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AB-338 Fuel reduction work. (2023-2024)

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Assembly Bill No. 338

CHAPTER 428

An act to add Division 47 (commencing with Section 80200) to the Public Resources Code, relating to fuel reduction work.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 338, Aguiar-Curry. Fuel reduction work.

Existing law establishes the Department of Forestry and Fire Protection in the Natural Resources Agency and establishes the State Board of Forestry and Fire Protection within the department. Existing law requires the department to administer fire prevention programs and activities and requires the state board to adopt regulations implementing minimum fire safety standards.

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.

This bill would, commencing July 1, 2026, require fuel reduction work, done under contract and paid for in whole or in part out of public funds, as specified, to meet several standards, including that all workers performing work within an apprenticeable occupation in the building and construction trades be paid at least the general prevailing rate of per diem wages. The bill would authorize the Labor Commissioner to enforce the requirement to pay prevailing wages. The bill would exempt from these requirements, among other things, contracts in the amount of \$500,000 or less.

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

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

SECTION 1. Division 47 (commencing with Section 80200) is added to the Public Resources Code, to read:

DIVISION 47. Fuel Reduction Work Contracts

80200. (a) Any fuel reduction work, including, but not limited to, residential chipping, rural road fuel breaks, and firebreaks, done under contract and paid for in whole or in part out of public funds, as defined in subdivision (b) of Section 1720 of the Labor Code, except as specified in subdivision (b), subdivision (c), Section 80202, or Section 80203, shall be subject to the following standards:

(1) All workers employed in the execution of the contract to perform work that falls within an apprenticeable occupation in the building and construction trades for which an apprenticeship program has been approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code 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) All contractors and subcontractors shall maintain payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in that section.

(3) A contractor shall be registered pursuant to Section 1725.6 of the Labor Code to be qualified to bid on, be awarded contracts for, or engage in the performance of, any work subject to the requirements of this section. For the purposes of this paragraph, "contractor" includes a subcontractor as defined by Section 1722.1 of the Labor Code.

(b) This division does not apply to fuel reduction work that is awarded by a federal entity using solely federal funds under which federal prevailing wage requirements apply.

(c) This division is applicable only to work performed under contract and is not applicable to work carried out by a public agency with its own forces.

80201. (a) The requirement to pay prevailing wages pursuant to this division may be enforced by 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 project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code.

(b) If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond 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.

80202. This division only applies to contracts in excess of five hundred thousand dollars (\$500,000).

80203. (a) This division does not apply to work performed on Indian lands, as defined in Section 2703 of Title 25 of the United States Code, nor to work performed under contract with a federally recognized Native American tribe.

(b) This division does not apply to prescribed fire or grazing work.

(c) This division does not apply to work performed on private land. That work shall be considered an exception to the definition of maintenance in Section 16000 of Title 8 of the California Code of Regulations.

(d) This division does not apply to nonprofit organizations that directly contract with the state or a political subdivision until July 1, 2027, and does not apply to any contract, subcontract, or grant agreement between a nonprofit organization and the state or a political subdivision that is fully executed when this division becomes operative, unless the contract, subcontract, or grant agreement is renewed after July 1, 2027.

(e) This division does not apply to any workers who are currently exempt from public works requirements pursuant to Section 1720.4 of the Labor Code.

(f) This division does not apply to fuel reduction work performed by an inmate.

80204. This division shall become operative on July 1, 2026, and does not apply to any contract, subcontract, or grant agreement that is fully executed when this division becomes operative, unless the contract, subcontract, or grant agreement is renewed after July 1, 2026.