

AMENDED IN ASSEMBLY APRIL 30, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 807**

**Introduced by Assembly Member Leno**

February 20, 2003

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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 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~~ *an employer may take a credit for employer payments even if contributions are not made or costs are not paid, as specified, if certain conditions are met.*

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 1773.1 of the Labor Code is amended  
2 to read:  
3 1773.1. (a) Per diem wages shall be deemed to include  
4 employer payments for health and welfare, pension, vacation,  
5 travel, subsistence, and apprenticeship or other training programs  
6 authorized by Section 3093, so long as the cost of training is  
7 reasonably related to the amount of the contributions, and similar  
8 purposes, when the term “per diem wages” is used in this chapter  
9 or in any other statute applicable to public works.

10 (b) Employer payments include all of the following:  
11 (1) The rate of contribution irrevocably made by the employer  
12 to a trustee or third person pursuant to a plan, fund, or program.  
13 (2) The rate of actual costs to the employer reasonably  
14 anticipated in providing benefits to workers pursuant to an  
15 enforceable commitment to carry out a financially responsible  
16 plan or program communicated in writing to the workers affected.  
17 (3) Payments to the California Apprenticeship Council  
18 pursuant to Section 1777.5.

19 (c) Employer payments are a credit against the obligation to  
20 pay the general prevailing rate of per diem wages.  
21 (1) No credit shall be granted for benefits required to be  
22 provided by other state or federal law.  
23 (2) Credits for employer payments also shall not reduce the  
24 obligation to pay the hourly straight time or overtime wages found  
25 to be prevailing.

26 ~~(d) Employer payments in the form of regular contributions~~  
27 ~~made or costs incurred for more than a weekly period, but not less~~  
28 ~~than quarterly, in providing benefit plans, funds, or programs, that~~  
29 ~~covered the particular weekly period, are deemed to be~~  
30 ~~constructively made or incurred during the weekly period.~~

31 (d) *An employer may take a credit for employer payments*  
32 *specified in subdivision (b) even if contributions are not made, or*  
33 *costs are not paid, during the same pay period for which credits are*  
34 *taken, so long as the employer regularly makes the contributions,*



1 *or regularly pays the costs, for the plan, fund, or program on no*  
2 *less than a quarterly basis.*

3 (e) The credit for employer payments shall be computed on an  
4 annualized basis where the employer seeks credit for employer  
5 payments that are higher for public works projects than for private  
6 construction performed by the same employer, except where one  
7 or more of the following occur:

8 (1) The employer has an enforceable obligation to make the  
9 higher rate of payments on future private construction performed  
10 by the employer.

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

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

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

17 (f) For the purpose of determining those per diem wages for  
18 contracts, the representative of any craft, classification, or type of  
19 worker needed to execute contracts shall file with the Department  
20 of Industrial Relations fully executed copies of the collective  
21 bargaining agreements for the particular craft, classification, or  
22 type of work involved.

23 (1) The collective bargaining agreements shall be filed after  
24 their execution and thereafter may be taken into consideration  
25 pursuant to Section 1773 whenever filed 30 days prior to the call  
26 for bids. If the collective bargaining agreement has not been  
27 formalized, a typescript of the final draft may be filed temporarily,  
28 accompanied by a statement under penalty of perjury as to its  
29 effective date.

30 (2) Where a copy of the collective bargaining agreement has  
31 previously been filed, fully executed copies of all modifications  
32 and extensions of the agreement that affect per diem wages or  
33 holidays shall be filed.

34 (3) The failure to comply with filing requirements of this  
35 subdivision shall not be grounds for setting aside a prevailing wage  
36 determination if the information taken into consideration is  
37 correct.

