

A SUMMARY
 OF NEW CALIFORNIA LAWS
 THAT MAY IMPACT THE CONSTRUCTION INDUSTRY
 BEGINNING JANUARY 1, 2015

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Last year the California legislature passed and the governor approved a large number of new bills; many of which will impact the construction industry. The remainder of this article sets forth a brief summary of a number of the new California construction industry related new laws.

<u>Bill Number</u>	<u>What it does</u>
	<u>Air Quality Regulations</u>
SB 1204	Creates the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program, to be funded from cap and trade revenues, to fund zero- and near-zero emission truck, bus, and off-road vehicle and equipment technologies and related projects, as specified, with priority to be given to certain projects, including projects that benefit disadvantaged communities. The program will be administered by the State Air Resources Board, in conjunction with the State Energy Resources Conservation and Development Commission.
AB 1870	Under current law, an apprentice employed upon public works is required to be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and to be employed only at the work of the craft or trade to which he or she is registered, as specified. This bill would, if there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, require the grant to be divided among those programs based on the number of apprentices from that county registered in each program.
AB 2744	Makes specified provisions of law relating to a contractor or subcontractor performing a public works project applicable to violations of provisions related to the employment of apprentices. This bill contains other related provisions and other existing laws.

	<u>Competitive Bidding</u>
SB 1581	Requires, until January 1, 2019, the lease instrument and the agreement with the lowest responsible bidder to include a requirement for the person, firm, or corporation that constructs a building to be leased and used by the school district upon a designated site, including, but not limited to, the prime contractor and, if used, electrical, mechanical, and plumbing subcontractors, to comply with the above-described prequalification questionnaire and financial statement requirements when the agreement is for a public project using moneys received pursuant to the Leroy F. Greene School Facilities Act of 1998 or moneys from future state school bonds that involves a projected expenditure of \$1,000,000 or more.
AB 1857	Until January 1, 2021, authorizes the Department of General Services to purchase and equip heavy mobile fleet vehicles and special equipment for use by the Department of Transportation by means of best value procurement, as defined, subject to an annual limitation of \$20,000,000. The bill would establish requirements for bid evaluation and protest procedures.
AB 2149	The Local Agency Public Construction Act, requires counties to comply with specified procedures for contracting for public works projects, including, the use of a competitive bidding process and awarding contracts to the lowest responsible bidder. This bill provides that those provisions of the act would also not apply to a contract entered into by the County of San Diego with a private entity for the delivery of a regional communications system and any related infrastructure to be used by public safety agencies and emergency responders located in the Counties of Imperial and San Diego.
SB 502	Current law provides that where the Regents of the University of California are of the view that a project of \$100,000 or less does not require the application of all provisions of law relating to competitive bidding by the university, the regents shall solicit bids in writing and award the work to the lowest responsible bidder or reject all bids. This bill would raise this dollar threshold for the cost of a project to \$640,000. This bill contains other related provisions and other existing laws.
	<u>Contractor's License Law</u>
AB 759	Expands the exemption from licensure as a locksmith or registration as an employee of a locksmith to include a person who is licensed, certified, or registered with the Bureau of Security and Investigative Services pursuant to the Alarm Company Act if the duties of the person that constitute locksmithing are performed in combination with the installation, maintenance, moving, repairing, replacing, servicing, or reconfiguration of an alarm system, as defined, and limited

	to work on electronic locks or access control devices that are controlled by an alarm system control device, including the removal of existing hardware.
AB 1702	This bill would provide that an individual who has satisfied any of the requirements needed to obtain a license while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing the application or a denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.
AB 2396	Current law prohibits a board from denying a license on the ground that the applicant has committed a crime if the applicant shows that he or she obtained a certificate of rehabilitation in the case of a felony, or that he or she has met all applicable requirements of the criteria of rehabilitation developed by the board, as specified, in the case of a misdemeanor. This bill would prohibit a board within the Department of Consumer Affairs from denying a license based solely on a conviction that has been dismissed pursuant to the above provisions.
SB 315	The Contractors' State License Law establishes an enforcement division within the Contractors' State License Board that is required to enforce prohibitions against unlicensed activity, as specified. The act authorizes persons employed as enforcement representatives in the division and designated by the Director of Consumer Affairs to issue written notices to appear in court, as specified. This bill would additionally require that the enforcement division, when participating in the activities of the Joint Enforcement Strike Force on the Underground Economy, be granted free access to all places of labor.
SB 1159	Current law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, among other licensing bodies. This bill requires those licensing bodies, by no later than January 1, 2016, to require an applicant to provide either an individual tax identification number or social security number if the applicant is an individual. The bill requires the licensing bodies to report to the Franchise Tax Board, and subject a licensee to a penalty, for failure to provide that specified information.
	<u>Design/Build</u>
AB 155	Authorize the Monterey County Water Resources Agency to award a design-build contract for the combined design and construction of a project to connect Lake San Antonio, located in the County of Monterey, and Lake Nacimiento, located in the County of San Luis Obispo, with an underground tunnel or pipeline for the purpose of maximizing water storage, supply, and groundwater recharge.

SB 268	Each health care district has specific duties and powers respecting the creation, administration, and maintenance of the districts, including to purchase, receive, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district. This bill authorizes the Last Frontier Health Care District to use this design-build process when contracting for the construction of a building and improvements directly related to a hospital or health facility building at the Modoc Medical Center.
SB 785	This bill repeals those authorizations, and enacts provisions that authorize, until January 1, 2025, the Department of General Services, the Department of Corrections and Rehabilitation, and those local agencies, as defined, to use the design-build procurement process for specified public works.
SB 1433	The Local Agency Public Construction Act until January 1, 2015, authorizes a transit operator, as defined, to enter into a design-build contract, as specified. Current law requires certain information submitted in this regard to be provided under penalty of perjury. This bill would extend the authorization for a transit operator to enter into a design-build contract until January 1, 2017 and continues the requirement that certain information submitted in this regard to be provided under penalty of perjury..
	<u>Employer/Employee</u>
AB 1522	Enacts the Healthy Workplaces, Healthy Families Act of 2014 to provide that an employee who on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days, to be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th day of employment.
AB 1723	The Labor Commissioner is authorized to recover liquidated damages for an employee who brings a complaint alleging payment of less than the minimum wage fixed by an order of the commission or by statute. This bill expands that penalty, restitution, and liquidated damages provision for a citation to also subject the employer to payment of any applicable penalties for the willful failure to timely pay wages of a resigned or discharged employee.
AB 1792	Legislature and post on Finance's Internet Web site a report that identifies each employer that employs 25 or more beneficiaries enrolled in a public assistance program (Medi-Cal, CalFresh and CalWORKS). Requires Finance to determine the cost to determine the total cost to the state of the aggregated benefits provided to an identified employer's employees who are beneficiaries under each public assistance program, and the total cost to the state of the aggregated benefits

	provided to each identified employer's employees who are beneficiaries.
AB 1897	Unfairly imposes liability on any contracting entity for the contractor's wage and hour violations, lack of worker's compensation coverage, and/or failure to remit employee contributions, despite the lack of any evidence that the contracting entity controlled the working conditions or wages of the contractor's employees.
AB 2074	This bill provides that a suit for liquidated damages may be filed at any time before the expiration of the statute of limitations for bringing the underlying action alleging payment of less than the state minimum wage.
	<u>Hazardous Waste</u>
AB 2748	Repeals the requirement that the owner or operator of a location accepting recyclable latex paint for recycling have such a business plan meeting certain requirements in order to accept recyclable latex paint.
SB 1261	Requires the Secretary for Environmental Protection, in coordination with the Office of Emergency Services, to specify the hazardous materials inventory required to be submitted by handlers, including the data to be collected and submitted for hazardous materials. The bill authorizes the governing body of a unified program agency to adopt an ordinance that designates a material as a hazardous material, if a handler or the governing body of the unified program agency has a reasonable basis to believe that material injurious or harmful, as specified.
	<u>Insurance</u>
AB 2376	Current law generally prohibits property belonging to the state from being insured against risk of damage or destruction by fire, with specified exceptions. Existing law, notwithstanding this general prohibition, authorizes the Director of General Services to establish a master builders' risk insurance program for all state construction projects during construction. This bill would require the contractor's deductible under a master policy to be outlined in the request for bids or proposals.
	<u>Legal</u>
AB 1897	Unfairly imposes liability on any contracting entity for the contractor's wage and hour violations, lack of worker's compensation coverage, and/or failure to remit employee contributions, despite the lack of any evidence that the contracting entity controlled the working conditions or wages of the contractor's employees.
	<u>Payments</u>

AB 1939	Authorize a contractor, as defined, to bring an action in a court of competent jurisdiction to recover from the hiring party, as defined, that the contractor directly contracts with, any increased costs, including labor costs, penalties, and legal fees incurred as a result of any decision by the Department of Industrial Relations, the Labor and Workforce Development Agency, or a court that classifies, after the time at which the hiring party accepts the contractor's bid, awards the contractor a contract when no bid is solicited, or otherwise allows construction to proceed, the work covered by the project, or any portion thereof, as a public work, except under the circumstances specified.
	<u>Prevailing Wages</u>
AB 26	Revises the definition of "construction" to also include work performed during the post construction phases of construction, including, but not limited to, all cleanup work at the jobsite.
AB 2272	Revises the definition of "public works" to also include infrastructure project grants from the California Advanced Services Fund. The bill specifies that for purposes of this provision, the Public Utilities Commission is not the awarding body or body awarding the contract.
SB 266	Requires a body awarding the contract for public work to furnish, within 10 days after receipt of a written request from the Labor Commissioner, a copy of the valid notice of completion for the public work or a document evidencing the awarding body's acceptance of the public work on a particular date, whichever occurs later, in accordance with specified provisions.
	<u>Prompt Payment</u>
AB 1705	This bill extends until January 1, 2018, authorization for retention proceeds withheld from any payment by an awarding entity from the original contractor, by the original contractor from any subcontractor, and by a subcontractor from any subcontractor to exceed 5% on specific projects where the director of the applicable department has made, or the governing body of the public entity or designated official of the public entity has approved, a finding prior to the bid that the project is substantially complex and requires a higher retention. The bill also changes current law, rather than requiring the inclusion of both the findings and the actual retention amount in the bid documents, instead requires that the bid documents include details explaining the basis for the finding in addition to the actual retention amount.
	<u>Public Works</u>

AB 1650	Enacts the Fair Chance Employment Act, which would require any person submitting a bid for a state contract involving onsite construction-related services to certify that they will not ask an applicant for onsite construction-related employment to disclose information concerning his or her conviction history on or at the time of an initial employment application. The bill would not apply to a position for which a person or state agency is otherwise required by state or federal law to conduct a conviction or criminal history background check or to any contract position with a criminal justice agency, as specified.
AB 1656	Requires, by July 1, 2015, the Department of General Services to complete a long-range planning study of the state-controlled and owned office buildings in the County of Sacramento and the City of West Sacramento, including the headquarters of the State Board of Equalization (BOE), for the management of the state's space needs in the Sacramento region, as specified. The bill requires the Director of General Services to issue one or more requests for proposals for the planning, design, construction, and acquisition of facilities recommended by the Legislature based on the planning study.
AB 1939	Authorizes a contractor, as defined, to bring an action in a court of competent jurisdiction to recover from the hiring party, as defined, that the contractor directly contracts with, any increased costs, including labor costs, penalties, and legal fees incurred as a result of any decision by the Department of Industrial Relations, the Labor and Workforce Development Agency, or a court that classifies, after the time at which the hiring party accepts the contractor's bid, awards the contractor a contract when no bid is solicited, or otherwise allows construction to proceed, the work covered by the project, or any portion thereof, as a public work, except under the circumstances specified.
AB 2744	Makes specified provisions of law relating to a contractor or subcontractor performing a public works project applicable to violations of provisions related to the employment of apprentices.
	<u>Schools</u>
AB 1581	Until January 1, 2019, require the lease instrument and the agreement with the lowest responsible bidder to include a requirement for the person, firm, or corporation that constructs a building to be leased and used by the school district upon a designated site, including, but not limited to, the prime contractor and, if used, electrical, mechanical, and plumbing subcontractors, to comply with the above-described prequalification questionnaire and financial statement requirements when the agreement is for a public project using moneys received pursuant to the Leroy F. Greene School Facilities Act of 1998 or moneys from

	future state school bonds that involves a projected expenditure of \$1,000,000 or more.
SB 854	Requires any funds in the State School Site Utilization Fund, including interest, that are not subject to return to a school district, as specified, to be allocated, upon appropriation by the Legislature, for purposes of administering the Leroy F. Greene School Facilities Act of 1998. The bill requires any unencumbered funds in the State School Deferred Maintenance Fund on July 1, 2014, to be transferred to the State School Site Utilization Fund.
	<i>Storm Water Runoff</i>
SB 985	Authorizes one or more public agencies to develop a stormwater resource plan. The bill expands the standards to include dry weather runoff. This bill requires a stormwater resource plan to be submitted to any applicable regional water management group, to identify and prioritize stormwater and dry weather runoff capture projects for implementation in a prescribed quantitative manner, and to prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects. This bill also eliminates the requirement that a stormwater resource plan be consistent with any applicable integrated regional water management plan.

The list is not intended to be an all-inclusive list of new construction laws, but rather sets forth the primary construction related new laws. If you are interested in other new laws or want to review the full text of the bills and resolutions they can be found on the internet at <http://www.leginfo.ca.gov/index.html>.

This article, ©2014, was written by Patrick J. Whitehorn. Mr. Whitehorn is an associate with Last & Faoro and works closely with William C. Last, Jr. Mr. Last is an attorney who has been specializing in Construction Law for over 30 years. In addition to belonging to a number of construction trade associations, Mr. Last holds a California "A" and "B" license. He can be contacted at 415-764-1990 or 650-696-8350. A number of his past articles can be found on his website (lhconstructlaw.com). This bulletin is published periodically to provide general information about current legal issues. The articles are not intended to be a substitute for the advice of an attorney as to a specific problem. If you have a specific legal question or need legal advice, you should contact an attorney.