

ASSEMBLY BILL

No. 541

Introduced by Assembly Member Duvall

February 25, 2009

An act to amend Section 20104 of the Public Contract Code, relating to contracting by local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 541, as introduced, Duvall. Public contracts: claims: arbitration of contract disputes.

Existing law provides for the resolution of public works construction claims, as defined, arising between a contractor and a local agency. It establishes specified procedures for the resolution of these claims, including civil action, mediation, and arbitration.

This bill would allow a public agency and a contractor to mutually agree to resolve a claim through independent arbitration.

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 20104 of the Public Contract Code is
- 2 amended to read:
- 3 20104. (a) (1) This article applies to all public works claims
- 4 of three hundred seventy-five thousand dollars (\$375,000) or less
- 5 which arise between a contractor and a local agency.
- 6 (2) This article shall not apply to any claims resulting from a
- 7 contract between a contractor and a public agency when the public
- 8 agency has elected to resolve any disputes pursuant to Article 7.1

1 (commencing with Section 10240) of Chapter 1 of Part 2 *or when*
2 *the public agency and the contractor have mutually agreed to*
3 *submit the claim to independent arbitration pursuant to Section*
4 *1670 of the Civil Code.*

5 (b) (1) “Public work” has the same meaning as in Sections 3100
6 and 3106 of the Civil Code, except that “public work” does not
7 include any work or improvement contracted for by the state or
8 the Regents of the University of California.

9 (2) “Claim” means a separate demand by the contractor for (A)
10 a time extension, (B) payment of money or damages arising from
11 work done by, or on behalf of, the contractor pursuant to the
12 contract for a public work and payment of which is not otherwise
13 expressly provided for or the claimant is not otherwise entitled to,
14 or (C) an amount the payment of which is disputed by the local
15 agency.

16 (c) The provisions of this article or a summary thereof shall be
17 set forth in the plans or specifications for any work which may
18 give rise to a claim under this article.

19 (d) This article applies only to contracts entered into on or after
20 January 1, 1991.