

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE JULY 2, 2013

AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 454**

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**Introduced by Assembly Member Dickinson**

February 19, 2013

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An act to add Section ~~4460~~ 4454.5 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 454, as amended, Dickinson. Workers' compensation benefits: prevailing wages.

Existing law defines the term "public works" for purposes of requirements regarding the payment of prevailing wages, the regulation of working hours, and the securing of workers' compensation for public works projects. ~~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 laws regulating public works projects, including the payment of prevailing wages.~~

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Under this system, the Workers' Compensation Appeals Board has jurisdiction to adjudicate claims relating to workers' compensation. Existing law ~~provides certain methods for determining workers' compensation benefits payable to a~~

~~worker for purposes of temporary disability, temporary total disability, permanent total disability, and permanent partial disability. requires, in computing average annual earnings for the purposes of temporary disability indemnity and permanent total disability indemnity only, that the average weekly earnings be taken in accordance with a prescribed formula.~~

*This bill would require the average weekly earnings for an employee employed on a public works project to be taken at wages actually paid or the prevailing wage that was applicable to the work performed by the employee, whichever amount is greater. The bill would provide that an appeals board determination of whether a project was a public work or of the applicable prevailing wage, or both, has no effect in any other judicial or administrative proceeding.*

~~This bill would provide that, for purposes of determining those workers' compensation benefits, the amount of benefits for a worker who is injured while performing work under a contract requiring a federal, state, county, city, or city and county prevailing wage requirement and who was paid a wage below the applicable prevailing wage for that work is to be calculated using the applicable prevailing wage, and not the actual wages paid, upon a final ruling by the commissioner of the applicable prevailing wage. The bill would require the commissioner to establish an expedited hearing process to make prevailing wage determinations that are relevant to a matter before the appeals board.~~

Vote: 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. Section 4454.5 is added to the Labor Code, to  
2     read:  
3     4454.5. When determining average weekly earnings within the  
4     limits fixed in Section 4453, the earnings for an employee employed  
5     on a public works project that is subject to Chapter 1 (commencing  
6     with Section 1720) of Part 7 of Division 2 shall be taken at the  
7     wages actually paid or the prevailing wage that was applicable  
8     to the work performed by the employee, whichever amount is  
9     greater. An appeals board determination of whether a project was  
10    a public work or of the applicable prevailing wage, or both, has  
11    no effect in any other judicial or administrative proceeding.

1 SECTION 1. ~~Section 4460 is added to the Labor Code, to read:~~  
2 ~~4460. Notwithstanding any other law, for purposes of~~  
3 ~~determining benefits under Sections 4453, 4650, 4653, and 4658,~~  
4 ~~the amount of benefits for a worker who is injured while~~  
5 ~~performing work under a contract requiring a federal, state, county,~~  
6 ~~city, or city and county prevailing wage requirement and who was~~  
7 ~~paid a wage below the applicable prevailing wage for that work~~  
8 ~~shall be calculated using the applicable prevailing wage, and not~~  
9 ~~the actual wages paid, upon a final ruling by the Labor~~  
10 ~~Commissioner of the applicable prevailing wage. The Labor~~  
11 ~~Commissioner shall establish an expedited hearing process to make~~  
12 ~~prevailing wage determinations that are relevant to a matter~~  
13 ~~pending before the appeals board.~~