

AMENDED IN ASSEMBLY AUGUST 7, 2013

AMENDED IN SENATE FEBRUARY 19, 2013

SENATE BILL

No. 7

Introduced by Senators Steinberg and Cannella

December 3, 2012

An act to add Section 1782 to the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as amended, Steinberg. Public works: charter cities.

Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Existing law defines "public works" to include, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds, and street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether the political subdivision or district operates under a freeholder's charter or not.

This bill would prohibit a charter city from receiving or using state funding or financial assistance for a construction project if the city has a charter provision or ordinance that authorizes a contractor to not comply with prevailing wage provisions on any public works contract. The bill would, except as specified, prohibit a charter city from receiving or using state funding or financial assistance for a construction project ~~for up to 2 calendar years if the city has, after January 1, 2014, has~~ awarded, *within the prior 2 years*, a public works contract without

requiring the contractor to comply with prevailing wage provisions. This bill would authorize charter cities to receive or use state funding or financial assistance if the city has ~~adopted~~ a local prevailing wage ordinance, *applicable to all of its public works contracts*, that includes requirements that are equal to or greater than the state's prevailing wage requirements, as specified. This bill would exclude contracts for projects of \$25,000 or less for construction work, or projects of \$15,000 or less for alteration, demolition, repair, or maintenance work. This bill would require the Director of Industrial Relations to maintain a list of charter cities that may receive and use state funding ~~and~~ or financial assistance for their construction projects.

This bill would provide that it does not restrict a charter city from receiving or using state funding or financial assistance that was awarded to the city prior to January 1, 2015, or from receiving or using state funding or financial assistance to complete a contract that was awarded prior to January 1, 2015, and that a charter city would not be disqualified from receiving or using state funding or financial assistance for its construction projects based on the city's failure to require a contractor to comply with prevailing wage provisions in performing a contract the city advertised for bid or awarded prior to January 1, 2015.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is a matter of statewide concern that California has an
- 4 available workforce of skilled construction workers to efficiently
- 5 complete both public and private infrastructure projects, and
- 6 maintaining that workforce requires the continual training of new
- 7 workers to replace the aging workforce. An in-state workforce of
- 8 skilled construction workers who can complete projects in a
- 9 streamlined manner benefits the state's economy.
- 10 (b) The state's prevailing wage law promotes the creation of a
- 11 skilled construction workforce. The requirement that contractors
- 12 on public work pay prevailing wages to their employees encourages
- 13 contractors to hire the most skilled workers and to invest in their
- 14 training. The incentives provided in the prevailing wage law for
- 15 formal apprenticeship training in state-approved programs provide

1 the financial support and on-the-job training opportunities
2 necessary to train the next generation of skilled construction
3 workers.

4 (c) The majority of California workers do not have four-year
5 college degrees, and maintaining construction work as an
6 occupation that can provide good jobs to California workers is
7 important to the future of the state.

8 (d) The state’s prevailing wage law helps to maintain
9 construction work as an occupation that provides middle-class jobs
10 to hundreds of thousands of California workers, enabling the
11 workers to support families and contribute to their communities.
12 The prevailing wage law also provides necessary on-the-job
13 training opportunities for the more than 50,000 apprentices enrolled
14 in state-approved apprenticeship programs in the building and
15 construction trades, enabling the apprentices to graduate from the
16 programs and pursue careers as journey-level workers.

17 (e) The state’s prevailing wage law applies to construction
18 projects paid for in whole or in part out of public funds, including
19 projects awarded by any county, city, district, public housing
20 authority, public agency of the state, and assessment or
21 improvement districts.

22 (f) The California Supreme Court has held that charter cities
23 need not require contractors to comply with the state’s prevailing
24 wage law on purely municipal projects. Many charter cities require
25 contractors to comply with the state’s prevailing wage law on their
26 municipal projects, but some charter cities do not.

27 (g) Charter cities that require compliance with the prevailing
28 wage law on their municipal projects are furthering a state policy
29 that has substantial benefits that go beyond the limits of the city.
30 Many of the workers employed on a municipal project will not
31 live in the city where the project is located, and many apprentices
32 receiving training on municipal projects will pursue careers outside
33 the city.

34 (h) The state has limited financial resources to support local
35 construction projects, and it would further state policy to provide
36 financial assistance only to those charter cities that require
37 compliance with the prevailing wage law on all their municipal
38 construction projects. To the extent that requiring compliance with
39 the state’s prevailing wage law may raise the cost of municipal

1 projects for these cities, these cities also would be more in need
2 of state financial support for their other construction projects.

3 (i) *Part of the state's purpose in subsidizing public works*
4 *projects is to create and maintain good jobs and training*
5 *opportunities in the construction industry in order to preserve the*
6 *middle class. Cities that require compliance with the prevailing*
7 *wage law on all their public works projects have construction*
8 *programs that are furthering rather than undermining that goal.*

9 (i)

10 (j) The intent of Section 1782 of the Labor Code is to provide
11 a financial incentive for charter cities to require contractors on
12 their municipal construction projects to comply with the state's
13 prevailing wage law by making these charter cities eligible to
14 receive and use state funding ~~and~~ or financial assistance for their
15 construction projects. *State funding or financial assistance for*
16 *charter city construction projects makes up only a small portion*
17 *of charter city budgets, and charter cities have the power to raise*
18 *other revenues if they do not wish to require the payment of*
19 *prevailing wages on all their municipal construction projects.*

20 SEC. 2. Section 1782 is added to the Labor Code, to read:

21 1782. (a) A charter city shall not receive or use state funding
22 or financial assistance for a construction project if the city has a
23 charter provision or ordinance that authorizes a contractor to not
24 comply with the provisions of this article on any public works
25 contract.

26 (b) A charter city shall not receive or use state funding or
27 financial assistance for a construction project if the city has
28 awarded, within the ~~current or prior two calendar~~ *prior two* years,
29 a public works contract without requiring the contractor to comply
30 with all of the provisions of this article. ~~This subdivision shall not~~
31 ~~apply to contracts awarded prior to January 1, 2014.~~ This
32 subdivision shall not apply if the charter city's failure to include
33 the prevailing wage or apprenticeship requirement in a particular
34 contract was inadvertent and contrary to a city charter provision
35 or ordinance that otherwise requires compliance with this article.

36 (c) ~~Notwithstanding subdivision (a), a charter city may receive~~
37 ~~or use~~ *A charter city is not disqualified by subdivision (a) from*
38 *receiving or using* state funding or financial assistance for its
39 construction projects if the charter city has ~~adopted~~
40 prevailing wage ordinance *for all its public works contracts that*

1 includes requirements that in all respects are equal to or greater
2 than the requirements imposed by the provisions of this article and
3 that do not authorize a contractor to not comply with this article.

4 (d) For purposes of this section, the following shall apply:

5 (1) A public works contract does not include contracts for
6 projects of twenty-five thousand ~~(\$25,000)~~ dollars (\$25,000) or
7 less when the project is for construction work, or projects of fifteen
8 thousand ~~(\$15,000)~~ dollars (\$15,000) or less when the project is
9 for alteration, demolition, repair, or maintenance work.

10 (2) A charter city includes any agency of a charter city and any
11 entity controlled by a charter city whose contracts would be subject
12 to this article.

13 (3) A “construction project” means a project that involves the
14 award of a public works contract.

15 ~~(3)~~

16 (4) State funding ~~and~~ or financial assistance includes direct state
17 funding, state loans and loan guarantees, state tax credits, and any
18 other type of state financial support for a construction project.
19 State funding ~~and~~ or financial assistance does not include tax
20 revenues that charter cities are entitled to receive without
21 conditions under the California Constitution.

22 (e) The Director of Industrial Relations shall maintain a list of
23 charter cities that may receive and use state funding ~~and~~ or financial
24 assistance for their construction projects.

25 (f) (1) *This section does not restrict a charter city from receiving
26 or using state funding or financial assistance that was awarded
27 to the city prior to January 1, 2015, or from receiving or using
28 state funding or financial assistance to complete a contract that
29 was awarded prior to January 1, 2015.*

30 (2) *A charter city is not disqualified by subdivision (b) from
31 receiving or using state funding or financial assistance for its
32 construction projects based on the city’s failure to require a
33 contractor to comply with this article in performing a contract the
34 city advertised for bid or awarded prior to January 1, 2015.*

35 *SEC. 3. The provisions of this section are severable. If any
36 provision of this section or its application is held invalid, that
37 invalidity shall not affect other provisions or applications that can
38 be given effect without the invalid provision or application.*

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