



ECCT - NECA 2021 CA Legislative Scorecard

The last actions of the 2021 California legislative session took place on October 10th, 2021, which was the deadline for Governor Newsom to sign or veto legislation. It was a very busy year for construction related issues, yet also a difficult year to advocate operationally as the effects of the COVID-19 pandemic continued to impact the way the legislature carried out its business. COVID-19 protocols required significant adaptations to procedures including virtual member and committee meetings, modified floor sessions, and remote access only for the public. Through it all, NECA's statewide legislative team engaged in all legislative proceedings impacting our industry and stayed focused on promoting and protecting our contractors and our industry.

In reviewing the Scorecard, it's important to remember that both houses of California's Legislature have 2/3 Democratic supermajorities, which means it is very challenging to stop progressive and environmentally slanted bills that adversely impact our contractors. Despite that fact, NECA was again successful in defeating or amending numerous measures that would have been harmful to our contractors and the industry overall.

In addition, NECA had a very effective legislative session pursuing industry legislation and achieved success in many areas, including; broadening awareness and access to industry apprenticeship programs; clarification on the validity of the use of a responsible managing employee for contractor state licensing purposes; leveling the playing field for excavators in litigation related to damaged subsurface infrastructure; preservation of the construction trucking and hauling safe harbor provisions related to independent contracting; and extensions to the required use of a skilled and trained workforce on public works projects.

Below is a summary of the key bills NECA took strong positions on this year and the outcome.

- ☑ = Positive Outcome
- ☒ = Negative Outcome

LEGISLATION SUPPORTED BY NECA

- ☑ **AB 246 (Quirk) Contractors - Disciplinary Actions**
Adds illegal dumping to the list of violations that constitute a cause for disciplinary action against a contractor by the Contractors State License Board.
Status: [Signed by Governor](#)
- ☑ **AB 332 (Committee Bill) Treated Wood Waste**
Inadvertently, a new state regulation took effect, on January 1, 2021, limiting the disposal of all treated wood waste to a handful of landfills throughout California. The state issued a variance at the beginning of March 2021, to continue the broader disposal options that have been in place for more than two decades. This measure codifies the variance until further regulations can be developed to expand disposal options.
Status: [Signed by Governor](#)
- ☑ **AB 486 (Committee Bill) Lease- Leaseback School Construction**
Extends the requirement for school districts that award lease-leaseback contracts for school construction to participate in a competitive selections process, prequalify contractors, and utilize a skilled and trained workforce on the projects.
Status: [Signed by Governor](#)

- ✔ **AB 525 (Chiu) Energy - Offshore Wind Generation**
Creates construction opportunities by requiring the development of a strategic plan to achieve at least 10,000 megawatts of offshore wind energy developments to be installed off the California coast by 2040, with an interim target of 3,000 megawatts installed by 2030.
Status: [Signed by Governor](#)

- ✔ **AB 569 (Grayson) CSLB - Letters of Admonishment**
Expands the Registrar of the Contractors State License Board (CSLB) flexibility in issuing a Letter of Admonishment (LOA) for intermediate corrective action. The LOA enhances public protection for minor, non-hazardous violations by requiring prompt corrective action by the recipient, while ensuring ethical constructors can continue to operate. In terms of severity, the LOA is positioned between an Advisory Notice and an administrative citation.
Status: [Signed by Governor](#)

- ✔ **AB 643 (Ramos) Apprenticeship Programs - Career Fairs**
Requires a school district or school to notify each apprenticeship program in the same county as the school district or school of a career or college fair it is planning to hold.
Status: [Signed by Governor](#)

- ✔ **AB 654 (Reyes) COVID-19 – Exposure Notification**
Clarifies and improves last year's AB 685, which requires notice of COVID-19 cases in the workplace by eliminating duplicative obligations for businesses in certain industries, matching terms to corresponding federal guidelines, and other favorable improvements.
Status: [Signed by Governor](#)

- ✔ **AB 712 (Calderon) County of Los Angeles - Change Orders**
Establishes a pilot program to increase the limits that apply to the amount of change orders that can be approved pursuant to a delegated authority for construction contracts entered into by Los Angeles County. Amendments requested by industry were made to ensure that if the board of supervisor's delegates authority for these change orders, the decision by the county engineer or other county officer, is binding on LA County.
Status: [Signed by Governor](#)

- ✔ **AB 830 (Flora) Contractors' State License Law**
NECA sponsored legislation which clarifies that a Responsible Managing Employee (RME) qualifier on a contractor license is a valid qualifier and that the requirements for supervision and control on a construction project may be accomplished by the RME either directly, or indirectly by supervising designated employees.
Status: [Signed by Governor](#)

- ✔ **AB 846 (Low) School and Community College Districts - Job Order Contracting**
Extends the requirement that school districts and community college districts must participate in a district wide project labor agreement and also require the use of a skilled and trained workforce when utilizing Job Order Contracting procurement authority.
Status: [Signed by Governor](#)

- ✔ **AB 930 (Levine) Subsurface Installations - Attorney's Fees and Costs**
Provides reasonable attorney's costs and fees to a prevailing excavator who is found to not be at fault for damaging a subsurface installation due to errors on the part of the utility operator who owns, and is legally responsible for labeling the location of, the subsurface equipment.
Status: [Signed by Governor](#)

- AB 1561 (Committee Bill) Worker Classification: Construction Trucking Services**
 Extends for three years the industry negotiated construction trucking and hauling safe harbor provisions related to independent contracting, removing construction trucking from the application of the ABC test under the Dynamex decision.
 Status: [Signed by Governor](#)
- SB 216 (Dodd) Contractors - Mandatory Workers' Compensation Insurance Coverage**
 Regardless if a contractor has employees or not, the bill would have required concrete contractors, heating, ventilating and air conditioning contractors, and tree service contractors to have a certificate of workers' compensation insurance on file with the Contractors State License Board as a condition of licensure by January 1, 2022 and all other licensed contractors by January 1, 2025.
 Status: [Held, 2-Year Bill – Failed Passage](#)
- SB 419 (Stern) Oil and Gas Production - Skilled and Trained Workforce**
 Would apply the skilled and trained workforce requirement on any construction work performed on oil and gas riggings, pipelines and related facilities, for all contractors and subcontractors performing work on those projects.
 Status: [Held, 2-Year Bill – Failed Passage](#)
- SB 607 (Min) CSLB - Fees**
 Implements fee increases for applicants and licensees under the Contractors State License Board and increases, beginning January 1, 2023, the amount required for a contractor's bond for licensure from \$15,000 to \$25,000. If the fee increase was not implemented, the Board's ability to timely respond to consumer complaints and process licensing renewal and application documents would be significantly compromised.
 Status: [Signed by Governor](#)
- SB 757 (Limón) Residential Solar Energy Systems - Consumer Protection**
 Provides enhanced oversight by the Contractors State License Board over licensed contractors who perform residential photovoltaic installations. This is achieved by clarifying that the installation of a residential photovoltaic system is considered a home improvement, which affords homeowners enhanced protections under state law.
 Status: [Signed by Governor](#)

LEGISLATION OPPOSED BY NECA

- AB 310 (Lee) Wealth Tax**
 Imposes an annual tax at a rate of 1% of a resident of this state's worldwide net worth in excess of \$50,000,000, or in excess of \$25,000,000 in the case of a married taxpayer filing separately. The bill would also impose an additional tax at a rate of 0.5% of a resident's worldwide net worth in excess of \$1,000,000,000, or in excess of \$500,000,000 in the case of a married taxpayer filing separately.
 Status: [Held, 2-Year Bill - Failed Passage](#)
- AB 577 (Gallagher) County Special Districts - Force Account Increase**
 Provides for a dramatic increase in the bidding threshold for county drainage districts, levee districts and reclamation districts, which would have eliminated opportunities for private construction contractors to bid on work.
 Status: [Held, 2-Year Bill - Failed Passage](#)

- ✔ **AB 1030 (Chen) Professional Land Surveyor & Engineers Act**
Would eliminate the exemption under the Engineers Act that allows a licensed electrical or mechanical contractor to install their own designs, regardless if the plans have been stamped by an engineer.
Status: [Held, 2-Year Bill - Failed Passage](#)

- ✔ **AB 1179 (Carrillo) Employer Provided Backup Childcare**
Requires California employers, with 1,000 or more employees, to provide employees with up to 60 hours of paid backup childcare benefits.
Status: [Held, 2-Year Bill - Failed Passage](#)

- ✔ **AB 1192 (Kalra) Worker Metrics Program**
Requires employers with 1,000 or more employees, on or before March 31, 2023, to report worker-related statistics on an annual basis to the Labor and Workforce Development Agency (LWDA) and requires the LWDA to publish on its internet website these statistics.
Status: [Held, 2-Year Bill - Failed Passage](#)

- ✔ **AB 1218 (McCarty) Motor Vehicle Greenhouse Gas Emissions Standards**
Statutorily bans the sale of internal combustion engine light-duty trucks and vehicles beginning in 2035.
Status: [Held, 2-Year Bill - Failed Passage](#)

- ✔ **AB 1253 (Santiago) Personal Income Tax Increase**
Increases the state personal income tax rate, which is already the highest in the country, by 1% - 3.5% on high wage earners and sole proprietors.
Status: [Held, 2-Year Bill - Failed Passage](#)

- ✘ **AB 1346 (Berman) Small Off-Road Engines**
Requires the sale of new small off-road engines, in California, to be zero-emission by 2024 or when the California Air Resources Board (CARB) determines is feasible, whichever is later. Also requires CARB to make funding available to help businesses transition to zero-emission equipment.
Status: [Signed by Governor](#)

- ✘ **SB 95 (Skinner) Employment: COVID-19: supplemental paid sick leave**
Requires California employers with more than 25 employees to provide their employees with up to 80 hours of COVID-19 supplemental paid sick leave (SPSL) and takes effect on March 29, 2021. The leave is retroactive to January 1, 2021 and the statute expires on September 30, 2021.
Status: [Signed by Governor](#)

- ✔ **SB 410 (Leyva) Occupational Safety and Health Regulations**
Exempts future occupational safety and health standards from the Standardized Regulatory Impact Assessment process, which provides thorough economic analysis of proposed regulations.
Status: [Held, 2-Year Bill - Failed Passage](#)

- ✔ **SB 467 (Wiener) Oil and Gas Hydraulic Fracturing Prohibition**
Halts the issuance or renewal of permits for hydraulic fracturing, starting January 1, 2022, and then prohibits these extraction methods entirely starting January 1, 2027. Would also prohibit all new or renewed permits for oil and gas extraction within 2,500 feet of any homes, schools, healthcare facilities or long-term care institutions such as dormitories or prisons, by January 1, 2022.
Status: [Held, 2-Year Bill - Failed Passage](#)

LEGISLATION AMENDED TO ADDRESS NECA's CONCERNS

✓ AB 1023 (Flora) Contractors and Subcontractors - Certified Payroll Records

Clarifies that a contractor or subcontractor must furnish Certified Payroll Records (CPR) to the Labor Commissioner electronically, pursuant to existing law. Makes a contractor or subcontractor who fails to furnish those CPR timely, liable for a penalty of \$100 per day, not to exceed \$5,000 per project. Industry amendments were taken to remove the requirement that a contractor or subcontractor submit their final CPR on the very last day that a contractor has people working on a project, and provided that the Labor Commissioner is prohibited from levying penalties under these provisions until 14 days after the deadline, pursuant to the public works contract, to furnish records. Additional amendments were made to clarify that these penalties only accrue to the actual contractor or subcontractor that failed to furnish the CPR.

Status: [Signed by Governor](#)

✓ SB 297 (Durazo) Excavation Penalties

Enacts an enhanced penalty for excavators who knowingly and willfully violate the "811- Dig Alert" requirement for excavations and subsequently damages a gas or hazardous liquid pipeline. The bill also would have required the immediate revocation of the offending contractor's state contractors' license. The measure was amended to address our concerns which eliminated unworkable drafting issues and removed the automatic licenses revocation provision.

Status: [Signed by Governor](#)

✓ SB 606 (Gonzalez) Workplace Safety – Penalties

Expands the authority of the Division of Occupational Safety and Health (Cal/OSHA) to issue citations and penalties on violations for all employees exposed to the violation. Amendments were taken at our request to ensure this enhancement didn't impact a contractor's ability to prequalify on public works and only applied to repetitive, egregious and willful violations by the employer who actually committed the violation.

Status: [Signed by Governor](#)

✓ SB 727 (Leyva) Labor-Related Liabilities - Direct Contractor

Current law makes a direct contractor jointly liable, on private works of improvement, for the unpaid wages, fringe benefits, or other benefit payments of a subcontractor. This bill expands direct contractor liability to include liquidated damages and penalties on any unpaid wages of a subcontractor. Industry requested amendments were made to the bill that removed all references to liability for workers compensation and unemployment insurance. Additional industry amendments were taken to mitigate liability for penalties on unpaid wages. Effectively, those amendments provide that the direct contractor is not liable for any penalties related to a subcontractor's failure to pay wages, so long as they are requesting and reviewing payroll information from their subcontractors in an effort to ensure workers are being paid.

Status: [Signed by Governor](#)