

ASSEMBLY BILL

No. 972

Introduced by Assembly Member Ian Calderon

February 22, 2013

An act to amend Section 1773.9 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 972, as introduced, Ian Calderon. Public works: prevailing wage rates.

Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Existing law requires the body awarding a contract for a public work to obtain from the Director of Industrial Relations the general prevailing rate of per diem wages for work of a similar character in the locality where the public work is to be performed, and the general prevailing rate of per diem wages for holiday and overtime work, for each craft, classification, or type of worker needed to execute the contract. Under existing law, the director is required to use a specified methodology to determine the prevailing rate of per diem wages in the locality where the public work is to be performed.

This bill would make technical, nonsubstantive changes to those provisions.

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

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

1 SECTION 1. Section 1773.9 of the Labor Code is amended to
2 read:

3 1773.9. (a) The Director of Industrial Relations shall use the
4 methodology set forth in subdivision (b) to determine the general
5 prevailing rate of per diem wages in the locality ~~in which~~ *where*
6 the public work is to be performed.

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

9 (1) The basic hourly wage rate being paid to a majority of
10 workers engaged in the particular craft, classification, or type of
11 work within the locality and in the nearest labor market area, if a
12 majority of the workers is paid at a single rate. ~~If not~~ *a* single rate
13 is *not* being paid to a majority of the workers, then the single rate
14 being paid to the greatest number of workers, or modal rate, is
15 prevailing. If a modal rate cannot be determined, then the director
16 shall establish an alternative rate, consistent with the methodology
17 for determining the modal rate, by considering the appropriate
18 collective bargaining agreements, federal rates, rates in the nearest
19 labor market area, or other data such as wage survey data.

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

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

34 (c) (1) If the director determines that the general prevailing rate
35 of per diem wages is the rate established by a collective bargaining
36 agreement, and that the collective bargaining agreement contains
37 definite and predetermined changes during its term that will affect
38 the rate adopted, the director shall incorporate those changes into

1 the determination. Predetermined changes that are rescinded prior
2 to their effective date shall not be enforced.

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

15 (3) When the director determines that there is a definite and
16 predetermined change in the general prevailing rate of per diem
17 wages as described in paragraph (1), but the allocation of that
18 predetermined change ~~as~~ between the basic hourly wage and other
19 employer payments included in per diem wages pursuant to Section
20 1773.1 is subsequently altered by the parties to a collective
21 bargaining agreement described in paragraph (1), a contractor or
22 subcontractor may allocate payments of not less than the amount
23 of the definite and predetermined change in accordance with either
24 the originally published allocation or the allocation as altered in
25 the collective bargaining agreement.

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