

Senate Bill No. 7

CHAPTER 794

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

[Approved by Governor October 13, 2013. Filed with
Secretary of State October 13, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 7, 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 if the city 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 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 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.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is a matter of statewide concern that California has an available workforce of skilled construction workers to efficiently complete both public and private infrastructure projects, and maintaining that workforce requires the continual training of new workers to replace the aging workforce. An in-state workforce of skilled construction workers who can complete projects in a streamlined manner benefits the state's economy.

(b) The state's prevailing wage law promotes the creation of a skilled construction workforce. The requirement that contractors on public work pay prevailing wages to their employees encourages contractors to hire the most skilled workers and to invest in their training. The incentives provided in the prevailing wage law for formal apprenticeship training in state-approved programs provide the financial support and on-the-job training opportunities necessary to train the next generation of skilled construction workers.

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

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

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

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

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

(h) The state has limited financial resources to support local construction projects, and it would further state policy to provide financial assistance only to those charter cities that require compliance with the prevailing wage law on all their municipal construction projects. To the extent that requiring compliance with the state's prevailing wage law may raise the cost of municipal projects for these cities, these cities also would be more in need of state financial support for their other construction projects.

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

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

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

1782. (a) A charter city shall not receive or use 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 the provisions of this article on any public works contract.

(b) A charter city shall not receive or use state funding or financial assistance for a construction project if the city has awarded, within the prior two years, a public works contract without requiring the contractor to comply with all of the provisions of this article. This subdivision shall not apply if the charter city's failure to include the prevailing wage or apprenticeship requirement in a particular contract was inadvertent and contrary to a city charter provision or ordinance that otherwise requires compliance with this article.

(c) A charter city is not disqualified by subdivision (a) from receiving or using state funding or financial assistance for its construction projects if the charter city has a local prevailing wage ordinance for all its public works contracts that includes requirements that in all respects are equal to or greater than the requirements imposed by the provisions of this article and that do not authorize a contractor to not comply with this article.

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

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

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

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

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

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

(f) (1) This section 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.

(2) A charter city is not disqualified by subdivision (b) 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 this article in performing a contract the city advertised for bid or awarded prior to January 1, 2015.

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