

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 807

Introduced by Assembly Member Leno

February 20, 2003

~~An act relating to public contracts.~~ *An act to amend Section 1773.1 of the Labor Code, relating to public works.*

LEGISLATIVE COUNSEL'S DIGEST

AB 807, as amended, Leno. ~~Public contracts: prequalification: reporting~~ *works: prevailing wage.*

Existing law provides that per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, travel, and subsistence pay, apprenticeship or other training programs, and similar purposes, and specifies the employer contributions, costs, and payments that employer payments may include. That law prohibits credit from being granted for benefits required to be provided by other state or federal law, and provides that credits for employer payments may not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing.

This bill would provide that employer payments in the form of regular contributions made or costs incurred for more than a weekly period, but not less than quarterly, in providing benefit plans, funds, or programs that covered the particular weekly period, are deemed to be constructively made or incurred during that weekly period.

~~The State Contract Act permits specified state departments to require prospective bidders on contracts to complete financial ability and experience questionnaires, and requires prequalification of all~~

~~prospective bidders to a contract whenever it is required of any bidder to the contract.~~

~~This bill would state the intent of the Legislature to enact legislation that would require the Department of General Services to report to the Legislature on the use of prequalification for bidders on state construction, maintenance, and renovation contracts.~~

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

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

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~legislation that would require the Department of General Services~~
3 ~~to report to the Legislature on the use of prequalification for~~
4 ~~bidders on state construction, maintenance, and renovation~~
5 ~~contracts.~~

6 *SECTION 1. Section 1773.1 of the Labor Code is amended to*
7 *read:*

8 1773.1. (a) Per diem wages shall be deemed to include
9 employer payments for health and welfare, pension, vacation,
10 travel, subsistence, and apprenticeship or other training programs
11 authorized by Section 3093, so long as the cost of training is
12 reasonably related to the amount of the contributions, and similar
13 purposes, when the term “per diem wages” is used in this chapter
14 or in any other statute applicable to public works.

15 (b) Employer payments include all of the following:

16 (1) The rate of contribution irrevocably made by the employer
17 to a trustee or third person pursuant to a plan, fund, or program.

18 (2) The rate of actual costs to the employer reasonably
19 anticipated in providing benefits to workers pursuant to an
20 enforceable commitment to carry out a financially responsible
21 plan or program communicated in writing to the workers affected.

22 (3) Payments to the California Apprenticeship Council
23 pursuant to Section 1777.5.

24 (c) Employer payments are a credit against the obligation to
25 pay the general prevailing rate of per diem wages. ~~However, no~~

26 (1) ~~No~~ credit shall be granted for benefits required to be
27 provided by other state or federal law. ~~Credits~~



1 (2) *Credits* for employer payments also shall not reduce the
2 obligation to pay the hourly straight time or overtime wages found
3 to be prevailing.

4 (d) *Employer payments in the form of regular contributions*
5 *made or costs incurred for more than a weekly period, but not less*
6 *than quarterly, in providing benefit plans, funds, or programs, that*
7 *covered the particular weekly period, are deemed to be*
8 *constructively made or incurred during the weekly period.*

9 (e) The credit for employer payments shall be computed on an
10 annualized basis where the employer seeks credit for employer
11 payments that are higher for public works projects than for private
12 construction performed by the same employer, except where one
13 or more of the following occur:

14 (1) The employer has an enforceable obligation to make the
15 higher rate of payments on future private construction performed
16 by the employer.

17 (2) The higher rate of payments is required by a project labor
18 agreement.

19 (3) The payments are made to the California Apprenticeship
20 Council pursuant to Section 1777.5.

21 (4) The director determines that annualization would not serve
22 the purposes of this chapter.

23 ~~(e)~~

24 (f) For the purpose of determining those per diem wages for
25 contracts, the representative of any craft, classification, or type of
26 worker needed to execute contracts shall file with the Department
27 of Industrial Relations fully executed copies of the collective
28 bargaining agreements for the particular craft, classification, or
29 type of work involved. ~~The~~

30 (1) *The* collective bargaining agreements shall be filed after
31 their execution and thereafter may be taken into consideration
32 pursuant to Section 1773 whenever filed 30 days prior to the call
33 for bids. If the collective bargaining agreement has not been
34 formalized, a typescript of the final draft may be filed temporarily,
35 accompanied by a statement under penalty of perjury as to its
36 effective date.

37 ~~Where~~

38 (2) *Where* a copy of the collective bargaining agreement has
39 previously been filed, fully executed copies of all modifications



1 and extensions of the agreement that affect per diem wages or
2 holidays shall be filed.

3 ~~The~~

4 (3) *The* failure to comply with filing requirements of this
5 subdivision shall not be grounds for setting aside a prevailing wage
6 determination if the information taken into consideration is
7 correct.

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