

## AB 566: NEW REQUIREMENTS REGARDING SCHOOL CONSTRUCTION PROJECTS – EFFECTIVE JANUARY 1, 2016

On August 17, 2015, Governor Jerry Brown signed AB 566 (Chapter 214, Statutes of 2015), which prohibits the governing board of a school district from entering into a lease-leaseback or lease-to-own contract unless the entity makes an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce. The new law will also require school district projects seeking reimbursement from future state schools construction bond funds to prequalify and rate potential contractors and electrical, mechanical and plumbing subcontractors. The intent of these new provisions is to ensure the quality of school construction projects, especially when the contracts are not awarded based on a public bidding process.

### **NEW REQUIREMENTS**

The law requires that the entity and its subcontractors, at every tier, “use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.”

An “apprenticeable occupation” is one for which the Chief of the Division of Apprenticeship Standards (DAS) of the Department of Industrial Relations (DIR) had approved an apprenticeship program before January 1, 2014.

A “skilled and trained workforce” is defined as a workforce that meets the following standards:

1. All of the workers working on the project are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the DAS. Skilled journeyperson is defined as either someone who has graduated from a state-approved apprenticeship program or a program approved for federal purposes, or someone who has as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program.
2. As of January 1, 2016, at least 30% of the skilled journeypersons on the project are graduates of a state-approved (or federally-approved if located outside California) apprenticeship program for the applicable occupation. The percentage of graduates mandated by this section increases each year: 40% by January 1, 2017; 50% by January 1, 2018, and 60% by January 1, 2019. This requirement is very similar to provisions adopted in the provisions under the Public Contract Code authorizing state and local agencies to use a design-build method for awarding public works contracts.
3. For an apprenticeable occupation in which no apprenticeship program had been approved by the Chief of the DAS prior to January 1, 1995, up to half of the graduation percentage requirements above may be satisfied by skilled journeypersons who commenced work in the apprenticeable occupation before the Chief’s approval of an apprenticeship program for that occupation in the county in which the project is located.

An entity's "commitment" that a skilled and trained workforce will be used on the project may be established in any of the following ways:

1. An agreement with the governing board of the school district to comply with the conditions of the statute and to provide the governing board with a monthly report demonstrating compliance while the project is being performed. This monthly report will be considered a public record, subject to the California Public Records Act. The statute provides that if an entity fails to provide the monthly report, the district must immediately cease making payments to the entity.
2. The governing board has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project and that includes the requirements of the statute.
3. Evidence that the entity has entered into a project labor agreement that includes the requirements of the statute.

This bill goes into effect on January 1, 2016.

For questions regarding this *Briefing*, please contact your Keenan Account Manager.

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