

AMENDED IN ASSEMBLY MAY 10, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2513

Introduced by Assembly Member Shelley

February 24, 2000

An act to amend Section 1777.1 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 2513, as amended, Shelley. Prevailing wage requirements: violations.

Under existing law, whenever a contractor or subcontractor performing a public works project is found by the Labor Commissioner to be either in violation of certain provisions of law relating to payment of prevailing wages, with intent to defraud, or in willful violation of those provisions of law, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial interest is ineligible to bid on or to receive a public works contract for specified periods of time.

This bill would revise the above provisions to provide that a contractor or subcontractor is subject to the above ineligibility if he or she has a willful violation of the applicable provisions, and would delete the requirement that the violation be done with the intention to defraud. The bill would also delete the requirement that a contractor or subcontractor have a substantial interest in one of the above-listed entities

in order for the entity be ineligible to bid or contract, and instead would render ineligible an entity in which an ineligible contractor has any interest.

Vote: majority. 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 1777.1 of the Labor Code is
2 amended to read:

3 1777.1. (a) Whenever a contractor or subcontractor
4 performing a public works project pursuant to this
5 chapter is found by the Labor Commissioner to be in
6 willful violation of this chapter, except Section 1777.5, the
7 contractor or subcontractor or a firm, corporation,
8 partnership, or association in which the contractor or
9 subcontractor has any interest is ineligible for a period of
10 not less than one year or more than three years to do
11 either of the following:

12 (1) Bid on or be awarded a contract for a public works
13 project.

14 (2) Perform work as a subcontractor on a public works
15 project.

16 (b) Whenever a contractor or subcontractor
17 performing a public works project pursuant to this
18 chapter is found by the Labor Commissioner to be in
19 willful violation of this chapter, except Section 1777.5, the
20 contractor or subcontractor or a firm, corporation,
21 partnership, or association in which the contractor or
22 subcontractor has any interest is ineligible for a period up
23 to three years for each second and subsequent violation
24 occurring within three years of a separate and previous
25 willful violation of this chapter to do either of the
26 following:

27 (1) Bid on or be awarded a contract for a public works
28 project.

29 (2) Perform work as a subcontractor on a public works
30 project.

31 (c) A willful violation occurs when the contractor or
32 subcontractor knew or reasonably should have known of



1 his or her obligations under the public works law and
2 deliberately fails or refuses to comply with its provisions.

3 (d) Not less than semiannually, the Labor
4 Commissioner shall publish and distribute to awarding
5 bodies a list of contractors who are ineligible to bid on or
6 be awarded a public works contract, or to perform work
7 as a subcontractor on a public works project pursuant to
8 this chapter. The list shall contain the name of the
9 contractor, the Contractor's State License Board license
10 number of the contractor, and the effective period of
11 debarment of the contractor. The commissioner shall also
12 place advertisements in construction industry
13 publications targeted to the contractors and
14 subcontractors, chosen by the commissioner, that state
15 the effective period of the debarment and the reason for
16 debarment. The advertisements shall appear one time for
17 each debarment of a contractor in each publication
18 chosen by the commissioner. The debarred contractor or
19 subcontractor shall bear the reasonable cost of that
20 advertisement, not to exceed five thousand dollars
21 (\$5,000).

22 (e) For purposes of this section, "contractor or
23 subcontractor" means a firm, corporation, partnership, or
24 association and its responsible managing officer, as well as
25 any supervisors, managers, and officers found by the
26 Labor Commissioner to be personally and substantially
27 responsible for the willful violation of this chapter.

28 (f) *For the purposes of this section, the term "any*
29 *interest" means an interest in the entity bidding or*
30 *performing work on the public works project, whether as*
31 *an owner, partner, officer, manager, employee, agent,*
32 *consultant, or representative. "Any interest" includes,*
33 *but is not limited to, all instances where the debarred*
34 *contractor or subcontractor receives payments, whether*
35 *cash or any other form of compensation, from any entity*
36 *bidding or performing work on the public works project,*
37 *or enters into any contracts or agreements with the entity*
38 *bidding or performing work on the public works project*
39 *for services performed or to be performed for contracts*
40 *that have been or will be assigned or sublet, or for*



1 vehicles, tools, equipment, or supplies that have been or
2 will be sold, rented, or leased during the period from the
3 initiation of the debarment proceedings until the end of
4 the term of the debarment period. "Any interest" does
5 not include shares held in a publicly traded corporation
6 if the shares were not received as compensation after the
7 initiation of debarment from an entity bidding or
8 performing work on a public works project.

9 (g) For the purposes of this section, the term "entity"
10 is defined as a company, limited liability company,
11 association, partnership, sole proprietorship, limited
12 liability partnership, corporation, business trust, or
13 organization.

14 (h) The Labor Commissioner shall adopt rules and
15 regulations for the administration and enforcement of
16 this section.

