

AMENDED IN ASSEMBLY SEPTEMBER 8, 2003

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN ASSEMBLY JUNE 12, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 360

Introduced by Senator ~~Figueroa~~ Romero

(~~Coauthor: Senator Vincent~~)

(~~Coauthors: Assembly Members Correa and Nation~~)

February 19, 2003

~~An act to amend Sections 125.9, 7303.1, 7309, 7313, 7317, 7319.5, 7321, 7321.5, 7324, 7326, 7330, 7332, 7333, 7334, 7335, 7336, 7337, 7337.5, 7338, 7340, 7341, 7342, 7344, 7353, 7354, 7355, 7356, 7357, 7359, 7362, 7362.1, 7362.2, 7362.3, 7364, 7365, 7366, 7367, 7389, 7395.1, 7396, 7400, 7401, 7403, 7404, 7405, 7406, 7407, 7408, 7409, 7410, 7414.1, 7414.3, 7414.4, 7414.6, 7415, 7421, and 7422 of, to amend and repeal Sections 7390, 7391, 7392, 7393, 7394, and 7395 of, to add Sections 7303.2, and 7403.5 to, to repeal Sections 7331.5, 7340.5, 7416, and 7423.5 of, and to repeal and add Sections 7331 and 7423 to, the Business and Professions Code, relating to business and professions. An act to amend Section 1720 of the Labor Code, relating to public works.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as amended, ~~Figueroa~~ Romero. ~~Boards, bureaus, and commissions~~ *Public works: prevailing wages: exclusions.*

Existing law defines a project as a "public work" if the project involves construction, alteration, demolition, installation, or repair

work that is done under contract and paid for in whole or in part out of public funds, as specified. Existing law generally requires that not less than the general prevailing rate of per diem wages, as specified, be paid to workers engaged in a public work that costs over \$1,000, but excludes certain types of housing projects from these requirements if those projects are funded by specified government financing programs on or before December 31, 2003.

This bill would revise these exclusions by specifying that these housing projects are excluded from these requirements if those projects are funded by these specified government financing programs on or before December 31, 2004.

~~(1) Existing law authorizes specified boards, bureaus, and commissions within the Department of Consumer Affairs, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners to establish regulations whereby the board, bureau, or commission, in specified circumstances, may impose an administrative fine not exceeding \$2,500 upon its licensees. Existing law requires these administrative fines to be deposited into the special fund of the appropriate board, bureau, or commission.~~

~~This bill would increase the amount of this administrative fine to \$5,000. These administrative fines would be deposited into a special fund of the particular board, bureau, or commission.~~

~~(2) Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology in the Department of Consumer Affairs consisting of 9 members. Existing law requires the board, subject to the approval of the Director of Consumer Affairs, to appoint an executive officer to perform the duties delegated by the board.~~

~~Existing law requires that a person who fails to qualify for admission to an examination because the person's practice does not fulfill specified requirements be given credit for study and training obtained that is substantially the same as the study and training required by the state.~~

~~This bill would repeal this provision and would instead authorize the board to grant a license to an applicant who submits a completed application with the necessary fee, proof of a valid license issued by another state, and proof that the applicant has not been disciplined by another state.~~

~~(3) Existing law requires that a cosmetology or barbering instructor training course shall consist of not less than 600 hours of practical~~



~~training and technical experience. Existing law authorizes an individual to take the barbering or cosmetology instructor’s examination if that person has, among other things, submitted an application and paid the appropriate fee to the board, completed the 12th grade, and has a valid license to practice. Existing law requires a licensed instructor to complete 30 clock hours of continuing education. Existing law excludes an instructor from complying with continuing education requirements if his or her license is inactive.~~

~~This bill would repeal these provisions on January 1, 2005.~~

~~(4) Existing law specifies the licensing fees for cosmetologists, estheticians, manicurists, and other individuals licensed by the act.~~

~~This bill would require that the application fee and examination fee for individuals licensed by this act shall be the actual cost to the board for developing, purchasing, grading, and administering the appropriate examination. The bill would authorize the director to immediately close any establishment which, upon inspection, poses an immediate threat to public health and safety. The bill would require, not later than September 1, 2005, the board to conduct various studies, some in conjunction with the Office of Examination Resources and some in coordination with Department of Industrial Relations, and report the results to the Legislature and the Joint Legislative Sunset Review Committee. The bill would delete obsolete provisions and make conforming changes.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 125.9 of the Business and Professions~~

2 ~~SECTION 1. Section 1720 of the Labor Code is amended to~~

3 ~~read:~~

4 1720. (a) As used in this chapter, “public works” means:

5 (1) Construction, alteration, demolition, installation, or repair
6 work done under contract and paid for in whole or in part out of
7 public funds, except work done directly by any public utility
8 company pursuant to order of the Public Utilities Commission or
9 other public authority. For purposes of this paragraph,
10 “construction” includes work performed during the design and
11 preconstruction phases of construction including, but not limited
12 to, inspection and land surveying work.



- 1 (2) Work done for irrigation, utility, reclamation, and
2 improvement districts, and other districts of this type. “Public
3 work” does not include the operation of the irrigation or drainage
4 system of any irrigation or reclamation district, except as used in
5 Section 1778 relating to retaining wages.
- 6 (3) Street, sewer, or other improvement work done under the
7 direction and supervision or by the authority of any officer or
8 public body of the state, or of any political subdivision or district
9 thereof, whether the political subdivision or district operates under
10 a freeholder’s charter or not.
- 11 (4) The laying of carpet done under a building
12 lease-maintenance contract and paid for out of public funds.
- 13 (5) The laying of carpet in a public building done under
14 contract and paid for in whole or in part out of public funds.
- 15 (6) Public transportation demonstration projects authorized
16 pursuant to Section 143 of the Streets and Highways Code.
- 17 (b) For purposes of this section, “paid for in whole or in part
18 out of public funds” means all of the following:
 - 19 (1) The payment of money or the equivalent of money by the
20 state or political subdivision directly to or on behalf of the public
21 works contractor, subcontractor, or developer.
 - 22 (2) Performance of construction work by the state or political
23 subdivision in execution of the project.
 - 24 (3) Transfer by the state or political subdivision of an asset of
25 value for less than fair market price.
 - 26 (4) Fees, costs, rents, insurance or bond premiums, loans,
27 interest rates, or other obligations that would normally be required
28 in the execution of the contract, that are paid, reduced, charged at
29 less than fair market value, waived, or forgiven by the state or
30 political subdivision.
 - 31 (5) Money loaned by the state or political subdivision that is to
32 be repaid on a contingent basis.
 - 33 (6) Credits that are applied by the state or political subdivision
34 against repayment obligations to the state or political subdivision.
- 35 (c) Notwithstanding subdivision (b):
 - 36 (1) Private residential projects built on private property are not
37 subject to the requirements of this chapter unless the projects are
38 built pursuant to an agreement with a state agency, redevelopment
39 agency, or local public housing authority.



1 (2) If the state or a political subdivision requires a private
2 developer to perform construction, alteration, demolition,
3 installation, or repair work on a public work of improvement as a
4 condition of regulatory approval of an otherwise private
5 development project, and the state or political subdivision
6 contributes no more money, or the equivalent of money, to the
7 overall project than is required to perform this public improvement
8 work, and the state or political subdivision maintains no
9 proprietary interest in the overall project, then only the public
10 improvement work shall thereby become subject to this chapter.

11 (3) If the state or a political subdivision reimburses a private
12 developer for costs that would normally be borne by the public, or
13 provides directly or indirectly a public subsidy to a private
14 development project that is de minimis in the context of the
15 project, an otherwise private development project shall not
16 thereby become subject to the requirements of this chapter.

17 (4) The construction or rehabilitation of affordable housing
18 units for low- or moderate-income persons pursuant to paragraph
19 (5) or (7) of subdivision (e) of Section 33334.2 of the Health and
20 Safety Code that are paid for solely with moneys from a Low and
21 Moderate Income Housing Fund established pursuant to Section
22 33334.3 of the Health and Safety Code or that are paid for by a
23 combination of private funds and funds available pursuant to
24 Section 33334.2 or 33334.3 of the Health and Safety Code do not
25 constitute a project that is paid for in whole or in part out of public
26 funds.

27 (5) “Paid for in whole or in part out of public funds” does not
28 include tax credits provided pursuant to Section 17053.49 or
29 23649 of the Revenue and Taxation Code.

30 (6) Unless otherwise required by a public funding program, the
31 construction or rehabilitation of privately owned residential
32 projects is not subject to the requirements of this chapter if one or
33 more of the following conditions are met:

34 (A) The project is a self-help housing project in which no fewer
35 than 500 hours of construction work associated with the homes are
36 to be performed by the homebuyers.

37 (B) The project consists of rehabilitation or expansion work
38 associated with a facility operated on a not-for-profit basis as
39 temporary or transitional housing for homeless persons with a total
40 project cost of less than twenty-five thousand dollars (\$25,000).



1 (C) Assistance is provided to a household as either mortgage
2 assistance, downpayment assistance, or for the rehabilitation of a
3 single-family home.

4 (D) The project consists of new construction, or expansion, or
5 rehabilitation work associated with a facility developed by a
6 nonprofit organization to be operated on a not-for-profit basis to
7 provide emergency or transitional shelter and ancillary services
8 and assistance to homeless adults and children. The nonprofit
9 organization operating the project shall provide, at no profit, not
10 less than 50 percent of the total project cost from nonpublic
11 sources, excluding real property that is transferred or leased. Total
12 project cost includes the value of donated labor, materials,
13 architectural, and engineering services.

14 (E) The public participation in the project that would otherwise
15 meet the criteria of subdivision (b) is public funding in the form
16 of below-market interest rate loans for a project in which
17 occupancy of at least 40 percent of the units is restricted for at least
18 20 years, by deed or regulatory agreement, to individuals or
19 families earning no more than 80 percent of the area median
20 income.

21 (d) Notwithstanding any provision of this section to the
22 contrary, the following projects shall not, solely by reason of this
23 section, be subject to the requirements of this chapter:

24 (1) Qualified residential rental projects, as defined by Section
25 142 (d) of the Internal Revenue Code, financed in whole or in part
26 through the issuance of bonds that receive allocation of a portion
27 of the state ceiling pursuant to Chapter 11.8 of Division 1
28 (commencing with Section 8869.80) of the Government Code on
29 or before December 31, ~~2003~~ 2004.

30 (2) Single-family residential projects financed in whole or in
31 part through the issuance of qualified mortgage revenue bonds or
32 qualified veterans' mortgage bonds, as defined by Section 143 of
33 the Internal Revenue Code, or with mortgage credit certificates
34 under a Qualified Mortgage Credit Certificate Program, as defined
35 by Section 25 of the Internal Revenue Code, that receive allocation
36 of a portion of the state ceiling pursuant to Chapter 11.8 of
37 Division 1 (commencing with Section 8869.80) of the
38 Government Code on or before December 31, ~~2003~~ 2004.

39 (3) Low-income housing projects that are allocated federal or
40 state low-income housing tax credits pursuant to Section 42 of the



1 Internal Revenue Code, Chapter 3.6 of Division 31 (commencing
2 with Section 50199.4) of the Health and Safety Code, or Section
3 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on
4 or before December 31, ~~2003~~ 2004.

5 (e) If a statute, other than this section, or a regulation, other than
6 a regulation adopted pursuant to this section, or an ordinance or a
7 contract applies this chapter to a project, the exclusions set forth
8 in subdivision (d) do not apply to that project.

9 (f) For purposes of this section, references to the Internal
10 Revenue Code mean the Internal Revenue Code of 1986, as
11 amended, and include the corresponding predecessor sections of
12 the Internal Revenue Code of 1954, as amended.

13 (g) The amendments made to this section by either Chapter 938
14 of the Statutes of 2001 or ~~the act adding this subdivision~~ *Chapter*
15 *1048 of the Statutes of 2002* shall not be construed to preempt local
16 ordinances requiring the payment of prevailing wages on housing
17 projects.

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Assembly, June 23, 2003 (JR 11)**

