Supreme Court Number S253458

In the Supreme Court of the State of California

DAVID KAANAANA, et al.

Plaintiffs and Appellants,

v.

BARRETT BUSINESS SERVICES, INC., et al.

Defendants and Respondents,

On Review From a Published Decision by the Court of Appeal, Second Appellate District, Division Eight; Case Nos. B276420, B279838

MOTION FOR JUDICIAL NOTICE, DECLARATION AND POINTS AND AUTHORITIES OF AMICI CURIAE COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY, LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, CALIFORNIA ASSOCIATION OF SANITATION AGENCIES AND ASSOCIATION OF CALIFORNIA WATER AGENCIES IN SUPPORT OF RESPONDENTS BARRETT BUSINESS SERVICES, INC. and MICHAEL ALVAREZ

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Attorneys for Amici Curiae
COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY, LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, CALIFORNIA ASSOCIATION OF SANITATION AGENCIES and ASSOCIATION OF CALIFORNIA WATER AGENCIES

REQUEST FOR JUDICIAL NOTICE

Pursuant to California rules of Court, rules 8.252(a) and 8.54 and Evidence Code sections 452, 453 and 459, Amici Curiae County Sanitation District No. 2 of Los Angeles County, League of California Cities, California State Association of Counties, California Special Districts Association, California Association of Sanitation Agencies And Association of California Water Agencies ("Amici Curiae") requests that this Court take judicial notice of the following official acts of the legislative department of the State of Calfornia and related materials, copies of which are attached to this motion as Exhibits XX

Exhibit A: Senate Bill No. 26, introduced January 8, 1931, and subsequent amendments

Exhibit B: Senate Bill No. 83, introduced January 12, 1931, and subsequent amendments

Exhibit C: Stats. 1937, Chapter 90, §1720, at p. 241

Exhibit D: Proposed Labor Code, 1936, The California Code Commission, at pp. 84-85

Exhibit E: California Highways and Public Works, Special Journal of the Department of Public Works, State of California, July 1931

Exhibit F: Declaration of Anna Maria Bereczky-Anderson of the Legislative Intent Service, Inc. regarding Senate Bill No. 26 legislative research materials

Exhibit G: Declaration of Anna Maria Bereczky-Anderson of the Legislative Intent Service, Inc. regarding Senate Bill No. 83 legislative research materials

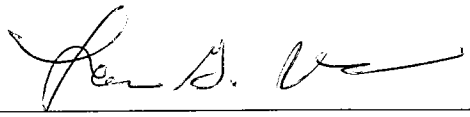
Exhibit H: Declaration of Anna Maria Bereczky-Anderson of the Legislative Intent Service, Inc. regarding Assembly Bill No. 2100 legislative research materials

This motion for judicial notice is based on the memorandum of points and authorities, the Declaration of Lann G. McIntyre, Declaration of Anna Maria Bereczky-Anderson, and

such further documents as this court might consider in ruling on this motion for judicial notice.

DATED: September 18, 2019

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: 

Lann G. McIntyre
Jeffry A. Miller
Claire Hervey Collins
Paul J. Beck
Attorneys for Amici Curiae COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY, LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, CALIFORNIA ASSOCIATION OF SANITATION AGENCIES and ASSOCIATION OF CALIFORNIA WATER AGENCIES

MEMORANDUM OF POINTS AND AUTHORITIES

A. Introduction.

This motion seeks judicial notice of legislative history materials

Exhibit A consists of excerpts of Senate Bill No. 26, introduced by Senator Inman on January 8, 1931, and subsequent amendments, which was enacted as Chapter 397.

Exhibit B consists of excerpts of Senate Bill No. 83, introduced by Senator Maloney, on January 12, 1931, and subsequent amendments, which was enacted as Chapter 398.

Exhibit C is Statutes 1937, Chapter 90, §1720.

Exhibit D is the California Code Commissions 1936 Proposed Labor Code.

Exhibit E is the publication, "California Highways and Public Works, Special Journal of the Department of Public Works," State of California, July 1931.

In addition, Exhibits F-H are Declarations of Anna Maria Bereczky-Anderson of the Legislative Intent Service, Inc. regarding work performed by the Legislative Intent Service, Inc. in procuring legislative history research materials regarding Senate Bill No. 26, Senate Bill No. 83 and Assembly Bill No. 2100, excerpts of which are provided as Exhibits A-E.

B. Authority for Judicial Notice.

Evidence Code section 459 permits the reviewing court to take judicial notice of "any matter specified in Section 452." (Evid. Code, § 459(a).) This court has the same power as the trial court to take judicial notice of matters properly subject to judicial notice. (See Evid. Code, § 459; see also Cal. Rules of Court, rule 8.252(a); *Smith v. Rae-Venter Law Group* (2002) 29 Cal.4th 345, 359.) Although these materials were not presented to the trial court for judicial notice, they are relevant to statements in Amici Curaie's Amicus brief.

Judicial notice may be taken of "[o]fficial acts of the legislative, executive and judicial departments of the United States and of any state of the United States." (Evid. Code, § 452, subd. (c); *People v. Snyder* (2000) 22 Cal.4th 304, 315, fn. 5; *Delaney v. Baker* (1999) 20 Cal.4th 23, 30.) In addition, subdivision (d) of section 452 states that judicial notice may be taken of "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States." Judicial notice of matters specified in section 452 is mandatory when a proper request is made. (See Evid. Code, §§ 453, 459; see also Cal. Rules of Court, rule 8.252(a).)

Taking judicial notice of official acts of the executive and judicial departments of the United States is the appropriate procedure for bringing these materials before this Court. (See, e.g., *Pearson v. State Social Welfare Bd.* (1960) 54 Cal.2d 184, 210

["This court can take judicial notice...of the official acts and regulations of a department of the United States."].)

C. The Materials Are Relevant to the Issue on Appeal.

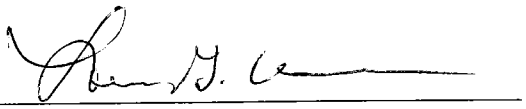
The documents of which judicial notice is requested are relevant to the question of the Legislature's intent and the history of the prevailing wage laws generally, and Labor Code section 1720, specifically.

CONCLUSION

For the foregoing reasons, Amici Curiae respectfully request that this Court grant this motion for judicial notice.

DATED: Sept. 18, 2019

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: 

Lann G. McIntyre
Jeffry A. Miller
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Paul J. Beck
Attorneys for Amici Curiae COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY, LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, CALIFORNIA ASSOCIATION OF SANITATION AGENCIES and ASSOCIATION OF CALIFORNIA WATER AGENCIES

DECLARATION OF LANN G. MCINTYRE

I, Lann G. McIntyre, declare as follows:

1. I am an attorney duly admitted to practice in all of the courts of the State of California and I am a partner with Lewis Brisbois Bisgaard & Smith LLP, attorneys of record for Amici Curiae COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY, LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, CALIFORNIA ASSOCIATION OF SANITATION AGENCIES and ASSOCIATION OF CALIFORNIA WATER AGENCIES herein. The facts set forth herein are of my own personal knowledge, and if sworn I could and would competently testify thereto.

2. Our firm retained the Legislative Intent Service, Inc. to research Assembly Bill 2100 of 1937, Senate Bill 26 of 1931 and Senate Bill 83 of 1931. Exhibits A-E, which are the subject of the instant motion for judicial notice, were obtained by the research staff of the Legislative Intent Service, Inc. as set forth in the Declarations of Anna Maria Bereczky-Anderson, attached hereto as Exhibits F-H.

3. Attached as Exhibit A is a true and correct copy of excerpts of the legislative research materials regarding Senate Bill No. 26, introduced January 8, 1931, and subsequent amendments.

4. Attached as Exhibit B is a true and correct copy of the legislative research materials regarding Senate Bill No. 83, introduced January 12, 1931, and subsequent amendments.

5. Attached as Exhibit C is a true and correct copy of Statutes 1937, Chapter 90, §1720.

6. Attached as Exhibit D is a true and correct copy of excerpts of the California Code Commissions 1936 Proposed Labor Code.

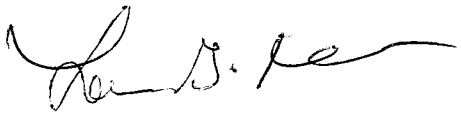
7. Attached hereto as Exhibit E is excerpts of the publication, "California Highways and Public Works, Special Journal of the Department of Public Works," State of California, July 1931.

8. Attached hereto as Exhibits F-H are Declarations of Anna Maria Bereczky-Anderson of the Legislative Intent Service, Inc. regarding the work Legislative Intent Service, Inc. in obtaining legislative history materials, including Exhibits A-E attached hereto.

9. The materials that are the subject of this motion for judicial notice were not presented to the courts below.

10. These materials are relevant to the legislative history of Labor Code section 1720 and its predecessor statutes and to determining the legislative intent behind the current version of Labor Code section 1720(a)(2) and its appropriate interpretation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 18, 2019, at San Diego, California.



Lann G. McIntyre

SENATE BILL No. 26

INTRODUCED BY SENATOR INMAN,

January 8, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to provide for the payment of the highest prevailing rate of wages on public work, whether the work is done by contract or otherwise, and double pay for legal holiday work and for such overtime work as is permitted by law, providing for the ascertainment of such highest prevailing rate by the officer or public body awarding the contract and its insertion in the contract and bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. Not less than the highest prevailing rate of per diem wages in the locality in which the work is performed and no less than double such per diem rate for legal holiday work and for such overtime work as is permitted by law, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of California, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the said state, and laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts with the State of California, or any officer or public body thereof, or in the execution of any contract with any county, city and county, city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The officer or public body awarding any contract for public work on behalf of the State of California, or

on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, shall ascertain the highest prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the bids for said contract, and in the contract itself, what the highest prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the legal holiday and overtime rate, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay at least the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality in whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract or by virtue of said contract, by him, or by any subcontractor under him, and the said officer or public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such officer or public body awarding the contract, and his or its deputies and agents, to take cognizance of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act. The contractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, or by any subcontractor under him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 3. Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter or not, shall be held to come under the provisions of this act. The term "locality in which the work is performed" shall be held to mean the county in which the work or major portion thereof is to be done in all

cases in which the contract is awarded by the state, or officer or public body thereof, and be held to mean the limits of the county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is awarded in all other cases. The term "highest prevailing rate of per diem wages" shall be the rate determined upon as such rate by the officer or public body awarding the contract, or hiring the workers, as the case may be, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said highest prevailing rate of wages. The term "legal holiday" means such holidays as are designated as such in section 10 of the Political Code, including Saturday afternoon.

SEC. 4. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who shall violate, or omit to comply with, any of the provisions of the act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, or by any subcontractor under him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

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AMENDED IN SENATE MARCH 6, 1931.

SENATE BILL No. 26

INTRODUCED BY SENATOR INMAN,

January 8, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to provide for the payment of the highest prevailing rate of wages on public work, whether the work is done by contract or otherwise, and double pay for legal holiday work and for such overtime work as is permitted by law, providing for the ascertainment of such highest prevailing rate by the ~~officer or~~ public body awarding the contract and its insertion in the contract and bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. Not less than the highest prevailing rate of per diem wages in the locality in which the work is performed and no less than double such per diem rate for legal holiday work and for such overtime work as is permitted by law, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of California, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the said state, and laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts with the State of California, or any officer or public body thereof, or in the execution of any contract with any county, city and county, city, town, township, district or other political subdivision of

said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The ~~officer or~~ public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, shall ascertain the highest prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the bids for said contract, and in the contract itself, what the highest prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the legal holiday and overtime rate, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay at least the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality in whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract or by virtue of said contract, by him, or by any subcontractor under him, and the said ~~officer or~~ public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such ~~officer or~~ public body awarding the contract, and ~~his or its deputies~~ *its officers* and agents, to take cognizance of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act. The contractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, or by any subcontractor under him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the ~~officer or~~ public body awarding the contract, ~~his or its deputies~~ *its officers* and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 3. Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates

under a freeholder's charter *heretofore or hereafter approved* or not, *also any work paid for in whole or in part out of public fund,* shall be held to come under the provisions of this act. The term "locality in which the work is performed" shall be held to mean the county in which the ~~work~~ *building, highway, road, excavation, or other structure, project, development or improvement,* or major portion thereof, is ~~to be done~~ *situated* in all cases in which the contract is awarded by the state, or ~~officer or~~ public body thereof, and be held to mean the limits of the county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is awarded in all other cases. The term "highest prevailing rate of per diem wages" shall be the rate determined upon as such rate by the ~~officer or~~ public body awarding the contract, *or authorizing the work,* or hiring the workers, *or allowing the claims,* as the case may be, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said highest prevailing rate of wages, *nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.* The term "legal holiday" means such holidays as are designated as such in section 10 of the Political Code, including Saturday afternoon.

SEC. 4. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who shall violate, or omit to comply with, any of the provisions of the act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, or by any subcontractor under him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

AMENDED IN SENATE MARCH 23, 1931.

AMENDED IN SENATE MARCH 6, 1931.

SENATE BILL No. 26

INTRODUCED BY SENATOR INMAN,

January 8, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to provide for the payment of the highest GENERAL *prevailing rate of wages on public work, whether the work is done by contract or otherwise, and double pay for legal holiday work and for such overtime work as is permitted by law, providing for the ascertainment of such highest* GENERAL *prevailing rate by the public body awarding the contract and its insertion in the contract and bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.*

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

1 SECTION 1. Not less than the highest *general* prevailing rate
2 of per diem wages *for work of a similar character* in the
3 locality in which the work is performed and no less than
4 double such per diem rate for legal holiday work and
5 for such overtime work as is permitted by law, shall
6 be paid to all laborers, workmen and mechanics employed
7 by or on behalf of the State of California, or by or on behalf
8 of any county, city and county, city, town, district or other
9 political subdivision of the said state, and laborers, workmen
10 and mechanics employed by contractors or subcontractors in
11 the execution of any contract or contracts with the State of
12 California, or any officer or public body thereof, or in the
13 execution of any contract with any county, city and county,

city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, shall ascertain the highest *general* prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the bids for said contract, and in the contract itself, what the highest *general* prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract; also the legal holiday and overtime rate, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay at least the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality ~~in~~ *on* whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract or by virtue of said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act. The contractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, or by any subcontractor under him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 3. Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates

under a freeholder's charter heretofore or hereafter approved or not, also any work paid for in whole or in part out of public ~~fund~~ *funds* shall be held to come under the provisions of this act. The term "locality in which the work is performed" shall be held to mean the county in which the building, highway, road, excavation, or other structure, project, development or improvement, or major portion thereof, is situated in all cases in which the contract is awarded by the state, or *any* public body thereof, and be held to mean the limits of the county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is awarded in all other cases. The term "highest *general* prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, or hiring the workers, or allowing the claims, as the case may be, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said highest *general* prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code. The term "legal holiday" means such holidays as are designated as such in section 10 of the Political Code, including Saturday afternoon.

SEC. 4. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who shall violate, or omit to comply with, any of the provisions of the act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, or by any subcontractor under him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

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AMENDED IN ASSEMBLY APRIL 6, 1931.

AMENDED IN SENATE MARCH 23, 1931.

AMENDED IN SENATE MARCH 5, 1931.

SENATE BILL No. 26

INTRODUCED BY SENATOR INMAN.

January 8, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to provide for the payment of the ~~highest~~ general prevailing rate of wages on public ~~work, whether the work is~~ WORKS *done by contract ~~or otherwise, and double pay for legal holiday work~~* PERFORMED ON LEGAL HOLIDAYS *~~and for such overtime work as is permitted by law~~, providing for the ascertainment of such ~~highest~~ general prevailing rate by the public body awarding the contract and its insertion in the contract and bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public* CONTRACT *work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day or portion thereof any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.*

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

SECTION 1. Not less than the ~~highest~~ general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed ~~and no less than double such per diem rate for legal holiday work and for such overtime work as is permitted by law,~~ shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of California, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the said state, ~~and laborers,~~ *engaged in*

the construction of public works, exclusive of maintenance work or repairs not under contract. Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts *for public works* with the State of California, or any officer or public body thereof, or in the execution of any contract *or contracts for public works* with any county, city and county, city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, shall ascertain the ~~highest~~ general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the bids for said contract, and in the contract itself, what the ~~highest~~ general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, ~~also the legal holiday and overtime rate,~~ and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay at least the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality on whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract or by virtue of said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance *of complaints* of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act. The contractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, or by any subcontractor under him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the chief of the division of labor statistics and law enforcement

of the state department of industrial relations, his deputies and agents.

SEC. 3. ~~Work done~~ *Construction or repair work done under contract* for irrigation, utility, reclamation and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any *construction or repair* work *done under contract, and* paid for in whole or in part out of public funds, shall be held to come under the provisions of this act. The term "locality in which the work is performed" shall be held to mean the *city and county,* county *or counties* in which the building, highway, road, excavation, or other structure, project, development or improvement, ~~or major portion thereof,~~ is situated in all cases ~~in which the contract is awarded by the state, or any public body thereof, and be held to mean the limits of the county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is awarded in all other cases.~~ The term "~~highest~~ general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, ~~or authorizing the work, or hiring the workers, or allowing the claims, as the case may be,~~ whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said ~~highest~~ general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code. ~~The term "legal holiday" means such holidays as are designated as such in section 10 of the Political Code, including Saturday afternoon.~~

SEC. 4. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who *wilfully* shall violate, or omit to comply with, any of the provisions of the act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, or by any subcontractor under him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

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AMENDED IN ASSEMBLY APRIL 21, 1931.

AMENDED IN ASSEMBLY APRIL 6, 1931.

AMENDED IN SENATE MARCH 23, 1931.

AMENDED IN SENATE MARCH 6, 1931.

SENATE BILL No. 26

INTRODUCED BY SENATOR INMAN,

January 8, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to provide for the payment of ~~the~~ NOT LESS THAN THE *general prevailing rate of wages on public works ~~done by contract, performed on legal holidays~~,* AND NOT LESS THAN THE GENERAL PREVAILING RATE OF WAGES FOR LEGAL HOLIDAY AND OVERTIME WORK ON PUBLIC WORKS, *providing for the ascertainment of such general prevailing rate by the public body awarding the contract and* CALL FOR *its insertion in the contract and bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public ~~contract~~ work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.*

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

1 SECTION 1. Not less than the general prevailing rate of per
2 diem wages for work of a similar character in the locality in
3 which the work is performed, *and not less than the general*
4 *prevailing rate of per diem wages for legal holiday and over-*
5 *time work,* shall be paid to all laborers, workmen and mechanics
6 employed by or on behalf of the State of California, or by or
7 on behalf of any county, city and county, city, town, district

or other political subdivision of the said state, engaged in the construction of public works, exclusive of maintenance work ~~or repairs not under contract.~~ Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State of California, or any officer or public body thereof, or in the execution of any contract or contracts for public works with any county, city and county, city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, *or otherwise undertaking any public works,* shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in *call for* the bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, *also the general prevailing rate for legal holiday and overtime work,* and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay ~~at least~~ *not less than* the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality on whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract ~~or by virtue of said contract,~~ by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance of complaints of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act. *; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, unless and until said contractor, or a subcontractor under him, shall after full investigation by said awarding body been found to have violated the provisions of this act. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said*

subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

SEC. 3. The contractor *and each subcontractor* shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, ~~or by any subcontractor under him,~~ in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. ~~3~~ *4.* Construction ~~or repair~~ work done ~~under contract~~ for irrigation, utility, reclamation and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any construction or repair work done under contract, and paid for in whole or in part out of public funds, shall be held to come under the provisions of this act. The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement, is situated in all cases *in which the contract is awarded by the state; or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivisions on whose behalf the contract is awarded in all other cases.* The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, *or authorizing the work* whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.

SEC. ~~4~~ *5.* Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of the act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, or by any subcontractor under him, in connection with

the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

AMENDED IN ASSEMBLY APRIL 28, 1931.
AMENDED IN ASSEMBLY APRIL 21, 1931.
AMENDED IN ASSEMBLY APRIL 6, 1931.
AMENDED IN SENATE MARCH 23, 1931.
AMENDED IN SENATE MARCH 6, 1931.

SENATE BILL No. 26

INTRODUCED BY SENATOR INMAN,

January 8, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to provide for the payment of not less than the general prevailing rate of wages on public works, and not less than the general prevailing rate of wages for legal holiday and overtime work on public works, providing for the ascertainment of such general prevailing rate by the public body awarding the contract and ~~call for~~ its insertion in the contract and CALL FOR *bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.*

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

1 SECTION 1. Not less than the general prevailing rate of per
2 diem wages for work of a similar character in the locality in
3 which the work is performed, and not less than the general
4 prevailing rate of per diem wages for legal holiday and over-
5 time work, shall be paid to all laborers, workmen and mechanics
6 employed by or on behalf of the State of California, or by or
7 on behalf of any county, city and county, city, town, district
8 or other political subdivision of the said state, engaged in the

construction of public works, exclusive of maintenance work. Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State of California, or any officer or public body thereof, or in the execution of any contract or contracts for public works with any county, city and county, city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, or otherwise undertaking any public works, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in *the* call for ~~the~~ bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the general prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality on whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance of complaints of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act, provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, unless and until said contractor, or a subcontractor under him, shall after full investigation by said awarding body *have* been found to have violated the provisions of this act; *and provided further, that in all cases of assessment or improvement districts or otherwise, wherein the contractor receives final payment in the form of a warrant or other evidence of full payment after completion and acceptance of the work, the awarding body shall accept from the contractor in*

the form of cash or securities or a satisfactory corporate surety bond, a sum sufficient to equal any amount so withheld, retained or forfeited from the final payment, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

SEC. 3. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 4. Construction work done for irrigation, utility, reclamation ~~and~~, improvement *and other* districts, ~~and other districts of this type,~~ *or other public agency or agencies, public officer or body,* as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision, *or by the authority of any officer or public body* district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any construction or repair work done under contract, and paid for in whole or in part out of public funds, *other than work done directly by any public utility company pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds,* shall be held to ~~come under the provisions of this act~~ *be "public works" within the meaning of this act.* The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the state~~,~~, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public

work as aforesaid of more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.

SEC. 5. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of ~~the~~ *this* act, and any contractor, or agent or representative of any contractor, *or any subcontractor under him,* doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, ~~or by any subcontractor under him,~~ in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 6. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

AMENDED IN ASSEMBLY MAY 1, 1931.
AMENDED IN ASSEMBLY APRIL 28, 1931.
AMENDED IN ASSEMBLY APRIL 21, 1931.
AMENDED IN ASSEMBLY APRIL 6, 1931.
AMENDED IN SENATE MARCH 23, 1931.
AMENDED IN SENATE MARCH 6, 1931.

SENATE BILL No. 26

INTRODUCED BY SENATOR INMAN,

January 8, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to provide for the payment of not less than the general prevailing rate of wages on public works, and not less than the general prevailing rate of wages for legal holiday and overtime work on public works, providing for the ascertainment of such general prevailing rate by the public body awarding the contract and its insertion in the contract and call for bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

1 SECTION 1. Not less than the general prevailing rate of per
2 diem wages for work of a similar character in the lity in
3 which the work is performed, and not less than the general
4 prevailing rate of per diem wages for legal holiday and over-
5 time work, shall be paid to all laborers, workmen and mechanics
6 employed by or on behalf of the State of California, or by or
7 on behalf of any county, city and county, city, town, district
8 or other political subdivision of the said state, engaged in the

construction of public works, exclusive of maintenance work. Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State of California, or any officer or public body thereof, or in the execution of any contract or contracts for public works with any county, city and county, city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, or otherwise undertaking any public works, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the call for bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the general prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality on whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance of complaints of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act~~,~~ *;* provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, unless and until said contractor, ~~or a subcontractor under him, shall after~~ *without a* full investigation by *either the division of labor statistics and law enforcement of the state department of industrial relations or by* said awarding body ~~have been found to have violated the provisions of this act~~; and provided, further, that in all cases of *contracts with* assessment or improvement districts ~~or otherwise, wherein the contractor receives final payment in the form of a warrant or~~

~~other evidence of full payment~~ *where full payment is made in the form of a single warrant, or other evidence of full payment*, after completion and acceptance of the work, the awarding body shall accept from the contractor in ~~the form of cash or securities or a satisfactory corporate surety bond, a sum sufficient to equal any amount so withheld, retained or forfeited from the final payment,~~ *cash a sum equal to, and in lieu of, any amount required to be withheld, retained or forfeited under the provisions of this section*, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

SEC. 3. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 4. Construction work done for irrigation, utility, reclamation, improvement and others districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction and supervision *or by the authority of any officer or public body* of the state, or of any political subdivision, ~~or by the authority of any officer or public body~~ district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this act. The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the state, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivisions on whose behalf the contract is awarded in all

other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.

SEC. 5. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this act, and any contractor, *or subcontractor* or agent or representative ~~of any contractor, or any subcontractor under him,~~ *thereof* doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 6. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

CHAPTER 347

An act to provide for the payment of not less than the general prevailing rate of wages on public works, and not less than the general prevailing rate of wages for legal holiday and overtime work on public works, providing for the ascertainment of such general prevailing rate by the public body awarding the contract and its insertion in the contract and call for bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of California, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the said state, engaged in the construction of public works, exclusive of maintenance work. Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State of California, or any officer or public body thereof, or in the execution of any contract or contracts for public works with any county, city and county, city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, or otherwise undertaking any public works, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the call for bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the general prevailing rate for legal holiday and

overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality on whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance of complaints of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by either the division of labor statistics and law enforcement of the state department of industrial relations or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

SEC. 3. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the

inspection of the public body awarding the contract, its officers and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 4. Construction work done for irrigation, utility, reclamation improvement and others districts, or other public agency or [illegible] public officer or body, as well as street, sewer and [illegible] improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this act. The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the state, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.

SEC. 5. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this

act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 6. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

President of the Senate

Speaker of the Assembly

Approved----------A. D. 1931.

Governor

CHAPTER 397.

An act to provide for the payment of not less than the general prevailing rate of wages on public works, and not less than the general prevailing rate of wages for legal holiday and overtime work on public works, providing for the ascertainment of such general prevailing rate by the public body awarding the contract and its insertion in the contract and call for bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

[Approved by the Governor May 25, 1931. In effect August 14, 1931.]

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

Prevailing wage rate to be paid.

SECTION 1. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of California, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the said state, engaged in the construction of public works, exclusive of maintenance work. Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State of California, or any officer or public body thereof, or in the execution of any contract or contracts for public works with any county, city and county, city, town, township, district or other political subdivision of said state, or any officer or public body thereof, shall be deemed to be employed upon public works.

Determination of rate.

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, or otherwise undertaking any public works, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the call for bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the general prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to

Contracts.

all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the state or political subdivision, district or municipality on whose behalf the contract is made or awarded, ten dollars for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance of complaints of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by either the division of labor statistics and law enforcement of the state department of industrial relations or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Penalty for failure to pay.

Retention of penalty money.

Investigation of violation.

Single warrant payments.

Withholding penalty money.

Records.

SEC. 3. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

Public work defined.

SEC. 4. Construction work done for irrigation, utility, reclamation, improvement and others districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction

and supervision or by the authority of any officer or public body of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this act. The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the state, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.

"Locality in which the work is performed."

"General prevailing rate of per diem wages."

Violation a misdemeanor.

SEC. 5. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Constitutionality.

SEC. 6. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

CHAPTER 398.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is knowingly permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

[Approved by the Governor May 25, 1931. In effect August 14, 1931.]

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

Employment of alien on public work prohibited.

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall knowingly employ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor and each subcontractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

Reports and records.

Penalty.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien knowingly employed in the execu-

EXHIBIT B

SENATE BILL No. 83

INTRODUCED BY SENATOR MALONEY,

January 12, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall employ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such

extraordinary emergency existed. Such contractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, or by any subcontractor under him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer of public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of all violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor, of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act.

Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter or not, shall be held to come under the provisions of this act.

The term "alien" as used herein means any person who is not a born and fully naturalized citizen of the United States.

SEC. 3. Any officer, agent or representative of the State of California, or of any political subdivision of district thereof, who shall violate, or omit to comply with, any of the provisions of this act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of the workers employed by him, or by any subcontractor under him, in connection with the said public work, or who shall refuse to allow access to the same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

AMENDED IN SENATE MARCH 23, 1931.

SENATE BILL No. 83

INTRODUCED BY SENATOR MALONEY,

January 12, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall employ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a-

report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, or by any subcontractor under him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer of public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of all violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act.

Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter *heretofore or hereafter approved* or not, *also any work paid for in whole or in part out of public funds,* shall be held to come under the provisions of this act.

The term "alien" as used herein means any person who is not a born ~~and~~ *or* fully naturalized citizen of the United States.

SEC. 3. Any officer, agent or representative of the State of California, or of any political subdivision of district thereof, who shall violate, or omit to comply with, any of the provisions of this act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of th[illegible] employed by him, or by any subcontractor under [illegible] connection with the said

public work, or who shall refuse to allow access to the same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

O

AMENDED IN SENATE APRIL 14, 1931.

AMENDED IN SENATE MARCH 23, 1931.

SENATE BILL No. 83

INTRODUCED BY SENATOR MALONEY,

January 12, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is KNOWINGLY *permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.*

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall employ *knowingly* or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a

report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, or by any subcontractor under him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien *knowingly* employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of all violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act.

Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type, as well as street, sewer and other improvement work done under the direction and supervision of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter heretofore or hereafter approved or not, also any work paid for in whole or in part out of public funds, shall be held to come under the provisions of this act.

The term "alien" as used herein means any person who is not a born or fully naturalized citizen of the United States.

SEC. 3. Any officer, agent or representative of the State of California, or of any political subdivision ~~of~~ *or* district thereof, who shall violate, or omit to comply with, any of the provisions of this act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of the workers employed by him, or by any subcontractor under h[illegible] nnection with the said public work, or who shall re[illegible] ow access to the same at

any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

AMENDED IN SENATE APRIL 17, 1931.
AMENDED IN SENATE APRIL 14, 1931.
AMENDED IN SENATE MARCH 23, 1931.

SENATE BILL No. 83

INTRODUCED BY SENATOR MALONEY,

January 12, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is knowingly permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall *knowingly* employ ~~knowingly~~ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the

work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, or by any subcontractor under him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien knowingly employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of all violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act.

SEC. 3. Work done for irrigation, utility, reclamation, ~~and~~ improvement *and other* districts, ~~and other districts of this type,~~ *or other public agency or agencies,* as well as street, sewer and other improvement work done under the direction and supervision *or by the authority* of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter heretofore or hereafter approved or not, ~~also any work paid for in whole or in part out of public funds,~~ *other than work done by any public utility company, or agent or contractor thereof, pursuant to order of the railroad commission or otherwise, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds,* shall be held to ~~come under the provisions of this act~~ *be "public work" within the meaning of this act.*

The term "alien" as used herein means any person who is not a born or fully naturalized citizen of the United States.

SEC. ~~3~~ *4.* Any officer, agent or representative of the State of California, or of any political subdivision or district thereof, who shall violate, or omit to comply with, any of the provisions of this act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of the workers employed by him, or by any subcontractor under him, in connection with the said public work, or who shall refuse to allow access to the same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

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AMENDED IN ASSEMBLY APRIL 27, 1931.
AMENDED IN SENATE APRIL 17, 1931.
AMENDED IN SENATE APRIL 14, 1931.
AMENDED IN SENATE MARCH 23, 1931.

SENATE BILL No. 83

INTRODUCED BY SENATOR MALONEY.

January 12, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is knowingly permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall knowingly employ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body

awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, or by any subcontractor under him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien knowingly employed in the execution of said contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of al. violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act.

SEC. 3. Work done for irrigation, utility, reclamation, improvement and other districts, or other public agency or agencies, *public officer or body,* as well as street, sewer and other improvement work done under the direction and supervision or by the authority *of any officer or public body* of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter heretofore or hereafter approved or not, *also any work paid for in whole or in part out of public funds,* other than work done *directly* by any public utility company ~~or agent or contractor thereof,~~ pursuant to order of the railroad commission ~~or otherwise~~ *or other public authority,* whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public work" within the meaning of this act.

The term "alien" as used herein means any person who is not a born or fully naturalized citizen of the United States.

SEC. 4. Any officer, agent or representative of the State of California, or of any pol[illegible]division or district thereof

who shall violate, or omit to comply with, any of the provisions of this act, and any contractor, or agent or representative of any contractor, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of the workers employed by him, or by any subcontractor under him, in connection with the said public work, or who shall refuse to allow access to the same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 5. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

AMENDED IN ASSEMBLY MAY 1, 1931.
AMENDED IN ASSEMBLY APRIL 27, 1931.
AMENDED IN SENATE APRIL 17, 1931.
AMENDED IN SENATE APRIL 14, 1931.
AMENDED IN SENATE MARCH 23, 1931.

SENATE BILL No. 83

INTRODUCED BY SENATOR MALONEY,

January 12, 1931.

REFERRED TO COMMITTEE ON LABOR AND CAPITAL.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is knowingly permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall knowingly employ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body

awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor *and each subcontractor* shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, ~~or by any subcontractor under him,~~ in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien knowingly employed in the execution of said contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of all violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act~~.~~ *; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by either the division of labor statistics and law enforcement of the state department of industrial relations or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where the full payment is made in the form of a single warrant, or other evidence of full payment, after the completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld or retained under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act; and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.*

SEC. 3. Work done for irrigation, utility, reclamation, improvement and other districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter heretofore or hereafter approved or not, ~~also any work paid for in whole or in part out of public funds,~~ other than work done directly by any public utility company, pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public work" within the meaning of this act.

The term "alien" as used herein means any person who is not a born or fully naturalized citizen of the United States.

SEC. 4. Any officer, agent or representative of the State of California, or of any political subdivision or district thereof, who shall violate, or omit to comply with, any of the provisions of this act, and any contractor *or subcontractor,* or agent or representative ~~of any contractor~~ *thereof*, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of the workers employed by him, ~~or by any subcontractor under him,~~ in connection with the said public work, or who shall refuse to allow access to the same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 5. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

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Senate Bill No. 83.

Passed the Senate April 21, 1931.

Secretary of the Senate

Passed the Assembly May 12, 1931.

Chief Clerk of the Assembly

This bill was received by the Governor, this_____

day of_____A. D. 1931, at_____o'clock___M.

Private Secretary of the Governor

CHAPTER 398

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is knowingly permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall knowingly employ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor and each subcontractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county,

city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien knowingly employed in the execution of said contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of all violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by either the division of labor statistics and law enforcement of the state department of industrial relations or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where the full payment is made in the form of a single warrant, or other evidence of full payment, after the completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld or retained under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

SEC. 3. Work done for irrigation, utility, reclamation, improvement and other districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter heretofore or hereafter approved or not, other than work done directly by any public utility company, pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds,

shall be held to be "public work" within the meaning of this act.

The term "alien" as used herein means any person who is not a born or fully naturalized citizen of the United States.

SEC. 4. Any officer, agent or representative of the State of California, or of any political subdivision or district thereof, who shall violate, or omit to comply with, any of the provisions of this act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of the workers employed by him, in connection with the said public work, or who shall refuse to allow access to the same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 5. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

President of the Senate

Speaker of the Assembly

Approved _____ A. D. 1931.

Governor

and supervision or by the authority of any officer or public body of the state, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipality thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this act. The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the state, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.

"Locality in which the work is performed."

"General prevailing rate of per diem wages."

SEC. 5. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Violation a misdemeanor.

SEC. 6. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

Constitutionality.

CHAPTER 398.

An act to prohibit the employment of aliens by contractors and subcontractors on all public work, except in certain cases of extraordinary emergency, providing for the reporting of such cases of extraordinary emergency and the keeping of records of the citizenship of workers employed upon public work and the inspection of such records by the proper officials, providing for a forfeiture for each calendar day, or portion thereof, any alien is knowingly permitted to work on public work and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

[Approved by the Governor May 25, 1931. In effect August 14, 1931.]

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

SECTION 1. No person, firm, partnership, association or corporation, or agent thereof, doing any work as a contractor or subcontractor upon any public work being done for or under the authority of the state, or any officer or department thereof, or for or under the authority of any county, city and county, city, town, township, district, or any other political subdivision thereof, or any officer or department thereof, shall knowingly employ or cause or allow to be employed thereon any alien, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien and each date he was permitted to work, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. Such contractor and each subcontractor shall also keep, or cause to be kept, an accurate record showing the names and citizenship of all workers employed by him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer or public body awarding the contract, his or its deputies and agents, and to the chief of the division of labor statistics and law enforcement of the state department of industrial relations, his deputies and agents.

Employment of alien on public work prohibited.

Reports and records.

SEC. 2. The contractor to whom such contract for public work is awarded shall forfeit as a penalty to the state or county, city and county, city, town, township, district or other political subdivision on whose behalf the contract is made or awarded, ten dollars for each alien knowingly employed in the execu-

Penalty.

tion of said contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of this act, and the officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. It shall be the duty of such officer or public body to take cognizance of all violations of the provisions of this act committed in the course of the execution of said contract, and, when making payments to the contractor of moneys becoming due him under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by either the division of labor statistics and law enforcement of the state department of industrial relations or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where the full payment is made in the form of a single warrant, or other evidence of full payment, after the completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld or retained under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Withholding of penalty.

"Public work."

SEC. 3. Work done for irrigation, utility, reclamation, improvement and other districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter heretofore or hereafter approved or not, other than work done directly by any public utility company, pursuant to order of the railroad commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public work" within the meaning of this act.

"Alien."

The term "alien" as used herein means any person who is not a born or fully naturalized citizen of the United States.

Violation a misdemeanor.

SEC. 4. Any officer, agent or representative of the State of California, or of any political subdivision or district thereof, who shall violate, or omit to comply with, any of the provisions

of this act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names and citizenship of the workers employed by him, in connection with the said public work, or who shall refuse to allow access to the same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Constitutionality.

SEC. 5. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

CHAPTER 399.

Stats. 1929, p. 1489, amended.

An act to amend section 1 of an act entitled "An act authorizing California toll bridge authority and the department of public works of the State of California to lay out, acquire and construct a highway crossing from the city of San Francisco across the bay of San Francisco to the county of Alameda and providing for the payment of the cost thereof," approved June 10, 1929, relating to the cost of said bridge and its adoption as a state highway.

[Approved by the Governor May 25, 1931. In effect August 14, 1931.]

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

Stats. 1929, p. 1489.

SECTION 1. Section 1 of an act entitled "An act authorizing California toll bridge authority and the department of public works of the State of California to lay out, acquire and construct a highway crossing from the city of San Francisco across the bay of San Francisco to the county of Alameda and providing for the payment of the cost thereof," approved June 10, 1929, is hereby amended to read as follows:

Highway crossing: San Francisco to Alameda county.

Section 1. The California toll bridge authority and the department of public works of the State of California are hereby authorized to lay out, acquire and construct a highway crossing, including such bridges, tubes, tunnels and approaches in connection therewith as may be deemed to be necessary, from the city of San Francisco across the bay of San Francisco to the county of Alameda, under and pursuant to the provisions of the act approved June 10, 1929, chapter

bribe upon any understanding or agreement that such person shall not attend upon any trial, or every person who attempts by means of any offer of a bribe to dissuade any such person from attending upon any trial, is guilty of a felony.

CHAPTER 90.*

An act to establish a Labor Code, thereby consolidating and revising the law relating to labor and employment relations, and to repeal acts and parts of acts specified herein.

[Approved by the Governor April 24, 1937. In effect August 27, 1937.]

NOTE.—The Labor Code, as prepared by the California Code Commission, consists of Chapter 90, as originally enacted. As here set forth, Chapter 90 also contains all the amendments to the Labor Code made during the fifty-second session of the Legislature, namely by Chapters 357, 506, 701, 848, and 872.

All of the foregoing chapters are effective August 27, 1937.

For the approval dates, see the respective chapters in their numerical sequence.

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

GENERAL PROVISIONS.

Title

1. This act shall be known as the Labor Code.

Continuation of existing law

2. The provisions of this code, in so far as they are substantially the same as existing provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Tenure

3. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold the same according to the former tenure thereof.

Pending proceedings

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

Construction

5. Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the construction of this code.

Headings

6. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof.

Delegation of power

7. Whenever, by the provisions of this code, an administrative power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized pursuant to law.

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* A cross-reference table showing the origin of each section appears in the appendix to this volume

Writings.

8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required by this code, it shall be made in writing in the English language.

Reference to statutes

9. Whenever any reference is made to any portion of this code or of any other law of this State, such reference shall apply to all amendments and additions thereto now or hereafter made.

"Section"

10. "Section" means a section of this code unless some other statute is specifically mentioned.

Tense

11. The present tense includes the past and future tenses; and the future, the present.

Gender.

12. The masculine gender includes the feminine and neuter.

Number

13. The singular number includes the plural, and the plural the singular.

"County"

14. "County" includes "city and county."

"Shall" and "may."

15. "Shall" is mandatory and "may" is permissive.

16. "Oath" includes affirmation.

"Signature" and "subscription"

17. "Signature" or "subscription" includes mark when the signer or subscriber can not write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

"Person"

18 "Person" means any person, association, organization, partnership, business trust, or corporation.

"Department"

19. "Department" means Department of Industrial Relations

"Director"

20. "Director" means Director of Industrial Relations.

"Labor Commissioner."

21. "Labor Commissioner" means Chief of the Division of Labor Statistics and Law Enforcement.

22. "Violation" includes a failure to comply with any requirement of the code.

Punishment for offenses

23. Except in cases where a different punishment is prescribed, every offense declared by this code to be a misdemeanor is punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars, or both.

Constitutionality

24. If any provision of this code, or the application thereof to any person or circumstances, is held invalid the remainder of the code, and the application of its provisions to other persons or circumstances, shall not be affected thereby.

DIVISION I. DEPARTMENT OF INDUSTRIAL RELATIONS.

CHAPTER 1. GENERAL POWERS AND DUTIES.

Department

50. There is in the State government the Department of Industrial Relations.

Director

51. The department shall be conducted under the control of an executive officer known as Director of Industrial Rela-

1681. The Division of State Employment Agencies shall: Duties of division

(a) Procure, by lease or otherwise, suitable offices, and incur the necessary expenses in the conduct thereof.

(b) Appoint, in accordance with law, the necessary officers, assistants, and clerks, and fix the compensation thereof.

(c) Promulgate rules and regulations for the conduct of free employment bureaus in order to carry out this chapter.

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES.

CHAPTER 1. PUBLIC WORKS.

Article 1. Scope and Operation.

1720. As used in this chapter "public works" means: Definitions

(a) Construction or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Railroad Commission or other public authority.

(b) Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type. "Public work" shall not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in sections 1850 to 1854 of this code relating to employment of aliens, and section 1778 relating to retaining wages.

(c) Street, sewer or other improvement work done under the direction and supervision or by the authority of any officer or public body of the State, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter or not.

1721. "Political subdivision" includes any county, city, district, township or public agency of the State, and assessment or improvement districts.

1722. "Awarding body" or "body awarding the contract" means department, board, authority, officer or agent awarding a contract for public work.

1723. "Workman" includes laborer, workman, or mechanic.

1724. "Locality in which public work is performed" means the county in which the public work is done in cases in which the contract is awarded by the State, and means the limits of the political subdivision on whose behalf the contract is awarded in other cases.

1725. "Alien" means any person who is not a born or fully naturalized citizen of the United States.

1726. The body awarding the contract for public work shall take cognizance of violations of the provisions of this chapter committed in the course of the execution of the contract. Taking cognizance of law violations

1727. Before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts which have been forfeited pursuant to any stipulation in a contract for public work, and the terms of this chapter. But no sum shall be Withholding sums forfeited

withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Statistics and Law Enforcement or by the awarding body.

Same When payment made by warrants

1728. In cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained, or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full.

Withholding sums due subcontractor

1729. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the subcontractor's failure to comply with the terms of this chapter, and if payment has already been made to the subcontractor the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Disposition of penalties and forfeitures

1730. Every awarding body that withholds any penalty or forfeiture from any contract payment, for failure of a contractor or subcontractor to comply with any provision of this chapter or any of the labor laws on public works, or with any provision of a contract based on such labor laws, shall at the expiration of ninety days after the completion of the contract and the formal acceptance of the job, transfer all penalties and forfeitures, whether withheld from a progress payment or final payment, to the State Treasurer to become a part of the general fund.

Retention of penalties and forfeitures pending suit

1731. If suit is brought against the awarding body within the ninety-day period and formal notice thereof is given to the awarding body within the ninety-day period either by service of summons or by registered mail which is received within the ninety-day period, the penalties and forfeitures shall be retained by the awarding body pending the outcome of the suit, and be forwarded to the State Treasurer only in the event of a final court judgment against the contractor or his assignee. Otherwise the penalties and forfeitures are subject to any final judgment which is obtained by the contractor or his assignee.

Limitation of actions

1732. The time for action by the contractor or his assignee for the recovery of penalties or forfeitures is limited to the ninety-day period and such suit on the contract for alleged breach thereof in not making the payment is the exclusive remedy of the contractor or his assignees with reference to such penalties or forfeitures.

Suit to recover penalties or forfeitures

1733. Suit may be brought by the contractor or his assignee without permission from the State or other authority and is limited to the recovery of the penalties or forfeitures without prejudice to the contractor's or assignee's rights in regard to other matters affecting the contract. No other issues shall be presented to the court in such case and the burden shall be on the plaintiff to establish his right to the penalties or for-

feitures withheld In case the action is not commenced and actual notice thereof received by the awarding body within the ninety-day period, the action shall be dismissed on motion of the awarding body.

Disposition of fines and penalties

1734. Any court collecting any fines or penalties under the criminal provisions of this chapter or any of the labor laws pertaining to public works shall immediately transmit such fines and penalties to the State Treasurer to become a part of the general fund.

Article 2. Wages.

Determination of general prevailing rate

1770. The body awarding the contract, or authorizing the public work shall determine the general prevailing rate of per diem wages and its decision in the matter shall be final. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any workman employed on public work. Nothing in this act shall permit any overtime work in violation of Article 3 of this chapter.

Payment of general prevailing rate

1771. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work shall be paid to all workmen employed on public works, exclusive of maintenance work.

Employees of contractors or subcontractors

1772. Workmen employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work.

Specification in calls for bids

1773. The body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of workman needed to execute the contract, and shall specify in the call for bids for the contract, and in the contract itself, what the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime work in the locality is for each craft or type of workman needed to execute the contract.

Payment by contractors and subcontractors

1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

Forfeiture

1775. The contractor shall, as a penalty to the State or political subdivision on whose behalf the contract is made or awarded, forfeit ten dollars for each calendar day, or portion thereof, for each workman paid less than the stipulated prevailing rates for any public work done under the contract by him or by any subcontractor under him, and the body awarding the contract shall cause to be inserted in the contract a stipulation to this effect.

Records of wages paid

1776. Every contractor and subcontractor shall keep an accurate record showing the name, occupation, and the actual per diem wages paid to each workman employed by him in connection with the public work. The record shall be kept

open at all reasonable hours to the inspection of the body awarding the contract and to the Division of Labor Statistics and Law Enforcement.

Penalty

1777. Any officer, agent, or representative of the State or of any political subdivision who wilfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor.

Employment of indentured apprentices.

1777.5. Nothing in this chapter shall prevent the employment of properly indentured apprentices upon public works

Every such apprentice shall be indentured to the contractor doing the work and shall be steadily employed by him, shall be paid the standard wage paid to apprentices under the regulations of the trade at which he is employed, and shall be employed only at the work of the trade to which he is indentured.

Ratio of apprentices

The ratio of apprentices to be employed shall not exceed one apprentice to each five journeymen regularly employed by the employer. The initial wage to be paid an apprentice shall be not less than twenty-five per cent (25%) of the journeymen's wage being paid and shall be increased each six months in an amount not less than fifteen per cent (15%). The definition of the term "regularly indentured apprentice" as used in this chapter shall be deemed to be an apprentice indentured by a group representing bona fide associations of employers and employees.

(Added by Ch. 872, Stats. 1937.)

Penalty for taking or receiving for own use, wages of employees on public works

1778. Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives, or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

Penalty for charging fee for registering person for public work, etc

1779. Any person or agent or officer thereof who charges, collects, or attempts to charge or collect, directly or indirectly, a fee or valuable consideration for registering any person for public work, or for giving information as to where such employment may be procured, or for placing, assisting in placing, or attempting to place, any person in public work, whether the person is to work directly for the State, or any political subdivision or for a contractor or subcontractor doing public work is guilty of a misdemeanor.

Penalty for placing orders for employment where charging of fee is involved

1780. Any person acting on behalf of the State or any political subdivision, or any contractor or subcontractor or agent or representative thereof, doing any public work who places any order for the employment of a workman on public work where the filling of the order for employment involves

the charging of a fee, or the receiving of a valuable consideration from any applicant for employment is guilty of a misdemeanor.

Application of penalties

1781. The penalties and remedies provided for in sections 1775 and 1777 shall be the exclusive penalties and remedies against any contractor or subcontractor for any violation of sections 1770 to 1777 or of the provisions inserted in any call for bids, specifications or contracts pursuant thereto.

Article 3. Working Hours.

Legal day's work

1810. Eight hours labor constitutes a legal day's work in all cases where the same is performed under the authority of any law of this State, or under the direction, or control, or by the authority of any officer of this State acting in his official capacity, or under the direction, or control or by the authority of any municipal corporation, or of any officer thereof. A stipulation to that effect shall be made a part of all contracts to which the State or any municipal corporation therein is a party.

Maximum hours per day

1811. The time of service of any workman employed upon public work is limited and restricted to eight hours during any one calendar day.

Prohibition of employment for more than maximum hours Exceptions

1812. No awarding body or contractor or subcontractor who employs, directs, or controls the work of any workman employed on public work, shall require or permit such workman to labor more than eight hours during any one calendar day, except in cases of extraordinary emergency, caused by fire, flood, or danger to life or property or except on work upon public military or naval defenses or works in time of war.

Reports of extraordinary emergencies

1813. Within thirty days after any workman is permitted to work over eight hours in one calendar day due to such an extraordinary emergency, the contractor doing the public work shall file with the awarding body a verified report setting forth the nature of the emergency. The report shall contain the name of the workman and the hours worked by him on the particular day. Failure to file the report within the thirty day period shall be prima facie evidence that no extraordinary emergency existed.

Record of hours of labor

1814. Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked by each workman employed by him in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the awarding body and to the Division of Labor Statistics and Law Enforcement.

Stipulation for payment of penalty

1815. In awarding any contract, the execution of which involves or may involve the employment of any workman upon public work, the awarding body shall cause to be inserted therein a stipulation which provides that the contractor to whom the contract is awarded shall forfeit as a penalty, to the

PROPOSED
LABOR CODE

Prepared by

The California Code Commission
Office: 218 State Capitol
Sacramento, California

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PREFACE.

In this proposed code there are assembled and consolidated the existing statutes relating to the subject of labor, including employment relations, conditions of employment, workmen's compensation, and the organization of the Department of Industrial Relations.

The purpose of the proposed code is to present in a single statute all of the existing statutory law relating to this subject, without change in legal effect, but at the same time removing ambiguities and obsolete provisions.

This proposed code is presented with the hope that it will receive the careful scrutiny of all interested persons, and that the code commission may have the benefit of all suggestions as to defects in form or substance, in order that such suggestions may be considered at the earliest possible date.

In this connection it should be noted that a tentative draft of this code was prepared in so called "ditto" or typewritten form, and submitted to interested persons and groups prior to the 1935 session of the legislature.

The code commission has received from such persons comments and suggestions, many of which have been incorporated into this proposed code.

Due to the fact that the statutes embraced in the proposed Labor Code unquestionably affect more intimately the rights and duties of a larger group of people than does any other group of statutes, it seemed desirable and appropriate to print it and give it a wider distribution than is ordinarily given a proposed code. Accordingly, the Assembly by resolution provided for such printing and distribution.

Changes in the wording of statutes embraced in this proposed code have been indicated by printing new matter in italics and matter to be omitted in strike-out type.

It is the hope of the commission that the many persons and groups to whom this proposed code is submitted will examine it, carefully checking to see that changes are merely changes in form and not in substance, and report to the California Code Commission, 218 State Capitol, Sacramento, all suggestions which they desire to make.

The commission earnestly requests that all such suggestions be sent to it as promptly as possible in order that the final draft of this code may be completed well in advance of the date of the commencement of the 1937 legislative session and ready for consideration by the legislature at that session.

Source Notes.

Under each section of the proposed code appears a citation to the code section or section of a general law upon which the proposed code section is based. In the case of general laws the act number assigned to the particular act in Deering's compilation is given. Following the number of the section is a citation to the year, chapter, and page of the official statutes in which the latest amended form of the section appears.

For example, at the end of section 50 we find the following, "(Pol. C. 364, 1st sent., 1927:440:733)." This means that section 50 is based on the first sentence of section 364 of the Political Code and that section 364 was last amended in 1927 and appears in chapter 440 at page 733 of that volume of the statutes.

Following section 77 appears the following, "(D. A. 3546, sec. 4; 1913:318:613)." This means that section 77 is based upon section 4 of Deering Act 3546 and that the latest amended form of the section is found in Statutes of 1913, in chapter 318, at page 613.

Cross-Reference Table.

A cross-reference table from the existing law to the section of the proposed code now embracing the material formerly contained in any section of any law or in any code section is included herewith.

Abbreviations.

The following is a table of abbreviations used in the code:

Ch.—Chapter.
Civ. C.—Civil Code.
D. A.—Deering Act.
Incl.—Inclusive.
Par.—Paragraph.
Pen. C.—Penal Code.
Pol. C.—Political Code.
Sec.—Section.
Sent.—Sentence.
Subd.—Subdivision.

CROSS-REFERENCE TABLE.

Disposition of Former Statutes in Labor Code.

Civil Code.

Civ. C. Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
264	1905:	417:	560	3070
265	1905:	417:	560	3071, 3073 to 3076, incl.
266	1905:	417:	560	3077 to 3079, incl.
267	1905:	417:	560	3072
268	1905:	417:	560	3080
269	1905:	417:	560	3081 to 3082, incl.
270	1905:	417:	560	3083
271	1905:	417:	560	3084
272	1905:	417:	560	3085
273	1905:	417:	560	3086
274	1905:	417:	560	3087 to 3088, incl.
275	1915:	417:	560	3090
276	1905:	417:	560	3089
955	1913:	287:	537	300 to 304, incl.
1965	1901:	157:	332	2750
1969	Civ. C. of 1872			2802
1970	1907:	97:	119	2803 and 2804
1971	Civ. C. of 1872			2800
1975	Civ. C. of 1872			2850
1976	Civ. C. of 1872			2851
1977	Civ. C. of 1872			2852
1978	Civ. C. of 1872			2854
1979	Civ. C. of 1872			2853
1980	1931:	705:	1493	2855
1981	1873–4:	612:	181	2856
1982	Civ. C. of 1872			2857
1983	Civ. C. of 1872			2858
1984	1873–4:	612:	181	2859
1985	Civ. C. of 1872			2860
1986	Civ. C. of 1872			2861
1987	Civ. C. of 1872			2862
1988	1873–4:	612:	181	2863
1989	Civ. C. of 1872			2864
1990	1901:	157:	332	2865
1991	Civ. C. of 1872			2866
1996	Civ. C. of 1872			2921
1997	Civ. C. of 1872			2920
1998	Civ. C. of 1872			2923
1999	1915:	433:	720	2922
2000	1915:	433:	720	2924
2001	1915:	433:	720	2925
2002	1915:	433:	720	2926

Civil Code—Continued

Civ. C. Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
2003	1915:	433:	720	2927
2004	1921:	901:	1698	2928
2009	Civ. C. of 1872			3000
2010	Civ. C. of 1872			3001
2011	Civ. C. of 1872			3002
2012	Civ. C. of 1872			3003
2014	Civ. C. of 1872			3004
2015	Civ. C. of 1872			3005

Penal Code.

Pen. C. Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
272	1905:	568:	758	1308
273	1905:	568:	758	1309
273c	1905:	568:	758	1310
349a	1911:	181:	357	1011
349b	1915:	487:	816	1014 and 1015
349c	1915:	487:	816	1012
368a	1913:	290:	543	7600 and 7601
402c	1921:	55:	63	7156
646	Pen. C. of 1872			3091
651	Pen. C. of 1872			1392
653c	1931:	1144:	2430	1811 to 1816, incl.
653d	1933:	154:	606	1778
653e	1929:	586:	988	1050 to 1054, incl.
653g	1933:	174:	620	1779 and 1780
679	1893:	149:	176	922

Political Code.

Pol. C. Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
364	1927:	440:	733	50 to 53, incl., and 113
364a	1931:	597:	1289	55 to 57, incl.
364b	1931:	979:	1990	111 and 112
364c	1931:	978:	1989	70 to 72, incl.
364d	1927:	440:	733	75 and 76
364e	1927:	440:	733	54
364g	1927:	440:	733	58
364h	1927:	440:	733	59
364i	1927:	440:	733	62
364j	1927:	440:	733	114
3244	1887:	85:	101	510
3245	Pol. C. of 1872			1810

GENERAL LAWS.

Deering Act	Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
258	1	1921:	366:	546	1941, 1944
258	2	1915:	417:	690	1942
258	3	1915:	417:	690	1943
258	4	1915:	417:	690	1940
1605	1	1903:	235:	289	1110
2295	1	1913:	275:	507	7200
2295	2	1921:	332:	450	7201 to 7203, incl.
2295	3	1921:	332:	450	7204
2295	4	1913:	275:	507	7205
2296	1	1921:	330:	445	7301 to 7303, incl.
2296	2	1917:	74:	84	7317
2296	3	1921:	330:	445	7304 to 7308, 7318
2296	4	1921:	330:	445	7309 to 7312, incl.
2296	5	1921:	330:	445	7314 to 7316, incl.
2296	6	1917:	74:	84	7313
2297	1	1921:	115:	106	7319
2349	1	1929:	89:	166	1550 to 1557, incl.
2349	2	1927:	333:	550	1581, 1587, 1595
2349	3	1927:	333:	550	1582
2349	4	1931:	827:	1710	1583 to 1586, incl., and 1596 to 1599, incl.
2349	5	1913.	282:	515	1592, 1593
2349	6	1913:	282:	515	1594
2349	7	1927:	263:	482	1588 to 1591, incl.
2349	8	1913:	282:	515	1620 and 1621
2349	9	1913:	282:	515	1622
2349	10	1913:	282:	515	1623
2349	11	1923:	412:	934	1624 to 1630, incl.
2349	11a	1923:	413:	936	1631 and 1632
2349	11½	1923:	414:	937	1633 to 1636, incl.
2349	12	1929:	215:	379	1637 to 1639, incl.
2349	13	1913:	282:	515	1640
2349	14	1915:	551:	929	1641 to 1646, incl.
2349	15	1913:	282:	515	1647
2349	16	1913:	282:	515	1648
2349	17	1913:	282:	515	1649
2349	18	1927:	264:	483	1652
2349	19	1913:	282:	515	1650 and 1651
2350	1	1915:	302:	486	1680
2350	2	1915:	302:	486	1681
3456	1	1929:	286:	588	1350 to 1352, incl.
3456	2	1913:	352:	713	1253 and 1256
3456	3	1913:	352:	713	1356
3456	3a	1929:	266:	571	1353
3456	4	1929:	40:	98	1255, 1354 and 1355
3546	4	1913:	318:	613	77

Deering Act	Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
3546	5	1913:	318:	608	1461 to 1464, incl.
3546	6	1913:	318:	608	1465 to 1468, incl.
3546	7	1913:	318:	608	1469 to 1472, incl.
3546	8	1913:	318:	608	1473 to 1476, incl.
3546	9	1913:	318:	608	1482 and 1483
3546	10	1915:	520:	848	1485
3546	11	1913:	318:	608	1460
3546	12	1913:	318:	608	1486
3546	13	1913:	318:	608	1487
3546	15	1917:	740:	1514	1477
3546	16	1917:	740:	1514	1478 to 1480, incl.
3546	17	1917:	740:	1514	1481
3613	2	1913:	324:	632	73
3613	3	1929:	256:	554	1172 to 1175, incl.
3613	4	1913:	324:	632	1176 to 1178, incl.
3613	5	1921:	279:	378	1179 to 1181, incl.
3613	6	1927:	248:	438	1182 to 1185, incl.
3613	7	1913:	324:	632	1186
3613	8	1915:	571:	950	1191 to 1193, incl.
3613	9	1913:	324:	632	1202
3613	10	1913:	324:	632	1196
3613	11	1915:	571:	950	1197
3613	11a	1927:	248:	438	1198
3613	12	1921:	279:	378	1187 to 1189, incl., and 1200
3613	13	1913:	324:	632	1194
3613	14	1913:	324:	632	1195
3613	15	1929:	256:	554	1203
3613	17	1913:	324:	632	1201
3613	19	1913:	324:	632	1171
3625	1	1919:	259:	415	1290 and 1291
3625	2	1919:	259:	415	1391
3625	3	1919:	259:	415	1297
3625	3½	1919:	259:	415	1298
3625	4	1919:	259:	415	1292 to 1296, incl.
3625	5	1929:	546:	951	1390, 1394 to 1397, incl.
3625	6	1919:	259:	415	1299 to 1301, incl.
3625	7	1925:	123:	273	1303 to 1306, incl., and 1391
3625	8	1919:	259:	415	1302, 1311, 1398
3626	1, 2	1911:	688:	1341	1393
3629	1	1909:	138:	209	1307
4089	1	1911:	21:	39	79
4089	3	1883:	21:	27	81 to 84, incl.
4089	5	1883:	21:	27	91
4089	6	1883:	21:	27	94
4089	7	1931:	824:	1706	90, 92 and 93, 96 to 102, incl.
4089	8	1889:	10:	6	88
4089	9	1925:	282:	469	89
4089	10	1925:	282:	469	80

Deering Act	Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
4089	13	1927:	545:	915	85 to 87, incl.
4091	1	1915:	484:	814	95
4102	1	1909:	392:	668	1034
4103	1	1921:	272:	372	1016
4104	1	1933:	566:	1478	923
4104	2	1933:	566:	1478	921
4561	1	1917:	177:	270	2601 to 2604, incl.
4561	3	1913:	255:	444	2605 and 2606
4717	1	1935:	229:	908	450, 452
4717	2	1935:	229:	908	451
4718	1	1893:	41:	54	551 and 552, 554
4718	2	1893:	41:	54	550
4718	3	1893:	41:	54	553
4720	1	1921:	244:	353	2330 and 2331
4720	2	1921:	244:	353	2332
4720	4	1929:	348:	675	2333
4721	1	1915:	667:	1310	2500
4721	2	1915:	667:	1310	2501 and 2502
4721	3	1917:	73:	83	2503
4721	4	1915:	667:	1310	2504
4721	5	1917:	73:	83	2505 to 2508, incl.
4721	6	1915:	667:	1310	2509
4724	1	1901:	59:	75	800
4724	2	1901:	59:	75	801
4726	1	1917:	747:	1520	1055
4726	2	1917:	747:	1520	1056
4727	1	1927:	268:	488	970
4727	2	1927:	268:	488	971 and 972
4728	1	1927:	314:	526	973
4728	2	1927:	413:	256	974
4729	1	1915:	38:	47	1100 to 1102, incl.
4729	2	1915:	38:	47	1103 and 1104
4729	3	1915:	38:	47	1105
4733	1	1927:	347:	577	401 to 404, incl.
4733	1¼	1933:	87:	533	406, 407
4733	1½	1929:	559:	961	405
4733	2	1933:	87:	533	408 and 409
4733	3	1933:	87:	533	410
4734	1	1921:	334:	452	7100 to 7111, incl.
4734	3	1921:	334:	452	7112 and 7113
4734	4	1921:	334:	452	7114
4734	5	1921:	334:	452	7115
4735	1	1921:	333:	451	7151, 7157
4735	2	1913:	48:	49	7152 to 7154, incl.
4735	3	1913:	48:	49	7155
4735	4	1921:	333:	451	7158
4736	1	1919:	164:	245	2411 and 2412
4736	2	1921:	767:	1326	2413 to 2416, incl.

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4736	3	1921:	767:	1326	2417
4736	4	1919:	164:	245	2418 and 2419
4736	5	1919:	164:	245	2420
4736	6	1919:	164:	245	2421
4736	7	1921:	767:	1326	2422 to 2424, incl.
4736	8	1915:	329:	497	2425
4736a	1	1927:	743:	1400	2101
4736a	2	1927:	743:	1400	2100, 2102
4736a	3	1927:	743:	1400	2103 and 2104
4736a	4	1927:	743:	1400	2104
4736a	5	1927:	743:	1400	2106
4736a	6	1927:	743:	1400	2107, 2140
4736a	7	1927:	743:	1400	2141
4736a	8	1927:	743:	1400	2142 and 2143
4736a	9	1927:	743:	1400	2144
4736a	10	1927:	743:	1400	2145
4736a	11	1927:	743:	1400	2146
4736a	12	1927:	743:	1400	2147
4736a	13	1927:	743:	1400	2180 to 2183, incl.
4737	1	1929:	768:	1517	1250 to 1252, incl.
4737	2	1929:	768:	1517	1254, 1256
4738	1	1935:	786:	2179	212 to 214, incl.
4740	1	1913:	198:	343	250
4740	2	1935:	49:	382	252
4740	3	1913:	198:	343	253
4740	4	1935:	49:	382	254
4740	5	1935:	49:	382	255, 257
4740	7	1913:	198:	343	251
4743	1	1919:	202:	294	201 and 202
4743	2	1919:	202:	294	204 and 205
4743	3	1931:	1090:	2300	200, 219
4743	4	1927:	217:	391	207 to 211, incl., 215
4743	5	1919:	202:	294	203
4743	5a	1931:	1047:	2201	206
4743	6	1919:	202:	294	216
4743	7	1931:	878:	1887	217
4743	8	1931:	878:	1887	218
4743	10	1919:	202:	294	220
4744	1	1917:	201:	296	6800
4744	2	1917:	201:	296	6801
4744	3	1917:	201:	296	6802
4747	1, 2	1911:	399:	796	2801
4748	4	1913:	176:	279	115
4748	5	1913:	176:	279	116
4748	6	1913:	176:	279	117
4748	7	1929:	257:	556	118 to 123, incl.
4748	8	1913:	176:	279	124
4748	10	1913:	176:	279	125 and 126

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4748	11	1931:	943:	1949	127
4749	1	1917:	586:	831	3201
4749	3	1919:	471:	910	3205 to 3211, incl., 4663
4749	3a	1935:	423:	1478	3212
4749	6	1929:	227:	430	3600 to 3602, incl., 4551 to 4553, incl.
4749	7	1929:	165:	306	3300
4749	8	1933:	1022:	2613	3351 to 3361, incl., 3604, 4457, 4458
4749	9	1929:	222:	420	3603, 4550, 4600 to 4605, incl., 4650 to 4656, incl., 4658 to 4662, incl., 4700 to 4702, incl., 4750, 4751
4749	9a to 9d, incl.	1935:	449:	1494	4800 to 4803, incl.
4749	10	1917:	586:	831	3950 to 3954, incl.
4749	11	1931:	1121:	2372	4056, 4459, 4909, 5404 to 5410, incl.
4749	12	1933:	522:	1343	4451 to 4455, incl.
4749	12½	1933:	1022:	2613	4456
4749	13	1917:	586:	831	4657
4749	14	1919.	571:	910	3500 to 3503, incl., 4703 to 4706, incl.
4749	15	1931:	1120:	2372	5400, 5401
4749	16	1917:	586:	831	4050 to 4055, incl.
4749	17	1919:	471:	910	5303 to 5306, incl., 5501 to 5504, incl.
4749	18	1923:	197:	438	5600 to 5603, incl., 5505 to 5507, incl.
4749	19	1917:	586:	831	5500, 5700 to 5707, incl.
4749	20	1917:	586:	831	5800 to 5805, incl.
4749	21	1917:	586:	831	5806 to 5809, incl.
4749	22	1917:	586:	831	5810
4749	23	1917:	586:	831	5811
4749	24	1929:	173:	323	4900 to 4908, incl.
4749	26	1931:	1119:	2370	3850 to 3861, incl.
4749	26a	1931:	1119:	2370	3852
4749	27	1931:	944:	1951	5000 to 5005, incl.
4749	28	1917:	586:	831	5100 to 5106, incl.
4749	29	1933:	379:	974	3700 to 3711, incl., 4554 and 4555
4749	30	1929:	679:	1167	3750 to 3755, incl.
4749	33	1929:	249:	494	6302 to 6311, incl.
4749	34	1917:	586:	831	6400, 6401
4749	35	1917:	586:	831	6402 to 6404, incl.
4749	36	1917:	586:	831	6405
4749	37	1919:	471:	910	6406
4749	38	1917:	586:	831	6312

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4749	39	1917	586	831	6500 and 6501
4749	40	1917	586	831	6502
4749	41	1917	586	831	6503
4749	42	1917	586	831	6504
4749	43	1917	586	831	6505
4749	44	1917	586	831	6506
4749	45	1917	586	831	6600
4749	46	1917	586	831	6317 and 6318
4749	46½	1925	383	710	6508 to 6511, incl.
4749	47	1917	586	831	6316
4749	48	1917	586	831	6507
4749	49	1917	586	831	6414
4749	50	1917	586	831	6415
4749	51	1927	761	1475	6320
4749	52	1917	586	831	6319
4749	53	1919	471	910	6407 to 6413, incl.
4749	54	1919	471	910	6313 to 6315, incl.
4749	55	1917	586	831	5300 to 5302, incl.
4749	55½	1927	586	1020	128
4749	56	1917	586	831	5316 and 5317, 129
4749	57	1917	586	831	5307 and 5308
4749	58	1917	586	831	5305
4749	59	1917	586	831	5309 to 5315, incl.
4749	60	1933	864	2246	5708 to 5710, incl.
4749	61	1917	586	831	130 and 131
4749	62	1917	586	831	132
4749	63	1917	586	831	133 and 134
4749	64	1917	586	831	5900 to 5902, incl., 5904 to 5909, incl.
4749	65	1917	586	831	5903
4749	66	1917	586	831	6602 and 6603
4749	67	1917	586	831	5950 to 5955, incl.
4749	68	1917	586	831	5910, 5956, 6000, 6001, 6003
4749	69	1917	586	831	3202 and 3203
4749	70	1917	586	831	4150 to 4156, incl.
4749a	1	1931	955	1962	4250 and 4257
4749a	2	1927	834	1681	4251 to 4253, incl.
4749a	3	1927	834	1681	4254
4749a	4	1927	834	1681	4255
4749a	5	1927	834	1681	4256
4754	1	1929	891	1971	350
4754	2	1929	891	1971	351 to 353, incl.
4754	3	1929	891	1971	354
4754	4	1929	891	1971	355
4754	5	1929	891	1971	356
4756	1 to 5	1935	425	1479	430 to 434, incl.
4923	1	1871–2	305	413	7401, 7451
4923	2	1871–2	305	413	7402

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4923	3	1871–2	305	413	7403 to 7405, incl.
4924	1	1873–4	498	726	7452
4924	3	1873–4	498	726	7453
4924	4	1873–4	498	726	7454
4924	5	1873–4	498	726	7455 and 7456
4924	6	1873–4	498	726	7457
4924	7	1873–4	498	726	7450
4924	8	1873–4	498	726	7459
4924	9	1873–4	498	726	7460
4924	10	1873–4	498	726	7458
4933	1	1913	186	331	750 and 751
4933	2	1913	186	331	752
4937	1	1913	368	782	7500
4937	2	1913	368	782	7501
4940	1, 2	1935	200	860	258
5130e	1	1935	370	1321	650 to 654, incl.
5212	1	1917	783	1644	1900
5212	2	1917	783	1644	1901
5887	1	1925	394	738	850, 855
5887	2	1925	394	738	851 and 852
5887	3	1925	394	738	853 and 854
5887	4	1925	394	738	856
6428	1	1921	246	356	2011
6428	2	1921	246	356	2012
6428	3	1921	246	356	2013
6428	4	1921	246	356	2014 and 2015
6429	1	1931	397	910	1771 and 1772
6429	2	1931	397	910	1773 to 1775, incl., 1726 to 1729, incl.
6429	3	1931	397	910	1776
6429	4	1931	397	910	1770, 1724
6429	4a	1935	506	1577	1781
6429	5	1931	397	910	1777
6430	1	1931	398	913	1850 to 1852, incl.
6430	2	1931	398	913	1853, 1726 and 1727
6430	3	1931	398	913	1725
6430	4	1931	398	913	1854
6432	1	1933	580	1503	1730 to 1733, incl.
6432	2	1933	580	1503	1734
6478	1	1913	168	249	6901
6478	2	1915	501	832	6902
6478	3	1915	501	832	6903 to 6905, incl.
6478	4	1913	168	249	6906 and 6907
6478	5	1913	168	249	6908
6478	6	1913	168	249	6909
6478	7	1913	168	249	6910
6479	1	1913	226	381	601 to 604, incl.
6479	3	1911	484	952	605

GENERAL LAWS—Continued

Deering Act	Sec.	Latest form in statutes Yr.	Ch.	P.	Labor Code Sec.
6479	4	1911:	484:	952	606
6479	5	1911:	484:	952	607
6485	1, 2	1921:	900:	1697	6952
6486	1	1921:	902:	1698	6950
6486	2	1921:	902:	1698	6951
8559	1	1921:	897:	1693	2261 to 2263, incl.
8559	2	1921:	897:	1693	2260
8560	1	1927:	205:	374	2261
8773	1	1933:	956:	2483	2051
8773	2	1933:	956:	2483	2052
8773	3	1933:	956:	2483	2053
8773	4	1933:	956:	2483	2054
8773	5	1933:	956:	2483	2055 and 2056

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Proposed Labor Code

An act to establish a Labor Code, thereby consolidating and revising the law relating to labor and employment relations, and to repeal acts and parts of acts specified herein.

(Note: The title of this code needs careful study. The above is suggestive only.)

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

GENERAL PROVISIONS.

1. This act shall be known as the Labor Code.
(New.)

2. The provisions of this code, in so far as they are substantially the same as existing provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.
(New.)

3. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold the same according to the former tenure thereof.
(New.)

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.
(New.)

5. Unless the context otherwise requires, the general provisions hereinafter set forth shall govern the construction of this code.
(New.)

6. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof.
(New.)

7. Whenever, by the provisions of this code, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer.
(New.)

8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any

~~power and authority of sheriffs and other peace officers to make arrests for violations of the provisions of this act and to serve any process or notice throughout the state.~~
(D. A. 2349, sec. 19, remainder; 1923:412:934.)

1652. Any person ~~, firm, or corporation, or any agent or officer thereof, violating or omitting~~ *who violates* ~~to comply with~~ any ~~of the~~ provision of this ~~act~~ *chapter* ~~shall be~~ *is* guilty of a misdemeanor, ~~and upon conviction thereof shall be punished~~ *punishable* by a fine of not less than ~~twenty-five dollars or~~ *$25 nor* more than ~~two hundred fifty dollars,~~ *$250* or ~~by~~ imprisonment for a period of not more than sixty days, or ~~by~~ both ~~such fine and imprisonment.~~
(D. A. 2349, sec. 18; 1927:264:483.)

CHAPTER 2. STATE EMPLOYMENT BUREAUS.

1680. The *Division of State Employment Agencies* ~~commissioner of the bureau of labor statistics, hereinafter called "commissioner,"~~ shall establish free employment bureaus in the cities of San Francisco, Los Angeles, Oakland, and Sacramento, and, ~~thereafter,~~ whenever the chief of the division deems it necessary, in other cities ~~and towns~~.
(D. A. 2350, sec. 1; 1915:302:486.)

1681. The *Division of State Employment Agencies* shall:

(a) Procure, by lease or otherwise, suitable offices, *and* incur the necessary expenses in the conduct thereof.

(b) Appoint, *in accordance with law,* the necessary officers, assistants, and clerks, and fix the compensation ~~therefor~~ *thereof*~~;~~. ~~and~~

(c) Promulgate rules and regulations for the conduct of free employment bureaus in order to carry out ~~the purposes of~~ this ~~act~~ *chapter.*
(D. A. 2350, sec. 2; 1915:302:486.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES.

CHAPTER 1. PUBLIC WORKS.

Article 1. Scope and Operation.

1720. As used in this chapter "public works" ~~shall~~ means:

(a) Construction or repair work done under contract and paid for in whole or in part out of public funds, ~~other than~~ *except* work done directly by any public utility company pursuant to order of the railroad commission or other public authority.

(b) Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type. "Public work" shall not ~~however~~ include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in sections 1850 to 1854 of this code

relating to employment of aliens, and section 1778 relating to retaining wages.

(c) ~~as well as~~ Street, sewer or other improvement work done under the direction and supervision or by the authority of any officer or public body of the State, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter ~~heretofore or hereafter approved~~ or not.

NOTE.—The term "public work" is defined in several existing statutes. See:

D. A. 6429; 1931:397:910, re prevailing wages on public work.
D. A. 6430; 1931:398:913, re employment of aliens on public work.
Pen. C. 653c; 1931:1144:2430, re hours of labor on public work.
Pen. C. 653d, 1933:154:606, re retaining wages of employees.
Pen. C. 653g; 1933:174:620, re fees for obtaining work.

Of these definitions which are similar in general substance the first three in the above list are similar in form also.

The provisions common to all these definitions have been placed in the above section. The form is taken from the first three statutes listed above.

Subdivision (a) at present appears verbatim at line 10, sec. 4, 1931:397:910. The exception in this subdivision appears also at present as line 9 of sec. 3, 1931:398:913.

Subdivision (b) at present appears in substance in all statutes listed above and the exception is from the last clause of the last par. of sec. 653c Pen. C. The only definitions which seem broad enough to include as public work the operation of irrigation and drainage districts, are D. A. 6430 (aliens) and Pen. C. 653(d) (retaining wages). The other statutes have either expressly exempted such operation or by the use of such words as "construction and repair work" have excluded operation work.

Subdivision (c) at present appears in substance in all the statutes listed above.

1721. "Political subdivision" includes any county, city, district, township or public agency of the State, and assessment or improvement districts.
(New.)

1722. "Awarding body" or "body awarding the contract" means department, board, authority, officer or agent awarding a contract for public work.
(New.)

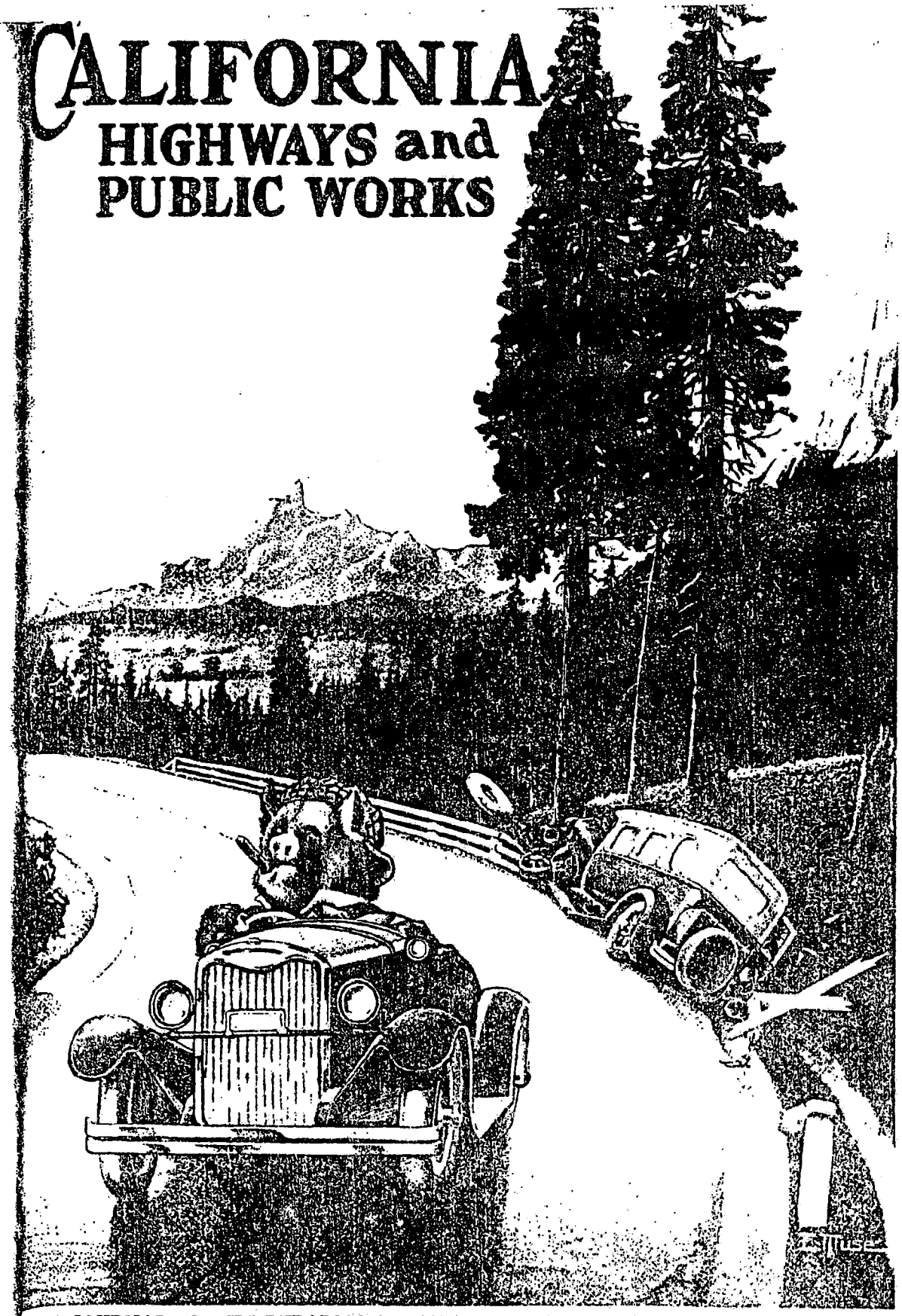
1723. "Workman" includes laborer, workman, employee, or mechanic.
(New.)

1724. "Locality in which public work is performed" means the county ~~or counties~~ in which the public work is done in cases in which the contract is awarded by the State, and means the limits of the political subdivision on whose behalf the contract is awarded in other cases.
(D. A. 6429, sec. 4, 2d sent. 1931:397:910.)

1725. "Alien" means any person who is not a born or fully naturalized citizen of the United States.
(D. A. 6430, sec. 3, last sent. 1931:398:913.)

X re chapters 397 and 398

CALIFORNIA HIGHWAYS and PUBLIC WORKS



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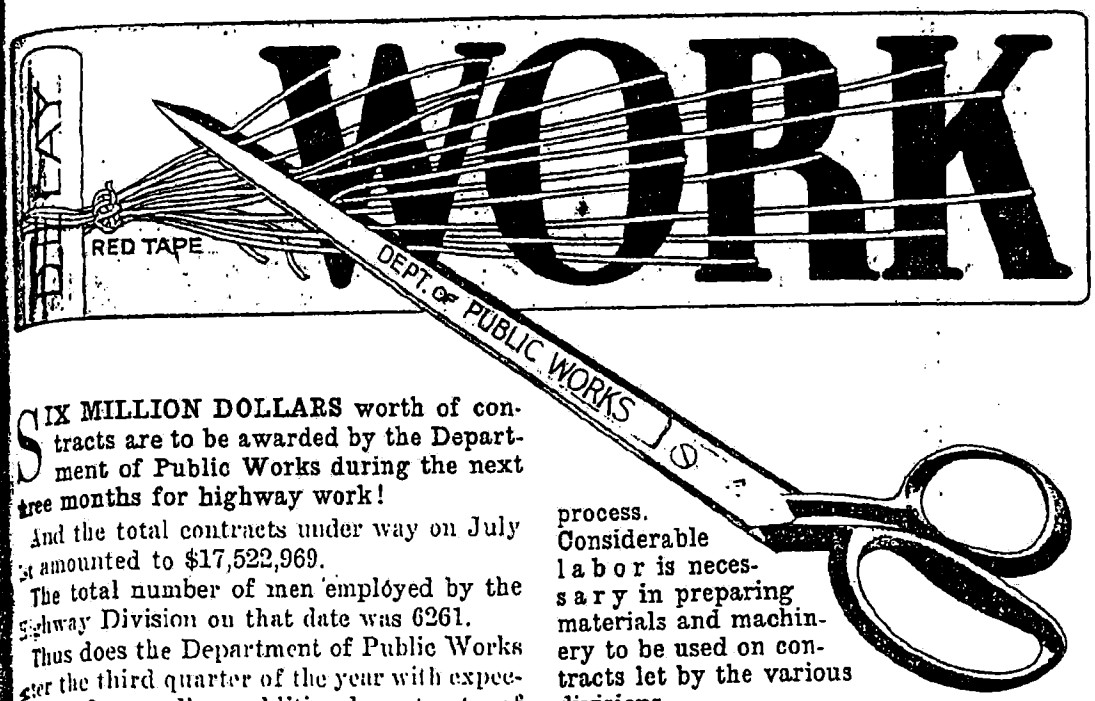

SIX MILLION DOLLARS worth of contracts are to be awarded by the Department of Public Works during the next three months for highway work!

And the total contracts under way on July 1st amounted to $17,522,969.

The total number of men employed by the Highway Division on that date was 6261.

Thus does the Department of Public Works enter the third quarter of the year with expectation of awarding additional contracts of $726,500 and bringing the total for the period to the not insignificant sum of $18,726,500.

GOES TO LABOR

Seventy per cent of this expenditure is passed on to labor.

The Division of Architecture is shaping its work so that additional employment may be given 1700 men during the July-September period. Already 2042 are at work on various projects.

Awards already made total $5,868,010 for 60 projects. Those to be undertaken during July, August and September call for an estimated cost of $4,858,273, involving 69 projects.

Thus it is shown that the two divisions alone will employ more than 9000 men!

LARGE INCREASE

Activities of the Division of Water Resources are largely technical, but this service comprehends work costing $1,658,000. The regular staff of 250 trained men represents a considerable increase, made necessary by the expanding services of the division.

Summing up, the Department of Public Works is right up to its schedule of activities, drawn up under Governor Rolph's program for speeding up public improvements as a means of alleviating unemployment.

Nor must the fact be lost sight of that the employment of more than 9000 men on State projects does not nearly represent the total given work under this speeding-up process. Considerable labor is necessary in preparing materials and machinery to be used on contracts let by the various divisions.

ENFORCE NEW LAWS

While it is impossible accurately to estimate how many are so employed, it should be noted that the Department is preparing strictly to enforce the provisions of the two so-called labor bills passed at the last session of the Legislature and signed by the Governor. One of these, Chapter 398, Statutes of 1931, provides that NONE BUT AMERICAN CITIZENS MAY BE EMPLOYED ON STATE PROJECTS unless in the event of extraordinary emergency. The other, Chapter 397, Statutes of 1931, assures the worker payment of NOT LESS THAN THE GENERAL PREVAILING RATE OF WAGES on public works.

Some idea of the work planned by the Highway Division from July to December may be gleaned from the following table, which is an estimate of the jobs to be done, although it shows the jobs which it is proposed will be advertised up until December 31st. Perusal of this list will show that the work is distributed over the entire State, thus giving employment in every section.

PROPOSED WORK

Road	*Limits*	*Amount*
I-Men	Cedar Creek and Dann Creek bridges	$284,000
V-Mon	Rocky Creek to Divide	311,500
VI-Mad	At Madera	40,500
II-Sha	Clear Creek approaches	9,100
V-SBt	S. boundary to San Benito River	344,600
IV-SM-SC	Redwood City to Oregon Ave.	561,400
IV-Ala	Greenville to Livermore	166,100
II-Las	Willards to Susanville	253,000
III-Gle	In Willows	25,700
III-Pla	Lincoln to Sheridan	54,700
VII-Ora	Fullerton to westerly boundary	158,800
V-SBt	San Benito River bridge	140,000
VI-Mer	Bridges	40,000

(Continued on page 22.)

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DECLARATION OF ANNA MARIA BERECZKY-ANDERSON

I, Anna Maria Bereczky-Anderson, declare:

I am an attorney licensed to practice in California, State Bar No. 227794, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the enactment of Senate Bill 26 of 1931. Senate Bill 26 was approved by the Legislature and was enacted as Chapter 397 of the Statutes of 1931.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on Senate Bill 26 of 1931. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the bill.

EXHIBIT C - SENATE BILL 26 OF 1931:

1. All versions of Senate Bill 26 (Inman-1931);
2. Procedural history of Senate Bill 26 from the 1931 *Senate Final History*;
3. Excerpt regarding Senate Bill 26 from the 1931 *Legislative Digest*, prepared by Legislative Counsel;
4. Inaugural Address of Governor James Rolph, Jr, excerpted from the *Journal of the Senate*, 1931;
5. Excerpt regarding Senate Bill 26 from the *Journal of the Senate*, 1931;

6. Excerpt regarding Senate Bill 26 from the *Journal of the Assembly*, 1931;
7. Excerpt regarding Senator J. M. Inman from the 1931 "Legislative Handbook."

EXHIBIT D - BACKGROUND MATERIAL ON SENATE BILL 26 AND SENATE BILL 83 (1931):

1. Excerpts regarding Senate Bill 26 and Senate Bill 83 from the *Journal of the Assembly*, dated February 25 and May 12, 1931;
2. Excerpt regarding wages from the *First Biennial Report of the Department of Industrial Relations*, 1927-1930;
3. Excerpt regarding wages from the *Second Biennial Report of the Department of Industrial Relations*, 1930-1932;
4. Excerpt regarding Chapters 397 and 398 (Senate Bills 26 and 83-1931) from *California Highways and Public Works*, the Official Journal of the Department of Public Works, State of California, July 1931;
5. Excerpts regarding labor legislation from the *Labor Clarion*, January 9, May 22, and December 25, 1931;
6. Article entitled "Municipal Corporations: Home Rule Charters: Application of Public Works Alien Employment Act to Charter Cities," excerpted from *California Law Review*, Vol. XXI, 1932-1933;
7. Material from the file of the Attorney General on Senate Bill 26 and Senate Bill 83;
8. Article entitled "Prevailing Wage Law," from *The Tax Digest*, Volume 9, Number 10, October 1931;
9. Excerpt regarding hourly wages from the *Second Biennial Report of the Bureau of Labor Statistics*, 1885 and 1886;
10. Excerpt regarding hourly wages from the *Seventh Biennial Report of the Bureau of Labor Statistics*, 1895-1896;
11. Excerpt regarding hourly wages from the *Ninth Biennial Report of the Bureau of Labor Statistics*, 1899-1900;
12. Excerpt regarding hourly wages from the *Tenth Biennial Report of the Bureau of Labor Statistics*, 1901-1902;
13. Excerpt regarding hourly wages from the *Eleventh Biennial Report of the Bureau of Labor Statistics*, 1904;

14. Excerpt regarding Labor Code sections 1720 through 1778 from the *Proposed Labor Code*, prepared by the California Code Commission;
15. Chapter 90, Statutes of 1937.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 7th day of March, 2019 at Woodland, California.

Anna Maria Bereczky-Anderson

ANNA MARIA BERECZKY-ANDERSON

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LEGISLATIVE
INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695
(800) 666-1917 • Fax (530) 668-5866 • www.legintent.com

DECLARATION OF ANNA MARIA BERECZKY-ANDERSON

I, Anna Maria Bereczky-Anderson, declare:

I am an attorney licensed to practice in California, State Bar No. 227794, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the enactment of Senate Bill 83 of 1931. Senate Bill 83 was approved by the Legislature and was enacted as Chapter 398 of the Statutes of 1931.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on Senate Bill 83 of 1931. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the bill.

EXHIBIT A - SENATE BILL 83 OF 1931:

1. All versions of Senate Bill 83 (Maloney-1931);
2. Procedural history of Senate Bill 83 from the 1931 *Senate Final History*;
3. Excerpt regarding Senate Bill 83 from the 1931 *Legislative Digest*, prepared by Legislative Counsel;
4. Inaugural Address of Governor James Rolph, Jr., excerpted from the *Journal of the Senate*, 1931;
5. Excerpt regarding Senate Bill 83 from the *Journal of the Senate*, 1931;
6. Excerpt regarding Senate Bill 83 from the *Journal of the Assembly*, 1931;

7. Excerpt regarding Senator Thomas A. Maloney from the 1931 "Legislative Handbook."

EXHIBIT B – ASSEMBLY BILL 54 (FAILED COMPETITOR):

1. All versions of Assembly Bill 54 (Quigley-1931);
2. Procedural history of Assembly Bill 54 from the 1931 *Assembly Final History*;
3. Excerpt regarding Assembly Bill 54 from the 1931 *Legislative Digest*, prepared by Legislative Counsel;
4. Excerpt regarding Assembly Bill 54 from the *Journal of the Assembly*, 1931;
5. Excerpt regarding Assemblymember James Quigley from the 1931 "Legislative Handbook."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 7th day of March, 2019 at Woodland, California.

Anna Maria Bereczky-Anderson

ANNA MARIA BERECZKY-ANDERSON

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DECLARATION OF ANNA MARIA BERECZKY-ANDERSON

I, Anna Maria Bereczky-Anderson, declare:

I am an attorney licensed to practice in California, State Bar No. 227794, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the enactment of Assembly Bill 2100 of 1937. Assembly Bill 2100 was enacted as Chapter 90 of the Statutes of 1937.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on the enactment of Assembly Bill 2100 of 1937. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the bill.

ASSEMBLY BILL 2100 OF 1937:

1. All versions of Assembly Bill 2100 (Maloney-1937);
2. Procedural history of Assembly Bill 2100 from the 1937 *Assembly Final History*;
3. Excerpt regarding Assembly Bill 2100 from the 1937 *Legislative Digest*, prepared by Legislative Counsel;
4. Excerpt of the Governor's Message from the *Journal of the Assembly*, 1937;
5. Excerpt regarding Assembly Bill 2100 from the *Journal of the Assembly*, 1937;
6. Excerpt regarding Assembly Bill 2100 from the *Journal of the Senate*, 1937;

7. Report of the California Code Commission to the Governor and the Legislature, 1935;
8. Excerpt regarding the Labor Code from Volume 24 of the California Code Commission Publications, 1934;
9. *Proposed Labor Code*, prepared by the California Code Commission, 1936;
10. The Department of Industrial Relations' *Report to Governor's Council*, September 1936;
11. Excerpt regarding the Labor Code from Report of the California Code Commission to the Governor of the State of California, January 1, 1937;
12. Report of Timothy A. Reardon, Director of Industrial Relations, to His Excellency, Governor Frank F. Merriam, 1933 through 1937;
13. Excerpt regarding Assembly Bill 2100 from the 1937 *Summary Digest of Statutes Enacted*, prepared by Legislative Counsel;
14. Excerpt regarding Assemblymembers Thomas A. Maloney and Ray Williamson from the 1937 "Legislative Handbook."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 7th day of March, 2019 at Woodland, California.

Anna Maria Bereczky-Anderson

ANNA MARIA BERECZKY-ANDERSON

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should provide you with insight as to the development of the language of interest to you as the bill proceeded through the Legislature. (Id.)

Labor Code section 1720,
<u>As historically derived from uncodified section 3 of the 1931 Act:</u>

Labor Code section 1720 is historically derived from uncodified section 3 of the 1931 Public Works Alien Employment Act. Your research focus involves current subdivision (b) of section 1720. The proposal to add some of the language of what was ultimately enacted as former uncodified section 3 first occurred in the introduced version of Senate Bill 83. (See Exhibit A, #1a, page 2) At this time, the language was added within former uncodified section 2. (Id.) Failed Assembly Bill 54, mentioned above, also contained some of your language of interest in its uncodified section 2. (See Exhibit B, #1, page 2)

In the first amended version of the bill, dated March 23, 1931, the Senate inserted the phrase "*heretofore or hereafter approved... also any work paid for in whole or in part out of public funds*" after "freeholder's charter." (See Exhibit A, #1b, page 2) The third amended version of the bill of April 17, 1931, placed your language into uncodified section 3 and made substantive changes. (See Exhibit A, #1d, page 2) Additional substantive changes were made in the next two versions of the bill, dated April 27 and May 1, 1931. (See Exhibit A, #1e and #1f) No additional changes were made to this section, and the bill was enacted into law. (See Exhibit A, #1h)

Your careful review of the documents enclosed may reveal helpful discussion on the issue before you. You should also be able to draw some conclusions based upon the assumption that the language was intended to be consistent with the overall goal of the legislation. Thus, if you are unable to find specific discussion regarding your research question, the analyses contained in the legislative bill files enclosed herewith may provide you with an arguable assessment of the goals and purpose that could be applicable to your particular situation.

Any analysis provided in this report is based upon the nature and extent of your request to us, as well as a brief review of the enclosed documents. As such, it must be considered tentative in nature. A more conclusive statement of the impact of the legislative history in your case would be dependent upon a complete understanding of all of the factual issues involved and the applicable legal principles.

We appreciate the opportunity to provide this assistance and hope that these efforts will be of value to you.

PROOF OF SERVICE
Kaanaana, et al. v. Barrett Business Services, Inc., et al..
California Supreme Court, Case No. S253458

I, Sherry Bernal, state:

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 701 B Street, Suite 1900, San Diego, California 92101.

On September 18, 2019, I served the following document described as **MOTION FOR JUDICIAL NOTICE, DECLARATION AND POINTS AND AUTHORITIES OF AMICI CURIAE COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY, LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, CALIFORNIA ASSOCIATION OF SANITATION AGENCIES AND ASSOCIATION OF CALIFORNIA WATER AGENCIES IN SUPPORT OF RESPONDENTS BARRETT BUSINESS SERVICES, INC. and MICHAEL ALVAREZ** by placing a true copy enclosed in a sealed envelope addressed as stated on the attached service list.

I am readily familiar with the firm's practice for collection and processing correspondence for regular and overnight mailing. Under that practice, this document will be deposited with the Overnight Mail provider and/or U.S. Postal Service on this date with postage thereon fully prepaid at San Diego, California to

addresses listed on the attached service list in the ordinary course of business.

Executed on September 18, 2019, at San Diego, California.

Sherry Bernal

SERVICE LIST

Kaanaana, et al. v. Barrett Business Services, Inc., et al..
California Supreme Court, Case No. S253458

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