

POLITICO ALERT

www.PoliticoOnline.com "Connecting you to California"
1127 11th St., Suite 747 / Sacramento, CA 95814 / (916) 444-3770 / FAX (916) 442-6437



NECA 2018 CA Legislative Scorecard

The California Legislature concluded the 2018 legislative session on September 30th which was the deadline for Governor Brown to sign or veto legislation. NECA once again had a very successful legislative session with victories in the areas of PAGA reform, excavation safety, prompt payment protection and the expansion of the skilled and trained workforce requirements. NECA also took the leading role in opposing or amending dozens of measures that would have been harmful to our contractors and the industry overall.

Below is a summary of the key bills NECA took positions on this year, we will be providing a full summary of all new laws taking effect January 1, 2019 very soon.

LEGISLATION SPONSORED/SUPPORTED BY NECA

- AB 1080 – State Construction Contract, Bid Preference for Providing Health Care**
Would have required a state agency awarding construction contracts to provide a 5% bid preference to any bidder that provides credible health care coverage to field employees during the 12-month period immediately preceding submission of the bid.
 - Status: **Vetoed by Governor**

- AB 1565 – Prompt Payment Protection**
Cleans up a law enacted last year which made prime contractors, on private works of improvement, liable for any wages and benefits owed by their subcontractors and also allowed prime contractors to withhold payment from subcontractors if they didn't receive requested payroll information. AB 1565 protects subcontractors and ensures that the law isn't used as a subterfuge to unlawfully withhold money from subcontractors by requiring that all requested payroll information be outlined in the construction contract and clarifies that all state prompt payment laws apply.
 - Status: **Signed by Governor**

☑ **AB 1654 – PAGA Reform**

Waives the California Private Attorneys General Act (PAGA) within the Construction Industry for those employees and employers that are covered by a Collective Bargaining Agreement (CBA) and agree to waive PAGA in their CBA.

➤ Status: [Signed by Governor](#)

☑ **AB 1914 – Excavation Safety**

Allows excavators and operators to agree on a method of excavation that would enable safe and prudent use of pneumatic devices and other power tools to locate subsurface facilities which had been previously disallowed under the Dig Safe Act of 2016.

➤ Status: [Signed by Governor](#)

☑ **AB 2031 -Prequalification of Electrical Contractors**

Removes the sunset on the requirement to prequalify electrical contractors on all school projects in the state.

➤ Status: [Signed by Governor](#)

☑ **AB 2249 - California Uniform Public Construction Cost Accounting Act**

The California Uniform Public Construction Cost Accounting Act (Act) sets and enforces bidding limits for public agencies that are signatory to the Act. This measure updated the statutes governing the Act to reflect recent increases in the limits.

➤ Status: [Signed by Governor](#)

☑ **AB 2705 - Contractors Liscense law, Workers Compensation Violations**

Brings into conformity the statute of limitation periods to prosecute unlicensed and licensed contractors for failing to maintain workers' compensation.

➤ Status: [Signed by Governor](#)

☑ **AB 2770 – Sexual Harassment Claims, Defamation Protection**

Protects employers from being sued for defamation, by an alleged sexual harasser, when conducting an internal investigation in response to a complaint and when an employer passes on findings regarding sexual harassment when providing a reference.

➤ Status: [Signed by Governor](#)

☑ **AB 3018 - Skilled and Trained Workforce Enforcement**

Provides tangible enforcement through the California Department of Labor Standards Enforcement for the statutory skilled and trained workforce requirements.

➤ Status: [Signed by Governor](#)

SB 1077 – Construction Contracts, Wrap-up Insurance

Intended to bring conformity to disclosure information that must be provided to contractors and subcontractors relating to owner-controlled or contractor-controlled wrap-up insurance policies on public and private work, including residential work. NECA pursued amendments to ensure these types of policies contain adequate coverage.

➤ Status: Failed Passage

SB 914 - County Contracts: Construction Manager At-risk Construction Contracts:

Authorizes a county, until January 1, 2023 to utilize the construction manager at-risk (CMAR) project delivery method on public works of improvement, and, when using CMAR, requires prime contractors and all subcontractors to utilize a skilled and trained workforce.

➤ Status: Signed by Governor

LEGISLATION OPPOSED BY NECA

AB 1745 – Zero Emission Vehicles

Would have phased out and banned the sale of all vehicles that run on an internal combustion engine by the year 2040.

➤ Status: Failed Passage

AB 2003 - Sanitation districts, Bid Notice

This measure would have limited the notice of a public works bid opportunity for a sanitation district to only be published in a manner that the district board determined to be reasonable.

➤ Status: Failed Passage

AB 2069 - Medicinal Cannabis, Employment Discrimination

Prohibited an employer from disciplining an employee on the basis of his or her status as, or positive drug test for cannabis by, a qualified patient or person with a medical use cannabis card.

➤ Status: Failed Passage

AB 2633 - Maintenance and Construction of County Projects

Would have raised the value of work in which counties may perform construction work with county employees, for counties with a population of 5 million or more, from “not to exceed \$50,000” to “not to exceed \$150,000.”

➤ Status: Failed Passage

☑ **AB 3059 – Congestion Pricing**

This bill would have authorized “congestion pricing” pilot programs and defined “congestion pricing” to mean a transportation program that reduces vehicle congestion in high traffic areas by placing fees on drivers who drive in those areas at congested times of the day.

➤ Status: Failed Passage

☑ **SB 1284 – Annual Payroll Data Report**

Would have required all employers with 100 or more employees to submit a compensation data report based on gender and race. Employers who failed to comply with the reporting requirement would have been subject to a civil penalty of \$500.

➤ Status: Failed Passage

Bills NECA Opposed That Were Amended to Address Concerns

☑ **AB 1796 - Lactation Accommodation**

Conforms California law with federal law by requiring that employers provide a location other than a bathroom as a lactation location. NECA supported a “hardship exemption,” which was negotiated by the California State Chamber of Commerce, that exempts employers who can demonstrate that providing a location other than a bathroom would be an undue hardship when considered in relation to the “size, nature, or structure of the employer’s business.”

➤ Status: Signed by Governor

☑ **AB 2762 - Public Contracts, Preferences**

Establishes two new preference categories for local agency procurement activities and increases the value of local preferences to help make bids that include small businesses, disabled veteran businesses (DVB), and social enterprises more competitive against other bids. The intent of the measure is to help foster a greater number of these types of business, and of particular interest, DVB contractors. The bill also allowed for the wide substitution of subcontractors by prime contractors in this area. NECA secured amendments to limit the substitution of a subcontractor to only instances where the substitution meets the current industry practice under the Subletting and Subcontracting Fair Practices Act.

➤ Status: Signed by Governor

☑ **SB 1465 - CSLB, Settlements Disclosures**

Originally the measure required that ALL contractor settlement awards be reported to the CSLB. The bill was amended to address NECA’s concerns. The new law now requires reporting of settlements be limited to final settlement awards that meet all three of the following requirements:

- The amount of the settlements is over \$1,000,000.00.
- The settlement is the product of a claim resulting from the failure of a load bearing portion (targeting balconies and stairs) of a multifamily rental residential structure (rental apartment building of 4 units or more) only.
- The action against the contractor that resulted in a settlement was a construction defect claim.

➤ Status: Signed by Governor