

Kriss Worthington

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> CONSENT CALENDAR September 10, 2013

To: Honorable Mayor and Members of the City Council

From: Kriss Worthington, District 7, Berkeley City Council

Subject: Support Assembly Bill 1336: Protecting Workers' Receiving Prevailing

Wages and send a letters to Senator Loni Hancock and Governor Jerry

Brown

RECOMMENDATION

Support Assembly Bill 1336 which extends the statute of limitations for civil actions for recovering wages lost due to prevailing wage violations from 180 days to 18 months, among other changes, and send a letter to Senator Loni Hancock and Governor Jerry Brown.

BACKGROUND

Under existing state law, if a violation of the public works provision occurs, the State Labor Commission is required to issue a civil wage and penalty assessment to the contractor or subcontractor, or both. This assessment must be served "not later than 180 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 180 days after acceptance of the public work, whichever occurs last. If the assessment is served after the expiration of the 180-day period, but before the expiration of an additional 180 days, and the awarding body has not yet made full payment to the contractor, the assessment is valid up to the amount of the funds retained."

Currently, contractors engaged in public works are required to pay employees the prevailing wage, as established by the Director of Industrial Relations. A joint labor-management committee has the authority to bring action against any employer who fails to pay prevailing wages required by state law. This action must be taken "not later than 180 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work, or some part thereof, was performed, or not later than 180 days after acceptance of the public work, whichever occurs last."

Each contractor and subcontractor is also required by law to comply with requirements related to recordkeeping and employee work schedule. This involves keeping "accurate payroll records showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work." Copies of records made available for inspection by a joint labor-management committee are "required to be marked or

obliterated only to prevent an individual's name and social security number from being disclosed."

This bill would make the following changes to existing law, as quoted from the bill itself:

- A. Change the deadline for the service of the assessment to no later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or no later than 18 months after acceptance of the public work, whichever occurs last;
- B. Delete the provisions with regard to an assessment served after the expiration of the 180-day period;
- C. Delete the 180-day requirement and would instead require that action be taken no later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or no later than 18 months after acceptance of the public work, whichever occurs last:
- D. Require the court to award restitution to an employee for unpaid wages, plus interest, from the date the wages became payable, and liquidated damages equal to the amount of unpaid wages owed, and would allow imposition of civil penalties only against an employer that failed to pay the prevailing wage to its employees, injunctive relief, or any other appropriate equitable relief;
- E. Require instead that any copy of payroll records made available for inspection by, or furnished to, a joint labor-management committee, established pursuant to federal law, is required to be marked or obliterated only to prevent disclosure of an individual's social security number;
- F. Require that any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund that requests the records for the purposes of allocating contributions to participants be marked or obliterated only to prevent disclosure of an individual's full social security number, but provide the last 4 digits of the social security number.

Adopting this item falls in line with Berkeley's history of supporting employees dealing with prevailing wage issues.

For more information:

http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1301-1350/ab_1336_bill_20130624_amended_sen_v96.pdf

FISCAL IMPACTS

None

CONTACT PERSON

Kriss Worthington, Councilmember 981-7170 Jennifer Welden, Intern 981-7170

Attachment:

- 1. Letter to Senator Loni Hancock
- 2. Letter to Governor Jerry Brown

Dear Senator Loni Hancock,

The Berkeley City Council urges you to support Assembly Bill 1336. This bill is vital to ensure wage protections by extending the statute of limitations for civil actions to recover lost wages due to prevailing wage violations from 180 days to 18 months, among other changes.

Under existing state law, if a violation of the public works provision occurs, the State Labor Commission is required to issue a civil wage and penalty assessment to the contractor or subcontractor, or both. This assessment must be served "not later than 180 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 180 days after acceptance of the public work, whichever occurs last. If the assessment is served after the expiration of the 180-day period, but before the expiration of an additional 180 days, and the awarding body has not yet made full payment to the contractor, the assessment is valid up to the amount of the funds retained."

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Your support on this issue is of great value to the City of Berkeley. We urge you to support the passage of this AB 1336.

Sincerely,

The Berkeley City Council

Dear Governor Jerry Brown,

The Berkeley City Council urges you to support and sign Assembly Bill 1336. This bill is vital to ensure wage protections by extending the statute of limitations for civil actions to recover lost wages due to prevailing wage violations from 180 days to 18 months, among other changes.

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