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GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66342] (Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 4.1. Affordable Housing and High Road Jobs Act of 2022 [65912.100 - 65912.140] (Chapter 4.1 added by Stats. 2022, Ch. 647, Sec. 3.)

ARTICLE 4. Labor Standards [65912.130 - 65912.131] (Article 4 added by Stats. 2022, Ch. 647, Sec. 3.)

65912.130. A development project approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) shall meet all of the following labor standards:

(a) The development proponent shall require in contracts with construction contractors, and shall certify to the local government, that the standards specified in this section will be met in project construction.

(b) A development that is not in its entirety a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) shall be subject to all of the following:

(1) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(2) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work for those portions of the development that are not a public work.

(3) All contractors and subcontractors for those portions of the development that are not a public work shall comply with all of the following:

(A) Pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(B) Maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in that section. This subparagraph does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Be registered in accordance with Section 1725.6 of the Labor Code.

(c) (1) The obligation of the contractors and subcontractors to pay prevailing wages pursuant to this section may be enforced by any of the following:

(A) The Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development.

(B) An underpaid worker through an administrative complaint or civil action.

(C) A joint labor-management committee through a civil action under Section 1771.2 of the Labor Code.

(2) If a civil wage and penalty assessment is issued pursuant to this section, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(3) This subdivision does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subdivision, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(d) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing does not apply to those portions of development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker.

(e) The requirement of this section to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(f) For those portions of the development that are not a public work, the development proponent shall provide notice of all contracts for the performance of the work to the Department of Industrial Relations, in accordance with Section 1773.35 of the Labor Code.

(Amended by Stats. 2023, Ch. 39, Sec. 20. (AB 130) Effective July 10, 2023. Repealed as of January 1, 2033, pursuant to Sec. 65912.105.)

65912.131. In addition to the requirements of Section 65912.130, a development of 50 or more housing units approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) shall meet all of the following labor standards:

(a) The development proponent shall require in contracts with construction contractors and shall certify to the local government that each contractor of any tier who will employ construction craft employees or will let subcontracts for at least 1,000 hours shall satisfy the requirements in subdivisions (b) and (c). A construction contractor is deemed in compliance with subdivisions (b) and (c) if it is signatory to a valid collective bargaining agreement that requires utilization of registered apprentices and expenditures on health care for employees and dependents.

(b) A contractor with construction craft employees shall either participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code, or request the dispatch of apprentices from a state-approved apprenticeship program under the terms and conditions set forth in Section 1777.5 of the Labor Code. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this subdivision.

(c) Each contractor with construction craft employees shall make health care expenditures for each employee in an amount per hour worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum level plan for two 40-year-old adults and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this subdivision. Qualifying expenditures shall be credited toward compliance with prevailing wage payment requirements set forth in Section 65912.130.

(d) (1) The development proponent shall provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with subdivisions (b) and (c). The reports shall be considered public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be open to public inspection.

(2) A development proponent that fails to provide the monthly report shall be subject to a civil penalty for each month for which the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of ten thousand dollars (\$10,000). Any contractor or subcontractor that fails to comply with subdivision (b) or (c) shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of subdivision (b) or (c).

(3) Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments specified in Section 1741 of the Labor Code, and may be reviewed pursuant to Section 1742 of the Labor Code. Penalties shall be deposited in the State Public Works Enforcement Fund established pursuant to Section 1771.3 of the Labor Code.

(e) Each construction contractor shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code. Each construction contractor shall submit payroll records directly to the Labor Commissioner at least monthly in a format prescribed by the Labor Commissioner in accordance with subparagraph (A) of paragraph (3) of subdivision (a) of Section 1771.4 of the Labor Code.

The records shall include a statement of fringe benefits. Upon request by a joint labor-management cooperation committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided pursuant to subdivision (e) of Section 1776 of the Labor Code.

(f) All construction contractors shall report any change in apprenticeship program participation or health care expenditures to the local government within 10 business days, and shall reflect those changes on the monthly report. The reports shall be considered public records pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection.

(g) A joint labor-management cooperation committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a construction contractor for failure to make health care expenditures pursuant to subdivision (c) in accordance with Section 218.7 or 218.8 of the Labor Code.

(Added by Stats. 2022, Ch. 647, Sec. 3. (AB 2011) Effective January 1, 2023. Operative July 1, 2023, pursuant to Sec. 7 of Stats. 2022, Ch. 647. Repealed as of January 1, 2033, pursuant to Sec. 65912.105.)