

Constructive Communication

2010 Fall Newsletter

MAYOR VILLARAIGOSA'S 30/10 INITIATIVE WILL BRING INDUSTRIAL GROWTH TO LOS ANGELES

by Jodi Summers

Bravo to Mayor Antonio Villaraigosa for going to Washington to push his 30/10 initiative. The mass transit financing method that he has proposed so that Los Angeles can build their 30-year mass transit model in 10 years' time, could be a new model for federal-local partnership, that could help cities across the country rebuild their infrastructure, strengthen urban development and revitalize the economy, and stimulate industrial growth.

“We are trying to define density not as a bad word, but as a word that



can have elegance to it, and be green, and be smart,” the mayor said. “Yet the city needs to change even more, and the 30/10 plan is one of the routes to that change.”

Senator George Voinovich from Ohio, a former mayor, noted that regions like Los Angeles should be rewarded for raising our own transportation funding.

The 30/10 proposal would allow Metro to construct the full Westside extension, but also two easterly extensions of the Gold Line, two new branches for the Green Line, several busways in San Fernando Valley, a link along I-405, and new light rail lines downtown, along Crenshaw Boulevard, to Santa Monica, and via the West Santa Ana branch corridor. The West Santa Ana branch corridor would be served by commuter rail. All by 2020.

It was a brilliant solution to an intractable political problem by

ensuring the extension of transit in corridors everywhere in the county within a tight time frame. The fight over which

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lines to prioritize would simply not have to happen. The 30/10 proposal that went to Washington looks something like this:

- Current long-range transportation plan assumes \$18.3 billion in transit expenditures over 30 years. 65% of funds would come from Measure R, with 23% from New Starts and 12% from other sources.
- The 30/10 Initiative would allow total expenditures to be reduced to \$14.7 billion because of avoided inflation, since projects would be completed in ten years, twenty years ahead of schedule. More cost savings could also be possible because of a cheaper construction market.
- Of that \$14.7 billion, \$5.8 billion is expected to be available from existing sources, with around \$8.8 billion still necessary, which could be provided through a loan from the federal government.



- Measure R would then pay back its \$8.8 billion in debts for projects completed between 2010 and 2020 with \$10.4 billion in tax revenue received between 2020 and 2040.

In Washington, Mayor Villaraigosa got support Oregon Democratic Representative Peter DeFazio, who chairs the House Subcommittee on Highways and Transit. California Democratic Senator Barbara Boxer also supports the effort. Secretary of Transportation Ray LaHood signaled that he was open to the opportunity in a meeting in Los Angeles.

“Four years ago, when I talked about the subway to the sea, people laughed,” Villaraigosa recalls. “But we are going to build it. All of these transit plans will happen.”



California's largest solar photovoltaic plant to start construction



Southern California has gotten the bulk of the solar industry’s attention lately as a [group of solar thermal projects weave their way through state regulatory agencies](#).

But photovoltaic activity is about to kick up farther north as a project set to become the largest of its kind in California readies for construction in the Central Valley.

NRG Solar, partnering with Eurus Energy America Corp., is about to launch on a 45-megawatt project in Kings County. Split into three parts, the 20-megawatt Sun City portion and the 19-megawatt Sand Drag section will start going up by the

end of September, while the final Avenal Park piece will follow in about a month.

NRG, a subsidiary of NRG Energy Inc. of Princeton, N.J., owns the state’s previous record-holder – a 21-megawatt facility in Blythe. The incoming installation is expected to produce enough power to meet the energy needs of 36,000 homes.

NRG and Eurus, the subsidiary of a Japanese company, have already wrapped the financing process, though they would not disclose how much they had raised.

The California Public Utilities Commission has approved a 20-year agreement for Pacific Gas & Electric Co. to start buying power from the project once it starts operating in mid-2011.

Minneapolis-based real estate firm Ryan Companies US will construct the solar farm with thin-film panels from Sharp Electronics. The company, Japan’s largest manufacturer of solar panels, agreed to pay \$305 million to buy San Francisco-based solar power developer Recurrent Energy.

The Avenal trio joins a growing group of solar installations in the Central Valley. Earlier this year, a 5-megawatt plant spread across 50 acres in Mendota became the state’s first photovoltaic project to connect to the California power grid.

-- Tiffany Hsu – GREENSPACE

Growth in Green Building Drives Use of BIM

The growth of the green building market will drive adoption of [building information modeling](#) software, according to a new SmartMarket Report, “Green BIM: How Building Information Modeling is Contributing to Green Design and Construction,” released by McGraw-Hill Construction.

Produced in collaboration with the U.S. Green Building Council, the Mechanical Contractors Association of America, Autodesk and 13 other prominent industry organizations, the report provides new insights on the convergence of two important construction industry trends: green building and BIM, known simply as “Green BIM.” “Green building is already transforming design and construction in the U.S., and BIM has the potential to increase innovation—and design and construction efficiency,” says Harvey Bernstein, vice president, global thought leadership and business development, McGraw-Hill Construction. “Therefore, the intersection of BIM tool use with sustainability goals is a powerful practice that can be truly transformative in increasing industry productivity.”

The industry agrees that they are just beginning to tap the full potential of BIM to achieve their green objectives. Only 17% of Green BIM practitioners are currently realizing more than 50% of BIM’s potential for their green goals, but a sharp increase in Green BIM use is expected in the near future.

The report captures perspectives on the future of Green BIM from a wide range of experts, as well as case studies that demonstrate Green BIM’s contributions to achieving sustainable outcomes. According to the report, as green building becomes a larger share of construction, the benefits provided by BIM will also be more widely recognized, and the use of BIM as a whole will increase.

“Green and BIM have been the two most dynamic trends in our industry,” says Steve Jones, who leads McGraw-Hill Construction’s BIM initiatives. “Although they have been growing independently, it was inevitable that they would converge because the analysis and simulation capabilities of modeling are such a natural fit with the objectives of green building. This report establishes a baseline for the state of that evolution and points the way towards further exciting developments.”

BIM offers an efficient way to create and leverage digital models for the design, construction and operation of projects, and it is revolutionizing the way firms communicate, solve problems and achieve better outcomes. Current users who practice Green BIM also report intensive use of BIM. Nearly half (49%) of Green BIM practitioners use BIM on over 50% of their projects, compared to approximately one quarter (28%) of non-Green BIM companies. Green BIM practitioners are also more intensive users of the software since they both create and analyze models more frequently than non-Green BIM companies.

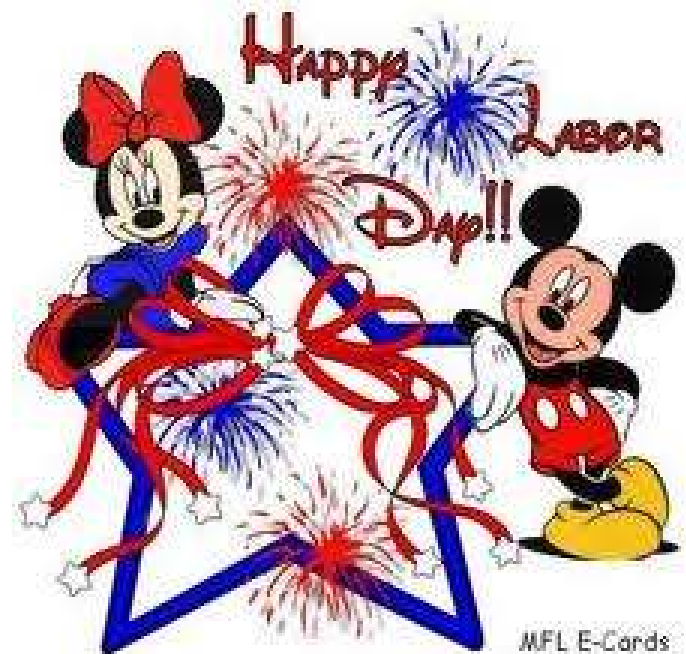
According to prior McGraw-Hill Construction studies, energy efficiency is the most often cited green building benefit,

yielding significant cost-savings over a building’s full lifecycle, and Green BIM is no exception. The study expects strong growth for energy performance simulation tools in particular: 95% of firms practicing BIM for green projects will do energy performance simulations within two years, compared with 73% now; and 79% of firms using BIM (but not focused on green projects) will conduct the simulations, compared to 21% currently. Energy efficiency is also an important tenet of the USGBC’s LEED certification, a sought-after distinction for many green builders.

Data presented in the report are drawn from a McGraw-Hill Construction survey of design firms, contractors and other major construction industry players in the U.S. who already use BIM. The report aims to determine how often, when and why they are using BIM on green projects, and provides a portrait of firms that are already Green BIM practitioners in contrast to typical BIM users, as well as insights into how they use BIM to achieve their green goals and what they anticipate the future to hold. To download the free report, visit

http://construction.com/market_research/FreeReport/GreenBIM/.

Premier association partners include U.S. Green Building Council and the Mechanical Contractors Association of America. The premier corporate partner is Autodesk. Corporate contributors include Balfour Beatty, Chicago Faucets, Graphisoft, Johnson Controls, and Parsons Brinckerhoff. The association partners are the American Institute of Architects, the Associated General Contractors of America, Construction Owners Association of America, Design-Build Institute of America, National Association of Women in Construction, National Electrical Contractors Association, National Institute of Building Sciences and buildingSMART alliance.



\$543-MILLION JOHN WAYNE AIRPORT PROJECT SAILS ALONG

By David Silva

John Wayne Airport's massive improvement project – a \$543-million effort representing one of the largest public works programs in Orange County history -- is scheduled for completion by December 2011.



Gensler was the architect on the 282,000-sq-ft, three-level Terminal C, which, along with the other aspects of the improvement project, is scheduled for completion by December 2011.

Pasadena-based Parsons Corp. is overseeing all three elements of the project, including construction of a 282,000-sq-ft, three-level terminal (Terminal C); construction of a 725,000-sq-ft replacement parking structure (Parking Structure C); and a 14,600-sq-ft central utility plant.

The first significant improvement project at the airport in 20 years will help the airport handle a scheduled passenger increase from its present 9 million annually to 10.8 million by 2011.

Work began on Terminal C in August 2009, with Arcadis (formerly known as PinnacleOne) of Irvine as construction manager and McCarthy Building Cos. of Newport Beach as general contractor.

"We're right in the middle of structural steel erection," says McCarthy project director Khatchig Tchapidarian. "The foundations are complete."

"We can't impact ongoing airport operations at all, so there's a lot of work that we do that takes place at night, coordinated sometimes hour by hour. Work takes place from 11 p.m. to 5 a.m. If we have to do something in the terminal or airfield, there's a concerted effort among all parties involved – operations, maintenance, TSA, subcontractors, etc. – to make sure that, by 5 a.m., we have everything put back together."

Terminal C will be immediately south of and connected to the existing Terminal B. It includes six new commercial

passenger gates, security screening checkpoints, three baggage carousels and passenger hold rooms (seating areas specific to a gate) at the north and south ends of the terminal. Two of the passenger gates will be modified to allow U.S. Customs and Border Protection employees to process international travelers.

Gensler of Newport Beach is the project architect and design director David Loyola says the selection of his firm for the job was a natural evolution because Gensler was the original designer of the airport's main facility: the Thomas F. Riley Terminal.

"From the very beginning, it was clear that the new terminal would not look like an addition," Loyola says. "The connector pieces would look a little different, but the major forms would be consistent with the original building. The color palette is very consistent. It's somewhat neutral in that it has a timeless feel and allows the concessions to add more color."

Designing the concession area involved considerable coordination with the airport, which chooses which vendors set up shop in the facility through an elaborate consulting and bidding process, Loyola says.

"[John Wayne] had a concession consultant on the team who helped the airport decide how much concession space should be included and what kind of concessions it should have," he says.

"Airport officials don't say exactly what kind of specialty retail or what kind of fast food it wants – they put it out for a bidding process, the different bidders come back and then the airport decides what's most important and what's right for this market."

Gensler placed particular emphasis in the design of the North Hold Room, given its visibility from the 405 (San Diego) Freeway.

"Architecturally, the North Hold Room becomes a formal terminus, a kind of beacon as it faces the 405," Loyola says. "The addition functionally solves the issue of a commuter hold room, but, architecturally, it's a lantern and beacon for commuters. We feel like we're coming back 20 years later and improving on the current design."

To accommodate the new terminal, the airport's Parking Structure B1 was demolished and removed and is being replaced with a \$48.5-million, five-level Parking Structure C. The structure will have 2,000 parking spaces (750 more than Structure B1). The improvement program includes tentative plans for an additional 1,200 parking spaces, depending on passenger demand and available funding.

Parking Structure C is on schedule for completion in September.

Los Angeles-based Walker Parking Consultants is the

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architect/engineer for the parking structure, with Barnhart Balfour Beatty as construction manager.

Barnhart is also construction manager for the \$27-million central utility plant. The design-build project has Popov Engineers of Irvine serving as engineer and West Coast Air Conditioning Co. Inc. of Lakeside as general contractor. Work on the plant started in June 2009 and is expected to be finished by the end of December.

“The central plant is a co-generation plant of 7 megawatts and will generate electricity at a lower rate than then projected higher rate that would be charged by utilities,” says Barnhart senior project manager Howard Eng. “The heat byproduct generated by four generators will be recaptured and used to feed two exhaustion chillers, which are specially designed to take heat and convert it to chill water for cooling purposes.”

After the central plant is operational, the airport will continue to purchase 5% of its electricity from Southern California Edison and will keep power lines open to Edison on standby in case service from the plant is interrupted.

The John Wayne Airport Improvement Project Team

Owner: County of Orange

Program Manager: Parsons Corp.,

Pasadena Terminal C Construction Manager: Arcadis, Irvine

Terminal C General Contractor: McCarthy Building Cos., Newport Beach

Terminal C Project Architect: Gensler, Newport Beach

Parking Structure C Construction Manager: Barnhart Balfour Beatty, San Diego

Parking Structure C Engineer/Architect: Walker Parking Consultants, Los Angeles

Central Utility Plant Construction Manager: Barnhart Balfour Beatty, San Diego

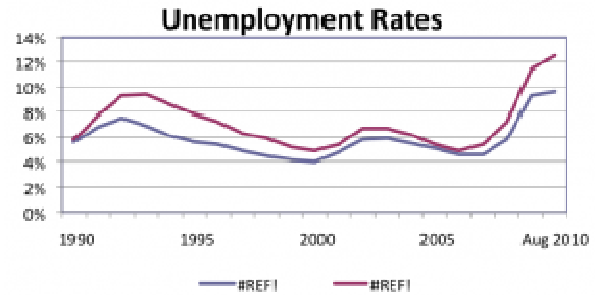
Central Utility Plant Engineer: Popov Engineers, Irvine Central Utility Plant

General Contractor: West Coast Air Conditioning Co. Inc., Lakeside

California unemployment: the causes and implications for the future

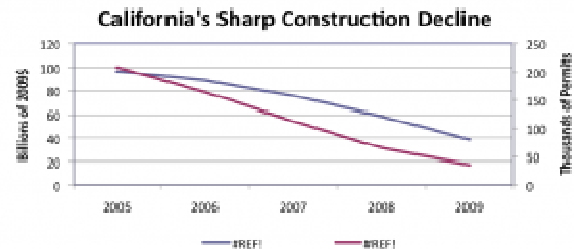
By Steve Levy

California’s unemployment rate is now nearly 3% higher than the national rate. In August 2010 California’s unemployment rate was 12.4% compared to the national 9.6% unemployment rate.



The state’s unemployment was this much above the national rate once before in the early 1990s as a result of the large loss of aerospace jobs. The state’s job losses, then as now, were far larger than the national job losses and the state’s recovery took longer. Moreover, the aerospace job losses were permanent, not cyclical losses. Still by 2000 and for several years thereafter California’s unemployment rate was near the national average.

What are the causes of the current high unemployment rates in California and what does that mean for the near and medium term economic future?



Step declines in construction spending and jobs are the primary reason why California’s unemployment rate is so much higher than the national rate. From 2005 through 2009, California experienced a 60% decline in construction spending adjusted for inflation, from near \$100 billion in 2005 to just under \$40 billion in 2009, compared to a 25% decline nationally. And the state saw a decline of 83% from the peak in residential unit permits (209,000 in 2005 down to 36,000 in 2009) compared to a 72% decline in other states.

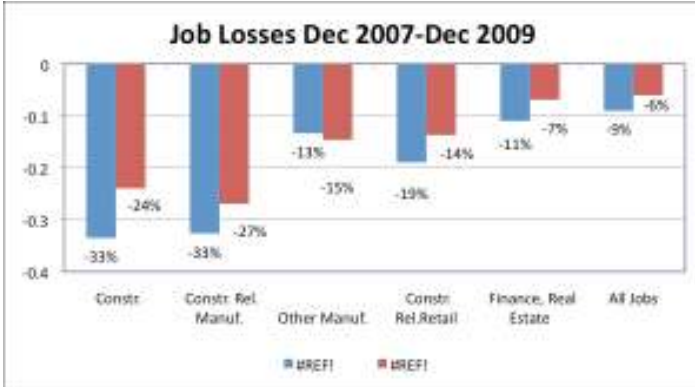
The state saw massive job losses related to the construction decline—job losses that were larger than experienced nationally—and which explain why the state’s unemployment rate and job losses surged ahead of the national average.

California lost 33% of the state’s construction jobs between December 2007 and December 2009 compared to

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Wishing you a happy Chinese Moon Festival

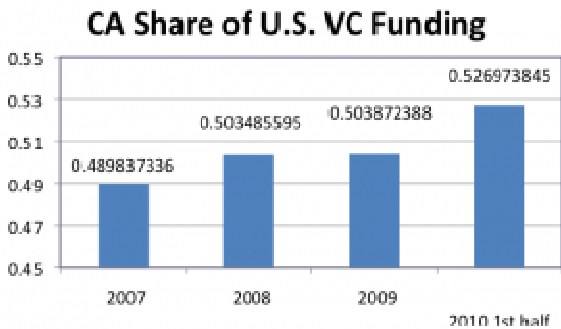


24% for the nation. And California experienced larger job losses in construction-related manufacturing and retail trade sectors and well as larger losses in finance and real estate.

California lost nearly 500,000 construction related jobs during the peak jobs recession between December 2007 and December 2009. In addition, the state lost more than 200,000 additional construction related jobs in the months leading up to December 2007 and after December 2009 as the construction recession started before and continued after the main recession ended.

What are the Implications of These Data?

California’s deeper recession was caused primarily by a large cyclical downturn in construction with a contribution also from a large downturn in foreign trade related to the worldwide recession. And the data also provide some information on what did not cause California high unemployment rate—above average manufacturing job losses or a falling share of venture capital funding.



Recent venture capital trends show that California is gaining, not losing a share of national sector activity.

VC funding recovered in the first two quarters of 2010 and the state’s share of U.S. funding reached an all-time high of 52.7%. The state’s manufacturing job losses outside of construction were less than in the nation. So manufacturing did not cause the state’s higher unemployment rate.

The motion picture sector, led by gains in TV and commercial filming, has been outpacing the nation in job growth since the large share losses that occurred ten years ago. The state’s share of national jobs, which has been increasing since 2003, jumped in 2010 partly as a result of the state’s new tax credit.

And trade volumes are increasing throughout California as

both exports and imports are growing again as the nation’s trade with Asia is growing.

So, unlike in the aerospace or dot.com recessions, the state’s economic base did not experience any losses that are likely to persist over time.

Still there are Near-Term and Long-Term Economic Challenges

The state is in the beginning of a painfully slow recovery in job levels. It will take 1 to 2 years before residents feel like the economy is recovering and another 1 to 2 years before unemployment rates approach even 6 or 7%.

Housing and overall construction spending will only slowly recover. In the 1990s it took almost seven years for housing prices to regain 1990 levels and for construction to pick up appreciably. But housing will eventually recover as the state will add from 400,000 to 500,000 residents per year over the next decade.

The policy and political debate in California should be about the future, not the present or the past. There is little that governors or state legislatures can do to accelerate recovery from recession and their failure to admit the limits of state power simply confuses people and deepens cynicism about government.

States do not have the tools that the federal government has and recent events show the limits even of great federal power over interest rates, taxes and spending in the face of the recession, financial market turmoil and great loss of wealth for many households.

But governors and legislators do have the power to shape the public foundations in California that are critical to attract private investment and job creation. Here the problem is not lack of tools but disagreement over the best way to bring long-term prosperity to California.

Addressing these issues and not pretending to be able to create jobs next year would be a good place for candidates in California to focus. Such a move might restore a measure of truthfulness to public economic and budget debate and help voters better understand the policy choices among candidates and how that will affect them and the state.



A 2010 UPDATE ON NEW CALIFORNIA LAWS THAT IMPACT THE CONSTRUCTION INDUSTRY

By William C. Last, Jr., Attorney at Law

Last year the California legislature passed and the governor approved 696 new bills. Many of which will impact the construction industry. The remainder of this article sets forth a number of the new California construction industry related new laws. With the exception of the section marked other miscellaneous new laws, the following text with a limited number of changes comes straight from the California Legislative Counsel's Digest analysis of these new laws.

Public Works Laws:

AB 1086, Miller. Public contracts: Sole source Specifications.

Existing law prohibits, except in specified circumstances, a state agency, political subdivision, municipal corporation, district, or public officer responsible for letting a public works contract from drafting bid specifications for that contract in a manner that limits the bidding to any one concern or product, unless the specification is followed by the words "or equal." Existing law requires that these bid specifications provide a period of time prior to or after, or prior to and after, the award of the contract to allow the contractor to submit data that demonstrates that a concern or product to be provided under the contract is equal to the concern or product identified in the bid specification. This bill would make findings and declarations regarding the intent of the entire provision to encourage contractors and manufacturers to develop and implement new and ingenious materials, products, and services, as specified, at a lower cost to taxpayers.

AB 561, Carter. Highway workers: assault and battery.

Existing law establishes the offense of assault against a highway worker engaged in the performance of his or her duties, where "highway worker" is defined as an employee or contractor of the Department of Transportation engaged in specified activities related to state highways. This bill would expand the definition of highway worker for that offense to include employees of a city, county, or city and county, as well as employees of a contractor while working under contract with the Department of Transportation, contractors and employees of contractors while working under contract with a city, county, or city and county, and volunteers, as defined, and to include additional specified activities related to local roads or streets. Existing law establishes the offense of battery against a highway worker engaged in the performance of his or her duties, where "highway worker" is defined as an employee or contractor of the Department of Transportation engaged in specified activities related to state highways. This bill would expand the definition of highway worker for that offense to include employees of a city, county, or city and county, as well as employees of a contractor while working under contract with the Department of Transportation, contractors and employees of contractors while working under contract with a city, county, or city and county, and volunteers, as defined, and to include additional specified activities related to local roads or streets. By expanding the scope of existing offenses, this bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

AB 672, Bass. Transportation: bond-funded projects: letter of no prejudice.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes the issuance of \$19.925 billion of general obligation bonds for various transportation purposes. Existing law designates the state agency responsible for programming bond funds under the act as the administrative agency for those purposes. This bill would authorize a regional or local agency that is a lead agency for a project or project component for which bond funding has been programmed or otherwise approved by the administrative agency or is otherwise targeted to be available, as specified, to apply to the administrative agency for a letter of no prejudice that would make the regional or local agency eligible to be subsequently reimbursed from bond funds for expenditures of funds under its control for the project or project component under certain conditions, as specified. Existing law requires the California Transportation Commission to establish the funding shares for applicants for funds from the State-Local Partnership Account in the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Fund of 2006. This bill would require the commission, prior to the commencement of each funding cycle, to calculate the amount of bond funds designated to be deposited in the account that have not been appropriated and would require the commission to establish projected targets for the distribution of those funds for purposes of planning projects for which letters of no prejudice may be issued, as specified.

AB 1196, Blumenfeld. The False Claims Act.

Existing law, the False Claims Act, provides that a person who commits any one of several enumerated acts relating to the submission to the state or a political subdivision of the state a false claim for money, property, or services, as specified, shall be liable to the state or political subdivision for certain damages and may be liable for a civil penalty. Existing law requires the Attorney General and a prosecuting authority of a political subdivision of the state to diligently investigate specific violations of the act. Existing law also authorizes the Attorney General or the prosecuting authority of a political subdivision of the state to intervene in an action filed by a qui tam plaintiff under these provisions. Existing law authorizes a court to award a defendant its reasonable attorney's fees and expenses under certain circumstances that include when the court finds the claim was brought solely for purposes of harassment. This bill would define terms for purposes of these provisions, expand the definition of a claim, and require the imposition of a civil penalty on a person found liable for a violation. This bill would exclude from these provisions specified claims to the Commissioner of Insurance

This bill would require the written consent of the Attorney General or prosecuting authority of a political subdivision, or both, as appropriate under the allegations of the civil action, to dismiss an action filed by a qui tam plaintiff, and would

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prohibit the waiver or release of specified claims except as part of a settlement of a civil action filed under these provisions. The bill would also modify the statute of limitations to commence on the date of discovery by the Attorney General or prosecuting authority of a political subdivision. This bill would modify when a court is authorized to award a defendant reasonable attorney's fees and expenses to when the court finds the claim was brought primarily, rather than solely, for purposes of harassment. This bill would state that the Attorney General or prosecuting authority of a political subdivision has a duty to investigate specific violations of the act.

Construction Defects in Common Interest Projects:

AB 927, Charles Calderon. Common interest developments: construction defects.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. The act requires, until July 1, 2010, with respect to certain common interest developments, that specified requirements be satisfied before an association files a complaint for damages against the builder, developer, or general contractor of the development based upon a claim for defects in the design or construction of the development. Those requirements include filing a notice regarding the commencement of legal proceedings, participating in a dispute resolution process, and preparing a case management statement, as specified. This bill would change the expiration date for these provisions to July 1, 2017.

Lien Laws:

AB 457, Monning. Liens.

The California Constitution gives workers the right to a mechanic's lien for the value of labor and materials provided for the improvement of real property, and authorizes the Legislature to provide for the speedy and efficient enforcement of these liens. Existing law defines claim of lien in this regard, requiring it to contain specified information. Existing law provides that a lien claimant, after filing of the complaint to enforce the lien in the proper court, may record in the office of the county recorder where the property is located a notice of pending proceedings, and from the time of the recording a purchaser or encumbrance of the property is deemed to have constructive notice of the pendency of the action.

This bill would provide that the definition of "claim of lien" is also the definition of "mechanic's lien" and would include within this definition a Notice of Mechanic's Lien, which would contain specified information regarding the legal effect of the lien. The bill would require the mechanic's lien and the Notice of Mechanic's Lien to be served, as specified, on the owner or reputed owner of the property, or on the construction lender or the original contractor if those parties cannot be served. The bill would require a proof of service affidavit to be completed and signed by the person serving the Notice of Mechanic's Lien, and it would be included as part of the mechanic's lien or claim of lien. The bill would provide that a failure to serve the mechanic's lien, including the Notice of Mechanic's Lien, as required, would cause the mechanic's lien to be unenforceable as a matter of law. The bill would also revise the permissive provisions regarding the recording of the complaint to enforce the lien, as described above, to make

them mandatory. The bill would also make correctional, style, and conforming changes.

Note: The amendments proposed by this act shall be operative on January 1, 2011.

AB 31, Price. Public contracts: Small Business Procurement and Contract Act.

(1) The Small Business Procurement and Contract Act permits a state agency to award a contract for goods, services, or information technology with a value of between \$5,000 and \$100,000 to a certified small business, including a micro-business and a disabled veteran business enterprise, without complying with specified competitive bidding requirements. This bill would increase the maximum amount of the contract from \$100,000 to \$250,000. (2) Existing law encourages state agencies that enter into contracts to establish goals to facilitate the participation of small businesses and disabled veteran business enterprises. This bill also would require the contractor, upon completion of a public contract for which a commitment to achieve small business or disabled veteran business enterprise participation goals was made, to report the actual percentage of small business and disabled veteran business enterprise participation that was achieved. (3) The State Contract Act governs contracting between state agencies and private contractors, and sets forth requirements for the bidding, awarding, and overseeing of contracts for projects, which it defines to include the construction or other improvement to a state structure or building with a total cost threshold equal to \$100,000 for calendar year 1993, as adjusted every 2 years. This bill would instead establish a 2010 cost threshold at \$250,000, which would be adjusted every 2 years.

SB 548, Huff. California Disabled Veteran Business Enterprise Program.

Under existing law, the Department of General Services, except in the case of contracts for professional bond services, is the administering agency of the California Disabled Veteran Business Enterprise Program, which requires state agencies and all other state entities contracting for materials, supplies, equipment, alteration, repair, or improvement to have at least 3% participation goals for disabled veteran business enterprises. Existing law specifies the duties of the Department of General Services and the Department of Veterans Affairs in meeting that requirement, and sets standards for meeting the program's participation goals, as provided. This bill would require an awarding department, upon completion of an awarded contract for which a commitment to achieve a disabled veteran business enterprise goal was made, to require the prime contractor that entered into a subcontract with a disabled veteran business enterprise to certify to the awarding department certain information pertaining to the contract, and that all payments under the contract have been made to the disabled veteran business enterprise. This bill would also require an awarding department to keep that certification on file. This bill would specify that a person or entity that knowingly provides false information is subject to a civil penalty, as specified, and that an action for a civil penalty may be brought by any public prosecutor in the name of the people of the State of California.

The bill would authorize a prime contractor, subject to the approval of the Department of General Services, to replace a

disabled veteran business enterprise identified by the prime contractor in its bid or offer, as provided, with another disabled veteran business enterprise.

Storm Water:

SB 310, Ducheny. Water quality: storm water and other runoff.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of storm water in accordance with the federal national pollutant discharge elimination system (NPDES) permit program pursuant to the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Various programs finance regional water management planning. This bill would authorize a county, city, or special district that is a permittee or co-permittee under an NPDES permit for a municipal separate storm sewer system to develop a watershed improvement plan that addresses major sources of pollutants in receiving water, storm water, urban runoff, or other surface runoff pollution within the watershed or sub-watershed to which the plan applies. The regional boards would be authorized to participate in the preparation of the watershed improvement plan. The regional boards would be required to review, and authorized to approve, a watershed improvement plan if they find that the proposed plan will facilitate compliance with water quality requirements. The entities that develop the plan that is submitted to a regional board for approval would be required to reimburse the regional board for its costs in accordance with a fee schedule adopted by the state board. The bill would authorize a county, city, or special district, or combination thereof, to impose fees on activities that generate or contribute to runoff, storm water, or surface runoff pollution to pay the costs of the preparation of a watershed improvement plan or the implementation of a plan that is approved by a regional board if certain requirements are met. The bill would authorize a county, city, or special district, or combination thereof, to plan, design, implement, construct, operate, and maintain controls and facilities to improve water quality.

SB 790, Pavley. Resources: water quality: storm water resource plans.

The Watershed, Clean Beaches, and Water Quality Act authorize the Water Resources Control Board, in consultation with the State Coastal Conservancy, to award grants to public agencies and non profit organizations for projects designed to restore and protect the water quality and environment of coastal waters, estuaries, bays, and near shore waters, including, among other things, a project to make improvements to, or upgrades or conversions of, existing sewer collection systems and septic systems for the restoration and protection of coastal water quality. This bill would also authorize grants for projects designed to implement or promote low-impact development for new or existing developments that will contribute to the improvement of water quality or reduce storm water runoff and for projects designed to implement specified storm water resource plans. (2) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of storm water in accordance with the national pollutant discharge elimination

system (NPDES) permit program and the Porter-Cologne Water Quality Control Act. Existing law authorizes a regional water management group, as defined, to adopt an integrated regional water management plan that addresses specified matters. This bill would authorize a city, county, or special district to develop, jointly or individually, storm water resource plans that meet certain standards. The bill would authorize a regional water management group to coordinate its planning activities to address or incorporate into its plan any storm water resource planning that is undertaken pursuant to the bill's provisions.

Building Standards:

AB 210, Hayashi. Green building standards.

(1) The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit the building standard to the California Building Standards Commission for approval and adoption. Existing law authorizes a city or county to make changes or modifications in the requirements contained in the provisions published in the California Building Standards Code and other specified regulations. This bill would specify that the requirements and regulations that a city or county is authorized to change or modify include, but are not limited to, green building standards. (2) Existing law requires that amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county pursuant to existing law, become effective 180 days after publication, or at a later date, as specified. Existing law provides that specified building standards do not limit the authority of a city, county, or city and county to establish more restrictive building standards. This bill would provide that the adopted and established standards include, but are not limited to, green building standards.

Workers Compensation Laws:

AB 361, Bonnie Lowenthal. Workers' compensation: treatment authorization.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires every employer to establish a medical treatment utilization review process, in compliance with specified requirements, either directly or through its insurer or an entity with which the employer or insurer contracts for these services. Existing law authorizes an employer or insurer to establish or modify a medical provider network for the provision of medical treatment to injured employees, and to submit a medical provider network plan to the administrative director for approval. Existing law permits employers to enter into contracts for the provision of medical services to injured employees with a health care organization that has been certified by the administrative director for this purpose. This bill provides that its provisions shall not be construed to expand or alter the benefits available under, or the terms and conditions of, any contract, including, but not limited to, existing medical provider network and health care organization contracts. The bill would also provide that its

provisions shall not be construed to impact the ability of the employer to transfer treatment of an injured employee into a medical provider network or health care organization. The bill would further provide that its provisions shall not be construed to establish that a provider of authorized medical treatment is the primary care physician for specified purposes.

AB 1093, Yamada. Workers' compensation.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, and in the course of, employment. This bill would provide that for purposes of determining whether to grant or deny a workers' compensation claim, if an employee is injured or killed by a 3rd party in the course of the employee's employment, no personal relationship or personal connection shall be deemed to exist between the employee and the 3rd party based only on a determination that the 3rd party injured or killed the employee solely because of the 3rd party's personal beliefs relating to his or her perception of the employee's race, religious creed, color, national origin, age, gender, disability, sex, or sexual orientation.

SB 313, DeSaulnier. Workers' compensation: penalty assessments.

Existing law requires every employer, except the state, to secure the payment of workers' compensation. Existing law requires the Director of Industrial Relations to issue and serve on any employer that has failed to secure the payment of workers' compensation a stop order prohibiting the use of employee labor. Under existing law, at the time the stop order is issued and served, the director is required to issue and serve a penalty assessment order requiring the uninsured employer to pay to the director, for deposit into the State Treasury to the credit of the continuously appropriated Uninsured Employers Benefits Trust Fund, the sum of \$1,000 per employee employed at the time the order is issued and served. Existing law provides that in lieu of the aforementioned penalty assessment, at any time that the director determines that an employer has been uninsured for a period in excess of one week during the calendar year preceding the director's determination, the director may issue and serve a penalty assessment order that requires the uninsured employer to pay to the director, for deposit into the State Treasury to the credit of the Uninsured Employers Benefits Trust Fund, the greater of (1) twice the amount the employer would have paid in

workers' compensation premiums during the period the employer was uninsured or (2) the sum of \$1,000 per employee employed during the period the employer was uninsured. This bill would increase the penalty assessment to \$1,500 per employee employed during the period the employer was uninsured. Because the money from the increased penalty assessment is deposited into the continuously appropriated Uninsured Employers Fund, this bill would make an appropriation. The bill would also clarify that the director is required to issue and serve either of the above-mentioned penalty assessments. Existing law provides that if the employer is currently insured, or becomes insured during the period during which the above penalty is being determined, the amount an employer would have paid in workers' compensation premiums shall be calculated by prorating the current premium for the number of weeks the employer was uninsured. Existing law provides that if the employer is uninsured at the time the above penalty is being determined, the amount an employer would have paid in workers' compensation premiums shall be calculated by applying the weekly premium per employee on file with the Insurance Commissioner to the number of weeks the employer was uninsured. Existing law provides that each employee of the uninsured employer shall be assumed to be assigned to the governing classification for that employer as determined by the director after consultation with the Insurance Commissioner. Existing law provides that if the employer contends that the assignment of the governing classification is incorrect, or that any employee should be assigned to a different classification, the employer has the burden to prove that the different classification should be utilized. This bill would require that, if the employer is currently insured, or becomes insured during the period during which the above penalty is being determined, the amount an employer would have paid in workers' compensation premiums shall be calculated by prorating the current premium for the number of weeks the employer was uninsured within the 3-year period immediately prior to the date the above penalty assessment is issued. This bill would also provide that if the employer is uninsured at the time the above penalty is being determined, the amount an employer would have paid in workers' compensation premiums shall be the product of the employer's payroll for all periods of time the employer was uninsured within the 3-year period immediately prior to the date the above penalty assessment is issued multiplied by a rate determined in accordance with regulations that may be adopted by the director or, if none have been adopted, the manual rate or rates of the State Compensation Insurance Fund for the employer's governing classification, as determined by the director, pursuant to the standard classification system approved by the Insurance Commissioner. This bill would provide that, unless the amount of the employer's payroll for all periods during which the employer was uninsured within the 3-year period is otherwise proven by a preponderance of evidence, the employer's payroll for each week the employer was uninsured shall be presumed to be the state average weekly wage, as defined, multiplied by the number of persons employed by the employer at the time the penalty assessment is issued.

AB 483, Buchanan. Workers' compensation: Internet Web sites.

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Existing law provides that a licensed rating organization shall make available specified policy information relating to workers' compensation insurance, as specified. This bill would provide that a licensed rating organization shall, pursuant to regulations adopted by the Insurance Commissioner after notice and hearing, establish and maintain an Internet Web site, as whether an employer is insured for workers' compensation. This bill would specify who may submit an inquiry and for what purpose, what information shall be available on the Internet Web site, and would provide that a rating organization would not be required to disclose, on the Internet Web site, certain specified information or confidential information, as specified. The bill would provide that the Internet Web site shall be accessible for inquiries without charge, but the commissioner may at his or her discretion, permit the rating organization to impose access restrictions as necessary to deter the use of the Internet Web site for purposes other than which it was intended. This bill would provide that the Internet Web site contain specified information, or a hypertext link to insurer information on the Department of Industrial Relations' Internet Web site, and a hypertext link to the department for the purpose of locating employers who may be self-insured. This bill would require that the Internet Web site be operational within one year after adoption of regulations by the commissioner, and be updated as specified. This bill would require the commissioner to adopt regulations to implement this act and provide for dispute resolution regarding the accuracy of the information displayed on the Internet Web site. This bill would provide civil immunity, as specified, to rating organizations, and specified persons acting within their capacity as members of the organization, or employees acting within the scope of their employment, who release information. This bill would provide that it shall not be construed to create liability, as specified, or construed to limit the authority of a rating organization to disclose information contained in its records to others. This bill would require the commissioner to conduct a review, evaluation, and assessment of the Internet Web site, as specified, to provide a written report no later than July 1, 2013, of his or her findings to various state legislative and executive entities, and to make the report available on its own Internet Web site.

Licensure:

AB 370, Eng. Unlicensed contractors.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law makes it a misdemeanor for a person to engage in the business or act in the capacity of a contractor without having a license and makes a first offense punishable by imprisonment in the county jail for no more than 6 months, or by a fine not exceeding \$1,000, or both. Existing law requires a court to impose upon a person who has been previously convicted of that offense a fine of 20% of the price of the contract, as specified, or \$4,500, whichever is greater, and imprisonment in the county jail for at least 90

days, except as specified. Existing law specifies that a 3rd or subsequent conviction is punishable by a fine of not less than \$4,500 nor more than the greater of \$10,000 or 20% of the contract price or by imprisonment in the county jail, as specified, or both, and applies those penalty provisions to a person who is named on a revoked license and is held responsible for the act or omission resulting in the revocation. Existing law requires a court to order a defendant convicted of a crime under those provisions, or under provisions related to the offering or performance of repairs caused by a natural disaster, to pay restitution to the victim, as specified. This bill would make a first conviction punishable by a fine not exceeding \$5,000 or by imprisonment in a county jail for no more than 6 months, as specified, or both. The bill would require that the fine for a 2nd conviction be the greater of 20% of the contract price, 20% of the aggregate payments made to, or at the direction of, the unlicensed contractor, or \$5,000. In addition, the bill would require that a 3rd or subsequent conviction be punishable by both a fine and imprisonment in a county jail, as specified, and would require that the fine be no less than \$5,000 and no more than the greater of \$10,000, 20% of the contract price, or 20% of the aggregate payments made to, or at the direction of, the unlicensed contractor. By requiring 3rd or subsequent convictions to be punishable by imprisonment in a county jail, the bill would impose a state-mandated local program. Under the provisions described above, the bill would also provide that a person who used the services of an unlicensed contractor is a victim of crime and eligible for restitution for economic losses, regardless of whether that person had knowledge that the contractor was unlicensed.

Other new California Laws that will impact contractors:

AB 1090, Monning. Arbitration.

Existing law requires a person serving as a neutral arbitrator pursuant to an arbitration agreement to comply with the ethics standards for arbitrators adopted by the Judicial Council. Existing law also specifies that these provisions do not apply to an arbitration conducted pursuant to the terms of a public or private sector collective bargaining agreement. This bill would specify that certain ethics requirements and standards are nonnegotiable and shall not be waived.

AB 5, Evans. Civil discovery: Electronic Discovery Act.

This bill will establish procedures for a person to obtain discovery of electronically stored information, as defined, in addition to documents, tangible things, and land or other property, in the possession of any other party to the action. This bill would permit discovery by the means of copying, testing, or sampling, in addition to inspection, of documents, tangible things, land or other property, or electronically stored information.

New Form I-9

As of August 7, 2009 there is a new Form I-9 which contains an updated list of acceptable documents that employees must present upon hiring. The new form notes that all documents used to establish identity and/or ability to work in the United States must not be expired.



DECEMBER 16, 2010



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Miscellaneous New Laws:

E-Verify Required for Federal Contractors

The new law requires federal contractors and subcontractors to use the E-Verify system when hiring employees. However, other employers may use the verification system. Essentially, E-Verify compare Form I-9 document information against federal government databases to verify employment eligibility.

Increase in California Employee Withholding

As of November 1, 2009, California employee withholding increased as follows: (a) 10 percent mandatory increase on employee withholdings; (b) a 0.6 percent increase in supplemental wage withholding; and (c) a 1.2 percent increase on wage stock options and bonus payments.

Alternative Workweek Schedules

The California laws regarding alternative workweek schedules were amended to permit an eight-hour day as a valid schedule.

Conclusion

The foregoing list is not intended to be an all inclusive list of new construction laws, but rather sets forth the primary construction related new laws and cases. If you are interested in other new laws or want to review the full text of bills, resolutions, constitutional amendments they can be found on the internet at <http://www.assembly.ca.gov/acs/acsframeset2text.htm>. That website also has each bills status, history, votes, analyses, and/or veto messages.

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