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**AB-1023 Contractors and subcontractors: records: penalties.** (2021-2022)

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**Assembly Bill No. 1023**

**CHAPTER 326**

An act to amend Section 1771.4 of the Labor Code, relating to contractors.

[ Approved by Governor September 27, 2021. Filed with Secretary of State September 27, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1023, Flora. Contractors and subcontractors: records: penalties.

Existing law defines "public works," for the purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. Existing law generally requires a contractor or subcontractor to be registered with the Department of Industrial Relations to be qualified to bid on, be listed in a bid proposal, or engage in the performance of any public works contract. Existing law requires a contractor or subcontractor to meet specific conditions to qualify for this registration.

Existing law establishes various requirements applicable to all public works projects including, among other things, that the call for bids and contract documents specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations, and that each contractor or subcontractor furnish certain payroll records directly to the Labor Commissioner, as specified. Existing law requires that the contractor or subcontractor furnish these records at least monthly and in a format prescribed by the Labor Commissioner.

This bill would revise the requirement to furnish records monthly to require that the contractor or subcontractor furnish those records at least once every 30 days while work is being performed on the project and within 30 days after the final day of work performed on the project. The bill would also instead require that the contractor or subcontractor furnish these records in an electronic format, in the manner prescribed by the Labor Commissioner, on the department's internet website. The bill would make a contractor or subcontractor who fails to furnish those records relating to its employees in the manner specified liable for a penalty of \$100 per day, as specified, not to exceed \$5,000 per project, to be deposited into the State Public Works Enforcement Fund. The bill would prohibit the Labor Commissioner from levying penalties under these provisions until 14 days after the deadline for furnishing records and require that these penalties accrue to the actual contractor or subcontractor that failed to furnish those records.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 1771.4 of the Labor Code is amended to read:

**1771.4.** (a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) (A) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(i) At least monthly or more frequently if specified in the contract with the awarding body. For purposes of this clause, "monthly" means that a submission of records shall be made at least once every 30 days while work is being performed on the project and within 30 days after the final day of work performed on the project.

(ii) In an electronic format, in the manner prescribed by the Labor Commissioner, on the department's internet website.

(B) A contractor or subcontractor who fails to furnish records pursuant to subparagraph (A), relating to its employees, shall be subject to a penalty by the Labor Commissioner of one hundred dollars (\$100) per each day in which that party was in violation of subparagraph (A), not to exceed a total penalty of five thousand dollars (\$5,000) per project. Penalties received pursuant to this paragraph shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(C) The Labor Commissioner shall not levy a penalty pursuant to subparagraph (B) until a contractor or subcontractor fails to furnish the records pursuant to subparagraph (A) 14 days after the requirement set forth in clause (i) of subparagraph (A).

(D) Penalties pursuant to subparagraph (B) may only accrue to the actual contractor or subcontractor that failed to furnish the records pursuant to subparagraph (A).

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.