

NEW LAW MAY DEEPEN THE RISING CONSTRUCTION COSTS

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A new California workplace law requires that general contractors on private construction costs assume the liability for wage and fringe benefits of the employees of its subcontractors. It is the first law of its kind, and may worsen the already rising construction costs in California. We sat down with **Dwayne McKenzie**, a

partner at **Cox, Castle & Nicholson**, to find out more about the new law—which went into effect on January 1st—and how it will impact the construction market.

GlobeSt.com: Tell me about this new California workplace law that will require general contractors to assume the liability for the wages and fringe benefits of its subcontractors employees.

Dwayne McKenzie: This is really the first of its kind in many respects. It holds the general contractor liable under certain circumstances for the wages and fringe benefits of the employees of its subcontractors. You have an employer being held liable for payment of wages and benefits to another employer's employees, which is pretty unusual. The law applies to construction contracts on private works. There has been historically potential joint liability of a general contractor for subcontractor wage violations on public works. This law is an expansion of that into the private works area. It is unusual to have that expansion of liability from one employer to another.

GlobeSt.com: What is the potential impact?

McKenzie: The impact is yet to be seen. General contractors and project owners are figuring out how to address this. The reasoning for the statute from the proponents was that the general contractor as the primary contractor on the project has control over the project, and has the ability to try and ensure everyone working underneath all of the subcontractors are properly paying their employees. The law wants to impose an obligation to be the cop on the beat. General contractors are sorting out how to deal with these requirements in its subcontract agreements and what kind of rights do they need to have over their subcontractors and sub-subcontractors in each tier, and they are looking at what kind of compliance they need to do on projects going forward. It can carry monetary implications for general contractor in terms of trying to do enforcement. You can imagine a full range of compliance that they can enforce over subcontractors.

GlobeSt.com: What was the impetus for the law?

McKenzie: The origination of the statute came from employee trust funds that were claiming subcontractors weren't making the required fringe benefit contributions to the trust funds.

GlobeSt.com: Construction costs have increased rapidly. Do you think this new law will affect construction pricing negatively?

McKenzie: Due to the additional administrative oversight that is required of general contractors, there could be some impact in terms of pricing to owners for that extra administrative burden. It shouldn't be substantial, but that is one of the questions that all affected parties are trying to determine and how to comply, and wrap their arms are the economic impacts of compliance. A number of employers that have never dealt with labor compliance, and they are going to have to get used to that. We are going to see relatively shortly what kind of impact the extra administrative burden has on pricing.