



# CLIENT NEWS BRIEF

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## NEW LEGISLATION ADDRESSES LABOR ISSUES RELATED TO PUBLIC WORKS PROJECTS

Two bills signed by Governor Brown directly affect labor issues on public works projects. Assembly Bill (AB) 587 renews existing law exempting volunteer labor from prevailing wage requirements. Senate Bill (SB) 922 authorizes public agencies to enter into project labor agreements to avoid delays and interruptions on construction projects.

### AB 587

Labor Code section 1720.4 permits public agencies to use volunteer labor without paying prevailing wages. A volunteer is "an individual who performs work for civic, charitable, or humanitarian reason for a public agency . . . without promise, expectation, or receipt of any compensation for work performed." This provision of the Labor Code was going to sunset at the end of 2011. AB 587 extends this provision for another five years, until January 1, 2017.

### SB 922

SB 922 authorizes public agencies to enter into, and to require contractors to enter into, project labor agreements prior to awarding a contract for construction of a public works project to avoid delays and interruptions to construction caused by strikes, lockouts or work stoppages. In recent years, public agencies have increasingly relied on project labor agreements with contractors and labor unions to gain certainty that public construction projects will not be interrupted by labor unrest. In turn, the project labor agreements reduce the chances of cost overruns or delays as a result of such interruptions.

Project labor agreements have been the subject of some controversy and litigation. SB 922 codifies the legality of such agreements, but also places certain restrictions and requirements as to the terms. Specifically, Public Contract Code section 2500 requires that any project labor agreement include five "taxpayer protection provisions":

- (1) The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project;
- (2) The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements;
- (3) The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project;
- (4) The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project; and
- (5) The agreement provides that disputes arising from the agreement shall be resolved by a neutral arbitrator.

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In short, project labor agreements on public works projects are now expressly permitted under California law, thus eliminating some of the uncertainty and controversy surrounding them. However, a public agency must not forget to include the above required terms in any such agreement.

If you have any questions about this new legislation or construction issues generally, please contact one of our [eight offices](#) located statewide or visit our Construction Advice and Litigation page on our [website](#).

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