

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 219

**Introduced by Assembly Member Daly
(Principal coauthor: Assembly Member Gonzalez)**

February 2, 2015

An act to add Section 1720.9 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” for these purposes to include the hauling and delivery of ready-mixed concrete, as defined, to carry out a public works contract, with respect to contracts involving any state agency or any political subdivision of the state. The bill would require the applicable prevailing wage rate to be the rate for the geographic area in which the concrete factory or batching plant is located. *The bill would require the entity hauling or delivering*

ready-mixed concrete to enter into a written subcontract agreement with, and to provide employee payroll and time records to, the party that engaged that entity, as specified. The bill would provide that these provisions do not apply to *public works* contracts ~~advertised for bid or awarded prior to the effective date of this measure:~~ *after July 1, 2016.* By expanding the definition of a crime, this bill would impose a state-mandated local program.

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 1720.9 is added to the Labor Code, to
- 2 read:
- 3 1720.9. (a) For the limited purposes of Article 2 (commencing
- 4 with Section 1770), “public works” also means the hauling and
- 5 delivery of ready-mixed concrete to carry out a public works
- 6 contract, with respect to contracts involving any state agency,
- 7 including the California State University and the University of
- 8 California, or any political subdivision of the state.
- 9 (b) For purposes of this section, “ready-mixed concrete” means
- 10 concrete that is manufactured in a factory or a batching plant,
- 11 according to a set recipe, and then delivered in a liquefied state by
- 12 mixer truck for immediate incorporation into a project.
- 13 (c) For purposes of this section, the “hauling and delivery of
- 14 ready-mixed concrete to carry out a public works contract” means
- 15 the job duties for a ready mixer driver that are used by the director
- 16 in determining wage rates pursuant to Section 1773, and includes
- 17 receiving the concrete at the factory or batching plant and the return
- 18 trip to the factory or batching plant.
- 19 (d) For purposes of this section, the applicable prevailing wage
- 20 rate shall be the current prevailing wage, as determined by the
- 21 director, for the geographic area in which the factory or batching
- 22 plant is located.

1 (e) The entity hauling or delivering ready-mixed concrete to
2 carry out a public works contract shall enter into a written
3 subcontract agreement with the party that engaged the entity to
4 supply the ready-mixed concrete. The written agreement shall
5 require compliance with the requirements of this chapter. *The entity*
6 *hauling or delivering ready-mixed concrete shall be considered a*
7 *subcontractor solely for the purposes of this chapter.*

8 (f) The entity hauling or delivering ready-mixed concrete to
9 carry out a public works contract shall submit a certified copy of
10 the payroll records required by subdivision (a) of Section 1776 to
11 the party that engaged the entity and to the general contractor
12 within three working days after the employee has been paid,
13 accompanied by a written time record that shall be certified by
14 each driver for the performance of job duties in subdivision (c).

15 (g) *This section applies to public works contracts that are*
16 *awarded on or after July 1, 2016.*

17 ~~SEC. 2.— This act does not apply to contracts advertised for bid~~
18 ~~or awarded prior to the effective date of the act.~~

19 ~~SEC. 3.~~

20 *SEC. 2.* No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.