

Public Works Contractor Registration Fee Budget Trailer Bill Language

[Revisions to Labor Code followed by conforming amendments to CMU-related language in other codes (with additional unchanged language omitted). Section numbers are as shown in draft legislation.]

SECTION 4. Section 1725.5 is added to the Labor Code, to read:

1725.5. A contractor must be registered pursuant to this section in order to be qualified to bid on, be listed in a bid proposal pursuant to Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work that is subject to requirements of this chapter.

(a) To qualify for registration under this section, a contractor must 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 non-refundable application fee of \$300 to qualify for registration under this section and an annual renewal fee on or before July 1st 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 such 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 who the contractor will employ 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) Where 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 will 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 (f), whichever is shorter. For a contractor found to be in violation of the requirements of this paragraph only, the period of disqualification shall be waived if: (i) the contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months; and (ii) the contractor pays an additional non-refundable penalty registration fee of \$2,000.

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

(c) The term "contractor," as used in this section, shall include any subcontractor, as defined in Section 1722.1.

(d) 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. A contractor who inadvertently fails to pay the renewal fee may retroactively renew its registration by paying an additional non-refundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(e) The requirements of this section shall not apply with respect to any contract, which as a result of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or decision by a court that classifies, after the time at which the body awarding the contract accepts the contractor's bid or awards the contractor a contract, the work covered by the bid or contract as a "public work," as defined in this chapter, to which Section 1771 applies, provided that:

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

(2) Within twenty (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 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.

(f) 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.

SEC. 5. Section 1771.1 is added to the Labor Code, to read:

1771.1. (a) No contractor or subcontractor shall be qualified to bid on, be listed in a bid proposal pursuant to 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 to perform public work pursuant to Section 1725.5. It shall not be 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 Sections 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 this requirement shall be included in all bid invitations and public works contracts, and no bid shall 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 requirements are met: (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 paragraph (E) of subdivision (2) of Section 1725.5; or (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) of this Section 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 website 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. However, no contract for public work shall 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) 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.

SEC. 6. Section 1771.3 of the Labor Code is repealed.

SEC. 7. Section 1771.3 is added to the Labor Code, to read.

1771.3. (a) The State Public Works Enforcement Fund is hereby created as a special fund in the State Treasury. All registration fees collected pursuant to Section 1725.5 and such other moneys as are designated by statute or order shall be deposited in the fund and used for the purposes specified in subdivision (b) of this section.

(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 ~~and qualification~~ 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 the Labor 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 paragraph (1) of 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% of the appropriation. Any year-end balance in the fund greater than 25% of the appropriation shall be applied as a credit when determining any fee adjustments for the subsequent fiscal year.

(d) To provide adequate cash flow 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% 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 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. 8. Section 1771.4 is added to the Labor Code, to read:

1771.4. (a) For 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 such job site notices as are 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.

(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.

SEC. 9. Section 1771.5 of the Labor Code is amended to read:

1771.5. (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 elects to either:

~~———(1) Initiate and has 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 as described in subdivision (e).~~

~~———(2) Reimburse the Department of Industrial Relations for the cost of monitoring and enforcing compliance with prevailing wage requirements for every public works project of the awarding body as described in subdivision (f).~~

(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.

(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 body's 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, which the department may from 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.~~

SEC. 10. Section 1771.7 of the Labor Code is amended to read:

1771.7. (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).

(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 ~~the effective date of regulations adopted by the Department of Industrial Relations pursuant to paragraph (3) of subdivision (a) of Section 1771.3~~ January 1, 2012.

SEC. 11. Section 1773.3 of the Labor Code is repealed.

SEC. 12. Section 1773.3 is added to the Labor Code, 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.

(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, contract amount, estimated start and completion dates, job site location, and any additional information as 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.

SEC. 13. Section 1776 of the Labor Code is amended to read:

1776. (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:

(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) ~~The~~ 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 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.

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SECTION 1. Section 17250.30 of the Education Code is amended to read:

17250.30. [School Districts; design-build contracting]

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(d)(1) For contracts for public works projects awarded prior to ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code 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 ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012,~~ the project shall be subject to the requirements of Section 1771.4 of the Labor Code. ~~school district shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~————(3) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing, monitoring, and enforcement on public works projects, the school district may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

SEC. 2. Section 81704 of the Education Code is amended to read:

81704. [Community College Districts; design-build contracting]

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~~(d)(1) For contracts for public works projects awarded prior to the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code 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 the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code. school district shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~————(3) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing, monitoring, and enforcement on public works projects, the school district may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

SEC. 3. Section 6531 of the Government Code is amended to read:

6531. [San Diego Model Redevelopment Agency]

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(f)(1) For contracts for public works projects awarded prior to ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code~~ 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 ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code~~ January 1, 2012, ~~the project shall be subject to the requirements of Section 1771.4 of the Labor Code.~~ the agency shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.

~~—————(3) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing monitoring and enforcement on public works projects, the San Diego Model School Development Agency may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors~~

~~performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

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[SECTIONS 4 - 13; LABOR CODE REVISIONS (above)]

SEC. 14. Section 6823 of the Public Contract Code is repealed.

SEC. 15. Section 6823 is added to the Public Contract Code, to read:

6823. [Transportation entities; design-build contracting] (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. ‡

SEC. 16. Section 6953 of the Public Contract Code is repealed.

SEC. 17. Section 6953 is added to the Public Contract Code, to read:

6953. [San Diego Association of Governments; alternative project delivery] 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.

SEC. 18. Section 20133 of the Public Contract Code is amended to read:

20133. [Counties; design-build contracting]

* * *

(b)(1) It is the intent of the Legislature to enable counties to utilize design-build for buildings and county sanitation wastewater treatment facilities. It is not the intent of the Legislature to authorize this procedure for other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructures.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process.

(3)(A) For contracts for public works projects awarded prior to ~~the effective date of regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012,~~ if the board of supervisors elects to proceed under this section, the board of supervisors shall establish and enforce 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 Section 1771.5 of the Labor Code. This requirement shall not apply to any projects where the county or the design-build entity has entered into a 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 ~~the effective date of regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012,~~ the project shall be subject to the requirements of Section 1771.4 of the Labor Code. ~~the board of supervisors shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this paragraph shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~——(C) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing monitoring and enforcement on public works projects, the board of supervisors may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work~~

~~on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

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SEC. 19. Section 20175.2 of the Public Contract Code is amended to read:

20175.2 [Cities; design-build contracting]

* * *

(b)(1) It is the intent of the Legislature to enable cities to utilize cost-effective options for building and modernizing public facilities. The Legislature also recognizes the national trend, including authorization in California, to allow public entities to utilize design-build contracts as a project delivery method. It is not the intent of the Legislature to authorize this procedure for transportation facilities, including, but not limited to, roads and bridges.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process. The Legislature also finds that the cost-effective benefits to cities are achieved by shifting the liability and risk for cost containment and project completion to the design-build entity.

(3) It is the intent of the Legislature to provide an alternative and optional procedure for bidding and building construction projects for cities.

(4) The design-build approach may be used, but is not limited to use, when it is anticipated that it will: reduce project cost, expedite project completion, or provide design features not achievable through the design-bid-build method.

(5)(A) For contracts for public works projects awarded prior to ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012~~, if a city council elects to proceed under this section, the city council shall establish and enforce 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 Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the city or the design-build entity has entered into a collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

~~(B) For contracts for public works projects awarded on or after the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code. the city council shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this paragraph shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~——(C) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing monitoring and enforcement on public works projects, the city council may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

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SEC. 20. Section 20193 of the Public Contract Code is amended to read:

20193. [Wastewater and related facilities; design-build contracting]

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(b)(1) For contracts for public works projects awarded prior to the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012, if a qualified entity elects to proceed under this section, the qualified entity shall establish and enforce 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 Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the qualified entity or the design-build entity 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 the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code. the qualified entity shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~————(3) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing monitoring and enforcement on public works projects, the qualified entity may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

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SEC. 21. Section 20209.7 of the Public Contract Code is amended to read:

20209.7. [Transit facilities; design-build contracting]

* * *

~~(c)(1) For contracts for public works projects awarded prior to the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code 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 the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012, the project shall be subject to the requirements of Section 1771.4 of the Labor Code. the transit operator shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~————(3) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing monitoring and enforcement on public works projects, the transit operator may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

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SEC. 22. Section 20688.6 of the Public Contract Code is amended to read:

20688.6. [Redevelopment infrastructure projects; design-build contracting]

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(b)(1) It is the intent of the Legislature to enable entities as provided in Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code to utilize design-build for those infrastructure improvements authorized in Sections

33421, 33445, and 33445.1 of the Health and Safety Code and subject to the limitations on that authority described in Section 33421.1 of the Health and Safety Code.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process.

(3)(A) For contracts for public works projects awarded prior to ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012,~~ if the board elects to proceed under this section, the board shall establish and enforce 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 Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the agency or the design-build entity has entered into a collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(B) For contracts for public works projects awarded on or after ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012,~~ the project shall be subject to the requirements of Section 1771.4 of the Labor Code. ~~the board shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund, created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~——(C) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing monitoring and enforcement on public works projects, the board may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

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SEC. 23. Section 20919.3 of the Public Contract Code is amended to read:

20919.3. [Los Angeles Unified School District; job order contracting]

(a)(1) For contracts for public works projects awarded prior to ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code 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 ~~the effective date of the regulations adopted by the Department of Industrial Relations pursuant to subdivision (g) of Section 1771.5 of the Labor Code January 1, 2012,~~ the project shall be subject to the requirements of Section 1771.4 of the Labor Code. ~~the unified school district shall reimburse the department for its reasonable and directly related costs of performing prevailing wage monitoring and enforcement on public works projects pursuant to rates established by the department as set forth in subdivision (h) of Section 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.~~

~~————(3) In lieu of reimbursing the Department of Industrial Relations for its reasonable and directly related costs of performing monitoring and enforcement on public works projects, the unified school district may elect to continue operating an existing previously approved labor compliance program to monitor and enforce prevailing wage requirements on the project if it has either not contracted with a third party to conduct its labor compliance program and requests and receives approval from the department to continue its existing program or it enters into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.~~

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SEC. 24. Section 100152 of the Public Utilities Code is repealed.

SEC. 25. Section 100152 is added to the Public Utilities Code, to read:

100152. [Santa Clara Valley Transportation Authority; Construction Manager/General Manager project delivery method] 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.

SEC. 26. Section 103396 of the Public Utilities Code is repealed.

SEC. 27. Section 103396 is added to the Public Utilities Code, to read:

103396. [San Mateo County Transit District; Construction Manager/General Manager project delivery method] 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.