

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 219

Introduced by Assembly Member Daly

February 2, 2015

An act to amend ~~Section~~ Sections 1720.3-~~ef~~ and 1722.1 of, and to add Section 1722.2 to, the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 219, as amended, Daly. Public works: concrete delivery.

Existing law defines “public works,” for purposes of requirements regarding the payment of prevailing wages for public works projects, to include, among other things, the hauling of refuse from a public works site to an outside disposal location with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state. Existing law makes a willful violation of law relating to payment of prevailing wages on public works a misdemeanor.

This bill would expand the definition of “public works,” “public works” for these purposes to include the delivery of ready-mixed *or asphaltic* concrete with respect to contracts involving any state agency or any political subdivision of the state. *This bill would provide that the expansion of that definition does not apply to contracts advertised for bid or awarded prior to the effective date that provision.* By expanding the definition of a crime, this bill would impose a state-mandated local program.

Existing law defines “contractor” and “subcontractor,” for purposes of requirements regarding the payment of prevailing wages for public works projects, to include a contractor, subcontractor, licensee, officer,

agent, or representative thereof, when working on public works, as specified. Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board.

This bill would provide that a person is a "contractor" or "subcontractor" for the purposes of those requirements regardless of whether the person is subject to the requirements of the Contractors' State License Law. This bill would provide that an agreement with a contractor or a subcontractor to perform a public work is a "contract" or "subcontract" for the purposes of requirements regarding the payment of prevailing wages described above.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1720.3 of the Labor Code is amended to
2 read:

3 1720.3. (a) For the limited purposes of Article 2 (commencing
4 with Section 1770), "public works" also means the hauling of
5 refuse from a public works site to an outside disposal location, or
6 the *hauling and delivery* of ready-mixed concrete *or asphaltic*
7 *concrete* to a public works site, with respect to contracts involving
8 any state agency, including the California State University and the
9 University of California, or any political subdivision of the state.

10 (b) For purposes of this section, the "hauling of refuse" includes,
11 but is not limited to, hauling soil, sand, gravel, rocks, concrete,
12 asphalt, excavation materials, and construction debris. The "hauling
13 of refuse" shall not include the hauling of recyclable metals such
14 as copper, steel, and aluminum that have been separated from other
15 materials at the jobsite prior to transportation and that are to be
16 sold at fair market value to a bona fide purchaser.

17 (c) *For the purposes of this section, the "hauling and delivery*
18 *of ready-mixed concrete or asphaltic concrete to a public works*
19 *site" means the job duties for a ready mixer driver that are used*

1 by the Director of Industrial Relations in determining wage rates
2 pursuant to Section 1773.

3 SEC. 2. Section 1722.1 of the Labor Code is amended to read:
4 1722.1. For the purposes of this chapter, “contractor” and
5 “subcontractor” include a contractor, subcontractor, licensee,
6 officer, agent, or representative thereof, acting in that capacity,
7 when working on public works pursuant to this article and Article
8 2 (commencing with Section 1770). A person or entity may be a
9 “contractor” or “subcontractor” for the purposes of this chapter
10 regardless of whether the person or entity is subject to the licensing
11 requirements of Chapter 9 (commencing with Section 7000) of
12 Division 3 of the Business and Professions Code.

13 SEC. 3. Section 1722.2 is added to the Labor Code, to read:

14 1722.2. For the purposes of this chapter, an agreement with
15 a contractor or subcontractor to perform any public work covered
16 by this article and Article 2 (commencing with Section 1770) of
17 this chapter is a “contract” or “subcontract.”

18 SEC. 4. The amendments made by Section 1 of this act do not
19 apply to contracts advertised for bid or awarded prior to the
20 effective date of this act.

21 **SEC. 2.**

22 SEC. 5. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIIIIB of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.