

ASSEMBLY BILL

No. 587

Introduced by Assembly Members Gordon and Furutani

February 16, 2011

An act to amend Section 1720.4 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 587, as introduced, Gordon. Public works: volunteers.

Existing law defines “public works,” for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work that is performed under contract and paid for in whole or in part out of public funds. Pursuant to existing law, all workers employed on public works projects are required to be paid not less than the general prevailing rate of per diem wages for work, except as specified.

Existing law governing public works does not apply to specified work performed by a volunteer, a volunteer coordinator, or a member of the California Conservation Corps or a community conservation corps. These provisions are effective only until January 1, 2012, and as of that date are repealed.

This bill would extend that repeal date to January 1, 2017, and make technical, nonsubstantive changes to that provision.

Existing law also requires the Director of Industrial Relations to submit a report to the Legislature before January 1, 2011, regarding volunteers on public projects.

This bill would repeal that provision.

This bill also would make legislative findings and declarations regarding the intent of the bill.

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. The Legislature finds and declares all of the
2 following:
3 (a) It is the intent of the Legislature that public works projects
4 should never undermine the wage base in a community.
5 (b) The requirement that workers on public works projects be
6 paid the prevailing rate of per diem wages ensures that the local
7 wage base is not lowered.
8 (c) It is the intent of the Legislature that this act shall not apply
9 to the work of state and local public sector employees.

10 SEC. 2. Section 1720.4 of the Labor Code is amended to read:
11 1720.4. (a) This chapter shall not apply to any of the following
12 work:
13 (1) Any work performed by a volunteer. For purposes of this
14 section, “volunteer” means an individual who performs work for
15 civic, charitable, or humanitarian reasons for a public agency or
16 corporation qualified under Section 501(c)(3) of the Internal
17 Revenue Code as a tax-exempt organization, without promise,
18 expectation, or receipt of any compensation for work performed.
19 (A) An individual shall be considered a volunteer only when
20 his or her services are offered freely and without pressure and
21 coercion, direct or implied, from an employer.
22 (B) An individual may receive reasonable meals, lodging,
23 transportation, and incidental expenses or nominal nonmonetary
24 awards without losing volunteer status if, in the entire context of
25 the situation, those benefits and payments are not a substitute form
26 of compensation for work performed.
27 (C) An individual shall not be considered a volunteer if the
28 person is otherwise employed for compensation at any time (i) in
29 the construction, alteration, demolition, installation, repair, or
30 maintenance work on the same project, or (ii) by a contractor, other
31 than a corporation qualified under Section 501(c)(3) of the Internal
32 Revenue Code as a tax-exempt organization, that is receiving
33 payment to perform construction, alteration, demolition,
34 installation, repair, or maintenance work on the same project.

1 (2) Any work performed by a volunteer coordinator. For
2 purposes of this section, “volunteer coordinator” means an
3 individual paid by a corporation qualified under Section 501(c)(3)
4 of the Internal Revenue Code as a tax-exempt organization, to
5 oversee or supervise volunteers. An individual may be considered
6 a volunteer coordinator even if the individual performs some
7 nonsupervisory work on a project alongside the volunteers, so long
8 as the individual’s primary responsibility on the project is to
9 oversee or supervise the volunteers rather than to perform
10 nonsupervisory work.

11 (3) Any work performed by ~~members of~~ the California
12 Conservation Corps or ~~of~~ *by* Community Conservation Corps
13 certified by the California Conservation Corps pursuant to Section
14 14507.5 of the Public Resources Code.

15 (b) This section shall apply retroactively to otherwise covered
16 work concluded on or after January 1, 2002, to the extent permitted
17 by law.

18 ~~(e) On or before January 1, 2011, the director shall submit a~~
19 ~~written report to the Legislature that does both of the following:~~

20 ~~(1) Describes the number and the nature of complaints received~~
21 ~~and investigations conducted involving the use of volunteers on~~
22 ~~public works projects subject to this chapter, that are projects as~~
23 ~~described in Section 21190 of the Public Resources Code.~~

24 ~~(2) Provides an estimate of each of the following as they relate~~
25 ~~to public works projects that involve the acquisition, presentation,~~
26 ~~or restoration of natural areas, including parks or ecological~~
27 ~~reserves, or other public works projects that have one or more of~~
28 ~~the purposes, as described in Section 21190 of the Public Resources~~
29 ~~Code:~~

30 ~~(A) The number of hours per year that volunteers work on public~~
31 ~~works projects.~~

32 ~~(B) The cost per year of public works projects, that are projects~~
33 ~~as described in Section 21190 of the Public Resources Code, and~~
34 ~~the percentage of work performed by volunteers.~~

35 ~~(C) The types of work done by volunteers on public works~~
36 ~~projects, that are projects as described in Section 21190 of the~~
37 ~~Public Resources Code.~~

38 ~~(d) The sum of one hundred thousand dollars (\$100,000) is~~
39 ~~hereby appropriated from the Environmental License Plate Fund~~

1 ~~for the purposes of funding the report required pursuant to~~
2 ~~subdivision (e):~~
3 ~~(e)~~
4 (c) This section shall remain in effect only until January 1, ~~2012~~
5 ~~2017~~, and as of that date is repealed, unless a later enacted statute,
6 which is enacted before January 1, ~~2012~~ ~~2017~~, deletes or extends
7 that date.