

ASSEMBLY BILL

No. 1066

Introduced by Assembly Member Aguiar-Curry

February 16, 2017

An act to amend Section 1720 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 1066, as introduced, Aguiar-Curry. Public works: definition.

(1) Existing law defines the term “public works” for purposes of requirements regarding the payment of prevailing wages to include construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except as specified. Existing law makes a willful violation of laws relating to the payment of prevailing wages on public works a misdemeanor.

This bill would specify that the term “demolition” within the definition of “public works” includes, but is not limited to, tree removal. By expanding the definition of “public works,” this bill would modify the definition of a crime.

(2) 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 1720 of the Labor Code, as amended by
2 Section 215 of Chapter 86 of the Statutes of 2016, is amended to
3 read:

4 1720. (a) As used in this chapter, “public works” means:

5 (1) Construction, alteration, demolition, installation, or repair
6 work done under contract and paid for in whole or in part out of
7 public funds, except work done directly by any public utility
8 company pursuant to order of the Public Utilities Commission or
9 other public authority. For purposes of this paragraph,
10 “construction” includes work performed during the design and
11 preconstruction phases of construction, including, but not limited
12 to, inspection and land surveying work, and work performed during
13 the postconstruction phases of construction, including, but not
14 limited to, all cleanup work at the jobsite. *For purposes of this*
15 *paragraph, “demolition” includes, but is not limited to, tree*
16 *removal.* For purposes of this paragraph, “installation” includes,
17 but is not limited to, the assembly and disassembly of freestanding
18 and affixed modular office systems.

19 (2) Work done for irrigation, utility, reclamation, and
20 improvement districts, and other districts of this type. “Public
21 work” does not include the operation of the irrigation or drainage
22 system of any irrigation or reclamation district, except as used in
23 Section 1778 relating to retaining wages.

24 (3) Street, sewer, or other improvement work done under the
25 direction and supervision or by the authority of any officer or
26 public body of the state, or of any political subdivision or district
27 thereof, whether the political subdivision or district operates under
28 a freeholder’s charter or not.

29 (4) The laying of carpet done under a building lease-maintenance
30 contract and paid for out of public funds.

31 (5) The laying of carpet in a public building done under contract
32 and paid for in whole or in part out of public funds.

33 (6) Public transportation demonstration projects authorized
34 pursuant to Section 143 of the Streets and Highways Code.

35 (7) (A) Infrastructure project grants from the California
36 Advanced Services Fund pursuant to Section 281 of the Public
37 Utilities Code.

1 (B) For purposes of this paragraph, the Public Utilities
2 Commission is not the awarding body or the body awarding the
3 contract, as defined in Section 1722.

4 (b) For purposes of this section, “paid for in whole or in part
5 out of public funds” means all of the following:

6 (1) The payment of money or the equivalent of money by the
7 state or political subdivision directly to or on behalf of the public
8 works contractor, subcontractor, or developer.

9 (2) Performance of construction work by the state or political
10 subdivision in execution of the project.

11 (3) Transfer by the state or political subdivision of an asset of
12 value for less than fair market price.

13 (4) Fees, costs, rents, insurance or bond premiums, loans, interest
14 rates, or other obligations that would normally be required in the
15 execution of the contract, that are paid, reduced, charged at less
16 than fair market value, waived, or forgiven by the state or political
17 subdivision.

18 (5) Money loaned by the state or political subdivision that is to
19 be repaid on a contingent basis.

20 (6) Credits that are applied by the state or political subdivision
21 against repayment obligations to the state or political subdivision.

22 (c) Notwithstanding subdivision (b):

23 (1) Private residential projects built on private property are not
24 subject to the requirements of this chapter unless the projects are
25 built pursuant to an agreement with a state agency, redevelopment
26 agency, or local public housing authority.

27 (2) If the state or a political subdivision requires a private
28 developer to perform construction, alteration, demolition,
29 installation, or repair work on a public work of improvement as a
30 condition of regulatory approval of an otherwise private
31 development project, and the state or political subdivision
32 contributes no more money, or the equivalent of money, to the
33 overall project than is required to perform this public improvement
34 work, and the state or political subdivision maintains no proprietary
35 interest in the overall project, then only the public improvement
36 work shall thereby become subject to this chapter.

37 (3) If the state or a political subdivision reimburses a private
38 developer for costs that would normally be borne by the public,
39 or provides directly or indirectly a public subsidy to a private
40 development project that is de minimis in the context of the project,

1 an otherwise private development project shall not thereby become
2 subject to the requirements of this chapter.

3 (4) The construction or rehabilitation of affordable housing units
4 for low- or moderate-income persons pursuant to paragraph (5) or
5 (7) of subdivision (e) of Section 33334.2 of the Health and Safety
6 Code that are paid for solely with moneys from the Low and
7 Moderate Income Housing Fund established pursuant to Section
8 33334.3 of the Health and Safety Code or that are paid for by a
9 combination of private funds and funds available pursuant to
10 Section 33334.2 or 33334.3 of the Health and Safety Code do not
11 constitute a project that is paid for in whole or in part out of public
12 funds.

13 (5) Unless otherwise required by a public funding program, the
14 construction or rehabilitation of privately owned residential projects
15 is not subject to the requirements of this chapter if one or more of
16 the following conditions are met:

17 (A) The project is a self-help housing project in which no fewer
18 than 500 hours of construction work associated with the homes
19 are to be performed by the home buyers.

20 (B) The project consists of rehabilitation or expansion work
21 associated with a facility operated on a not-for-profit basis as
22 temporary or transitional housing for homeless persons with a total
23 project cost of less than twenty-five thousand dollars (\$25,000).

24 (C) Assistance is provided to a household as either mortgage
25 assistance, downpayment assistance, or for the rehabilitation of a
26 single-family home.

27 (D) The project consists of new construction, expansion, or
28 rehabilitation work associated with a facility developed by a
29 nonprofit organization to be operated on a not-for-profit basis to
30 provide emergency or transitional shelter and ancillary services
31 and assistance to homeless adults and children. The nonprofit
32 organization operating the project shall provide, at no profit, not
33 less than 50 percent of the total project cost from nonpublic
34 sources, excluding real property that is transferred or leased. Total
35 project cost includes the value of donated labor, materials, and
36 architectural and engineering services.

37 (E) The public participation in the project that would otherwise
38 meet the criteria of subdivision (b) is public funding in the form
39 of below-market interest rate loans for a project in which
40 occupancy of at least 40 percent of the units is restricted for at

1 least 20 years, by deed or regulatory agreement, to individuals or
2 families earning no more than 80 percent of the area median
3 income.

4 (d) Notwithstanding any provision of this section to the contrary,
5 the following projects shall not, solely by reason of this section,
6 be subject to the requirements of this chapter:

7 (1) Qualified residential rental projects, as defined by Section
8 142(d) of the Internal Revenue Code, financed in whole or in part
9 through the issuance of bonds that receive allocation of a portion
10 of the state ceiling pursuant to Chapter 11.8 (commencing with
11 Section 8869.80) of Division 1 of Title 2 of the Government Code
12 on or before December 31, 2003.

13 (2) Single-family residential projects financed in whole or in
14 part through the issuance of qualified mortgage revenue bonds or
15 qualified veterans' mortgage bonds, as defined by Section 143 of
16 the Internal Revenue Code, or with mortgage credit certificates
17 under a Qualified Mortgage Credit Certificate Program, as defined
18 by Section 25 of the Internal Revenue Code, that receive allocation
19 of a portion of the state ceiling pursuant to Chapter 11.8
20 (commencing with Section 8869.80) of Division 1 of Title 2 of
21 the Government Code on or before December 31, 2003.

22 (3) Low-income housing projects that are allocated federal or
23 state low-income housing tax credits pursuant to Section 42 of the
24 Internal Revenue Code, Chapter 3.6 (commencing with Section
25 50199.4) of Part 1 of Division 31 of the Health and Safety Code,
26 or Section 12206, 17058, or 23610.5 of the Revenue and Taxation
27 Code, on or before December 31, 2003.

28 (e) Notwithstanding paragraph (1) of subdivision (a),
29 construction, alteration, demolition, installation, or repair work on
30 the electric transmission system located in California constitutes
31 a public works project for the purposes of this chapter.

32 (f) If a statute, other than this section, or a regulation, other than
33 a regulation adopted pursuant to this section, or an ordinance or a
34 contract applies this chapter to a project, the exclusions set forth
35 in subdivision (d) do not apply to that project.

36 (g) For purposes of this section, references to the Internal
37 Revenue Code mean the Internal Revenue Code of 1986, as
38 amended, and include the corresponding predecessor sections of
39 the Internal Revenue Code of 1954, as amended.

1 (h) The amendments made to this section by either Chapter 938
2 of the Statutes of 2001 or the act adding this subdivision shall not
3 be construed to preempt local ordinances requiring the payment
4 of prevailing wages on housing projects.

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