



RELATED PRACTICES

Public Law
Employment Law and Litigation

RELATED PEOPLE

Denise S. Bazzano
Chad W. Herrington
Thomas D. Jex
Erica L. Vega

Bill Summaries | AB 2231 and AB 2311

AB 2231

On September 30, 2020, the Governor signed AB 2231, which provides clarification as to what constitutes a “de minimis” public subsidy in the context of prevailing wage law.

In general, prevailing wage must be paid to workers employed on public works projects. Existing law defines “public works” to include, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. However, the law exempts from that definition, among other projects, an otherwise private development project if the state or political subdivision provides, directly or indirectly, a public subsidy to the private development project that is de minimis in the context of the project.

AB 2231 generally provides that a public subsidy is de minimis if it is both less than \$600,000 and less than 2% of the total project cost. The bill more specifically provides that a public subsidy for a residential project that consists entirely of single-family dwellings is de minimis if it is less than 2% of the total project cost. Lastly, AB 2231 specifies that these provisions do not apply to a project that was advertised for bid, or a contract that was awarded, before July 1, 2021.

AB 2311

On September 30, 2020, the Governor signed AB 2311, which requires public entities to include notice that a contract or project is subject to skilled and trained workforce requirements in bid documents and construction contracts.

Under Public Contract Code section 2600 et seq., there are certain requirements that apply when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project. Existing law also authorizes a public entity to require a bidder, contractor, or other entity to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by statute or regulation.

AB 2311 requires a public entity, when the use of a skilled and trained workforce to complete a contract or project is required, to include in

all bid documents and construction contracts a notice that the project is subject to the skilled and trained workforce requirement. This bill also provides that if a public entity fails to provide the notice, that the public entity shall not be excused from the requirement to obtain the enforceable commitment and that a bidder, contractor, or other entity is not excused from the obligation to use a skilled or trained workforce if such a requirement is imposed by statute or regulation.

This bill goes into effect on January 1, 2021.