

AMENDED IN ASSEMBLY MARCH 30, 2016

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1926**

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**Introduced by Assembly Member Cooper**

February 12, 2016

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An act to amend Section 1777.5 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 1926, as amended, Cooper. Public works: prevailing wage: apprentices.

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. Under existing law, an apprentice employed upon public works is required to be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and to be employed only at the work of the craft or trade to which he or she is registered, as specified.

This bill would require, when a contractor requests the dispatch of an apprentice to perform work on a public works project, that the apprentice be paid the prevailing rate for the time spent on a required activity, as specified.

Because this bill would expand the application of the prevailing wage requirements, the violation of which are a crime, it 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 1777.5 of the Labor Code is amended to  
 2 read:

3 1777.5. (a) This chapter does not prevent the employment of  
 4 properly registered apprentices upon public works.

5 (b) (1) Every apprentice employed upon public works shall be  
 6 paid the prevailing rate of per diem wages for apprentices in the  
 7 trade to which he or she is registered and shall be employed only  
 8 at the work of the craft or trade to which he or she is registered.

9 (2) Unless otherwise provided by a collective bargaining  
 10 agreement, when a contractor requests the dispatch of an apprentice  
 11 pursuant to this section to perform work on a public works project  
 12 and requires the apprentice to *fill out an application or* undergo  
 13 testing, training, ~~or~~ an examination, *or other pre-employment*  
 14 *process* as a condition of employment, the apprentice shall be paid  
 15 for the time spent on the required activity, including travel time,  
 16 at the prevailing rate of per diem wages for apprentices in the trade  
 17 to which he or she is registered.

18 (c) Only apprentices, as defined in Section 3077, who are in  
 19 training under apprenticeship standards that have been approved  
 20 by the Chief of the Division of Apprenticeship Standards and who  
 21 are parties to written apprentice agreements under Chapter 4  
 22 (commencing with Section 3070) of Division 3 are eligible to be  
 23 employed at the apprentice wage rate on public works. The  
 24 employment and training of each apprentice shall be in accordance  
 25 with either of the following:

26 (1) The apprenticeship standards and apprentice agreements  
 27 under which he or she is training.

28 (2) The rules and regulations of the California Apprenticeship  
 29 Council.

1 (d) If the contractor to whom the contract is awarded by the  
2 state or any political subdivision, in performing any of the work  
3 under the contract, employs workers in any apprenticeable craft  
4 or trade, the contractor shall employ apprentices in at least the  
5 ratio set forth in this section and may apply to any apprenticeship  
6 program in the craft or trade that can provide apprentices to the  
7 site of the public work for a certificate approving the contractor  
8 under the apprenticeship standards for the employment and training  
9 of apprentices in the area or industry affected. However, the  
10 decision of the apprenticeship program to approve or deny a  
11 certificate shall be subject to review by the Administrator of  
12 Apprenticeship. The apprenticeship program or programs, upon  
13 approving the contractor, shall arrange for the dispatch of  
14 apprentices to the contractor. A contractor covered by an  
15 apprenticeship program's standards shall not be required to submit  
16 any additional application in order to include additional public  
17 works contracts under that program. "Apprenticeable craft or  
18 trade," as used in this section, means a craft or trade determined  
19 as an apprenticeable occupation in accordance with rules and  
20 regulations prescribed by the California Apprenticeship Council.  
21 As used in this section, "contractor" includes any subcontractor  
22 under a contractor who performs any public works not excluded  
23 by subdivision (o).

24 (e) Before commencing work on a contract for public works,  
25 every contractor shall submit contract award information to an  
26 applicable apprenticeship program that can supply apprentices to  
27 the site of the public work. The information submitted shall include  
28 an estimate of journeyman hours to be performed under the  
29 contract, the number of apprentices proposed to be employed, and  
30 the approximate dates the apprentices would be employed. A copy  
31 of this information shall also be submitted to the awarding body,  
32 if requested by the awarding body. Within 60 days after concluding  
33 work on the contract, each contractor and subcontractor shall  
34 submit to the awarding body, if requested, and to the apprenticeship  
35 program a verified statement of the journeyman and apprentice  
36 hours performed on the contract. The information under this  
37 subdivision shall be public. The apprenticeship programs shall  
38 retain this information for 12 months.

1 (f) The apprenticeship program supplying apprentices to the  
2 area of the site of the public work shall ensure equal employment  
3 and affirmative action in apprenticeship for women and minorities.

4 (g) The ratio of work performed by apprentices to journeymen  
5 employed in a particular craft or trade on the public work may be  
6 no higher than the ratio stipulated in the apprenticeship standards  
7 under which the apprenticeship program operates if the contractor  
8 agrees to be bound by those standards. However, except as  
9 otherwise provided in this section, in no case shall the ratio be less  
10 than one hour of apprentice work for every five hours of  
11 journeyman work.

12 (h) This ratio of apprentice work to journeyman work shall  
13 apply during any day or portion of a day when any journeyman is  
14 employed at the jobsite and shall be computed on the basis of the  
15 hours worked during the day by journeymen so employed. Any  
16 work performed by a journeyman in excess of eight hours per day  
17 or 40 hours per week shall not be used to calculate the ratio. The  
18 contractor shall employ apprentices for the number of hours  
19 computed as above before the end of the contract or, in the case  
20 of a subcontractor, before the end of the subcontract. However,  
21 the contractor shall endeavor, to the greatest extent possible, to  
22 employ apprentices during the same time period that the  
23 journeymen in the same craft or trade are employed at the jobsite.  
24 When an hourly apprenticeship ratio is not feasible for a particular  
25 craft or trade, the Administrator of Apprenticeship, upon  
26 application of an apprenticeship program, may order a minimum  
27 ratio of not less than one apprentice for each five journeymen in  
28 a craft or trade classification.

29 (i) A contractor covered by this section who has agreed to be  
30 covered by an apprenticeship program's standards upon the  
31 issuance of the approval certificate, or who has been previously  
32 approved for an apprenticeship program in the craft or trade, shall  
33 employ the number of apprentices or the ratio of apprentices to  
34 journeymen stipulated in the applicable apprenticeship standards,  
35 but in no event less than the ~~1-to-5~~ 1-to-5 ratio required by  
36 subdivision (g).

37 (j) Upon proper showing by a contractor that he or she employs  
38 apprentices in a particular craft or trade in the state on all of his  
39 or her contracts on an annual average of not less than one hour of  
40 apprentice work for every five hours of labor performed by

1 journeymen, the Administrator of Apprenticeship may grant a  
2 certificate exempting the contractor from the ~~1 to 5~~ 1-to-5 hourly  
3 ratio, as set forth in this section for that craft or trade.

4 (k) An apprenticeship program has the discretion to grant to a  
5 participating contractor or contractor association a certificate,  
6 which shall be subject to the approval of the Administrator of  
7 Apprenticeship, exempting the contractor from the ~~1 to 5~~ 1-to-5  
8 ratio set forth in this section when it finds that any one of the  
9 following conditions is met:

10 (1) Unemployment for the previous three-month period in the  
11 area exceeds an average of 15 percent.

12 (2) The number of apprentices in training in the area exceeds a  
13 ratio of 1 to 5.

14 (3) There is a showing that the apprenticeable craft or trade is  
15 replacing at least one-thirtieth of its journeymen annually through  
16 apprenticeship training, either on a statewide basis or on a local  
17 basis.

18 (4) Assignment of an apprentice to any work performed under  
19 a public works contract would create a condition that would  
20 jeopardize his or her life or the life, safety, or property of fellow  
21 employees or the public at large, or the specific task to which the  
22 apprentice is to be assigned is of a nature that training cannot be  
23 provided by a journeyman.

24 (l) If an exemption is granted pursuant to subdivision (k) to an  
25 organization that represents contractors in a specific trade from  
26 the ~~1 to 5~~ 1-to-5 ratio on a local or statewide basis, the member  
27 contractors shall not be required to submit individual applications  
28 for approval to local joint apprenticeship committees, if they are  
29 already covered by the local apprenticeship standards.

30 (m) (1) A contractor to whom a contract is awarded, who, in  
31 performing any of the work under the contract, employs  
32 journeymen or apprentices in any apprenticeable craft or trade  
33 shall contribute to the California Apprenticeship Council the same  
34 amount that the director determines is the prevailing amount of  
35 apprenticeship training contributions in the area of the public works  
36 site. A contractor may take as a credit for payments to the council  
37 any amounts paid by the contractor to an approved apprenticeship  
38 program that can supply apprentices to the site of the public works  
39 project. The contractor may add the amount of the contributions  
40 in computing his or her bid for the contract.

1 (2) At the conclusion of the 2002–03 fiscal year and each fiscal  
2 year thereafter, the California Apprenticeship Council shall  
3 distribute training contributions received by the council under this  
4 subdivision, less the expenses of the Department of Industrial  
5 Relations for administering this subdivision, by making grants to  
6 approved apprenticeship programs for the purpose of training  
7 apprentices. The funds shall be distributed as follows:

8 (A) If there is an approved multiemployer apprenticeship  
9 program serving the same craft or trade and geographic area for  
10 which the training contributions were made to the council, a grant  
11 to that program shall be made.

12 (B) If there are two or more approved multiemployer  
13 apprenticeship programs serving the same craft or trade and county  
14 for which the training contributions were made to the council, the  
15 grant shall be divided among those programs based on the number  
16 of apprentices from that county registered in each program.

17 (C) All training contributions not distributed under  
18 subparagraphs (A) and (B) shall be used to defray the future  
19 expenses of the Department of Industrial Relations for the  
20 administration and enforcement of apprenticeship standards and  
21 requirements under this code.

22 (3) All training contributions received pursuant to this  
23 subdivision shall be deposited in the Apprenticeship Training  
24 Contribution Fund, which is hereby created in the State Treasury.  
25 Upon appropriation by the Legislature, all moneys in the  
26 Apprenticeship Training Contribution Fund shall be used for the  
27 purpose of carrying out this subdivision and to pay the expenses  
28 of the Department of Industrial Relations.

29 (n) The body awarding the contract shall cause to be inserted  
30 in the contract stipulations to effectuate this section. The  
31 stipulations shall fix the responsibility of compliance with this  
32 section for all apprenticeable occupations with the prime contractor.

33 (o) This section does not apply to contracts of general  
34 contractors or to contracts of specialty contractors not bidding for  
35 work through a general or prime contractor when the contracts of  
36 general contractors or those specialty contractors involve less than  
37 thirty thousand dollars (\$30,000).

38 (p) An awarding body that implements an approved labor  
39 compliance program in accordance with subdivision (b) of Section  
40 1771.5 may, with the approval of the director, assist in the

1 enforcement of this section under the terms and conditions  
2 prescribed by the director.

3 SEC. 2. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

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