



General Assembly

January Session, 2001

Amendment

LCO No. 6831

Offered by:

REP. BELDEN, 113th Dist.

REP. SAWYER, 55th Dist.

To: Subst. House Bill No. 6978

File No. 702

Cal. No. 486

**"AN ACT CONCERNING ANNUAL ADJUSTMENTS TO
PREVAILING WAGES."**

1 In line 1, before "(NEW)", insert "Section 1."

2 After line 21, insert the following:

3 "Sec. 2. Section 31-53 of the general statutes is repealed and the
4 following is substituted in lieu thereof:

5 (a) [Each] (1) Except as provided in subdivision (2) of this
6 subsection, each contract for the construction, remodeling, refinishing,
7 refurbishing, rehabilitation, alteration or repair of any public works
8 project by the state or any of its agents, or by any political subdivision
9 of the state or any of its agents, shall contain the following provision:
10 "The wages paid on an hourly basis to any mechanic, laborer or
11 [workman] worker employed upon the work herein contracted to be
12 done and the amount of payment or contribution paid or payable on
13 behalf of each such employee to any employee welfare fund, as

14 defined in subsection (h) of this section, shall be at a rate equal to the
15 rate customary or prevailing for the same work in the same trade or
16 occupation in the town in which such public works project is being
17 constructed. Any contractor who is not obligated by agreement to
18 make payment or contribution on behalf of such employees to any
19 such employee welfare fund shall pay to each employee as part of [his]
20 the employee's wages the amount of payment or contribution for [his]
21 the employee's classification on each pay day."

22 (2) Each contract for the construction, remodeling, refinishing,
23 refurbishing, rehabilitation, alteration or repair of any public works
24 project by any political subdivision of the state or any of its agents,
25 which public works project abuts another political subdivision of the
26 state with a lower customary or prevailing rate for the same work in
27 the same trade or occupation, shall contain the following provision:
28 "The wages paid on an hourly basis to any mechanic, laborer or worker
29 employed upon the work herein contracted to be done and the amount
30 of payment or contribution paid or payable on behalf of each such
31 employee to any employee welfare fund, as defined in subsection (h)
32 of this section, shall be at a rate equal to one-half of the difference
33 between (A) the rate customary or prevailing for the same work in the
34 same trade or occupation in the town in which such public works
35 project is being constructed, and (B) the rate customary or prevailing
36 for the same work in the same trade or occupation in the town which
37 abuts such public works project. Any contractor who is not obligated
38 by agreement to make payment or contribution on behalf of such
39 employees to any such employee welfare fund shall pay to each
40 employee as part of the employee's wages the amount of payment or
41 contribution for the employee's classification on each pay day."

42 (b) Any person who knowingly or wilfully employs any mechanic,
43 laborer or [workman] worker in the construction, remodeling,
44 refinishing, refurbishing, rehabilitation, alteration or repair of any
45 public works project for or on behalf of the state or any of its agents, or
46 any political subdivision of the state or any of its agents, at a rate of
47 wage on an hourly basis which is less than the rate [customary or

48 prevailing for the same work in the same trade or occupation in the
49 town in which such public works project is being constructed,
50 remodeled, refinished, refurbished, rehabilitated, altered or repaired]
51 required under subsection (a) of this subsection, or who fails to pay the
52 amount of payment or contributions paid or payable on behalf of each
53 such employee to any employee welfare fund, or in lieu thereof to the
54 employee, as provided by subsection (a) of this section, shall be fined
55 not less than two thousand five hundred dollars but not more than five
56 thousand dollars for each offense and (1) for the first violation, shall be
57 disqualified from bidding on contracts with the state or any political
58 subdivision until the contractor or subcontractor has made full
59 restitution of the back wages owed to such persons and for an
60 additional six months thereafter, and (2) for subsequent violations,
61 shall be disqualified from bidding on contracts with the state or any
62 political subdivision until the contractor or subcontractor has made
63 full restitution of the back wages owed to such persons and for not less
64 than an additional two years thereafter. In addition, if it is found by
65 the contracting officer representing the state or political subdivision
66 thereof that any mechanic, laborer or [workman] worker employed by
67 the contractor or any subcontractor directly on the site for the work
68 covered by the contract has been or is being paid a rate of wages less
69 than the rate of wages required by the contract to be paid as required
70 by this section, the state or contracting political subdivision [thereof] of
71 the state may (A) by written notice to the contractor, terminate such
72 contractor's right to proceed with the work or such part of the work as
73 to which there has been a failure to pay said required wages and to
74 prosecute the work to completion by contract or otherwise, and the
75 contractor and [his] the contractor's sureties shall be liable to the state
76 or the contracting political subdivision for any excess costs occasioned
77 the state or the contracting political subdivision thereby, or (B)
78 withhold payment of money to the contractor or subcontractor. The
79 contracting department of the state or the political subdivision thereof
80 shall within two days after taking such action notify the Labor
81 Commissioner in writing of the name of the contractor or
82 subcontractor, the project involved, the location of the work, the

83 violations involved, the date the contract was terminated [,] and steps
84 taken to collect the required wages.

85 (c) The Labor Commissioner may make complaint to the proper
86 prosecuting authorities for the violation of any provision of subsection
87 (b) of this section.

88 (d) For the purpose of predetermining the prevailing rate of wage
89 on an hourly basis and the amount of payment or contributions paid or
90 payable on behalf of each employee to any employee welfare fund, as
91 defined in subsection (h) of this section, in each town where such
92 contract is to be performed, the Labor Commissioner shall (1) hold a
93 hearing at any required time to determine the prevailing rate of wages
94 on an hourly basis and the amount of payment or contributions paid or
95 payable on behalf of each person to any employee welfare fund, as
96 defined in said subsection (h), upon any public work within any
97 specified area, and shall establish classifications of skilled, semiskilled
98 and ordinary labor, or (2) adopt and use such appropriate and
99 applicable prevailing wage rate determinations as have been made by
100 the Secretary of Labor of the United States under the provisions of the
101 Davis-Bacon Act, as amended.

102 (e) The Labor Commissioner shall determine the prevailing rate of
103 wages on an hourly basis and the amount of payment or contributions
104 paid or payable on behalf of such employee to any employee welfare
105 fund, as defined in subsection (h) of this section, in each locality where
106 any such public work is to be constructed, and the agent empowered
107 to let such contract shall contact the Labor Commissioner, at least ten
108 but not more than twenty days prior to the date such contracts will be
109 advertised for bid, to ascertain the proper rate of wages and amount of
110 employee welfare fund payments or contributions and shall include
111 such rate of wage on an hourly basis and the amount of payment or
112 contributions paid or payable on behalf of each employee to any
113 employee welfare fund, as defined in said subsection (h), or in lieu
114 thereof the amount to be paid directly to each employee for such
115 payment or contributions as provided in subsection (a) of this section

116 for all classifications of labor in the proposal for the contract. The rate
117 of wage on an hourly basis and the amount of payment or
118 contributions to any employee welfare fund, as defined in subsection
119 (h) of this section, or cash in lieu thereof, as provided in subsection (a)
120 of this section, shall, at all times, be considered as the minimum rate
121 for the classification for which it was established. Prior to the award of
122 any contract subject to the provisions of this section, such agent shall
123 certify in writing to the Labor Commissioner the total dollar amount of
124 work to be done in connection with such public works project,
125 regardless of whether such project consists of one or more contracts.
126 Upon the award of any contract subject to the provisions of this
127 section, the contractor to whom such contract is awarded shall certify,
128 under oath, to the Labor Commissioner the pay scale to be used by
129 such contractor and any of [his] the contractor's subcontractors for
130 work to be performed under such contract.

131 (f) Each employer subject to the provisions of this section or section
132 31-54 shall (1) keep, maintain and preserve such records relating to the
133 wages and hours worked by each employee and a schedule of the
134 occupation or work classification at which each mechanic, laborer or
135 [workman] worker on the project is employed during each work day
136 and week in such manner and form as the Labor Commissioner
137 establishes to assure the proper payments due to such employees or
138 employee welfare funds under this section or section 31-54, and (2)
139 submit monthly to the contracting agency a certified payroll which
140 shall consist of a complete copy of such records accompanied by a
141 statement signed by the employer which indicates that (A) such
142 records are correct; (B) the rate of wages paid to each mechanic, laborer
143 or [workman] worker and the amount of payment or contributions
144 paid or payable on behalf of each such employee to any employee
145 welfare fund, as defined in subsection (h) of this section, are not less
146 than the prevailing rate of wages and the amount of payment or
147 contributions paid or payable on behalf of each such employee to any
148 employee welfare fund, as determined by the Labor Commissioner
149 pursuant to subsection (d) of this section, and not less than those

150 required by the contract to be paid; (C) the employer has complied
151 with the provisions of this section and section 31-54; (D) each such
152 employee is covered by a workers' compensation insurance policy for
153 the duration of [his] the employment, which shall be demonstrated by
154 submitting to the contracting agency the name of the workers'
155 compensation insurance carrier covering each such employee, the
156 effective and expiration dates of each policy and each policy number;
157 (E) the employer does not receive kickbacks, as defined in 41 USC 52,
158 from any employee or employee welfare fund; and (F) pursuant to the
159 provisions of section 53a-157a, the employer is aware that filing a
160 certified payroll which [he] the employer knows to be false is a class D
161 felony for which the employer may be fined up to five thousand
162 dollars, imprisoned for up to five years, or both. This subsection shall
163 not be construed to prohibit a general contractor from relying on the
164 certification of a lower tier subcontractor, provided the general
165 contractor shall not be exempted from the provisions of section
166 53a-157a if [he] the general contractor knowingly relies upon a
167 subcontractor's false certification. Notwithstanding the provisions of
168 section 1-210, the certified payroll shall be considered a public record
169 and every person shall have the right to inspect and copy such records
170 in accordance with the provisions of section 1-212. The provisions of
171 [sections 31-59(a), 31-59(b),] subsections (a) and (b) of section 31-59 and
172 sections 31-66 and 31-69 which are not inconsistent with the provisions
173 of this section or section 31-54 shall apply to this section. Failing to file
174 a certified payroll pursuant to subdivision (2) of this subsection is a
175 class D felony for which the employer may be fined up to five
176 thousand dollars, imprisoned for up to five years, or both.

177 (g) The provisions of this section shall not apply where the total cost
178 of all work to be performed by all contractors and subcontractors in
179 connection with new construction of any public works project is less
180 than four hundred thousand dollars or where the total cost of all work
181 to be performed by all contractors and subcontractors in connection
182 with any remodeling, refinishing, refurbishing, rehabilitation,
183 alteration or repair of any public works project is less than one

184 hundred thousand dollars.

185 (h) As used in this section, section 31-54 and section 31-89a,
186 "employee welfare fund" means any trust fund established by one or
187 more employers and one or more labor organizations or one or more
188 other third parties not affiliated with the employers to provide from
189 moneys in the fund, whether through the purchase of insurance or
190 annuity contracts or otherwise, benefits under an employee welfare
191 plan; provided such term shall not include any such fund where the
192 trustee, or all of the trustees, are subject to supervision by the
193 Commissioner of Banking of this state or any other state or the
194 Comptroller of the Currency of the United States or the Board of
195 Governors of the Federal Reserve System, and "benefits under an
196 employee welfare plan" means one or more benefits or services under
197 any plan established or maintained for employees or their families or
198 dependents, or for both, including, but not limited to, medical, surgical
199 or hospital care benefits; benefits in the event of sickness, accident,
200 disability or death; benefits in the event of unemployment, or
201 retirement benefits."