

# Association of California Construction Managers

## Significant Legislation as of June 6, 2011

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### **AB 184 (Swanson (D))**

Enacts the Seismic Safety Finance Act, to authorize contractual assessments to finance the installation of seismic strengthening improvements that are permanently fixed to real property. Defines "public agency," for purposes of financing the installation of seismic strengthening improvements, to mean a city, county, or city and county.

Status: 05/19/2011 - In SENATE. Read second time. To third reading.

### **AB 197 (Monning (D))**

Amends existing law which provides that, in a court action to recover wages in violation of the minimum wage set by the Industrial Welfare Commission within the Department of Industrial Relations, the court may award liquidated damages. Increases the amount of liquidated damages that may be awarded to an employee to twice the amount of the wages unlawfully unpaid, plus interest.

Status: 06/02/2011 - From SENATE Committee on LABOR AND INDUSTRIAL RELATIONS with author's amendments.;06/02/2011 - In SENATE. Read second time and amended. Re-referred to Committee on LABOR AND INDUSTRIAL RELATIONS.

### **AB 211 (Cedillo (D))**

Amends provisions of existing law regarding a workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment that cause permanent partial disability to apply to injuries occurring on or after January 1, 2004, and before January 1, 2012. Provides, for injuries that cause permanent partial disability on or after January 1, 2012, for a supplemental job displacement benefit voucher to cover reeducation and skill enhancement.

Status: 06/02/2011 - To SENATE Committee on LABOR AND INDUSTRIAL RELATIONS.

### **AB 240 (Bonilla (D))**

Permits an employee to recover liquidated damages pursuant to a complaint brought before the Labor Commissioner alleging payment of less than the minimum wage fixed by an order of the Industrial Welfare Commission or by statute.

Status: 06/02/2011 - From SENATE Committee on LABOR AND INDUSTRIAL RELATIONS with author's amendments.;06/02/2011 - In SENATE. Read second time and amended. Re-referred to Committee on LABOR AND INDUSTRIAL RELATIONS.

### **AB 249 (Berryhill B (R))**

Limits the action for recovery of compensation paid to services for the construction or improvement of residential property. Authorizes a person who utilizes the services of a contractor for the construction or improvement of property other than specified residential property to bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the contractor for performance of any act or contract during the time the contractor was not properly licensed.

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Status: 04/04/2011 - From ASSEMBLY Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION with author's amendments.;04/04/2011 - In ASSEMBLY. Read second time and amended. Re-referred to Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION.

### **AB 263 (Buchanan (D))**

States the intent of the Legislature to enact legislation relating to the construction of school facilities.  
Status: 02/07/2011 - INTRODUCED.

### **AB 267 (Swanson (D))**

Makes void and unenforceable as against public policy any provision in an employment contract that requires an employee, as a condition of obtaining or continuing employment, to use a forum other than California, or to agree to a choice of law other than California law, to resolve any dispute with an employer regarding employment-related issues that arise in California.

Status: 06/02/2011 - To SENATE Committees on LABOR AND INDUSTRIAL RELATIONS and JUDICIARY.

### **AB 294 (Portantino (D))**

Authorizes the Department of Transportation to let contracts for the design and construction of not more than 5 transportation projects utilizing the design-sequencing method. Requires the department to use department employees or consultants under contract for these design services. Requires the department to compile data on the transportation projects awarded under these provisions and to include that information in a report to the Legislature.

Status: 05/31/2011 - In ASSEMBLY. Read third time. Passed ASSEMBLY. \*\*\*\*\*To SENATE.

### **AB 297 (Galgiani (D))**

Allows a bid preference to a bidder of a public works contract if that bidder utilizes the Center for Military Recruitment, Assessment, and Veterans Employment's Helmets to Hardhats program. Imposes a civil penalty for knowingly providing false information.

Status: 03/31/2011 - To ASSEMBLY Committees on BUSINESS, PROFESSIONS & CONSUMER PROTECTION and VETERANS AFFAIRS.;03/31/2011 - From ASSEMBLY Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION with author's amendments.;03/31/2011 - In ASSEMBLY. Read second time and amended. Re-referred to Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION.

### **AB 311 (Cook (R))**

Establishes in the Division of Labor Standards Enforcement, the Labor Standards Consultation Unit for the purpose of providing consulting services to an employer or employee regarding compliance with labor standards. Authorizes the unit to charge a requester a fee for consulting services provided and to fund its operations from grants obtained from for-profit or not-for-profit nongovernmental

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and governmental entities. Prohibits citing an employer for a violation discovered from a request for services.

Status: 03/09/2011 - From ASSEMBLY Committee on LABOR AND EMPLOYMENT with author's amendments.;03/09/2011 - In ASSEMBLY. Read second time and amended. Re-referred to Committee on LABOR AND EMPLOYMENT.

### **AB 331 (Brownley (D))**

States the intent of the Legislature to enact legislation that would create the Kindergarten-University Public Education Facilities Bond Act of 2012. Provides funds to construct and modernize education facilities. Requires the Director of General Services to administer the Greene Act at the direction of the State Allocation Board. Exempts certain projects from the vocational and career technical facilities requirement. Allows projected enrollment. Requires construction contract certification.

Status: 02/24/2011 - To ASSEMBLY Committee on EDUCATION.

### **AB 335 (Solario (D))**

Amends existing law requiring that specified notices be provided to injured employees. Requires the Administrative Director of the Division of Workers' Compensation to prescribe reasonable rules and regulations for serving certain notices on an employee and to make such rules and regulations accessible on the department's Internet Web site. Requires informational material written in plain language describing the overall workers' compensation claims process to be made available.

Status: 06/01/2011 - In ASSEMBLY. Read third time. Passed ASSEMBLY. \*\*\*\*\*To SENATE.

### **AB 356 (Hill (D))**

Prohibits any local agency from mandating that any portion or percentage of work on a public works project be performed by local residents or persons residing within particular areas if any portion of that project will take place outside the geographical boundaries of the agency. Requires a local agency to fund any public works project cost increase where the project is funded with state funds and the agency implements a local resident hiring policy.

Status: 06/03/2011 - In ASSEMBLY. To Inactive File.

Position: Watch

### **AB 357 (Garrick (R))**

Makes technical, nonsubstantive changes to existing state law that prohibits any person, firm, or corporation from denying or interfering with a disabled person's admittance to or enjoyment of public facilities from otherwise interfering with the rights of an individual with a disability. Requires an attorney to provide a written advisory to a building owner or tenant with each demand for money or complaint for any construction-related accessibility claim.

Status: 02/10/2011 - INTRODUCED.

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### **AB 457 (Wagner (R))**

Entitles a bidder who successfully challenges the award of a public works contract determined to be invalid due to errors or omissions of the public entity to recover costs and attorney's fees incurred in pursuing the challenge. Allows attorney's fees and costs to be awarded to the public entity under specified circumstances.

Status: 05/03/2011 - In ASSEMBLY Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION: Not heard.

### **AB 514 (Hernandez R (D))**

Amends existing law relating to public works contracts. Includes in the definition of hauling of refuse the hauling of materials other than bona fide commodities sold at fair market value, thereby expanding the definition of public works and requires that payment of prevailing wages for that activity. Defines bona fide commodity to mean a commodity for which a publicly traded commodity market exists, such as for copper, steel, or aluminum.

Status: 06/02/2011 - To SENATE Committee on LABOR AND INDUSTRIAL RELATIONS.

### **AB 551 (Campos (D))**

Amends existing law that requires a contractor or subcontractor to submit, to the state or political subdivision on whose behalf a public work is being performed, a penalty for violations of prevailing wage provisions. Increases that maximum penalty. Provides an increase in the period of contract ineligibility for a public works contractor or subcontractor that has been found to have committed willful prevailing wage violations. Relates to debarment for failing to produce payroll records timely.

Status: 06/02/2011 - To SENATE Committee on LABOR AND INDUSTRIAL RELATIONS.

Position: Support\_with\_Amendments

### **AB 553 (Monning (D))**

Declares the findings of the Legislature regarding the rights of workers to be protected from exposure to hazardous substances and toxic materials in the workplace. Requires the Occupational Safety and Health Standards Board to establish permissible exposure limits that meet specified criteria, with an emphasis on obtaining the highest degree of health and safety protection.

Status: 05/27/2011 - In ASSEMBLY Committee on APPROPRIATIONS: Held in committee.

### **AB 554 (Atkins (D))**

Requires the Workforce Investment Board and each local board to ensure that programs and services funded by the Workforce Investment Act of 1998 and directed to apprenticeable occupations, including preapprenticeship training, are conducted in coordination with one or more approved apprenticeship programs. Requires the Board and each local board to develop a policy of fostering collaboration between community colleges and approved apprenticeship programs.

Status: 06/02/2011 - To SENATE Committee on LABOR AND INDUSTRIAL RELATIONS.

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### **AB 948 (Furutani (D))**

Amends existing law that requires the Regents of the University of California to let all contracts involving an expenditure of more than a specified amount for goods and materials or services to the lowest responsible bidder meeting certain specifications, or to reject all bids. Provides that bid evaluation and selection for these contracts may include competitive means for obtaining best value while complying with the legislative intent.

Status: 03/29/2011 - In ASSEMBLY Committee on HIGHER EDUCATION: Not heard.

### **AB 987 (Grove (R))**

Specifies that workers must be employed directly at the site of the work to be deemed employed upon public work. Exempts from the prevailing wage requirements public projects with a certain monetary threshold. Exempts from the prevailing wage requirements the government board of a school district with regard to the construction, reconstruction, or rehabilitation of school facilities. Exempts work during the design and preconstruction phases, including inspection and land surveying and hauling of refuse.

Status: 03/10/2011 - To ASSEMBLY Committee on LABOR AND EMPLOYMENT.

### **AB 988 (Grove (R))**

Revises the manner in which the Director of Industrial Relations determines the rate of general prevailing wages, including deleting the requirement that he or she consider the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works. Revises the methodology that the director is required to use in determining the general prevailing rate of per diem wages in the locality in which the public work is to be performed.

Status: 03/10/2011 - To ASSEMBLY Committees on LABOR AND EMPLOYMENT and JUDICIARY.

### **AB 1032 (Mansoor (R))**

Provides that projects of a Community Facilities District funded entirely with private funds are not subject to the wage requirements for public works projects.

Status: 04/13/2011 - From ASSEMBLY Committee on LOCAL GOVERNMENT with author's amendments.;04/13/2011 - In ASSEMBLY. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT.

Position: Watch

### **AB 1286 (Fuentes (D))**

Provides that unless approval of a settlement or compromise is being sought, an employee's waiver or release of a claim, and is covered by a pending certified or uncertified class action or representative action, shall not be valid or enforceable if that employee is a class member or a putative class member in a pending certified or uncertified class action or is represented or potentially represented in a representative action.

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Status: 04/27/2011 - From ASSEMBLY Committee on LABOR AND EMPLOYMENT with author's amendments.;04/27/2011 - In ASSEMBLY. Read second time and amended. Re-referred to Committee on LABOR AND EMPLOYMENT.

### **AB 1342 (Dickinson (D))**

Extends requirements imposed on public schools and community colleges for roof projects to state universities and facilities owned or operated by the state. Requires specifications for a roof project to contain certain information regarding manufacturers. Prohibits specifications for proprietary installation, products, or warranty from being included unless specified conditions are met. Requires a district or governmental body to publish on its Internet Web sites the specifications for a roof project. Status: 05/03/2011 - In ASSEMBLY Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION: Reconsideration granted.

### **AB 1354 (Huber (D))**

Requires that a contractor pay a subcontractor on a public works project within 7 days after receipt of each progress payment. Relates to the time period for written notice regarding a claim against the bond of a contractor under a public works contract. Relates to retention proceeds withheld under a public works contract. Relates to progress payments made under a public works contract. Status: 05/03/2011 - In ASSEMBLY Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION: Not heard. Position: Oppose

### **AB 1381 (Bradford (D))**

Makes nonsubstantive changes to the State Contract Act, which requires contracts awarded by the state to be publicly opened on the day named in a public notice and to be awarded to the lowest responsible bidder. Status: 02/18/2011 - INTRODUCED.

### **SB 148 (Steinberg (D))**

Requires the allocation of a specified sum from the Energy Resources Program Account for expenditure in the form of grants to school districts for creating and maintaining partnership academies that focus on employment in clean technology businesses and renewable energy businesses and which provide skilled workforces for the products and services for energy or water conservation, renewable energy, pollution reduction, or other technologies. Status: 02/10/2011 - To SENATE Committees on EDUCATION and ENERGY, UTILITIES AND COMMUNICATIONS.

### **SB 156 (Emmerson (R))**

Amends the Personal Income Tax Law and the Corporation Tax Law, which authorizes a credit for each full-time employee hired by a qualified employer. Expands the definition of qualified employer

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to mean a taxpayer that employed 50 or fewer employees as of the last day of the preceding taxable year. Requires the Franchise Tax Board to report to the Legislature on the number of employers that were allowed a credit, the amount of credits utilized and carried over, and the average number of employees hired.

Status: 03/29/2011 - In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

### **SB 175 (Corbett (D))**

Requires a state agency that accepts bids or proposals for a contract for the purchase or installation of a solar photovoltaic system to provide a preference to a business that certifies that all of the solar panels installed as part of the system have been manufactured or assembled in the State.

Status: 06/01/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

### **SB 252 (Vargas (D))**

Enacts the Government Oversight and Fiscal Accountability Review Act. Requires a state agency that enters into a privatization contract to report to the Department of General Services. Requires the Department of General Services to compile, publish, and make that report available for public inspection. Provides that a subcontract executed under a privatization contract is a public record.

Status: 06/01/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

### **SB 424 (Rubio (D))**

Relates to the right of a design professional to record a mechanics lien for providing work authorized for a work improvement. Authorizes a design professional to convert a recorded design professional lien to a mechanics lien if certain requirements are met.

Status: 05/09/2011 - To ASSEMBLY Committee on JUDICIARY.

### **SB 438 (Cannella (R))**

Provides that workers working in a yard, shop, or plant off the site of construction shall only be deemed to be employed upon public works if that yard, shop, or plant is specifically established for that public work project.

Status: 02/24/2011 - To SENATE Committee on LABOR AND INDUSTRIAL RELATIONS.

Position: Support

### **SB 474 (Evans (D))**

Provides that for construction contracts that are not for residential construction or public, that any provision in a contract purporting to indemnify, hold harmless, or defend another person against actual or claimed liability, damage, or expense arising, in whole or in part, from the negligence, willful misconduct, defective design, or violation of law, or other fault of that person or that person's agents, employees, independent contractors, subcontractors, or representative is void and unenforceable.

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Status: 06/01/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

Position: Watch

### **SB 497 (Rubio (D))**

Requires a state agency that accepts bids or proposals for goods to provide a preference of 5% to a California business meeting specified criteria. Requires the Department of General Services to establish a process to verify that a business meets the criteria for the 5% preference.

Status: 06/01/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

### **SB 541 (Price (D))**

Authorizes the State Board Chiropractic Examiners and the Osteopathic Medical Board to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts, to provide enforcement and examination assistance. Requires each board to establish policies and procedures for the selection and use of these consultants.

Status: 06/02/2011 - To ASSEMBLY Committee on BUSINESS, PROFESSIONS & CONSUMER PROTECTION.

### **SB 542 (Price (D))**

Extends the operation of the Board of Accountancy and the Professional Fiduciaries Bureau. Requires, with respect to accounting firms, in order to renew its registration, to have a specified peer review report accepted by a board-recognized peer review group. Extends the operation of the peer review report requirement and the peer review oversight committee. Requires that an enrolled agent that practices before the Internal Revenue Service to provide only certain fiduciary services.

Status: 06/01/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

### **SB 543 (Price (D))**

Relates to the extension of the Architects Board, Landscape Architects Technical Committee, Board for professional Engineers, Land Surveyors, and Geologists, the State Board of Guide Dogs for the Blind and the State Athletic Commission. Relates to architect licensure, disputes between guide dog users and schools, structural engineer examinations, the Professional Engineer's and Land Surveyor's Fund, the Geology and Geophysics Fund, geologist examination fee, and Boxers' Pension Fund.

Status: 05/31/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

### **SB 600 (Rubio (D))**

Amends existing law whereby the governing board of a school district may require each prospective bidder for specified contracts to submit a standardized questionnaire and financial statement, including information relating to financial ability and experience in performing public works. Requires the questionnaire and uniform system or rating bidders to contain certain requirements. Exempts school districts with an average daily attendance under a certain level from certain requirements.

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Status: 06/01/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

Position: Oppose

### **SB 666 (Walters (R))**

Makes a technical, nonsubstantive change to govern the tort liability and immunity of, and the claims and actions against, public entities and their officers and employees. Provides that a public entity, as defined, is not liable for an injury, except as otherwise provided by the statute, whether the injury arises out of an act or omission of the public entity or a public employee or any other person.

Status: 03/03/2011 - To SENATE Committee on RULES.

### **SB 693 (Dutton (R))**

Amends existing law authorizing the Department of Transportation to delegate to any city or county any part of its powers and jurisdiction, except the power of approval, with respect to any portion of any State highway within the city or county, and to withdraw the delegation. Specifies that the delegation authority includes the authority to utilize private-public partnership agreements for transportation projects.

Status: 04/13/2011 - From SENATE Committee on TRANSPORTATION AND HOUSING with author's amendments.;04/13/2011 - In SENATE. Read second time and amended. Re-referred to Committee on TRANSPORTATION AND HOUSING.

### **SB 725 (Berryhill T (R))**

Revises the manner in which the Director of Industrial Relations determines the rate of prevailing wages relating to public works. Requires all holiday pay rates to be paid on all specified holidays. Deletes the authorization that such rates be paid on dates recognized in a collective bargaining agreement. Deletes provisions stating that the awarding bodies are not required to specify holidays in the contract. Relates to employer paid per diem rates.

Status: 04/07/2011 - To SENATE Committee on LABOR AND INDUSTRIAL RELATIONS.

### **SB 726 (Berryhill T (R))**

Authorizes a county, by ordinance or resolution, to opt not to be subject to a regulation published in the State Building Standards Code requiring the installation of a fire sprinkler system in a single-family residential dwelling.

Status: 03/03/2011 - To SENATE Committee on TRANSPORTATION AND HOUSING.

### **SB 766 (Anderson (R))**

Makes technical, nonsubstantive changes to existing law, with specified exceptions that provides that all contracts entered into by any state agency for the hiring or purchase of goods and services, including equipment, supplies, textbooks, and repair or maintenance, are void unless approved by the Department of General Services.

Status: 03/03/2011 - To SENATE Committee on RULES.

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### **SB 788 (Lowenthal A (D))**

Requires the State Allocation Board to report to the Legislature and the Governor regarding the status of the school facility program, including funds remaining, future eligibility for programs, and when funds are estimated to be depleted.

Status: 03/22/2011 - From SENATE Committee on RULES with author's amendments.;03/22/2011 - In SENATE. Read second time and amended. Re-referred to Committee on RULES.

### **SB 861 (Corbett (D))**

Amend existing law that authorizes contracting between state agencies and private contractors and sets forth requirements for the procurement of goods and services by state agencies and the various responsibilities of state agencies and the Department of General Services in implementing state contracting procedures and policies. Prohibits a specified scrutinized company from entering into a contract with a state agency for goods or services.

Status: 06/01/2011 - In SENATE. Read third time. Passed SENATE. \*\*\*\*\*To ASSEMBLY.

### **SB 865 (Negrete McLeod (D))**

Requires the Contractors' State License Board to provide for representation to any professional who provides expertise to the board in the evaluation of the conduct of a licensee, registrant, or applicant when, as a result of providing the expertise, the professional is named as a defendant in a civil action.

Status: 05/23/2011 - To ASSEMBLY Committees on BUSINESS, PROFESSIONS & CONSUMER PROTECTION and JUDICIARY.

### **SB 867 (Padilla (D))**

Provides for the Transportation Financing Authority to issue Build California Bonds, the proceeds of which would be used for specified transportation capital improvements. Provides that bondholders would be entitled to nonrefundable tax credits against their personal income tax and corporate tax liability. Provides that bonds would not be a debt or liability of the state or a political subdivision, except the authority. Provides for financing agreements with local transportation authorities.

Status: 04/26/2011 - In SENATE Committee on TRANSPORTATION AND HOUSING: Not heard.

### **SB 891 (Lowenthal A (D))**

Authorizes the State Allocation Board to appoint an ombudsman. Requires the ombudsman, who would report directly to the board, to provide assistance and guidance to school districts as their construction projects proceed through approvals from the State Department of Education, the Department of Toxic Substances Control, the Division of the State Architect, and the Office of Public School Construction.

Status: 05/26/2011 - In SENATE Committee on APPROPRIATIONS: Held in committee.