeanor.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1. Local Agency Public Construction Act  
Article 4. Cities

**§ 20163. Splitting work orders to avoid competitive bidding; offense**

It shall be unlawful to split or separate into smaller work orders or projects any public work project for the purpose of evading the provisions of this article requiring public work to be done by contract after competitive bidding. Every person who willfully violates this provision of this section is guilty of a misdemeanor.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1. Local Agency Public Construction Act  
Article 6.8. Transit Design-Build Contracts

**§ 20209.7. [Excerpt] Design-build projects; progress in three-step process; labor compliance program**

Design-build projects shall progress in a three-step process, as follows:

## California Prevailing Wage Laws

(c) (1) For contracts for public works projects awarded prior to January 1, 2012, the transit operator shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate this labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the transit operator or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project, or to any other project of the transit operator that is not design-build.

(2) For contracts for public works projects awarded on or after January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code.

(e) (1) The transit operator shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the Director of Industrial Relations. The standardized questionnaire shall not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if the violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations and the bidder complied with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code. In preparing the questionnaire, the director shall consult with the construction industry, building trades, transit operators, and other affected parties. This questionnaire shall require information relevant to the architecture or engineering firm that will be the lead on the design-build project.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1. Local Agency Public Construction Act  
Article 42. Public Entities – Public Work and Public Purchases

### **§ 20670. Application of article; public entities**

The provisions of this article shall apply to contracts by public entities as provided by Division 5 (commencing with Section 4000) of the Government Code.

### **§ 20671. Definitions**

As used in this chapter:

(a) "Public leaseback" means any lease by a public entity, as lessee, of buildings, structures, or other facilities which are permanently attached to land, where the lease is between the public entity and a public leaseback corporation, as lessor, and the lease is executed before the buildings, structures, or facilities have been built.

## California Prevailing Wage Laws

(b) "Public entity" means any city, charter city, city and county, county, district, public corporation, or political subdivision of the state.

(c) "Public leaseback corporation" means any corporation or nonprofit corporation organized or controlled by a public entity which constructs or arranges for the construction of buildings, structures, or other facilities which are permanently attached to land for public leaseback.

(d) "Public projects" means the construction of buildings, structures, or other facilities which are permanently attached to land.

### **§ 20672. Public projects in excess of \$3,000; requirement of payment of prevailing wages**

Any public project by a public leaseback corporation in excess of three thousand dollars (\$3,000) shall be constructed under contract awarded to the lowest responsible bidder, and such contract shall require the payment of prevailing wages as determined by the public leaseback corporation in the manner and form provided in Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1. Local Agency Public Construction Act  
Article 60.3. Job Order Contracting

### **§ 20919.3. Labor compliance program; execution plan; interim report (sunsets on 12/31/2020)**

(a) (1) For contracts for public works projects awarded prior to January 1, 2012, the unified school district shall establish and enforce for job order contracts a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in that provision. This requirement does not apply to any project where the unified school district or the job order contractor has entered into a collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(2) For contracts for public works projects awarded on or after January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code.

(b) The unified school district shall prepare an execution plan for all modernization projects that may be eligible for job order contracting pursuant to this article. The unified school district shall select from that plan a sufficient number of projects to be initiated as job order contracts during each calendar year and shall determine for each selected project that job order contracting will

## California Prevailing Wage Laws

reduce the total cost of that project. Job order contracting shall not be used if the unified school district finds that it will increase the total cost of the project.

(c) No later than June 30, 2017, the unified school district shall submit an interim report on all job order contract projects completed by December 31, 2016, to the Office of Public School Construction in the Department of General Services and the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business, Professions and Consumer Protection and the Senate and Assembly Committees on Education. The interim report shall be prepared by an independent third party and the unified school district shall pay for the cost of the report. The report shall include the information specified in subdivisions (a) through (h) of Section 20919.12.

### **§ 20919.7. Prevailing wages**

(a) A job order contract shall set forth in the general conditions of the job order contract the party or parties responsible for seeing that the provisions of Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code are complied with.

(b) For purposes of job order contracting, prevailing wages when required to be paid shall apply to all work ordered under the job order contract regardless of thresholds set forth in Section 1771.5 of the Labor Code.

(c) The job order contractor shall pay the prevailing wage in effect at the time the job order is issued by the unified school district and all increases as published by the Department of Industrial Relations for the term of the job order contract, including all overtime, holiday, and shift provisions published by the Department of Industrial Relations.

(d) The unified school district shall designate one individual within its labor compliance office to act as a monitor to inspect job sites for labor compliance violations at the request of the designated labor representative.

### **§ 20919.9. Employment of apprentices**

For purposes of employment of apprentices on job order contracts, when the individual job order involves more than thirty thousand dollars (\$30,000) or 20 working days, all general contractors or subcontractors shall at all times be in compliance with Section 1777.5 of the Labor Code and shall comply with the following:

(a) Prior to commencing work on an individual job order, every contractor shall submit job order award information to an applicable apprenticeship program that can supply apprentices to the site of the job order. The information submitted shall include an estimate of the journeyman hours to be performed under the contract, the number of apprenticeships proposed to be employed, and

## California Prevailing Wage Laws

the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding agency if requested by the awarding agency.

(b) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the job order may be no higher than the ratio stipulated in the apprenticeship standard under which the apprenticeship program operates where the job order contractor agrees to be bound by those standards but, except as otherwise provided in Section 1777.5 of the Labor Code, in no case shall the ratio be less than one hour of apprenticeship work for every five hours of journeyman work.

(c) Every apprentice employed under the job order contract shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(d) Every apprentice employed under the job order contract shall be hired from the local joint labor management apprenticeship committee that has jurisdiction in the geographic area of the project.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1.5. Water District Acts  
Article 83. Santa Clara Valley Water District

**§ 21162. Use of procedures in § 20133 by a district for building construction contracts; conditions**

Notwithstanding any other provision of law, upon the approval of the board of directors, and without the approval of the board of supervisors, the district may use, for building construction contracts, the procedures described in Section 20133, as that section reads on January 1, 2002 or as it may be amended after that date.

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Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 1.5. Water District Acts  
Article 100. Yuba County Water Agency

### **§ 21351. Contracts; bids; performance bonds; work by force account; materials and supplies**

All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars (\$5,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published by the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code. The board may reject any bid. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars (\$5,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The board may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account. In awarding any contract or authorizing any work, the board shall comply with the provisions of Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

Division 2. General Provisions  
Part 3. Contracting by Local Agencies  
Chapter 2. Bidding on Public Contracts  
Article 1. Legislative Intent and Definitions

### **§ 22002. Definitions**

(a) "Public agency," for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries.

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“Public agency” also includes a nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(b) “Representatives of the construction industry” for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.

(c) “Public project” means any of the following:

(1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.

(2) Painting or repainting of any publicly owned, leased, or operated facility.

(3) In the case of a publicly owned utility system, “public project” shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(d) “Public project” does not include maintenance work. For purposes of this section, “maintenance work” includes all of the following:

(1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

(2) Minor repainting.

(3) Resurfacing of streets and highways at less than one inch.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

(5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(e) For purposes of this chapter, “facility” means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.

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## **PUBLIC RESOURCES CODE**

Division 5. Parks and Monuments  
Chapter 2. Counties and Cities  
Article 6. Municipal Park Improvement District Bonds

### **§ 5366. Applicability of State Contract Act and Labor Code to this article**

The State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code) and Part 7 (commencing with Section 1720) of Division 2 of the Labor Code shall be applicable to this article.

Division 13. Environmental Quality  
Chapter 6.5. Jobs and Economic Improvement Through Environmental Leadership Act of 2011

### **§ 21183. Certification of leadership project by Governor; conditions**

The Governor may certify a leadership project for streamlining pursuant to this chapter if all the following conditions are met:

- (a) The project will result in a minimum investment of one hundred million dollars (\$100,000,000) in California upon completion of construction.
- (b) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages and provide construction jobs and permanent jobs for Californians, and helps reduce unemployment. For purposes of this subdivision, “jobs that pay prevailing wages” means that all construction workers employed in the execution of the project will receive at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code. If the project is certified for streamlining, the project applicant shall include this requirement in all contracts for the performance of the work.
- (c) The project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation, as determined by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.
- (d) The project applicant has entered into a binding and enforceable agreement that all mitigation measures required pursuant to this division to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead



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agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation.

(e) The project applicant agrees to pay the costs of the Court of Appeal in hearing and deciding any case, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the Rules of Court adopted by the Judicial Council pursuant to subdivision (f) of Section 21185.

(f) The project applicant agrees to pay the costs of preparing the administrative record for the project concurrent with review and consideration of the project pursuant to this division, in a form and manner specified by the lead agency for the project.

Division 30. Waste Management  
Part 4. Solid Waste Facilities  
Chapter 2. Solid Waste Handling and Disposal  
Article 3. Closure Plans

**§ 43501. Certification of financial arrangements; submission of closure and postclosure maintenance plan**

(a) A person owning or operating a solid waste landfill, as defined in Section 40195.1, shall do both of the following:

(1) Upon application to become an operator of a solid waste facility pursuant to Section 44001, certify to the board and the local enforcement agency that all of the following have been accomplished:

(A) The owner or operator has prepared an initial estimate of closure and postclosure maintenance costs.

(i) The board shall adopt regulations that provide for an increase in the initial closure and postclosure maintenance cost estimates to account for cost overruns due to unforeseeable circumstances, and to provide a reasonable contingency comparable to that which is built into cost estimates for other, similar public works projects.

(ii) The board shall adopt regulations on or before January 1, 2008, that require closure and postclosure maintenance cost estimates to be based on reasonably foreseeable costs the state may incur if the state would have to assume responsibility for the closure and postclosure maintenance due to the failure of the owner or operator. Cost estimates shall include, but not be limited to, estimates in compliance with Sections 1770, 1773, and 1773.1 of the Labor Code, and

## California Prevailing Wage Laws

the replacement and repair costs for longer lived items, including, but not limited to, repair of the environmental control systems.

(B) The owner or operator has established a trust fund or equivalent financial arrangement acceptable to the board, as specified in Article 4 (commencing with Section 43600).

(C) The amounts that the owner or operator will deposit annually in the trust fund or equivalent financial arrangement acceptable to the board will ensure adequate resources for closure and postclosure maintenance.

(2) Submit to the regional water board, the local enforcement agency, and the board a plan for the closure of the solid waste landfill and a plan for the postclosure maintenance of the solid waste landfill.

(b) Notwithstanding subparagraph (C) of paragraph (1) of subdivision (a) or any other provision of law, if the owner or operator is a county with a population of 200,000 or less, as determined by the 1990 decennial census, the county shall not be required to make annual deposits in excess of the amount required by the federal act or any other applicable federal law, or by any board-approved formula that meets the requirements of the federal act.

(c) If not in conflict with federal law or regulations, a county or city may, with regard to a solid waste landfill owned or operated by the county or city, base its estimate of closure and postclosure maintenance costs on the costs of employing county or city employees or persons under contract with the county or city in performing closure and postclosure maintenance. However, even if, to meet federal requirements, the cost estimate is based on the most expensive costs of closure and postclosure maintenance performed by a third party, the county or city may, to effect cost savings, employ county or city employees or employ persons under contract to actually perform closure operations or postclosure maintenance operations.

Division 43. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006  
Chapter 10. Miscellaneous Provisions

### **§ 75075. Labor compliance program; adoption and enforcement**

The body awarding any contract for a public works project financed in any part from funds made available pursuant to this division shall adopt and enforce, or contract with a third party to enforce, a labor compliance program pursuant to subdivision (b) of Labor Code Section 1771.5 for application to that public works project.

# California Prevailing Wage Laws

## PUBLIC UTILITIES CODE

Division 1. Regulation of Public Utilities  
Part 1. Public Utilities Act  
Chapter 2.3. Electrical Restructuring  
Article 16. California Renewables Portfolio Standard Program

### **§ 399.13. Annual preparation of renewable energy procurement plan by electrical corporations; proposal, review, and adoption by commission as part of general procurement plan process; report on necessity of electrical transmission facility; annual compliance report by retail sellers; duties of commission; contracts; penalties; recovery of procurement and administrative costs**

(a) (1) The commission shall direct each electrical corporation to annually prepare a renewable energy procurement plan that includes the matter in paragraph (5), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(2) Every electrical corporation that owns electrical transmission facilities shall annually prepare, as part of the Federal Energy Regulatory Commission Order 890 process, and submit to the commission, a report identifying any electrical transmission facility, upgrade, or enhancement that is reasonably necessary to achieve the renewables portfolio standard procurement requirements of this article. Each report shall look forward at least five years and, to ensure that adequate investments are made in a timely manner, shall include a preliminary schedule when an application for a certificate of public convenience and necessity will be made, pursuant to Chapter 5 (commencing with Section 1001), for any electrical transmission facility identified as being reasonably necessary to achieve the renewable energy resources procurement requirements of this article. Each electrical corporation that owns electrical transmission facilities shall ensure that project-specific interconnection studies are completed in a timely manner.

(3) The commission shall direct each retail seller to prepare and submit an annual compliance report that includes all of the following:

(A) The current status and progress made during the prior year toward procurement of eligible renewable energy resources as a percentage of retail sales, including, if applicable, the status of any necessary siting and permitting approvals from federal, state, and local agencies for those eligible renewable energy resources procured by the retail seller, and the current status of compliance with the portfolio content requirements of subdivision (c) of Section 399.16,

## California Prevailing Wage Laws

including procurement of eligible renewable energy resources located outside the state and within the WECC and unbundled renewable energy credits.

(B) If the retail seller is an electrical corporation, the current status and progress made during the prior year toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components it owns to interconnect eligible renewable energy resources and to supply the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.

(C) Recommendations to remove impediments to making progress toward achieving the renewable energy resources procurement requirements established pursuant to this article.

(4) The commission shall adopt, by rulemaking, all of the following:

(A) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall take into account all of the following:

(i) Estimates of indirect costs associated with needed transmission investments.

(ii) The cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio.

(iii) The viability of the project to construct and reliably operate the eligible renewable energy resource, including the developer's experience, the feasibility of the technology used to generate electricity, and the risk that the facility will not be built, or that construction will be delayed, with the result that electricity will not be supplied as required by the contract.

(iv) Workforce recruitment, training, and retention efforts, including the employment growth associated with the construction and operation of eligible renewable energy resources and goals for recruitment and training of women, minorities, and disabled veterans.

(v) (I) Estimates of electrical corporation expenses resulting from integrating and operating eligible renewable energy resources, including, but not limited to, any additional wholesale energy and capacity costs associated with integrating each eligible renewable resource.

(II) No later than December 31, 2015, the commission shall approve a methodology for determining the integration costs described in subclause (I).

(B) Rules permitting retail sellers to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period. The rules shall apply equally to all retail sellers. In determining the quantity of excess procurement for the applicable compliance period, the commission shall deduct from actual procurement quantities

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the total amount of procurement associated with contracts of less than 10 years in duration. In no event shall electricity products meeting the portfolio content of paragraph (3) of subdivision (b) of Section 399.16 be counted as excess procurement.

(C) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource, at a minimum, shall include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(D) An appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled. This paragraph does not preclude an electrical corporation from voluntarily proposing a margin of procurement above the appropriate minimum margin established by the commission.

(5) Consistent with the goal of increasing California's reliance on eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Potential compliance delays related to the conditions described in paragraph (5) of subdivision (b) of Section 399.15.

(C) A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.

(D) A status update on the development schedule of all eligible renewable energy resources currently under contract.

(E) Consideration of mechanisms for price adjustments associated with the costs of key components for eligible renewable energy resource projects with online dates more than 24 months after the date of contract execution.

(F) An assessment of the risk that an eligible renewable energy resource will not be built, or that construction will be delayed, with the result that electricity will not be delivered as required by the contract.

## California Prevailing Wage Laws

(6) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years duration, unless the commission approves of a contract of shorter duration.

(7) In soliciting and procuring eligible renewable energy resources for California-based projects, each electrical corporation shall give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

(b) A retail seller may enter into a combination of long- and short-term contracts for electricity and associated renewable energy credits. The commission may authorize a retail seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years' duration.

(c) The commission shall review and accept, modify, or reject each electrical corporation's renewable energy resource procurement plan prior to the commencement of renewable energy procurement pursuant to this article by an electrical corporation.

(d) Unless previously preapproved by the commission, an electrical corporation shall submit a contract for the generation of an eligible renewable energy resource to the commission for review and approval consistent with an approved renewable energy resource procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy resource procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. The commission shall enforce comparable penalties on any retail seller that is not an electrical corporation that fails to meet the procurement targets established pursuant to Section 399.15.

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for electricity products from eligible renewable energy resources to satisfy the retail seller's renewables portfolio standard procurement requirements. The commission shall not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

## California Prevailing Wage Laws

(g) Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission are reasonable and prudent and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives, are “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

Division 1. Regulation of Public Utilities  
Part 1. Public Utilities Act  
Chapter 3. Rights and Obligations of Public Utilities  
Article 1. Rates

### **§ 465. Custodial or janitorial labor; bids; prevailing wages; exception**

(a) Except as provided in subdivision (c), whenever any labor of a custodial or janitorial nature is not performed by the employees of a public utility, such labor shall be let out under contract to the lowest responsible bidder with the provision that prevailing wages be a condition of any such contract. For the purposes of this section, "prevailing wages" shall be deemed to include employer payments for health and welfare, pension, holidays, sick leave, vacation, apprenticeship or other training programs.

(b) A public utility shall implement the provisions of subdivision (a) by requiring the entity with which it contracts to pay its custodial or janitorial employees the prevailing wage. The public utility awarding the contract shall cause to be inserted in the contract a stipulation that the failure to pay prevailing wages shall be cause for the termination of the contract.

(c) Nothing in this section shall prevent a public utility from employing a custodial or janitorial service for a period of 90 days or less without a contract meeting the requirements of subdivision (a) of this section.

(d) The Director of the Department of Industrial Relations shall determine the prevailing wage for custodial or janitorial employees in accordance with the standards set forth in Section 1773 of the Labor Code.

## California Prevailing Wage Laws

### **§ 466. Custodial or janitorial labor; contractors and subcontractors; payroll records**

Pursuant to Section 465, the contractor to whom the contract is awarded and any subcontractor under him shall pay not less than the specified prevailing wage to all workmen performing custodial or janitorial labor in the execution of the contract.

Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each janitorial and custodial worker employed by him in connection with the contract. The contractor's and subcontractor's payroll records shall be available for inspection at all reasonable hours, and a copy shall be made available upon request to the employee, or his authorized representative, and the Division of Labor Standards Enforcement.

After a complaint has been filed with the Division of Labor Standards Enforcement alleging that the contractor or the subcontractor has paid less than the prevailing wage, the contractor or subcontractor shall upon receipt of a written notice from the Division of Labor Standards Enforcement within 10 days file with the public utility and the Division of Labor Standards Enforcement a certified copy of the payroll records.

### **§ 467. Custodial or janitorial labor; enforcement of § 466 requirements; law governing**

The Division of Labor Standards Enforcement in the Department of Industrial Relations shall enforce Section 466 in the same manner as provided for by Chapter 4 (commencing with Section 79) of Division 1 of the Labor Code.

Division 1.5. California Consumer Power and Conservation Financing Authority Act  
Chapter 3. The California Consumer Power and Conservation Financing Authority  
Article 5. Generation Facilities

### **§ 3354. Compliance with public works and public agencies**

All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.



## California Prevailing Wage Laws

### Division 7. Public Utility District Act Chapter 4. Powers and Functions of Districts Article 3. Utility Works and Services

#### **§ 16461.5. Shasta Dam Area Public Utility District; undeveloped property; public works construction**

(a) The Shasta Dam Area Public Utility District may construct those public works necessary for the industrial and commercial development of any undeveloped property owned by the district prior to January 12, 1990. A decision by the Shasta Dam Area Public Utility District to construct public works pursuant to this section is a legislative act subject to referendum pursuant to Article 2 (commencing with Section 9340) of Chapter 4 of Division 9 of the Elections Code. The improvements shall comply with all of the ordinances, resolutions, policies, and other standards of the city or county in which the property is located, and comply with all state laws governing public works and public agencies.

(b) Any contract awarded by the Shasta Dam Area Public Utility District pursuant to this section shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(c) None of the costs for public works constructed pursuant to this section shall be borne by Shasta Dam Area Public Utility District customers.

### Division 10. Transit Districts Part 12. Santa Clara Valley Transportation Authority Chapter 5. Powers and Functions of District Article 4. Construction Manager/General Contractor Project Delivery Contracts

#### **§ 100152. Bidding requirements for public works projects**

Any public works project that is contracted for pursuant to this article shall be subject to the requirements of Section 1771.4 of the Labor Code.

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## Division 10. Transit Districts Part 14. Sacramento Regional Transit District Chapter 5. Powers and Functions of District Article 5. Transit Facilities and Service

### § 102284. Joint use agreements

(a) The district may enter into agreements for the joint use of any property and rights by the district and any public agency or public utility operating transit facilities; may enter into agreements with any public agency or public utility operating any transit facilities, and wholly or partially within or without the district, for the joint use of any property of the district or of the public agency or public utility, or the establishment of through routes, joint fares, transfer of passengers or pooling arrangements.

(b) In addition to any power described in subdivision (a), the district may enter into agreements for the joint use or joint development of any property or rights by the district and any public agency, or public utility operating transit facilities or nontransit facilities, or both, or any other person, firm, corporation, association, organization, or other entity, public or private, either, in whole or in part, within or outside the district, for the joint use or development of any nontransit facilities of the district or of the public agency, public utility, person, firm, corporation, association, organization, or other entity, public or private, for the establishment of through routes, joint fares, transfer of passengers, pooling arrangements, station cost-sharing, connector fees, or land, air, or development rights, sales or leasing, necessary for, incidental to, or convenient for, the full exercise of the powers granted in this chapter. For the purpose of this section, the following terms have the following meanings:

(1) “Joint development” includes, but is not limited to, agreements with any person, firm, corporation, association, organization, or other entity, public or private, to develop or to engage in the planning, financing, construction, or operation of nontransit district facilities or development projects adjacent, or physically or functionally related, to district transit facilities.

(2) “Development project” includes, but is not limited to, projects for any use or mixed use including public, commercial, or residential uses.

(3) “Nontransit facilities,” includes, but is not limited to, any land, buildings, or equipment, or interest therein, that is used for the production of transit revenue not arising from the operation of a transit system.

(c) Construction projects or works of improvement for facilities authorized by the district under the terms of a joint development agreement that is approved under the authority conferred by this section shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and shall be enforced by the Department of Industrial Relations in the same manner in which it carries out this responsibility under the Labor Code.

## California Prevailing Wage Laws

### **§ 102288. Acquisition of facilities; approval of installations in highways**

(a) The district may acquire, construct, own, operate, control, or use rights-of-way, rail lines, buslines, stations, platforms, switches, yards, terminals, parking lots, and any and all facilities necessary or convenient for transit service, within or partly outside the district, underground, upon, or above the ground and under, upon or over public streets or other public ways or waterways, together with all physical structures necessary or convenient for the access of persons or vehicles thereto, and may acquire any interest in or rights to use or joint use of any or all of the foregoing; however, installations in state freeways are subject to the approval of the Department of Transportation, and installations in other state highways are subject to Article 2 (commencing with Section 670) of Chapter 3 of Division 1 of the Streets and Highways Code. Installations in county highways and city streets are subject to similar encroachment permits.

(b) In addition to any power described in subdivision (a), the district may, to the extent that it is not expressly provided for in subdivision (a), develop, lease, jointly develop, or jointly use air rights, land rights, development rights, rights-of-way, rail trackage, entrances and exits, and any and all fixed facilities and structures physically or functionally related to transit service.

(c) Construction projects or works of improvement for facilities authorized by the district under the terms of a joint development agreement that is approved under the authority conferred by this section shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and shall be enforced by the Department of Industrial Relations in the same manner in which it carries out this responsibility under the Labor Code.

Division 10. Transit Districts  
Part 15. San Mateo County Transit District  
Chapter 5. Powers and Functions of District  
Article 12. Construction Manager/General Contractor Project Delivery Contracts

### **§ 103396. Bidding requirements for public works projects**

Any public works project that is contracted for pursuant to this article shall be subject to the requirements of Section 1771.4 of the Labor Code.

# California Prevailing Wage Laws

## Division 12. County Transportation Commissions Chapter 4. Powers and Functions Article 2. Contracts

### **§ 130242. Private entities; transit systems; facilities; subcontractors**

(a) In addition to the other powers it possesses, the Los Angeles County Metropolitan Transportation Authority may enter into contracts with private entities, the scope of which may combine within a single contract all or some of the planning, design, permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of all or components of (1) transit systems, including, without limitation, passenger loading or intermodal station facilities, and (2) facilities on real property owned or to be owned by the authority.

(b) The authority may award contracts pursuant to subdivision (a) after a finding, by a two-thirds vote of the members of the authority, that awarding the contract under this section will achieve for the authority, among other things, certain private sector efficiencies in the integration of design, project work, and components.

(c) A contract awarded pursuant to this section may include operation and maintenance elements, if the inclusion of those elements (1) is necessary, in the reasonable judgment of the authority, to assess vendor representations and warranties, performance guarantees, or life-cycle efficiencies, and (2) does not conflict with collective bargaining agreements to which the authority is a party.

(d) Any construction, alteration, demolition, repairs, or other works of improvement performed under a contract awarded pursuant to this section shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and shall be enforced by the Department of Industrial Relations in the same way it carries out this responsibility under the Labor Code.

(e) A contract under this section shall be let to the lowest responsible bidder whose bid is responsive to the criteria set forth in the invitation for bids, or, at the authority's discretion, to a contractor chosen by a competitive bidding process that employs objective selection criteria that may include, but are not limited to, the proposed design approach, features, functions, life-cycle costs, and other criteria deemed appropriate by the authority, in addition to price. Notice requesting bids or proposals shall be published at least once in a newspaper of general circulation. For contracts estimated to exceed ten million dollars (\$10,000,000), publication shall be made at least 60 days before the receipt of the bids or price proposals. For contracts estimated not to exceed ten million dollars (\$10,000,000), publication shall be made at least 30 days before the receipt of the bids or price proposals. The authority, at its discretion, may reject any and all bids and proposals, and may readvertise. All bids and price proposals submitted pursuant to this section shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder security: (1) cash, (2) a cashier's check made payable to the authority, (3) a

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certified check made payable to the authority, or (4) a bidder's bond executed by an admitted surety insurer, made payable to the authority. Upon an award, the security of each unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the authority beyond 60 days from the time the award is made.

(f) When the design of portions of the project permits the selection of subcontractors, the contractor shall competitively bid those portions. The contractor shall provide to the authority a list of subcontractors whose work is in excess of one-half of 1 percent of the total project cost as soon as the subcontractors are identified. Once listed, the subcontractors shall have the rights provided in the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code).

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## **STREETS AND HIGHWAYS CODE**

Division 1. State Highways  
Chapter 1. Administration  
Article 3. The Department of Transportation

### **§ 143(e) Definitions; duties of Public Infrastructure Advisory Commission; comprehensive development lease agreements with public and private entities, or consortia of those entities, for transportation projects that may charge tolls and user fees**

Agreements between the department or regional transportation agency and the contracting entity or lessee shall authorize the contracting entity or lessee to use a design-build method of procurement for transportation projects, subject to the requirements for utilizing such a method contained in Chapter 6.5 (commencing with Section 6800) of Part 1 of Division 2 of the Public Contract Code, other than Sections 6802, 6803, and 6813 of that code, if those provisions are enacted by the Legislature during the 2009-10 Regular Session, or a 2009-10 extraordinary session.

Division 1. State Highways  
Chapter 3. The Care and Protection of State Highways  
Article 2. Permit Provisions

### **§ 670.1. Permit to owner or developer of adjacent property; improvement of local traffic access**

(a) The department may issue a permit to the owner or developer of property adjacent to or near a state highway to construct, alter, repair, or improve any portion of the highway for the purpose of improving local traffic access, if the improvements to the highway are required as part of, or as a condition to, the development of property and the improvements are accepted by the department.

(b) The permit may be issued only if the work within the highway right-of-way is to be performed in accordance with plans and specifications approved by the department and the department reserves the right to inspect and accept the work as complying with the approved plans and specifications.

(c) All road, bridge, street lighting, or installation of signal work performed under a permit issued pursuant to this section for acceptance into the state highway system, except work performed solely to allow private encroachments onto the state highway or for utility or drainage

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encroachments within the state highway, are public works for purposes of Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

Division 16. Highway Districts  
Part 3. Bridge and Highway Districts  
Chapter 10. Duties of District Officers

**§ 27189. Repair or replacement of structures or district property in cases of great emergency**

In cases of great emergency, including but not limited to states of emergency as defined in subdivision (b) of Section 8558 of the Government Code, the board of directors of a bridge and highway district may proceed at once to replace or repair any and all structures, roadway, or property of the district that may be rendered unusable or unsafe without adopting the plans, specifications, strain sheets or working details or giving notice for bids to let contracts. The work may be done by day labor under the direction of the board, by contract, or by a combination of the two. If the work is done wholly or in part by contract, the contractor shall be paid the actual cost of the use of machinery and tools and of material and labor expended by him in doing the work, plus not more than 15 percent to cover all profits, supervision, and other expenses. No more than the lowest current market prices shall be paid for materials. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, fixed as provided in Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, shall be paid to all workmen employed on such works.

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## WATER CODE

Division 5. Flood Control  
Part 1. Local Flood Control  
Chapter 1. Flood Control by Cities  
Article 1. General Provisions

### **§ 8007. Public works projects; criteria**

A capital improvement project undertaken by a charter city to extend that city's water, sewer, or storm drain system or similar system to a disadvantaged community in an unincorporated area shall be considered a public work for the purpose of Section 1720 of the Labor Code, but any subsequent project to construct, expand, reconstruct, install, or repair such systems that have been so extended and that are conducted within that city's political boundaries shall not be considered a public work for the purpose of Section 1720 of the Labor Code as a result of the extension. For the purpose of this section, "disadvantaged community" means a disadvantaged community as defined in Section 79505.5.



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## WELFARE AND INSTITUTIONS CODE

Division 2.5. Youths  
Chapter 1. The Youth Authority  
Article 4. Powers and Duties of Youth Authority

### **§ 1752.9. Lease of land; terms**

The Department of the Youth Authority, with the approval of the Director of General Services, may lease land at any institution under its jurisdiction, at a nominal rental, to any nonprofit or eleemosynary corporation. The terms of the lease shall require the corporation to construct a house of worship on such land, and to maintain and operate the same primarily for the use of Youth Authority wards and staff. All work as an employee on such house of worship performed under contract or by day labor shall be subject to the provisions of Division 2, Part 7, of the Labor Code.

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## VEHICLE CODE

Division 3. Registration of Vehicles and Certificates of Title  
Chapter 6. Registration and Weight Fees  
Article 2. Registration Fees

**§ 9250.10. Service authority for freeway emergencies; additional fees; distribution after deduction of administrative costs**

(a)(1) In addition to any other fees specified in this code and the Revenue and Taxation Code, any additional fees imposed by a service authority for freeway emergencies pursuant to Section 2555 of the Streets and Highways Code shall be paid to the department at the time of registration or renewal of registration of every vehicle, except vehicles described in subdivision (a) of Section 5014.1, subject to registration under this code in the subject counties, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(2) In addition to the additional fees imposed for freeway emergencies, and upon the implementation of the permanent trailer identification plate program, and as part of the Commercial Vehicle Registration Act of 2001, all commercial motor vehicles subject to Section 9400.1 registered to an owner with an address in the county that established a service authority under this section, shall pay an additional service fee of two dollars (\$2).

(b) After deducting its administrative costs, the department shall distribute the additional fees collected pursuant to subdivision (a) to the authority in the county in which they were collected.

Division 11. Rules of the Road  
Chapter 2. Traffic Signs, Signals, and Markings  
Article 3. Offenses Relating to Traffic Devices

**§ 21455.5. Automated traffic enforcement system; requirements; use of printed representation as evidence; confidentiality and retention of records; review of alleged violation by registered owner; manufacturers and suppliers; duties and contract limitations**

(a) The limit line, the intersection, or a place designated in Section 21455, where a driver is required to stop, may be equipped with an automated traffic enforcement system if the governmental agency utilizing the system meets all of the following requirements:

(1) Identifies the system by signs posted within 200 feet of an intersection where a system is operating that clearly indicate the system's presence and are visible to traffic approaching from all directions in which the automated traffic enforcement system is being utilized to issue

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citations. A governmental agency utilizing such a system does not need to post signs visible to traffic approaching the intersection from directions not subject to the automated traffic enforcement system. Automated traffic enforcement systems installed as of January 1, 2013, shall be identified no later than January 1, 2014.

(2) Locates the system at an intersection and ensures that the system meets the criteria specified in Section 21455.7.

(b) Prior to issuing citations under this section, a local jurisdiction utilizing an automated traffic enforcement system shall commence a program to issue only warning notices for 30 days. The local jurisdiction shall also make a public announcement of the automated traffic enforcement system at least 30 days prior to the commencement of the enforcement program.

(c) Only a governmental agency, in cooperation with a law enforcement agency, may operate an automated traffic enforcement system. A governmental agency that operates an automated traffic enforcement system shall do all of the following:

(1) Develop uniform guidelines for screening and issuing violations and for the processing and storage of confidential information, and establish procedures to ensure compliance with those guidelines. For systems installed as of January 1, 2013, a governmental agency that operates an automated traffic enforcement system shall establish those guidelines by January 1, 2014.

(2) Perform administrative functions and day-to-day functions, including, but not limited to, all of the following:

(A) Establishing guidelines for the selection of a location. Prior to installing an automated traffic enforcement system after January 1, 2013, the governmental agency shall make and adopt a finding of fact establishing that the system is needed at a specific location for reasons related to safety.

(B) Ensuring that the equipment is regularly inspected.

(C) Certifying that the equipment is properly installed and calibrated, and is operating properly.

(D) Regularly inspecting and maintaining warning signs placed under paragraph (1) of subdivision (a).

(E) Overseeing the establishment or change of signal phases and the timing thereof.

(F) Maintaining controls necessary to ensure that only those citations that have been reviewed and approved by law enforcement are delivered to violators.

(d) The activities listed in subdivision (c) that relate to the operation of the system may be contracted out by the governmental agency, if it maintains overall control and supervision of the

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system. However, the activities listed in paragraph (1) of, and subparagraphs (A), (D), (E), and (F) of paragraph (2) of, subdivision (c) shall not be contracted out to the manufacturer or supplier of the automated traffic enforcement system.

(e) The printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system does not constitute an out-of-court hearsay statement by a declarant under Division 10 (commencing with Section 1200) of the Evidence Code.

(f) (1) Notwithstanding Section 6253 of the Government Code, or any other law, photographic records made by an automated traffic enforcement system shall be confidential, and shall be made available only to governmental agencies and law enforcement agencies and only for the purposes of this article.

(2) Confidential information obtained from the Department of Motor Vehicles for the administration or enforcement of this article shall be held confidential, and shall not be used for any other purpose.

(3) Except for court records described in Section 68152 of the Government Code, the confidential records and information described in paragraphs (1) and (2) may be retained for up to six months from the date the information was first obtained, or until final disposition of the citation, whichever date is later, after which time the information shall be destroyed in a manner that will preserve the confidentiality of any person included in the record or information.

(g) Notwithstanding subdivision (f), the registered owner or any individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation shall be permitted to review the photographic evidence of the alleged violation.

(h) (1) A contract between a governmental agency and a manufacturer or supplier of automated traffic enforcement equipment shall not include provision for the payment or compensation to the manufacturer or supplier based on the number of citations generated, or as a percentage of the revenue generated, as a result of the use of the equipment authorized under this section.

(2) Paragraph (1) does not apply to a contract that was entered into by a governmental agency and a manufacturer or supplier of automated traffic enforcement equipment before January 1, 2004, unless that contract is renewed, extended, or amended on or after January 1, 2004.

(3) A governmental agency that proposes to install or operate an automated traffic enforcement system shall not consider revenue generation, beyond recovering its actual costs of operating the system, as a factor when considering whether or not to install or operate a system within its local jurisdiction.

(i) A manufacturer or supplier that operates an automated traffic enforcement system pursuant to this section shall, in cooperation with the governmental agency, submit an annual report to the

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Judicial Council that includes, but is not limited to, all of the following information if this information is in the possession of, or readily available to, the manufacturer or supplier:

- (1) The number of alleged violations captured by the systems they operate.
  - (2) The number of citations issued by a law enforcement agency based on information collected from the automated traffic enforcement system.
  - (3) For citations identified in paragraph (2), the number of violations that involved traveling straight through the intersection, turning right, and turning left.
  - (4) The number and percentage of citations that are dismissed by the court.
  - (5) The number of traffic collisions at each intersection that occurred prior to, and after the installation of, the automated traffic enforcement system.
- (j) If a governmental agency utilizing an automated traffic enforcement system has posted signs on or before January 1, 2013, that met the requirements of paragraph (1) of subdivision (a) of this section, as it read on January 1, 2012, the governmental agency shall not remove those signs until signs are posted that meet the requirements specified in this section, as it reads on January 1, 2013.