

AMENDED IN ASSEMBLY AUGUST 22, 2014

AMENDED IN ASSEMBLY JUNE 30, 2014

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 3, 2013

AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 266

Introduced by Senator Lieu

February 13, 2013

An act to amend Section 1741.1 of the Labor Code, relating to public works, and declaring the urgency thereof, to take effect immediately. *works.*

LEGISLATIVE COUNSEL'S DIGEST

SB 266, as amended, Lieu. Prevailing wages.

Existing law requires the Labor Commissioner to issue a civil wage and penalty assessment to a contractor or subcontractor, or both, if, after an investigation, the commissioner determines there has been a violation of the law regulating public works projects, including the payment of prevailing wages. Existing law tolls the period for service of assessments for the period of time required by the Director of Industrial Relations to determine whether a project is a public work, as specified. Existing law, with respect to the determination of whether a project is a public work, requires a person filing a notice of completion of the project to also provide notice to the Labor Commissioner, as specified, and requires the awarding body or political subdivision

accepting a public work to provide to the Labor Commissioner notice of that acceptance, as specified.

This bill instead would require the body awarding the contract for public work to furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work or a document evidencing the awarding body’s acceptance of the public work on a particular date, whichever occurs later, in accordance with specified provisions. The bill would require the awarding body to notify the appropriate office of the Labor Commissioner if, at the time of receipt of the Labor Commissioner’s written request, there has been no valid notice of completion filed by the awarding body in the office of the county recorder, and no document evidencing the awarding body’s acceptance of the public work on a particular date. If the awarding body fails to timely furnish the Labor Commissioner with the applicable document, the bill would require that the period for service of assessments be tolled until the Labor Commissioner’s actual receipt of the applicable document. The bill would also include legislative findings and declarations.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (1) The process for the Director of Industrial Relations to
- 4 determine the existence of a public work and to decide
- 5 administrative appeals from those determinations has created
- 6 unacceptable delays and prejudice to the enforcement of the public
- 7 works law, often resulting in the expiration of the statute of
- 8 limitations for the identification and collection of wage and penalty
- 9 assessments. As a result, wage theft has occurred because workers
- 10 are not paid prevailing wage rates and the time for assessment has
- 11 expired.
- 12 (2) There has been an incentive to some developers, contractors,
- 13 and public bodies to engage in expensive and time-consuming
- 14 litigation in efforts to extend the time for determining the existence

1 of a public work. This litigation is often a needless expense to the
2 state.

3 (3) Public bodies, developers, contractors, and others are entitled
4 to a determination of whether a project is a public work as early
5 as possible so that the costs of the project and the duties of the
6 parties under the law may be known as early as possible.

7 (4) Therefore, this act is necessary to ensure the actual receipt
8 of proper wages, to reduce administrative and litigation costs to
9 the state and others, and to provide early guidance to all interested
10 parties.

11 SEC. 2. Section 1741.1 of the Labor Code is amended to read:

12 1741.1. (a) The period for service of assessments shall be
13 tolled for the period of time required by the Director of Industrial
14 Relations to determine whether a project is a public work, including
15 a determination on administrative appeal, if applicable, pursuant
16 to subdivisions (b) and (c) of Section 1773.5. The period for service
17 of assessments shall also be tolled for the period of time that a
18 contractor or subcontractor fails to provide in a timely manner
19 certified payroll records pursuant to a request from the Labor
20 Commissioner or a joint labor-management committee under
21 Section 1776, or an approved labor compliance program under
22 Section 1771.5 or 1771.7.

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

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

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

11 ~~SEC. 3. This act is an urgency statute necessary for the~~
12 ~~immediate preservation of the public peace, health, or safety within~~
13 ~~the meaning of Article IV of the Constitution and shall go into~~
14 ~~immediate effect. The facts constituting the necessity are:~~

15 ~~In order to protect workers from wage theft due to prevailing~~
16 ~~wages not being paid for labor on a public work, it is necessary~~
17 ~~that this act take effect immediately.~~