

AMENDED IN SENATE JULY 6, 2000  
AMENDED IN ASSEMBLY APRIL 25, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2783**

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**Introduced by Assembly Member Villaraigosa**

February 25, 2000

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An act to amend Section 1776 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 2783, as amended, Villaraigosa. Public works: prevailing wages.

Existing law requires, except for public works projects of \$1,000 or less, all workers employed on a public works project to be paid not less than the general prevailing rate of per diem wages. Existing law requires each contractor and subcontractor on a public works project to keep accurate payroll records and to make a certified copy of these payroll records available for inspection or to be furnished upon request to a representative of the public body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations. *Under existing law, any copies of records made available to these entities is required to be marked or obliterated in a manner so as to prevent disclosure of an individual's name, address, and social security number.*

This bill would ~~require each contractor and subcontractor on a public works project to make~~ *provide that* a certified copy of these payroll records ~~made available for inspection or to be furnished upon request, in addition,~~ *by an awarding body* to a joint labor management ~~committees~~ *committee* established under the federal Labor Management Cooperation Act of 1978, ~~as specified~~ *shall only be marked or obliterated in a manner to prevent the disclosure of an individual's social security number.*

This bill would authorize, in the event the inspection of the payroll records discloses an amount due an employee in connection with the public work or discloses that the contractor *or subcontractor* has failed to comply with the payment of wages or fringe benefits terms of the contract, any of the specified entities, including the joint labor management committees, as described, to maintain an action in any court of competent jurisdiction to enforce the obligation of the contractor under the contract, as specified.

*The bill would make other technical changes.*

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

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

1 SECTION 1. Section 1776 of the Labor Code, as added  
2 by Section 4 of Chapter 757 of the Statutes of 1997, is  
3 amended to read:  
4 1776. (a) Each contractor and subcontractor shall  
5 keep accurate payroll records showing the name, address,  
6 social security number, work classification, straight time  
7 and overtime hours worked each day and week, and the  
8 actual per diem wages paid to each journeyman,  
9 apprentice, worker, or other employee employed by him  
10 or her in connection with the public work. Each payroll  
11 record shall contain or be verified by a written  
12 declaration that it is made under penalty of perjury,  
13 stating both of the following:  
14 (1) The information contained in the payroll record is  
15 true and correct.



1 (2) The employer has complied with the requirements  
2 of Sections 1771, 1811, and 1815 for any work performed  
3 by his or her employees on the public works project.

4 (b) The payroll records enumerated under  
5 subdivision (a) shall be certified and shall be available for  
6 inspection at all reasonable hours at the principal office  
7 of the contractor on the following basis:

8 (1) A certified copy of an employee's payroll record  
9 shall be made available for inspection or furnished to the  
10 employee or his or her authorized representative on  
11 request.

12 (2) A certified copy of all payroll records enumerated  
13 in subdivision (a) shall be made available for inspection  
14 or furnished upon request to a representative of the body  
15 awarding the contract, the Division of Labor Standards  
16 Enforcement, *and* the Division of Apprenticeship  
17 Standards of the Department of Industrial Relations, ~~and~~  
18 ~~joint labor management committees established under~~  
19 ~~Section (6)(a) of the Labor Management Cooperation~~  
20 ~~Act of 1978 (29 U.S.C. Sec. 175a). A certified copy of all~~  
21 ~~payroll records made available or furnished to a joint~~  
22 ~~labor management committee pursuant to this section~~  
23 ~~shall be marked or otherwise prepared to delete the social~~  
24 ~~security numbers listed thereon.~~

25 (3) A certified copy of all payroll records enumerated  
26 in subdivision (a) shall be made available upon request by  
27 the public for inspection or for copies thereof. However,  
28 a request by the public shall be made through the body  
29 awarding the contract, the Division of Apprenticeship  
30 Standards, or the Division of Labor Standards  
31 Enforcement. If the requested payroll records have not  
32 been provided pursuant to paragraph (2), the requesting  
33 party shall, prior to being provided the records,  
34 reimburse the costs of preparation by the contractor,  
35 subcontractors, and the entity through which the request  
36 was made. The public shall not be given access to the  
37 records at the principal office of the contractor.

38 (c) The certified payroll records shall be on forms  
39 provided by the Division of Labor Standards



1 Enforcement or shall contain the same information as the  
2 forms provided by the division.

3 (d) A contractor or subcontractor shall file a certified  
4 copy of the records enumerated in subdivision (a) with  
5 the entity that requested the records within 10 days after  
6 receipt of a written request.

7 (e) Any copy of records made available for inspection  
8 as copies and furnished upon request to the public or any  
9 public agency by the awarding body, the Division of  
10 Apprenticeship Standards, *or* the Division of Labor  
11 Standards Enforcement, ~~or joint labor management~~  
12 ~~committees established under Section 6(a) of the Labor~~  
13 ~~Management Cooperation Act of 1978 (29 U.S.C. Sec.~~  
14 ~~175a)~~ shall be marked or obliterated in a manner so as to  
15 prevent disclosure of an individual's name, address, and  
16 social security number. The name and address of the  
17 contractor awarded the contract or the subcontractor  
18 performing the contract shall not be marked or  
19 obliterated.

20 (f) ~~The contractor~~ *A certified copy of payroll records*  
21 *made available or furnished by the awarding body to a*  
22 *joint labor management committee established under*  
23 *Section (6)(a) of the Labor Management Cooperation*  
24 *Act of 1978 (29 U.S.C. Sec. 175a) pursuant to this section*  
25 *shall only be marked or obliterated in a manner to*  
26 *prevent the disclosure of an individual's social security*  
27 *number and shall include all other employee information.*

28 (g) *The contractor or subcontractor* shall inform the  
29 body awarding the contract of the location of the records  
30 enumerated under subdivision (a), including the street  
31 address, city, and county, and shall, within five working  
32 days, provide a notice of a change of location and address.

33 ~~(g)~~

34 (h) The contractor or subcontractor shall have 10 days  
35 in which to comply subsequent to receipt of a written  
36 notice requesting the records enumerated in subdivision  
37 (a). In the event that the contractor or subcontractor fails  
38 to comply within the 10-day period, he or she shall, as a  
39 penalty to the state or political subdivision on whose  
40 behalf the contract is made or awarded, forfeit



1 twenty-five dollars (\$25) for each calendar day, or portion  
2 thereof, for each worker, until strict compliance is  
3 effectuated. Upon the request of the Division of  
4 Apprenticeship Standards or the Division of Labor  
5 Standards Enforcement, these penalties shall be withheld  
6 from progress payments then due. A contractor is not  
7 subject to a penalty assessment pursuant to this section  
8 due to the failure of a subcontractor to comply with this  
9 section.

10 ~~(h)~~

11 (i) The body awarding the contract shall cause to be  
12 inserted in the contract stipulations to effectuate this  
13 section.

14 ~~(i)~~

15 (j) The director shall adopt rules consistent with the  
16 California Public Records Act (Ch. 3.5 (commencing  
17 with Sec. 6250), Div. 7, Title, 1, Gov. C.) and the  
18 Information Practices Act of 1977 (Title 1.8 (commencing  
19 with Sec. 1798), Pt. 4, Div. 3, Civ. C.) governing the  
20 release of these records, including the establishment of  
21 reasonable fees to be charged for reproducing copies of  
22 records required by this section.

23 ~~(j)~~

24 (k) In the event the inspection of payroll records  
25 pursuant to subdivision (b) discloses an amount due an  
26 employee in connection with the public work or discloses  
27 that the contractor *or subcontractor* has failed to comply  
28 with the payment of wages or fringe benefits terms of the  
29 contract, any of the entities specified in paragraph (2) of  
30 subdivision (b) may maintain an action in any court of  
31 competent jurisdiction to enforce the obligation of the  
32 contractor *or subcontractor* under the contract. ~~The~~  
33 ~~contractor~~ *Any court action shall be commenced not later*  
34 *than two years after the filing of a valid notice of*  
35 *completion or not later than two years after the*  
36 *acceptance of the public work, whichever occurs first.*  
37 *The contractor or subcontractor shall be liable for all*  
38 *unpaid wages and fringe benefits, any existing penalties*  
39 *for failure to timely report or pay wages, overtime wages,*  
40 *the payment of prevailing wages or fringe benefits, and*



1 reasonable ~~attorney~~ attorneys' fees incurred in collecting  
2 the amounts due. *In no event may the contractor be held*  
3 *liable twice for the same offense.*

4 ~~(k)~~

5 (l) This section shall remain in effect only until  
6 January 1, 2003, and as of that date is repealed, unless a  
7 later enacted statute, that is enacted before January 1,  
8 2003, deletes or extends that date.

9 SEC. 2. Section 1776 of the Labor Code, as amended  
10 by Chapter 485 of the Statutes of 1998, is amended to read:

11 1776. (a) Each contractor and subcontractor shall  
12 keep an accurate payroll record showing the name,  
13 address, social security number, work classification,  
14 straight time and overtime hours worked each day and  
15 week, and the actual per diem wages paid to each  
16 journeyman, apprentice, worker, or other employee  
17 employed by him or her in connection with the public  
18 work.

19 (b) The payroll records enumerated under  
20 subdivision (a) shall be certified and shall be available for  
21 inspection at all reasonable hours at the principal office  
22 of the contractor on the following basis:

23 (1) A certified copy of an employee's payroll record  
24 shall be made available for inspection or furnished to the  
25 employee or his or her authorized representative on  
26 request.

27 (2) A certified copy of all payroll records enumerated  
28 in subdivision (a) shall be made available for inspection  
29 or furnished upon request to a representative of the body  
30 awarding the contract, the Division of Labor Standards  
31 Enforcement, *and* the Division of Apprenticeship  
32 Standards of the Department of Industrial Relations, ~~and~~  
33 ~~joint labor management committees established under~~  
34 ~~Section (6)(a) of the Labor Management Cooperation~~  
35 ~~Act of 1978 (29 U.S.C. Sec. 175a). A certified copy of all~~  
36 ~~payroll records made available or furnished to a joint~~  
37 ~~labor management committee pursuant to this section~~  
38 ~~shall be marked or otherwise prepared to delete the social~~  
39 ~~security numbers listed thereon.~~



1 (3) A certified copy of all payroll records enumerated  
2 in subdivision (a) shall be made available upon request by  
3 the public for inspection or for copies thereof. However,  
4 a request by the public shall be made through the body  
5 awarding the contract, the Division of Apprenticeship  
6 Standards, or the Division of Labor Standards  
7 Enforcement. If the requested payroll records have not  
8 been provided pursuant to paragraph (2), the requesting  
9 party shall, prior to being provided the records,  
10 reimburse the costs of preparation by the contractor,  
11 subcontractors, and the entity through which the request  
12 was made. The public shall not be given access to the  
13 records at the principal office of the contractor.

14 (c) The certified payroll records shall be on forms  
15 provided by the Division of Labor Standards  
16 Enforcement or shall contain the same information as the  
17 forms provided by the division.

18 (d) Each contractor *or subcontractor* shall file a  
19 certified copy of the records enumerated in subdivision  
20 (a) with the entity that requested the records within 10  
21 days after receipt of a written request.

22 (e) Any copy of records made available for inspection  
23 as copies and furnished upon request to the public or any  
24 public agency by the awarding body, the Division of  
25 Apprenticeship Standards, *or* the Division of Labor  
26 Standards Enforcement, ~~or joint labor management~~  
27 ~~committees established under Section 6(a) of the Labor~~  
28 ~~Management Cooperation Act of 1978 (29 U.S.C. Sec.~~  
29 ~~175a)~~ shall be marked or obliterated in a manner so as to  
30 prevent disclosure of an individual's name, address, and  
31 social security number. The name and address of the  
32 contractor awarded the contract *or the subcontractor*  
33 performing the contract shall not be marked or  
34 obliterated.

35 ~~The contractor~~ *A certified copy of payroll records*  
36 *made available or furnished by the awarding body to a*  
37 *joint labor management committee established under*  
38 *Section (6)(a) of the Labor Management Cooperation*  
39 *Act of 1978 (29 U.S.C. Sec. 175a) pursuant to this section*  
40 *shall only be marked or obliterated in a manner to*



1 *prevent the disclosure of an individual's social security*  
2 *number and shall include all other employee information.*

3 (g) *The contractor or subcontractor shall inform the*  
4 *body awarding the contract of the location of the records*  
5 *enumerated under subdivision (a), including the street*  
6 *address, city, and county, and shall, within five working*  
7 *days, provide a notice of a change of location and address.*

8 ~~(g) The contractor~~

9 (h) *The contractor or subcontractor shall have 10 days*  
10 *in which to comply subsequent to receipt of written*  
11 *notice specifying in what respects the contractor or*  
12 *subcontractor must comply with this section. In the event*  
13 *that the contractor or subcontractor fails to comply*  
14 *within the 10-day period, he or she shall, as a penalty to*  
15 *the state or political subdivision on whose behalf the*  
16 *contract is made or awarded, forfeit twenty-five dollars*  
17 *(\$25) for each calendar day, or portion thereof, for each*  
18 *worker, until strict compliance is effectuated. Upon the*  
19 *request of the Division of Apprenticeship Standards or*  
20 *the Division of Labor Standards Enforcement, these*  
21 *penalties shall be withheld from progress payments then*  
22 *due.*

23 ~~(h)~~

24 (i) *The body awarding the contract shall cause to be*  
25 *inserted in the contract stipulations to effectuate this*  
26 *section. These stipulations shall fix the responsibility for*  
27 *compliance with this section on the prime contractor.*

28 ~~(i)~~

29 (j) *The director shall adopt rules consistent with the*  
30 *California Public Records Act (Ch. 3.5 (commencing*  
31 *with Sec. 6250), Div. 7, Title 1, Gov. C.) and the*  
32 *Information Practices Act of 1977 (Title 1.8 (commencing*  
33 *with Sec. 1798), Pt. 4, Div. 3, Civ. C.) governing the*  
34 *release of these records, including the establishment of*  
35 *reasonable fees to be charged for reproducing copies of*  
36 *records required by this section.*

37 ~~(j)~~

38 (k) *In the event the inspection of payroll records*  
39 *pursuant to subdivision (b) discloses an amount due an*  
40 *employee in connection with the public work or discloses*



1 that the contractor *or subcontractor* has failed to comply  
2 with the payment of wages or fringe benefits terms of the  
3 contract, any of the entities specified in paragraph (2) of  
4 subdivision (b) may maintain an action in any court of  
5 competent jurisdiction to enforce the obligation of the  
6 contractor *or subcontractor* under the contract. ~~The~~  
7 ~~contractor~~ *Any court action shall be commenced not later*  
8 *than two years after the filing of a valid notice of*  
9 *completion or not later than two years after the*  
10 *acceptance of the public work, whichever occurs first.*  
11 *The contractor or subcontractor* shall be liable for all  
12 unpaid wages and fringe benefits, any existing penalties  
13 for failure to timely report ~~or pay wages, overtime wages,~~  
14 *the payment of prevailing wages* or fringe benefits, and  
15 reasonable ~~attorney~~ *attorneys'* fees incurred in collecting  
16 the amounts due. *In no event may the contractor be held*  
17 *liable twice for the same offense.*

18 ~~(k)~~

19 (l) This section shall become operative January 1, 2003.

