

CLIC ADVISORY

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California Contractors Could Face Stricter Penalties for Violating Prevailing Wage Laws

Employers in California who fail to pay workers prevailing wages on more than one occasion on public works projects would face disbarment from future projects, under legislation (S.B. 45) that was amended by the state assembly June 3.

The bill will be read in the state Assembly's Committee on Labor and Employment on June 24, which will amend the bill to reflect federal law, which says that an employer's first violation in neglecting to pay prevailing wages can result in banishment from public works projects for one to three years, and the second violation would mean a total exclusion from any future public works projects, according to a representative from State Sen. Alex Padilla's (D-San Fernando Valley) office, who originally sponsored the bill.

The state labor code requires a one-to-three year exclusion for a contractor to receive a public works project after neglecting to pay employees a prevailing wage, according to the bill. If passed by the assembly, these violations would result in the removal of all eligibility to bid or work on public works projects following a "willful violation" of the prevailing wage laws, according to the bill.

The bill, which will be approved by the state Senate in March, would establish "a permanent bar to contractors and subcontractors participating in public works contracts when found by the Labor Commissioner to have engaged in intent to defraud or to have been in willful violation of public works law," according to an analysis by the Senate Committee on Labor and Industrial Relations.

The Senate's analysis of the bill said supporters favor this bill because it could prevent "the intentional and willful misclassification of employees as independent contractors," according to the analysis. "Such violations hinder the state's unemployment insurance fund, workers' compensation system, and revenue from income taxes," the senate analysis said.

Contractors Would Need Permits

Another bill in the state Assembly may affect public-works contractors.

Starting in 2012, contractors would need a "public works certification" to bid on public works projects under S.B. 258. The Senate approved the bill 23-15; it was introduced in the Assembly on June 1.

The certifying agency would be allowed to charge a one-time application fee of no more than \$65 until Dec. 31, 2014, and no more than \$125 beginning Jan. 1, 2015, according to the bill. This bill would create the continuously appropriated Public Works Certification Fund in which income from the fees to pay for the costs of administering pre-qualification and certification, according to the bill.

By Jen Calantone

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