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An act to amend Sections 1725.5, 1742.1, 1770, 1771.1, 1771.3, 1771.4, 1773.3, 1773.6, 1778, 1780, 1811, and 1860 of the Labor Code, and to amend Section 4104 of the Public Contract Code, relating to public works.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1725.5 of the Labor Code is amended to read:

1725.5. 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 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~~ (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of ~~three~~ four hundred dollars ~~(\$300)~~ (\$400) 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.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(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:

(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. (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, ~~and to any contract for public work, as defined in this chapter, entered into executed on or after April 1, 2015. 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.~~

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

SEC. 2. Section 1742.1 of the Labor Code is amended to read:



91116

1742.1. (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~~

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 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 the funds in escrow, plus any interest earned, to the persons and entities that are found to be entitled to those funds, within 30 days following either of the specified events occurring:



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(1) The conclusion of all administrative and judicial review.

(2) The department receives written notice from the Labor Commissioner or his or her designee of a settlement or other final disposition of an assessment issued pursuant to Section 1741 or from the authorized representative of the awarding body of a settlement or other final disposition of a notice issued pursuant to Section 1771.6.

(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.



SEC. 3. Section 1770 of the Labor Code is amended to read:

1770. 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~~ worker employed on public work. ~~Nothing in this act shall~~ This chapter does not permit any overtime work in violation of Article ~~3 of this chapter.~~ 3.

SEC. 4. Section 1771.1 of the Labor Code is amended to read:

1771.1. (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.



(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h) (1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's



performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) 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 pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). 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.

(j) (1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.



(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at the address on file with either of the following:

(i) The Contractors State License Board.

(ii) The Secretary of State.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(g)

(l) 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. This



section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties 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.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

SEC. 5. Section 1771.3 of the Labor Code is amended to read:

1771.3. (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 year-end~~ year-end 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~~ Labor Enforcement and Compliance 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.

SEC. 6. Section 1771.4 of the Labor Code is amended to read:

1771.4. (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) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.



~~(4)~~

~~(5)~~ 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.



~~(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.~~

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.

SEC. 7. Section 1773.3 of the Labor Code is amended to read:

1773.3. (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, 30 days of the award, but in no event later than~~ the first day in which a contractor has workers employed upon the public work.

(2) The notice shall be transmitted electronically in a format specified by the department and shall include ~~the name of the contractor, and registration number issued by the Department of Industrial Relations pursuant to Section 1725.5 of the contractor,~~ the name and registration number issued by the Department of Industrial Relations pursuant to Section 1725.5 of 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.



(c) (1) An awarding agency that fails to provide the notice required by subdivision (a) or that enters into a contract with or permits an unregistered contractor or subcontractor to engage in the performance of any public work in violation of the requirements of Section 1771.1, shall, in addition to any other sanction or penalty authorized by law, be subject to a civil penalty of one hundred dollars (\$100) for each day in violation of either requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000) for each project.

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(d) An awarding agency shall withhold final payment due to the contractor until at least 30 days after all of the required information in paragraph (2) of subdivision (a) has been submitted, including, but not limited to, providing a complete list of all subcontractors. If an awarding agency makes a final payment to a contractor after that time and an unregistered contractor or subcontractor is found to have worked on the project, the awarding agency shall be subject to a civil penalty assessed by the Labor Commissioner of one hundred dollars (\$100) for each full calendar day of noncompliance, for a period of up to 100 days, for each unregistered contractor or subcontractor.



(e) The Labor Commissioner may issue a citation for civil penalties to the awarding body pursuant to subdivisions (c) and (d). The citation shall be served pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail.

(f) Whenever the Labor Commissioner determines that an awarding agency has willfully violated the requirements of this section or chapter with respect to two or more public works contracts or projects in any 12-month period, the awarding agency shall be ineligible to receive state funding or financial assistance for any construction project undertaken by or on behalf of the awarding agency for one year, as defined by subdivision (d) of Section 1782. The debarment procedures adopted by the Labor Commissioner pursuant to Section 1777.1 shall apply to any determination made under this subdivision.

(g) A contractor or subcontractor shall not be liable for any penalties assessed against an awarding agency pursuant to this section. An awarding agency may not require a contractor or subcontractor to indemnify or otherwise be liable for any penalties assessed against an awarding agency pursuant to this section.

(h) Penalties 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.

(i) This section shall apply only if the public works contract is for a project of greater than twenty-five thousand dollars (\$25,000) when the project is for construction, alteration, demolition, installation, or repair work or if the public works contract is for a project of greater than fifteen thousand dollars (\$15,000) when the project is for maintenance work.



SEC. 8. Section 1773.6 of the Labor Code is amended to read:

1773.6. 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 or she shall make such change available to the awarding body and his or her 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.

SEC. 9. Section 1778 of the Labor Code is amended to read:

1778. 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 or her own use or the use of any other person any portion of the wages of any ~~workman~~ worker or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

SEC. 10. Section 1780 of the Labor Code is amended to read:

1780. 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~~ worker 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.

SEC. 11. Section 1811 of the Labor Code is amended to read:



1811. The time of service of any ~~workman~~ worker employed upon public work is limited and restricted to ~~8~~ eight hours during any one calendar day, and 40 hours during any one calendar week, except as hereinafter provided for under Section 1815.

SEC. 12. Section 1860 of the Labor Code is amended to read:

1860. 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, 3700~~, every contractor will be required to secure the payment of compensation to his or her employees.

SEC. 13. Section 4104 of the Public Contract Code is amended to read:

4104. 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~~ number, and public works contractor registration number issued pursuant to Section 1725.5 of the Labor Code 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 or public works contractor registration 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 the~~ California contractor license number, and the public works contractor registration 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.~~



SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Public works.

(1) Existing law, for contracts entered into on or after April 1, 2015, requires that a contractor or subcontractor, to be eligible to bid on, be listed on a bid proposal for, or perform work on, any public work, register with the Department of Industrial Relations. This registration requires that the contractor or subcontractor provide certain documentation, including proof of proper licensure and proof of workers' compensation coverage, and pay a \$300 fee and an annual renewal fee.

This bill would apply the above requirement regardless of when the contract for public work was entered. The bill would increase the fee to \$400 and allow a contractor to register or renew for up to 3 years at a time. The bill would also exempt certain projects, as specified. The bill, among other things, would impose various civil penalties, as specified, for each day of work performed in violation of the registration requirement and would require the deposit of those penalties in the State Public Works Enforcement



91116

Fund, to be used as specified. The bill would require the Labor Commissioner to issue and serve a stop order prohibiting the use of an unregistered contractor or unregistered subcontractor, as specified. The bill would make the violation of a stop order a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program. The bill would also make various technical, nonsubstantive changes.

(2) Existing law requires the Labor Commissioner to issue a civil wage and penalty assessment to a contractor or subcontractor, or both, if the Labor Commissioner determines, after investigation, that the contractor or subcontractor, or both, violated the laws regulating public works contracts, including the payment of prevailing wages. Existing law permits the affected contractor or subcontractor to obtain review of a civil wage and penalty assessment or a notice of withholding, as specified. Existing law provides that, after 60 days following the service of a civil wage and penalty assessment or notice, the affected contractor, subcontractor, and surety on a bond issued to secure the payment of wages, as provided, become liable for liquidated damages in an amount equal to the amount of unpaid wages and authorizes the Director of Industrial Relations (director) to waive payment of the liquidated damages, as specified.

This bill would delete the director's authorization to waive payment of the liquidated damages.

(3) Existing law creates the State Public Works Enforcement Fund and requires that moneys in the fund be used only for certain purposes, including, among other things, the reasonable costs of administering the registration of contractors and subcontractors, as specified. Existing law authorizes a short-term loan from the Labor and Workforce Development Fund to provide adequate cashflow for those purposes.



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This bill would instead authorize a short-term loan from the Labor Enforcement and Compliance Fund for those purposes.

(4) Existing law provides that various requirements are applicable to all public work projects including, among other things, that the call for bids and contract documents specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

This bill would exempt a contractor or subcontractor who is not registered, as specified, and who is performing work on a project for which registration is not required, as specified, from the requirement to furnish certain records but would require the contractor or subcontractor to retain those records for at least 3 years after completion of the work.

(5) Existing law defines the term “public works” for purposes of requirements regarding the payment of prevailing wages, the regulation of working hours, and the securing of workers’ compensation for public works projects. Existing law requires an awarding agency to provide notice, containing certain information, to the Department of Industrial Relations of any public works contract subject to the public works requirements, within 5 days of the award, as provided.

This bill, for certain projects, would instead require an awarding agency to provide the above notice within 30 days of the award, except as specified. The bill would also require the notice to include, among other things, the contractor’s name and registration number. The bill would require civil penalties be imposed on an awarding agency that fails to provide the notice described above and would authorize the Labor Commissioner to issue a citation for civil penalties to the awarding body



that fails to provide the required notice. The bill would make an awarding agency ineligible to receive state funding or financial assistance for one year, as specified, whenever the Labor Commissioner determines that an awarding agency has willfully violated certain requirements. The bill would provide that those penalties be deposited in the State Public Works Enforcement Fund and be used as specified.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

