

## Senate Bill No. 266

### CHAPTER 916

An act to amend Section 1741.1 of the Labor Code, relating to public works.

[Approved by Governor September 30, 2014. Filed with  
Secretary of State September 30, 2014.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 266, Lieu. Prevailing wages.

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 law regulating public works projects, including the payment of prevailing wages. Existing law tolls the period for service of assessments for the period of time required by the Director of Industrial Relations to determine whether a project is a public work, as specified. Existing law, with respect to the determination of whether a project is a public work, requires a person filing a notice of completion of the project to also provide notice to the Labor Commissioner, as specified, and requires the awarding body or political subdivision accepting a public work to provide to the Labor Commissioner notice of that acceptance, as specified.

This bill instead would require the body awarding the contract for a public work to furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work or a document evidencing the awarding body's acceptance of the public work on a particular date, whichever occurs later, in accordance with specified provisions. The bill would require the awarding body to notify the appropriate office of the Labor Commissioner if, at the time of receipt of the Labor Commissioner's written request, there has been no valid notice of completion filed by the awarding body in the office of the county recorder, and no document evidencing the awarding body's acceptance of the public work on a particular date. If the awarding body fails to timely furnish the Labor Commissioner with the applicable document, the bill would require that the period for service of assessments be tolled until the Labor Commissioner's actual receipt of the applicable document. The bill would also include legislative findings and declarations.

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

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

(1) The process for the Director of Industrial Relations to determine the existence of a public work and to decide administrative appeals from those determinations has created unacceptable delays and prejudice to the enforcement of the public works law, often resulting in the expiration of the statute of limitations for the identification and collection of wage and penalty assessments. As a result, wage theft has occurred because workers are not paid prevailing wage rates and the time for assessment has expired.

(2) There has been an incentive to some developers, contractors, and public bodies to engage in expensive and time-consuming litigation in efforts to extend the time for determining the existence of a public work. This litigation is often a needless expense to the state.

(3) Public bodies, developers, contractors, and others are entitled to a determination of whether a project is a public work as early as possible so that the costs of the project and the duties of the parties under the law may be known as early as possible.

(4) Therefore, this act is necessary to ensure the actual receipt of proper wages, to reduce administrative and litigation costs to the state and others, and to provide early guidance to all interested parties.

SEC. 2. Section 1741.1 of the Labor Code is amended to read:

1741.1. (a) The period for service of assessments shall be tolled for the period of time required by the Director of Industrial Relations to determine whether a project is a public work, including a determination on administrative appeal, if applicable, pursuant to subdivisions (b) and (c) of Section 1773.5. The period for service of assessments shall also be tolled for the period of time that a contractor or subcontractor fails to provide in a timely manner certified payroll records pursuant to a request from the Labor Commissioner or a joint labor-management committee under Section 1776, or an approved labor compliance program under Section 1771.5 or 1771.7.

(b) (1) The body awarding the contract for public work shall furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work filed in the office of the county recorder, or a document evidencing the awarding body's acceptance of the public work on a particular date, whichever occurs later, by first-class mail addressed to the office of the Labor Commissioner that is listed on the written request. If, at the time of receipt of the Labor Commissioner's written request, a valid notice of completion has not been filed by the awarding body in the office of the county recorder and there is no document evidencing the awarding body's acceptance of the public work on a particular date, the awarding body shall so notify the office of the Labor Commissioner that is listed on the written request. Thereafter, the awarding body shall furnish copies of the applicable document within 10 days after filing a valid notice of completion with the county recorder's office, or within 10 days of the awarding body's acceptance of the public work on a particular date.

(2) If the awarding body fails to timely furnish the Labor Commissioner with the documents identified in paragraph (1), the period for service of

assessments under Section 1741 shall be tolled until the Labor Commissioner's actual receipt of the valid notice of completion for the public work or a document evidencing the awarding body's acceptance of the public work on a particular date.

(c) The tolling provisions in this section shall also apply to the period of time for commencing an action brought by a joint labor-management committee pursuant to Section 1771.2.

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