
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1234 (Ortega) - Employment: nonpayment of wages: complaints

Version: July 17, 2025

Policy Vote: L., P.E. & R. 4 - 1, JUD. 11 -
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Urgency: No

Mandate: No

Hearing Date: August 18, 2025

Consultant: Robert Ingenito

Bill Summary: AB 1234 would (1) make specified changes to the process by which the Labor Commissioner investigates and adjudicates employee complaints of wage claims, as specified, and (2) authorize the Labor Commissioner to impose an administrative fee with any order, decision or award, as specified.

Fiscal Impact:

- The Department of Industrial Relations (DIR) indicates that it would incur first-year costs of \$13.1 million, and \$12.1 million annually thereafter, to implement the provisions of the bill (Labor Enforcement and Compliance Fund).
- By classifying the appeal of the Labor Commissioner's order, decision or award (ODA) as an unlimited civil case, this bill could result in an increased number of civil actions. Consequently, the bill could result in potentially significant cost pressures to the courts; the magnitude is unknown (Trial Court Trust Fund (TCTF)). The specific number of new actions that could be filed under the bill also is unknown; however, it generally costs about \$10,500 to operate a courtroom for an eight-hour day. Courts are not funded on the basis of workload, and increased pressure on TCTF may create a need for increased funding for courts from the General Fund. The enacted 2025-26 budget includes \$38 million in ongoing support from the General Fund to continue to backfill TCTF for revenue declines.

Background: Wage theft is the failure of an employer to pay wages due to an employee. Wage theft affects low-wage workers disproportionately, and captures many labor law violations, including the minimum wage, overtime, denied meal periods, and/or misclassification of employees as independent contractors.

Under current law, a worker may file a wage theft claim with the Labor Commissioner's Office (LCO) within DIR's Division of Labor Standard's Enforcement (DLSE), which is then tasked with resolving wage theft claims by investigating, facilitating a resolution with the worker and employee, and holding a hearing when necessary. In some cases, claims may go directly to civil litigation, skipping the settlement conference and hearing steps.

Once the LCO issues an ODA, the employer has a limited time after service of the LCO decision to file an appeal. If no appeal is filed within the specified period, the LCO must file a certified copy of the decision with the appropriate Superior Court and obtain a

judgment against the employer for the amount owed. When the LCO does request that the court enter the judgment against the employer, the worker can choose the option of referring the judgment to the LCO's Enforcement Unit for collection or pursue collection on their own or through the use of an external partner, such as a private attorney or advocacy groups.

DLSE's Enforcement Unit can use a variety of means to collect judgment amounts, including levies against employers' bank accounts and liens on properties. Additionally, DLSE calculates interest accrued on any outstanding judgment amounts for collection purposes.

Existing law prescribes specified number of days (with a maximum of 135) for each step in the wage theft adjudication process. The timeline under which DLSE is required to respond to a wage theft claim is as follows:

- 30 days from claim submission to gather information and determine if a hearing is necessary or takes no further action and notifies parties.
- Hold a hearing within 90 days of determination that a hearing is necessary.
- Within 15 days after the hearing is concluded, file an order, decision, or award.
- Within 10 days of service of an ODA, parties can appeal or the LC files the ODA with the appropriate Superior Court and the court issues a judgment against the employer.

In May, the California State Auditor released a report summarizing the findings of a DLSE audit. The Auditor reviewed the backlog of wage claims submitted by workers from 2018 to November 2023, and concluded that the LCO is not providing timely adjudication of wage claims for workers primarily because of insufficient staffing to process those claims. The backlog grew from 22,000 at the end of 2017–18 to 47,000 at the end of 2022–23. As of November 1, 2023, more than 2,800 claims had been open for five years or more, reflecting \$64 million in unpaid wages. Among other things, the report found:

- The LCO often takes two years or longer to process wage claims, with a median of 854 days to issue a decision (more than six times longer than the law allows).
- Field offices have insufficient staffing to process wage claims with vacancy rates equal to or greater than 10 percent, and 13 field offices with vacancy rates greater than 30 percent. The Auditor estimates that the LCO's office needs hundreds of additional positions to resolve its backlog. Contributing to the high vacancy rate is an ineffective and lengthy hiring process and non-competitive salaries.
- DLSE's Enforcement Unit's work results in only a small percentage of successful payment to workers. Between January 2018 and November 2023, about 28 percent of employers did not make LCO ordered payments. The LCO consequently obtained judgments against those employers. In roughly 24 percent of judgments during that time, or about 5,000 cases, the workers referred their

judgments to the Enforcement Unit. The unit successfully collected the entire judgment amount in only 12 percent of those judgments, or in about 600 cases.

Proposed Law: This bill would, among other things, do the following:

- Specify that, for the purposes of calculating the statute of limitations for any employee complaint investigated by the LCO, the action commences upon the employee's filing of their complaint.
- Specify that, if the LCO determines that no further action will be taken on an employee complaint, the LCO must notify the complainant of that determination within 30 days of receipt of the complaint, and specifies that, in this case, the employee may pursue any other remedies available to them, with the tolling of any statute of limitations based on the date when the employee filed their complaint with the LCO, as long as the subsequent action is commenced within one year of the date of this notice.
- Specify that, if the LCO does not determine to take no further action pursuant to (2), the LCO must notify all parties to the complaint within 60 days of receipt of the complaint. Specifies that this notice must contain the allegations asserted in the complaint, including the total amount of wages, penalties, and other demands for compensation alleged, and that, if the complaint did not include a total amount owed, the LCO may calculate a value based on the allegations and any investigation it has conducted. Specifies that this notice must also identify the section of the Labor Code under which liability is asserted.
- Require defendants to respond to a complaint within 30 days of its transmittal, by either paying in full the amount due or by filing an answer that includes whether the defendant admits employing the complainant during the relevant period, and whether the defendant admits or denies any of the amounts owed. Specifies that, if the defendant admits to any amount owed, the LCO may issue an ODA for that amount, which may be appealed, and that the LCO may continue investigating any claims not admitted. Requires the defendant to set forth how the complaint is inaccurate or incomplete and the facts upon which it relies when the defendant denies an allegation.
- Specify that, if a defendant fails to answer the complaint within 30 days, the LCO must issue an ODA in the amount stated in the notice, which may be appealed, and specifies that, if the defendant's answer is insufficient, the LCO may permit the defendant an additional 15 days to submit a revised answer. Specifies that, after 15 days, if the defendant still fails to provide an answer, the LCO must issue an ODA in the amount stated in the notice, which may be appealed.
- Permit the LCO to request an answer from any new party that is added to the complaint at any point in the investigation by issuing a notice of claim to that new employer within 60 days of when the employer is added to the complaint, and requires this notice to include information on the allegations, amount alleged due, and the section of the Labor Code alleged to have been violated.

- Specify that, if the LCO determines to prosecute the claim or to not take further action, it must notify all parties of that determination within 30 days of receipt of the employer's answer. Specifies that, if the LCO declines to continue to investigate the complaint, the claimant may pursue remedies through any alternative forum available, with the tolling of the statute of limitations based on the date the employee filed their complaint, so long as the subsequent action is commenced within one year of the date of the notice.
- Require the LCO to conduct an investigation of the complaint if it does not determine to prosecute the claim or take no further action, and to make an estimated appraisal of the amount of wages, damages, penalties, expenses, and other compensation owed and determine all parties who are liable for the assessment. Requires these actions be made within 90 days of the receipt of the employer's answer.
- Permit the LCO to hold a mandatory investigatory and settlement conference, and specifies that the LCO may dismiss the complaint if the complainant fails to attend, or to issue an ODA if the defendant fails to attend, without good cause. Upon agreement of the claimant, permits the LCO to hold additional mandatory investigatory and settlement conferences if additional defendants are identified during the investigation.
- Permit the LCO to issue a subpoena requesting copies of records for the employee during the claim period, and permits the LCO to issue a subpoena for all records required to be maintained by the relevant wage order, or to any other parties or for any other information, as determined by the LCO.
- Require the LCO to issue a formal complaint that includes the allegations in the employee complaint concerning the time period of the claim, the laws violated, and all parties liable, and the amount of compensation requested, any applicable interest, and administrative fees.
- Require the LCO to set a hearing date within 90 days of the issuance of the formal complaint, and serve a copy of the formal complaint on all parties with a notice of the hearing. Permits the LCO to conduct the hearing in person, over the phone, or by video conference.
- Specify that, if a defendant fails to appear, the LCO may issue an ODA in the amount stated in the formal complaint, which may be appealed, as provided.
- Specify that, if a defendant's records are inaccurate or inadequate as to the precise extent of work completed and compensated by the claimant, the claimant has carried out their burden of proof if they prove that they have in fact performed work for which they were improperly compensated and produce sufficient evidence to show the amount and extent of that work as a matter of just and reasonable inference.
- Specify that the LCO's authority to amend an order or relieve a defendant from the ODA when the employer fails to appear or answer terminates when the defendant files an appeal with the superior court.

- Specify that the LCO's authority to investigate a claim or issue an ODA does not terminate upon the expiration of the deadlines provided in these provisions.
- Require the LCO to file in the office of the division a copy of the ODA and serve the ODA on the parties, as specified, when an ODA is issued upon a failure of the defendant to answer or appear, and permits service to take place by any manner that a party agrees to accept, including electronic service.
- Require the ODA to include a description of the interest accrued and the reasons for the decision, and specifies that an ODA shall be deemed a determination of the defendant's liability for the unpaid wages specified.
- Authorize an ODA to impose an administrative fee of up to 30 percent of the award, as specified.
- Require the LCO to waive the administrative fee if requested by the defendant at the hearing, if (1) the ODA does not impose liability for penalties pursuant to Labor Code section 203, (2) the defendant attests in writing that they do not have a prior ODA issued against them within the past 10 years for engaging in illegal conduct related to a dispute over wages or other violations over which the LCO has jurisdiction, and (3) the defendant attests in writing that they have not entered into any settlement agreement within the past 10 years concerning prior illegal conduct related to a dispute over wages or other violations within the LCO's jurisdiction, except for any payment pursuant to admissions to a complaint.
- Specify that an appeal of an ODA must be classified as an unlimited civil case.
- Specify that a party seeking appeal is unsuccessful if they withdraw their appeal without a judgment, and an employee is successful if the defendant voluntarily pays an amount greater than zero, for the purposes of provisions that require the court to determine and award costs and reasonable attorney's fees against a party that filed for appeal.
- Specify that a court hearing an action filed to appeal an ODA has jurisdiction over the entire wage dispute, including related wage claims not raised before the LCO.
- Specify that a court may not consolidate an action filed to appeal an ODA with any other action that did not arise out of, or is related to the wage claim covered by the underlying ODA, absent an executed agreement in writing by all parties.
- Require a court to grant an application filed by the LCO to vacate a judgment deemed final upon the LCO's granting of relief from an ODA entered because of the failure of the employer to appear.

Related Legislation:

- SB 261 (Wahab) would (1) require the DLSE to post online information of employers with unsatisfied ODAs on a claim for unpaid wages, (2) prescribe

when a posting can be removed, (3) subject, for final judgments unsatisfied after a period of 180 days, the employer to a civil penalty not to exceed three times the outstanding judgment amount, and (4) authorize the Labor Commissioner to adopt regulations to enforce these provisions. The bill is pending in the Assembly Appropriations Committee.

- SB 310 (Wiener) would permit the penalty for failure to pay wages owed to employees to be recovered through an independent civil action, as specified. SB 310 is currently on the Senate Inactive File
- SB 355 (Perez) would (1) require employers with unsatisfied judgments for owed wages to provide documentation to the LC that the judgment is fully satisfied or the judgment debtor entered into an agreement for the judgment to be paid in installments, as prescribed, (2) subject the judgment debtor employer to a civil penalty for violations, and (3) require the LC to notify the Tax Support Division of the Employment Development Department of unsatisfied judgments as a notice of potential tax fraud. The bill is pending in the Assembly Appropriations Committee.
- AB 485 (Ortega) would require state agencies to deny a new license or permit, or the renewal of an existing license or permit, for employers that have outstanding wage theft judgments and have not obtained a surety bond or reached an accord with the affected employee to satisfy the judgment. The bill is pending in this Committee.
- AB 1002 (Gabriel) would authorize the AG to bring a civil action for the temporary suspension or permanent revocation of a contractor's license for failing to pay workers the full amount of wages they are entitled to, failing to pay a wage judgment or for being in violation of an injunction or court order regarding the payment of wages. The bill is pending in the Assembly Appropriations Committee.
- AB 594 (Maienschein, Chapter 659, Statutes of 2023), until January 1, 2029, clarified and expanded public prosecutors' authority to enforce the violation of specified labor laws through civil or criminal actions without specific authorization from the DLSE.

Staff Comments: The fee authorization in the bill would likely not be sufficient to cover costs resulting from the additional workload to DIR.

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