

“CONTRACTORS, BE INFORMED OF NEW STATE LAWS”

Introduction

The California Legislature has enacted several laws in recent years requiring employers in certain industries to employ a “skilled and trained workforce,” which are summarized below. The full text of each statute may be found at www.leginfo.legislature.ca.gov/.

A central feature of each law is the requirement that employers use a “skilled and trained workforce,” which each law defines to mean “either skilled journeypersons or apprentices registered in an apprenticeship program.” Each statute defines the term “skilled journeyperson” to include both graduates from approved apprenticeship programs and those non-graduates with equivalent “hours of on-the-job experience,” but each statute also limits the percentage of journeypersons who did not graduate from an apprenticeship program who may be employed.

From this common starting point—requiring the use of a “skilled and trained workforce” made up of apprentices and journeypersons, a specified percentage of which must be graduates of an apprenticeship program—the different statutes have some differences as to the industries covered and the percentage of journeypersons who must be graduates, as described below.

AB 566 - School facilities: leasing property: construction contracts.

The bill requires that, on all new public projects where the funding includes reimbursement from any state school bond, employers use a skilled and trained workforce to perform “all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.” This condition must be included by the governing board of a school district in a contract with any entity for the construction, or for providing for the construction of, a building to be leased or used by the school district. Under this statute, as of January 1, 2016, at least 30 percent of all “skilled journeypersons” must be graduates of an apprenticeship program. This percentage increases in subsequent years (40% starting January 1, 2017, 50% starting January 1, 2018, and 60% starting January 1, 2019).

SB 785 - Design-build.

This bill repeals existing authorizations, and in their place enacts provisions that authorize, until January 1, 2025, the Department of General Services, the Department of Corrections and Rehabilitation, and those local agencies, as defined, to use the design-build procurement process for specified public works. The bill authorizes, until January 1, 2025, the Marin Healthcare District to use the design-build process when contracting for the construction of a building and improvements directly related to a hospital or health facility building at the Marin General Hospital, and authorizes the San Diego Unified Port District to use the design-build procurement process for the construction of a building or buildings and improvements directly related to the construction of a building or buildings that exceed \$1,000,000. The bill requires specified information to be verified under penalty of perjury. Under the design-build process, “A design-build entity shall not be prequalified or shortlisted unless the entity provides an enforceable commitment to the director that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.” Under this statute, as of January 1, 2016, at least 20 percent of all “skilled journeypersons” must be graduates of an apprenticeship program. This percentage increases in subsequent years (30% starting January 1, 2017, 40% starting January 1, 2018, 50% starting January 1, 2019, and 60% starting January 1, 2020).

SB 693 - Public contracts: skilled and trained workforce.

This bill revises those provisions specifically applicable to school facilities, the Department of General Services, the Department of Corrections and Rehabilitation, and local agency design-build projects, the LAUSD pilot program, and the pilot program for counties to require, instead, an enforceable commitment for the use of a skilled and trained workforce, unless there is a prescribed project labor agreement. The bill, except as specified, does not apply to contracts advertised for bid or awarded before January 1, 2017. Under this statute, as of January 1, 2014, at least 30 percent of all “skilled journeypersons” must be graduates of an apprenticeship program. This percentage increases in subsequent years (45% starting January 1, 2015, and 60% starting January 1, 2016).

SB 54 - Hazardous materials management: stationary sources: skilled and trained workforce.

This bill requires an owner or operator of a stationary source that is engaged in certain activities with regard to petroleum and with one or more covered processes that is required to prepare and submit an RMP, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, to require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades, including skilled journeypersons paid at least a rate equivalent to the applicable prevailing hourly wage rate. The bill does not apply to oil and gas extraction operations. Under this statute, as of January 1, 2014, at least 30 percent of all “skilled journeypersons” must be graduates of an apprenticeship program. This percentage increases in subsequent years (45% starting January 1, 2015, and 60% starting January 1, 2016). Note, however, that these requirements “shall not apply to contracts awarded before January 1, 2014, unless the contract is extended or renewed after that date.”