

ASSEMBLY BILL

No. 1158

Introduced by Assembly Member Campos

February 27, 2015

An act to amend Section 21183 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1158, as introduced, Campos. Jobs and Economic Improvement Through Environmental Leadership Act of 2011: prevailing wage.

Existing law establishes the Division of Labor Standards Enforcement in the Department of Industrial Relations for the enforcement of labor laws, including wage claims. Existing law assesses specified civil penalties on employers who fail to pay their employees minimum wages.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 authorizes the Governor, until January 1, 2016, to certify projects for certain CEQA streamlining benefits if the project

meets certain conditions, including a condition that the project creates high-wage, highly skilled jobs that pay prevailing wages. Existing law requires the applicant of a project that is so certified to include this wage condition in all contracts for the performance of work for the project.

This bill would specify that the above wage condition is subject to enforcement by the Division of Labor Standards Enforcement. The bill would make a project applicant who fails to pay, or fails to ensure the payment of, prevailing wages subject to the civil penalties for failure to pay minimum wages.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 21183 of the Public Resources Code is
- 2 amended to read:
- 3 21183. The Governor may certify a leadership project for
- 4 streamlining pursuant to this chapter if all the following conditions
- 5 are met:
- 6 (a) The project will result in a minimum investment of one
- 7 hundred million dollars (\$100,000,000) in California upon
- 8 completion of construction.
- 9 (b) (1) The project creates high-wage, highly skilled jobs that
- 10 pay prevailing wages and living wages and provide construction
- 11 jobs and permanent jobs for Californians, and helps reduce
- 12 unemployment. For purposes of this subdivision, “jobs that pay
- 13 prevailing wages” means that all construction workers employed
- 14 in the execution of the project will receive at least the general
- 15 prevailing rate of per diem wages for the type of work and
- 16 geographic area, as determined by the Director of Industrial
- 17 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code.
- 18 If the project is certified for streamlining, the project applicant
- 19 shall include this requirement in all contracts for the performance
- 20 of the work.
- 21 (2) *The condition set forth in paragraph (1) is a labor standard*
- 22 *subject to enforcement pursuant to Chapter 4 (commencing with*
- 23 *Section 79) of Division 1 of the Labor Code.*

1 (3) *A project applicant who fails to pay prevailing wages or*
2 *fails to ensure that prevailing wages are paid, as required pursuant*
3 *to paragraph (1), is subject to the civil penalties set forth in Section*
4 *1197.1 of the Labor Code.*

5 (c) The project does not result in any net additional emission
6 of greenhouse gases, including greenhouse gas emissions from
7 employee transportation, as determined by the State Air Resources
8 Board pursuant to Division 25.5 (commencing with Section 38500)
9 of the Health and Safety Code.

10 (d) The project applicant has entered into a binding and
11 enforceable agreement that all mitigation measures required
12 pursuant to this division to certify the project under this chapter
13 shall be conditions of approval of the project, and those conditions
14 will be fully enforceable by the lead agency or another agency
15 designated by the lead agency. In the case of environmental
16 mitigation measures, the applicant agrees, as an ongoing obligation,
17 that those measures will be monitored and enforced by the lead
18 agency for the life of the obligation.

19 (e) The project applicant agrees to pay the costs of the Court of
20 Appeal in hearing and deciding any case, including payment of
21 the costs for the appointment of a special master if deemed
22 appropriate by the court, in a form and manner specified by the
23 Judicial Council, as provided in the Rules of Court adopted by the
24 Judicial Council pursuant to subdivision (f) of Section 21185.

25 (f) The project applicant agrees to pay the costs of preparing
26 the administrative record for the project concurrent with review
27 and consideration of the project pursuant to this division, in a form
28 and manner specified by the lead agency for the project.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the Constitution and shall go into
32 immediate effect. The facts constituting the necessity are:

33 To ensure that workers on a project certified by the Governor
34 as an environmental leadership development project receive the
35 prevailing wage appropriate for the type of work performed, as
36 required pursuant to Chapter 6.5 (commencing with Section 21178)
37 of Division 13 of the Public Resources Code, it is necessary for
38 this measure to take effect immediately.

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