



Contractors Face New Laws in 2021

Below is a list of major new laws that have an impact on the construction industry. The descriptions are intentionally brief and should not be considered a complete summary of each bill. Unless otherwise noted, the bills are effective January 1, 2021. For a copy of any legislation and a complete analysis, click on the links below, or go to the [California Legislative Information website](#).

Please contact Felipe Fuentes, Jamie Khan, or Paul Gladfelty in AGC's Legislative Office in Sacramento at (916) 444-3116 if you need any additional information.

Employer / Employees

SB 973 - Pay Data Report. Requires, on or before March 31, 2021, and each year thereafter, a private employer that has 100 or more employees and who is required to file an annual Employer Information Report under federal law, to submit a pay data report to the DFEH that contains specified wage information. Requires that the report include the employer's NAICS code.

SB 1383 - Family Leave. Makes it unlawful for any employer with five or more employees to refuse to grant a request by an employee to take up to 12 work weeks of unpaid protected leave during any 12-month period to bond with a new child of the employee or to care for themselves or a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner. The bill allows for a private right of action, thereby creating significant legal liability for employers.

AB 1867 - Supplemental Paid Sick Leave: COVID-19. Requires companies with 500+ employees in the U.S. to provide 80 hours of Supplemental Paid Sick Leave (SPSL) for full-time employees to take time off work when ill from COVID. Part time employees would get the average number of hours over a two-week period.

The Federal Government exempted companies with over 500 employees from SPSL, and the State of California and various cities are requiring these companies to provide SPSL. These provisions of AB 1867 are effective now until December 31, 2020, or upon expiration of any federal extension of the Emergency Paid Sick Leave Act, whichever is later.

The bill also requires the Department of Fair Employment and Housing (DFEH) to create a small employer family leave mediation pilot program. The program would authorize a small employer or the employee to request all parties to participate in mediation through the DFEH's dispute resolution division. Presumably, this is to deal with the effects of SB 1383. Prohibits an employee from pursuing civil action until the mediation is complete if an employer or employee requests mediation, as prescribed. *These provisions of the bill will be repealed on January 1, 2024.*

AB 1947 - Employment Violation Complaints. Current law authorizes people who believe they have been discharged or discriminated against in violation of any law enforced by the Labor Commissioner to file a complaint with the Division of Labor Standards Enforcement within six months after the occurrence of the violation. This bill extends the period of time to file to one year.

AB 3075 - Wages: Enforcement. Requires corporations to include an attestation in their articles of incorporation signed by the filers that no filer has an outstanding final judgment issued by the Department of Labor Standards Enforcement for a violation of a wage order or the labor code. Allows local jurisdictions to enforce labor standards pertaining to the payment of wages that are at least as stringent as existing law under the labor code.

Contractor Licensing

SB 1189 - Residential Remodeling. Creates a "B-2" Residential Remodeling contractor license to allow entry into the construction industry for those who do not have all of the framing and carpentry skills necessary for a regular "B" license.

SB 1474 - Renewal of Licenses. Allows for retroactive renewal of a license if within 90 days of expiration the eligible licensee submits a completed application for renewal and pays the renewal/delinquency fees. Current law requires contractor to show that its failure to renew was due to circumstances beyond its control.

AB 3087 - Contractors' State License Law. Authorizes the Contractors State License Board to contract with a third-party vendor to administer licensing examinations and to provide materials and services for the examination.

Public Works

SB 588 - Disabled Veteran Business Enterprise (DVBE). Authorizes the withholding of \$10,000 from the final payment, or the full final payment if less than \$10,000, until a prime contractor complies with existing DVBE certification requirements, or portions of the final payment on contracts until the prime contractor has certified DVBE subcontractors have been paid. Requires the Legislative Analyst's Office to undertake a complete assessment of the DVBE program by January 1, 2024.

AB 2231 - De Minimis Public Subsidy. Sets a "de minimis" public subsidy limit of \$600,000 and 2% of the total project cost a private developer can receive for a project before triggering prevailing wage requirements. The limit for single family homes is 2% of the total project cost. Effective for advertised or awarded projects after 7/1/21.

AB 2765 - Prevailing Wages, Charter Schools. Expands the definition of "public works," for the purpose of paying prevailing wages, to include any construction, alteration, demolition, installation, or repair work done under private contract on a charter school with an average daily attendance not exceeding 80 pupils when it is paid for with conduit revenue bonds issued on or after January 1, 2021.

Public Works – Skilled and Trained Workforce Requirements

AB 2311 - Skilled and Trained Workforce Notice Requirements. 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 skilled and trained workforce requirements.

Safety

SB 1159 - Workers' Compensation: COVID-19. COVID-19 inspired several legislative proposals to deal with workers' compensation-related claims. Initially, many of them were very broad and far reaching, including creating a conclusive presumption of work relatedness. SB 1159 was amended significantly to eliminate provisions that impose additional liability and cost implications. However, it should be noted that COVID-19 claims are considered to be work-related and may be disputed. The bill also contains reporting and testing requirements that apply to all employers once specific claim thresholds are met.

AB 685 - COVID Exposure Notification. Requires employers to provide written notice and instructions to employees who may have been exposed to COVID-19 at their worksite and enhances Cal/OSHA's ability to enforce health and safety standards to prevent workplace exposure to and spread of COVID-19.

AB 2210 - Contractor Violations, Tree Work. Current law provides that a cause for disciplinary action against a contractor arises for violations of specified safety provisions that result in death or serious injury to a person. This bill authorizes disciplinary action against a contractor for violations of specified regulations regarding tree work, including maintenance or removal, without regard to whether death or serious injury to an employee resulted.

Regional Agencies

AB 2731 - CEQA, Old Town Center Redevelopment. Authorizes the San Diego Association of Governments (SANDAG) to obtain site control to support the redevelopment of the Old Town Center site, including a transit and transportation facilities project, in the City of San Diego before completing the environmental review for those actions.