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AB-2463 Public works: exemption. (2021-2022)

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Assembly Bill No. 2463

CHAPTER 210

An act to amend Section 1720.4 of the Labor Code, relating to public works.

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2463, Lee. Public works: exemption.

Existing law defines "public works," for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work that is performed under contract and paid for in whole or in part out of public funds. Pursuant to existing law, all workers employed on public works projects are required to be paid not less than the general prevailing rate of per diem wages for work, except as specified. Existing law exempts, until January 1, 2024, from these requirements work performed by a volunteer, a volunteer coordinator, or a member of the California Conservation Corps or a community conservation corps.

This bill would extend that exemption until January 1, 2031.

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

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

SECTION 1. Section 1720.4 of the Labor Code is amended to read:

1720.4. This chapter shall not apply to any of the following work:

(a) Any work performed by a volunteer. For purposes of this section, "volunteer" means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

(1) An individual shall be considered a volunteer only when their services are offered freely and without pressure and coercion, direct or implied, from an employer.

(2) An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

(3) An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (A) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (B) by a contractor,

other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that receives payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

(b) Any work performed by a volunteer coordinator. For purposes of this section, "volunteer coordinator" means an individual paid by a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, to oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some nonsupervisory work on a project alongside the volunteers, so long as the individual's primary responsibility on the project is to oversee or supervise the volunteers rather than to perform nonsupervisory work.

(c) Any work performed by the California Conservation Corps or by Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

(d) This section shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2031, deletes or extends that date.