Welcome!

We have some informative news for you below, including a quick discussion on legislation that will take effect in 2017. As a matter of fact, we plan to highlight key legislation in the coming issues so that you can be informed of the most critical changes in the California construction industry.

We also mention a Caltrans survey (I know, I know -- no one likes surveys but please fill this one out!) and talk a bit more about the AB 219 preliminary injunction. We also attempt to draw a comparison between California's high speed rail project and the floundering Honolulu rail project.

Most of you are probably also interested in some of the elections results too. We'll send out a “News Flash” later in the week but don't expect any major changes in California’s policies or politics. It looks very likely that the Democrats will secure at least a two-thirds majority in one of the two houses in the California Legislature. Another quick political note – Orange County, for the first time in 80 years, voted for the Democratic Presidential candidate. While the nation turned a brighter shade of pink, California turned darker blue.

Enjoy this episode of the SCCA Legislative Committee newsletter. And please don’t hesitate to contact me at toddb@bblobby.com if you have any questions.

Take the CalTrans Survey!

CalTrans is currently conducting a 2016 Caltrans External Stakeholder Survey. This is a great opportunity to speak out and let CalTrans know how they have been doing over the last year! Take a few minutes to complete the survey by clicking here.

AB 219 Update

As you recall, AB 219 went into effect earlier this year, including ready-mix drivers in prevailing wage requirements in California law. Recently, a preliminary injunction was issued regarding the implementation of AB 219.

In summary, plaintiffs allege that AB 219 violates the Equal Protection clause of the US Constitution by “arbitrarily subjecting ready-mixed concrete suppliers, but not other similarly situated building material suppliers, to the prevailing wage law.”

Plaintiffs go on to argue that AB 219 “is preempted by the FAAAA, which prohibits the enactment of state laws that are related to a price, route, or service of any motor carrier … or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.”

So, what does this really mean? After reviewing the plaintiff’s filing with the court, and applying a strict standard of evaluation, the court determined that a preliminary injunction was necessary to delay implementation of the law while the court further reviews the case.

At its most basic level, the court said that there is some value and standing to the claims made against AB 219. Because of this, the issue must be examined more closely, so the court issued the preliminary injunction. In response, the Department of Industrial Relations (DIR) has appealed the court’s decision. You can read their announcement here.

It’s important in these types of situations that we stay closely tuned to announcements from DIR so that we can accurately comply with the law. You can follow the latest announcements made by DIR here so that your business can get up-to-date information on this issue.
New Laws for 2017

Assembly Bill 626 (Assemblymember Chiu) - AB 626 establishes a claim resolution process at the local level (non-state agencies) for contractors that are involved in a disputed claim in connection with a public works project.

This bill requires that a local public entity must review and respond, in writing, to a claim within 45 days of receiving the complaint. The response must include statements on both the disputed and undisputed components of the claim. At the consent of both parties, that time period may be extended. Any payments for undisputed claims must be paid within 60 days to the business.

This is a significant change to the law and will impact both contractors and subcontractors that may have a disputed claim arise on a local project. This claim resolution process will apply to any contract entered into beginning on January 1, 2017.

SB 785 & AB 566 (Assemblymember O’Donnell) These tandem measures adjusted the requirements for the number of apprentices used on each project for design-build process for the Department of General Services (DGS), Department of Corrections and Rehabilitations (CDCR), and school districts that enter into lease-leaseback situations.

These bills detail the timeline and minimum requirements for the number of journeypersons that are graduates of apprenticeship programs that are required on a particular project. If this requirement is not met, the design-build or lease-leaseback entity cannot be pre-qualified or short-listed for projects.

- 2016: 20% of journeypersons for design-build projects, 30% for lease-leaseback projects
- 2017: 30% of journeypersons for design-build projects, 40% for lease-leaseback projects
- 2018: 40% of journeypersons for design-build projects, 50% for lease-leaseback projects
- 2019: 50% of journeypersons for design-build projects, 60% for lease-leaseback projects
- 2020: 60% of journeypersons for design-build projects

The requirements of the bill are satisfied at a 60% cap for both design-build (2020) and lease-leaseback (2019) projects.

Many conversations in Sacramento were had on these bills. SCCA’s partners from the Laborers and Operating Engineers unions privately assured us that our workforces would meet these requirements. Nonetheless, be sure to contact someone at SCCA or Todd Bloomstine if you ever experience any problems meeting them.

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Need to talk to us?
We’re listening....
Honolulu High Speed Rail Construction Draws Questions from Island Residents

Is this the Future for the California High Speed Rail, too?

Recently, news reports have been released showing how the Honolulu High Speed Rail has moved from a cost of $4.6 Billion to $8.6 Billion in 8 years with a funding gap of $1.8 Billion.

To meet the new costs and complete the rail, estimates indicate that taxes would need to be raised on an average family of 5 by $1000 per year. The author continues, “Once completed, the annual cost of operating and maintaining a safe and reliable rail system would require comparable tax payments each year for the lifetime of the rail system.”

The Federal Transportation Authority has said that it will request a re-payment of the federal dollars used in the project if it is not completed — which is only possible if the taxes are raised to the earlier disclosed levels.

While the story of California’s High Speed Rail is not exactly the same as the Honolulu High Speed Rail System, one cannot ignore the similarities to our experience here. The California High Speed Rail was originally forecast at $33 billion, but it has now more than doubled to $68 billion. The initial section of the rail section through the central valley is more than 4 years behind schedule, and still doesn’t have all the needed land to complete the project.

Another key difference between the two rail systems is that the California High Speed Rail is all state funded. While reports have shown needed taxes to complete the Honolulu High Speed Rail, here in California, reports are indicating that subsidies will be necessary to maintain the operation of the High Speed Rail in California.

While building in Honolulu is about halfway complete, and we have just broken ground on construction here in California, the fact that we already face so many cost increases should give citizens, and state and local government leaders, pause to reconsider continuing down this path.