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AB-1851 Public works: prevailing wage: hauling. (2021-2022)

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Date Published: 10/03/2022 02:00 PM

Assembly Bill No. 1851

CHAPTER 764

An act to amend Section 1720.3 of the Labor Code, relating to public works.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, Robert Rivas. Public works: prevailing wage: hauling.

Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. 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 using public funds, except as specified. Existing law includes in the definition of "public works" under certain circumstances the hauling of refuse from a public works site to an outside disposal location. Existing law makes a willful violation of laws relating to the payment of prevailing wages on public works a misdemeanor.

This bill would expand the definition of "public works" for those purposes to include the on-hauling of materials used for paving, grading, and fill onto a public works site if the individual driver's work is integrated into the flow process of construction. The bill would make a related intent statement. By expanding the definition of a crime, this bill would impose a state-mandated local program.

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 Local Program: yes

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

SECTION 1. It is the intent of the Legislature in enacting paragraph (2) of subdivision (a) of Section 1720.3 of the Labor Code to restore, as of the effective date of this act, the holding of *O. G. Sansone Co. v. Department of Transportation* (1976) 55 Cal.App.3d 434, and its subsequent interpretations, as it relates to the on hauling of materials used for paving, grading, and fill onto a public works site.

SEC. 2. Section 1720.3 of the Labor Code is amended to read:

1720.3. (a) For the limited purposes of Article 2 (commencing with Section 1770), with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state, "public

works" also means both of the following:

(1) The hauling of refuse from a public works site to an outside disposal location.

(2) The on hauling of materials used for paving, grading, and fill onto a public works site, if the individual driver's work is integrated into the flow process of construction.

(b) For purposes of this section, the "hauling of refuse" includes, but is not limited to, hauling soil, sand, gravel, rocks, concrete, asphalt, excavation materials, and construction debris. The "hauling of refuse" shall not include the hauling of recyclable metals such as copper, steel, and aluminum that have been separated from other materials at the jobsite prior to transportation and that are to be sold at fair market value to a bona fide purchaser.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.