



January 26, 2016

### NEW YEAR BRINGS CHANGES TO SCHOOL BUSINESS, FINANCE, FACILITIES MANAGEMENT AND CONSTRUCTION

As the result of legislation signed into law by the Governor, effective in 2016 several new requirements have been enacted that will be of interest to school business, finance, facilities and construction professionals.

#### CONSTRUCTION and FACILITIES

AB 219 (Daly). This bill expands the definition of “public works” for purposes of paying prevailing wages to include the hauling of refuse from a public works site to an outside disposal facility and the hauling and delivery of ready-mixed concrete to carry out a public works contract. This bill applies to contracts involving any state agency or any political subdivision of the state, including school districts.

The applicable prevailing wage rate for ready-mixed concrete delivery is the rate for the geographic area in which the concrete factory or batching plant is located. The statute requires the entity hauling or delivering ready-mixed concrete to enter into a written subcontract agreement with, and to provide employee payroll and time records to, the party that engaged that entity. These provisions apply to public works contracts awarded on or after July 1, 2016. (Labor Code 1720.9)

AB 434 (Garcia). Requires the State Water Resources Control Board (“State Board”) to adopt regulations, similar to those previously authorized for adoption by the State Department of Public Health, governing the use of point-of-entry and point-of-use treatment by a public water system in lieu of centralized treatment where it can be demonstrated that centralized treatment is not immediately economically feasible. This bill also requires the State Board to adopt emergency regulations governing the permitted use of point-of-use and point-of-entry treatment by public water systems in lieu of centralized treatment and requires that these emergency regulations remain in effect until the earlier of January 1, 2018, or the effective date of the required non-emergency regulations. This bill also prohibits the use of point-of-entry treatment absent a State Board determination of no community opposition. This bill became effective on October 9, 2015. (H&S 116380, 116552)

AB 496 (Rendon). This bill allows the CDE to receive funds transferred from any available state and federal source to be allocated to school districts for the purpose of complying with the requirements of Section 38086 to provide free, fresh drinking water during meal times in food service areas of schools. (Ed. Code 38086.1)

AB 566 (O'Donnell). This bill requires, until January 1, 2019, that Lease-Leaseback agreements provide that all general and mechanical, electrical and plumbing contractors and subcontractors be prequalified regardless of the funding source for the public project.

This bill also requires the use of a skilled and trained workforce in all apprenticable trades on the project (in increasing annual percentages) before the governing board of a school district may enter into a Lease-Leaseback contract. In 2016, at least 30% of the workforce must be "skilled and trained."<sup>1</sup> By 2019, the requirement is at least 60% of the workforce must be "skilled and trained." This bill requires a contractor to certify monthly during construction that the required percentage of "skilled and trained" workforce has been met. A district is required to "immediately cease" making payments if a contractor fails to provide the required report. Entry into a project labor agreement binding on all contractors and subcontractors is satisfactory evidence of compliance with the "skilled and trained" workforce requirement. (Ed. Code 17406, 17407 17407.5; PCC 20111.6)

AB 1358 (Dababenh). As of July 1, 2016, this bill reduces the project cost threshold for use of the design-build project delivery method from \$2.5 million to \$1 million until January 1, 2025, allowing either the low bid or best value bid, as defined, to be accepted. This bill also requires a "skilled and trained workforce" be employed on the design-build project in increasing annual percentages from 20% to 60% through July 1, 2020. As with AB 566, a project labor agreement will be one method of compliance with the "skilled and trained workforce" requirement. (Ed. Code 17250.10 through 17250.55)

AB 1431 (Gomez). This bill restricts job order contracting to districts that have entered into a project labor agreement or agreements that will apply to all public works in excess of twenty-five thousand dollars (\$25,000) undertaken by the school district through at least December 31, 2021, regardless of what contracting procedure is used to award that work. (PCC 20919.20 through 20919.33)

SB 111 (Fuller). This bill expresses the intent of the legislature that assistance be provided to school districts in the 2015-16 year to meet the matching share requirement of a school construction grant made by DOD to construct, renovate, repair, or expand elementary and secondary public schools located on military installations. This bill also directs the Department of Finance to explore options on how best to assist school districts in meeting the matching share grant requirement. (Uncodified)

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<sup>1</sup> A "skilled and trained workforce" is defined for 2016 as: (A) all workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations or (B) at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

## BUSINESS and FINANCE

AB 715 (Daly). This bill revises the definition of assessable space, for purposes of levying developer fees on residential structures, to exclude covered or uncovered walkways. (Gov. Code 65995)

AB 1420 (Salas). This bill requires the Division of Oil Gas and Geothermal Resources (DOGGR) by January 1, 2018, to review, evaluate and update as appropriate, its regulations regarding all active gas pipelines 4” or less and 10 years old or older in sensitive areas. A “sensitive area” means any of the following:

(A) An area containing a building intended for human occupancy, such as a residence, **school**, hospital, or business that is located within 300 feet of an active gas pipeline and that is not necessary to the operation of the pipeline.

(B) An area determined by the supervisor to present significant potential threat to life, health, property, or natural resources in the event of a leak from an active gas pipeline.

(C) An area determined by the supervisor to have an active gas pipeline that has a history of chronic leaks. (H & S Code 101042; PRC 3270.5, 3270.6)

SB 222 (Block). This bill requires general obligation bonds issued and sold by or on behalf of a local agency to be secured by a statutory lien on all revenues received pursuant to the levy and collection of the property tax imposed to service those bonds. This bill also requires the revenue received, pursuant to the levy and collection of the tax, to be immediately subject to the lien and requires the lien to immediately attach to the revenues and be effective, binding, and enforceable against the local agency, its successors, transfers, and creditors, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing or further act.

This bill defines local agency to mean any city, county, city and county, **school district**, community college district, authority, or special district and defines GO bonds to mean bonds, warrants, notes, or other evidence of indebtedness of a local agency payable from the proceeds of ad valorem taxes that may be lived, pursuant to the California Constitution Article XIII A, Section 1(b)(2)(3). (Ed. Code 15251, 53515).

If you have any questions concerning this update or would like to discuss the implications of a particular bill for your district, do not hesitate to contact our office.

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