

Introduced by Senator Hancock

February 18, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 644, as introduced, Hancock. 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, except as specified.

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 Those provisions are effective only until January 1, 2012, and as of that date are repealed.

This bill would extend the repeal of this provision to January 1, 2017.

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 1720.4 of the Labor Code is amended to
- 2 read:
- 3 1720.4. (a) This chapter shall not apply to any of the following
- 4 work:

1 (1) Any work performed by a volunteer. For purposes of this
2 section, “volunteer” means an individual who performs work for
3 civic, charitable, or humanitarian reasons for a public agency or
4 corporation qualified under Section 501(c)(3) of the Internal
5 Revenue Code as a tax-exempt organization, without promise,
6 expectation, or receipt of any compensation for work performed.

7 (A) An individual shall be considered a volunteer only when
8 his or her services are offered freely and without pressure and
9 coercion, direct or implied, from an employer.

10 (B) An individual may receive reasonable meals, lodging,
11 transportation, and incidental expenses or nominal nonmonetary
12 awards without losing volunteer status if, in the entire context of
13 the situation, those benefits and payments are not a substitute form
14 of compensation for work performed.

15 (C) An individual shall not be considered a volunteer if the
16 person is otherwise employed for compensation at any time (i) in
17 the construction, alteration, demolition, installation, repair, or
18 maintenance work on the same project, or (ii) by a contractor, other
19 than a corporation qualified under Section 501(c)(3) of the Internal
20 Revenue Code as a tax-exempt organization, that is receiving
21 payment to perform construction, alteration, demolition,
22 installation, repair, or maintenance work on the same project.

23 (2) Any work performed by a volunteer coordinator. For
24 purposes of this section, “volunteer coordinator” means an
25 individual paid by a corporation qualified under Section 501(c)(3)
26 of the Internal Revenue Code as a tax-exempt organization, to
27 oversee or supervise volunteers. An individual may be considered
28 a volunteer coordinator even if the individual performs some
29 nonsupervisory work on a project alongside the volunteers, so long
30 as the individual’s primary responsibility on the project is to
31 oversee or supervise the volunteers rather than to perform
32 nonsupervisory work.

33 (3) Any work performed by members of the California
34 Conservation Corps or of Community Conservation Corps certified
35 by the California Conservation Corps pursuant to Section 14507.5
36 of the Public Resources Code.

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

1 ~~(e) On or before January 1, 2011, the director shall submit a~~
2 ~~written report to the Legislature that does both of the following:~~
3 ~~(1) Describes the number and the nature of complaints received~~
4 ~~and investigations conducted involving the use of volunteers on~~
5 ~~public works projects subject to this chapter, that are projects as~~
6 ~~described in Section 21190 of the Public Resources Code.~~
7 ~~(2) Provides an estimate of each of the following as they relate~~
8 ~~to public works projects that involve the acquisition, presentation,~~
9 ~~or restoration of natural areas, including parks or ecological~~
10 ~~reserves, or other public works projects that have one or more of~~
11 ~~the purposes, as described in Section 21190 of the Public Resources~~
12 ~~Code:~~
13 ~~(A) The number of hours per year that volunteers work on public~~
14 ~~works projects.~~
15 ~~(B) The cost per year of public works projects, that are projects~~
16 ~~as described in Section 21190 of the Public Resources Code, and~~
17 ~~the percentage of work performed by volunteers.~~
18 ~~(C) The types of work done by volunteers on public works~~
19 ~~projects, that are projects as described in Section 21190 of the~~
20 ~~Public Resources Code.~~
21 ~~(d) The sum of one hundred thousand dollars (\$100,000) is~~
22 ~~hereby appropriated from the Environmental License Plate Fund~~
23 ~~for the purposes of funding the report required pursuant to~~
24 ~~subdivision (e).~~
25 ~~(e)~~
26 ~~(c) This section shall remain in effect only until January 1, 2012,~~
27 ~~2017, and as of that date is repealed, unless a later enacted statute,~~
28 ~~which is enacted before January 1, 2012, deletes or extends that~~
29 ~~date.~~