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**STATE BUILDING AND CONSTRUCTION  
TRADES COUNCIL 2019**

**Legislative Agenda**

**Protecting Workers Against Misclassification - AB 5 (Gonzalez)**

Significantly improves working conditions for employees currently misclassified as independent contractors suffering from wage-theft and the other negative consequences of being denied the protections under the state's labor code by codifying the Supreme Court's unanimous ruling in *Dynamex Operations v. Supreme Court*.

**Definition of "De-Minimis" Public Funds for Private Projects - AB 520 (Kalra)**

Closes a loophole that allows developers to bypass the prevailing wage because of the Department of Industrial Relations' interpretation of what constitutes a "de-minimis" public subsidy.

**Protecting Outdoor Workers from Wildfire Smoke - AB 1124 (Maienschein)**

Directs Cal-OSHA to develop a standard to clarify the obligation of employers to protect outdoor workers from toxins due to wildfires.

**Quality Jobs & Equity Goals for State Climate Change Programs - AB 1430/AB 1431 (Assembly Members Autumn Burke and Eduardo Garcia)**

Requires the state's Greenhouse Gas Reduction Fund to be fully covered by prevailing wage, skilled and trained workforce requirements, and incentives to use community workforce agreements and improves the competitive scoring criteria to ensure procurement policies require labor standards for job quality.

**Charter School Construction Prevailing Wage - AB 1613 (O'Donnell)**

Applies the prevailing wage worker protections to charter schools electing to receive tax-exempt conduit bond financing from a public agency for charter school projects, thereby attracting the most competent and skilled local workforce to build all public education facilities.

**Pre-Construction Activities Prevailing Wage - AB 1768 (Carrillo)**

Clarifies that the prevailing wage applies to site assessments, feasibility studies, and other pre-construction phases of a public works project.

**Confronting Harassment in the Construction Industry - SB 530 (Galgiani)**

Establishes an advisory committee consisting of representatives of Building Trades unions, contractors, state agency representatives, and others to develop an industry specific harassment and discrimination prevention policy and training standard for use by construction employers. The advisory committee would provide recommendations to the Legislature for implementation.

## **LABOR'S JOINT LEGISLATIVE CONFERENCE 2019**

### **Cracking Down on Unlicensed Land Surveying Work – SB 556 (Pan)**

Modernizes and brings clarity to the Professional Land Surveyors Act by making it clear to contractors and developers when a licensed professional land surveyor is required.

### **Limit Deposition for Asbestos and Silica Cases - SB 645 (Monning)**

Protects individuals deemed by a physician to have "substantial medical doubt of their survival beyond six months" (due to mesothelioma or silicosis) from prolonged civil discovery sessions by limiting depositions to seven hours.

### **Long Duration Emission-Free Bulk Energy Storage - SB 772 (Bradford)**

Directs the California Independent System Operator (CAISO) to procure up to 4,000 MW of long duration bulk energy storage in furtherance of California's climate and renewable energy goals.

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**FACT SHEET**

**AB 520 (Kalra)**

**Public Subsidies for Private Projects: Prevailing Wage Coverage**

**THIS BILL**

AB 520 would define when a public subsidy is “de minimis” for the purpose of determining when the prevailing wage is applied to private projects. This would allow a recipient to choose to accept the public subsidy with the understanding that prevailing wage will apply to the project. Specifically, AB 520:

- Would provide that a public subsidy granted to a private project is de minimis if it is both less than \$275,000 and less than two percent of the total project cost.

**BACKGROUND**

Generally, the Department of Industrial Relations (DIR) has interpreted de minimis to mean any subsidy at or under two percent of the total project cost, no matter the amount. As a result, DIR’s determinations of de minimis have ranged from \$65,710 to \$4.5 million or from .5 percent to 2 percent of a project’s total cost.

For example, in 2016, DIR approved as de minimis a \$500,000 public investment in a \$77 million dollar hospital expansion project, a .65% public subsidy. Similarly, in 2011, a \$95 million dollar food processing facility received a \$1.6 million subsidy which amounted to 1.7% of the total project cost.

Establishing a definition of de minimis will provide clarity and certainty to project recipients who **choose** to accept a public subsidy. It will also reduce the burden of coverage determinations at the Department of Industrial Relations. These projects should pay the prevailing wage if they are getting a public subsidy. It is the prevailing wage that drives the wages in the construction industry for both public and private projects, union and nonunion. In a key industry such as construction, the destruction of a strong wage base and the accompanying benefits can have a disastrous ripple effect on the economy of entire regions of the state. AB 520 will improve the quality of life for construction workers on publicly subsidized private projects as well as increase apprenticeship opportunities for young women and men seeking a rewarding career in the unionized building and construction trades.

Contact:

Cesar Diaz, Legislative/Political Director-SBCTC or Jeremy Smith, Deputy Legislative Director at (916) 443-3302 with any questions.

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**FACT SHEET**

**AB 1430/AB 1431 (Burke and E. Garcia)**

**Quality Jobs & Equity Goals for State Climate Change Programs**

**ISSUE**

The revenue generated from the state's market-based Cap and Trade Program to regulate industrial facilities is placed in the Greenhouse Gas Reduction Fund (GGRF). Projects, technology or programs that help meet emission reduction goals are funded by the GGRF. While the GGRF has funded projects with high labor standards, such as the high-speed rail, there is no statutory certainty to create high quality jobs for disadvantaged communities across the state or to prevent companies that abuse their employees from receiving public subsidies.

**THIS BILL**

This 2-bill package will create labor standards for the GGRF to ensure these "green jobs" become good union jobs by requiring the prevailing wage, skilled and trained workforce requirements, incentives for community workforce agreements, and will improve the competitive scoring criteria to ensure that procurement policies require high labor standards for job quality and consider worker health and safety issues.

**BACKGROUND**

With the support of the State Building Trades and the California Labor Federation, California passed the world's strongest greenhouse gas emission reduction goals. The Cap and Trade Program is a market-based approach to cap industrial sources (transportation, manufacturing, agriculture, refineries etc.) of GHG emissions. It is essentially an auction to purchase allowances that allows companies to operate with a cost. Revenue from that program is placed in the GGRF. According to the California Air Resources Board (CARB), the fund has so far taken in over \$9.4 billion in proceeds since 2012. In the 2018-19 budget year, \$3.1 billion was allocated from the GGRF to various programs. \$1.5 billion was spent on: high speed rail (25%), affordable housing (20%), transit and intercity rail (10%), and low carbon transit operations (5%). \$1.4 billion was for programs intended to reduce mobile source emissions from heavy duty vehicles and forestry-related activities, provide local air district grants, and encourage low carbon fuel production and programs to reduce emissions from agricultural activities.

We know that not all green jobs are good jobs. For example, solar roof installers working for private nonunion employers receiving a large amount of public subsidies are often only paid the minimum wage. We also know that nonunion electric car manufacturers, energy producers, construction companies, recycling companies, trucking companies, etc., that pay minimum wages and have substandard health and safety records are also eligible for public subsidies under the GGRF. We believe public resources should be properly conditioned to maximize taxpayer

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investments to create good paying jobs. AB 1430/AB 1431 will maximize shared prosperity for working families through required job quality and access to workforce levers to be part of climate policies.

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**FACT SHEET  
AB 1613 (O'Donnell)  
Charter School Construction Prevailing Wage**

**ISSUE**

California law requires taxpayer assisted private construction projects to pay construction workers, union and nonunion, the local area prevailing wage. Ensuring that construction workers earn a decent wage on publicly assisted projects is critically important for worker safety, for promoting quality construction based on a skilled and trained workforce, and ultimately for the local economy which benefits from wage earnings circulating through local businesses.

Current law allows charter school organizations to utilize conduit bonds for private construction by accessing the municipal bond market. This financing allows charter school organizations to take advantage of the tax exemptions and very low interest rates that come from taxpayer-backed conduit revenue bonds for their project construction without requiring the payment of prevailing wage.

**THIS BILL**

AB 1613 creates good paying jobs for local construction workers, will lead to the employment of more young apprentices, and ensures projects will be built with highly skilled workers to increase the quality of charter school facilities.

Specifically, AB 1613 will:

- Require charter school construction projects utilizing conduit revenue bonds to be considered public projects that require the payment of the prevailing wage;
- Help employ young women and men registered in California apprenticeship programs; and
- Treat charter schools similar to other entities that use conduit financing, such as hospitals, which are required to pay construction workers a fair wage for projects.

**BACKGROUND**

According to the Charter School Facilities Authority, under the Treasurer's office, the amount of conduit financing transactions has been increasing significantly since 2012 when there were only two conduit revenue bond transactions. By granting access to conduit revenue bonds, private entities and non-profits are provided with low interest rates and tax-exempt borrowing. Because this amounts to a taxpayer-provided benefit, in 2015 the Legislature passed and Governor Brown signed legislation requiring that hospital companies utilizing conduit bonds from the municipal bond market should be required to pay the prevailing wage on acute care hospital construction projects. AB 1613 will ensure that those same requirements will now apply to charter school organizations who want to construct charter schools.

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**FACT SHEET**

**AB 1768 (Carrillo) and SB 556 (Pan)  
Preconstruction Worker Wage Protections**

**AB 1768 (Carrillo) - Prevailing Wage for Preconstruction Activities**

**Issue**

Currently, some public agencies are not applying the prevailing wage on preconstruction activities. While the Prevailing Wage statute makes clear that “preconstruction” phases of a project fall under the definition of public works, the ambiguity as to what is considered preconstruction work has led to confusion amongst stakeholders in the construction industry as to when prevailing wage requirements apply.

**This Bill**

AB 1768 would clarify that “preconstruction” as it relates to public works projects also includes site assessments and feasibility studies. Further, AB 1768 would specify that site assessments and feasibility studies fall under the definition of preconstruction regardless of whether further construction is performed after the assessment is completed.

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**SB 556 (Pan) - Cracking Down on Unlicensed Land Surveying Work**

**Issue**

Land surveying professionals in the land surveying industry have noted increasing evidence of unlicensed and unqualified individuals providing unregulated services that would typically fall under the statutes pertaining to land survey work.

**This Bill**

SB 556 would clarify and modernize the Professional Land Surveyors’ Act in an effort to protect public health and assist the Board for Professional Engineers, Land Surveyors, and Geologists in cracking down on unlicensed land survey work. It will also create penalties and employer accountability for using unlicensed land surveyors and require public agencies to report instances when an unlicensed land surveyor is used.

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**FACT SHEET**

**SB 530 (Galgiani)**

**Confronting Harassment in the Construction Industry**

**ISSUE**

Despite efforts to recruit women into the construction industry, women make up only 8.5% of California's total construction workforce and only 3% of the apprentices enrolled in the apprenticeship system. According to the Department of Industrial Relations, there are only 1,872 women enrolled in state-approved construction apprenticeship programs up from 1,275 at this point last year (with 1,814 enrolled in union programs), making up just 3% of the total number of construction apprentices. Building Trades union programs account for 96% of all female apprentice graduates and 92% of all minority graduates. Efforts to recruit more women will be greatly assisted with policies that promote retention and improve the construction site environment. The highly skilled and trained women of the construction industry contribute greatly to California's infrastructure, economy, and quality of life. They have also been critical to legislative and regulatory achievements which aim to provide safe workplaces and fair wages to all workers.

**THIS BILL**

SB 530 will require the State Labor Commissioner to develop an industry-specific harassment and discrimination prevention policy for use by employers in the construction industry.

Specifically, SB 530:

- Establishes an advisory committee consisting of the Division of Labor Standards and Enforcement, the Department of Fair Employment and Housing, the Division of Occupational Safety and Health, contractors, labor representatives, employers, and non-profit organizations representing women to develop an industry-specific anti-harassment and discrimination policy and training standard for use by construction employers.
- The advisory committee would provide recommendations to the Legislature for implementation.

**BACKGROUND**

In the unionized construction industry, wages and benefits are negotiated with employer associations and cover all workers regardless of their gender or race. These negotiations provide all workers with access to quality healthcare, vacation, sick time, and pension benefits. Directly addressing the ongoing harassment and discrimination issues on the jobsite will ensure all workers are treated fairly and equally, will provide access to middle class jobs for women, and will help change the culture of the industry. A 2011 research report by the University of Massachusetts, Boston titled, *Unfinished Business: Building Equality for Women in the*

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*Construction Trades* says it best: “The building trades unions are vital to the recruitment and retention of women in the construction industry.”

It is more important than ever that all workers, of both genders, are recruited into a career in construction, from working with the tools, to supervising a project, to owning their own business. By establishing an advisory committee consisting of representatives of Building Trades unions, contractors, state representatives, and others to develop an industry specific anti-harassment and discrimination policy and training standard for use by construction employers, SB 530 will uniquely focus the policy and training to the construction site.

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**FACT SHEET**

**SB 645 (Monning)**

**Deposition Time Limits for Mesothelioma and Silicosis Court Cases**

**ISSUE**

When victims are ill and dying due to silicosis or mesothelioma, they may bring a civil action in state court to hold accountable the manufacturers, business owners, and others who knew for decades about the horrendous dangers of asbestos and silica but failed to warn or provide adequate protection. During the court process, attorneys representing the entities who exposed the worker to asbestos and silica, and the judges overseeing the case, often make sick and dying victims sit through hours of grueling depositions that are unnecessary and only hasten a sick victim's death.

**THIS BILL**

SB 645 protects workers from excessively long depositions when there is "substantial medical doubt of their survival beyond six months" due to mesothelioma and silicosis. The bill will limit depositions of victims who are dying from these diseases to seven hours but allows a court to grant up to three more hours upon request. Any such extension requires that the court find facts to support the request and must determine that the health of the victim does not appear to be endangered by the additional time.

**BACKGROUND**

Mesothelioma affects workers and their family members poisoned by exposure to asbestos unknowingly. It is a particularly painful disease that fills the lung cavity with fluid causing a drowning sensation and leading ultimately to death. Silicosis is caused by breathing in silica dust that is caused by the cutting of stone, tile, or quartz. It is classified as a lung carcinogen and can cause shortness of breath, scarring of the lungs, labored breathing, respiratory failure, and generally degrades a victim's quality of life. Both diseases make it excruciatingly difficult to sit through the hours of testimony and depositions that industry attorneys subject victims to.

Many workers, especially in the trades, and their families from "take home exposure," have been exposed to asbestos and silica during their careers. Unfortunately, while mesothelioma and silicosis can take years to present themselves, victims commonly survive less than a year after diagnosis. In California, a claim for pain and suffering dies with the plaintiff and pain and suffering damages may be the only significant recovery for the victims' families. The use of extended depositions only helps hasten death which allows the industries being sued to escape paying such damages. Limiting the amount of time victims must sit through depositions in which they are providing information that could already be shared in writing will lead to a better-quality end of life and increase the chances that they will survive long enough to prevail at trial.

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