

ASSEMBLY THIRD READING  
AB 1838 (Berman)  
As Amended April 6, 2026  
Majority vote

## SUMMARY

Requires a contractor submitting a bid to a local agency *for a public works contract* to fully disclose any history of *wage and hour* violations and provide supporting documentation, as specified.

### Major Provisions

- 1) Requires, as a condition of submitting a bid to a local agency *for a public works contract*, a contractor to fully disclose any history of *wage and hour* violations and provide supporting documentation.
- 2) Requires, at a minimum, the contractor to submit all of the following:
  - a) A written disclosure of any federal, state, or local *wage and hour* violations within the past five years, including, but not limited to, violations involving unpaid wages, overtime, meal or rest break violations, or misclassification of employees or independent contractors.
  - b) Documents demonstrating that each disclosed *wage and hour* violation has been corrected or otherwise resolved.
    - i) The documentation shall include, but is not limited to, copies of court orders, *judgments or* final administrative determinations, along with proof that all fines, penalties, or back wages have been paid in full.
  - c) A written statement describing all actions taken to prevent future *wage and hour* violations, which may include revised payroll practices, employee training, compliance monitoring procedures, or implementation of internal audits.
- 3) Provides that failure to provide the above required disclosures and supporting materials may result in disqualification of the bid.
- 4) *Defines "violation" to mean a final judgment, order, or determination by a court or any federal, state, or local administrative agency finding the contractor liable for owed wages or related damages, interest, fines, or penalties.*
  - a) *Provides that a contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.*

## COMMENTS

Local agencies are required to award most contracts to the lowest responsible bidder; however, local agencies are not always aware of certain information that would assist them in evaluating a contractor's responsibility. Currently, most local agencies overseeing public works projects

determine if a contractor is responsible by verifying the contractor's public works registration and Contractors State License Board license, since the process to obtain these approvals require contractors to disclose their workers' compensation coverage, debarment status and other information.

The Department of Industrial Relations (DIR) provides a model questionnaire that local agencies can use to prequalify public works contractors, but it is intended only as a guideline and is optional. The model questionnaire includes questions about a bidder's five-year history of wage and hour violations.

The author provides examples of localities that already require bidders to report their history violations of wage and hours laws, including the cities of Gilroy and San Jose.

### **According to the Author**

"AB 1838 will help local agencies make informed decisions when awarding contracts by requiring bidders for public contracts to disclose any history of wage-and-hour violations within the last five years. This bill will give local agencies more information to determine if contractors bidding for public contracts are responsible and should be trusted to utilize taxpayer funds. AB 1838 will increase transparency into the use of taxpayer dollars for public works projects, protect workers and fair labor practices, and give greater transparency to local agencies and the public."

The author adds that "the construction industry is very diverse and includes sizeable representation of historically underserved populations. This bill promotes equity by increasing transparency in the use of taxpayer dollars and ensures that local agencies are aware of the labor practices of their contractors. Requiring disclosure of previous wage-and-hour violations while bidding for public contracts will ensure that taxpayer money is actually going to a responsible bidder with fair labor practices. Further, this bill encourages all contractors to improve labor practices by requiring documentation of how past violations have been addressed and how they will prevent future violations. By ensuring that local agencies have access to this information, this bill would protect all construction workers, including those from historically marginalized groups."

### **Arguments in Support**

The California-Nevada Conference of Operating Engineers and the District Council of Iron Workers, co-sponsors of the measure, state that, "while existing law prohibits awarding bodies from awarding contracts to debarred or suspended contractors, awarding agencies have few tools available to assess a contractor's previous history with wage and hour violations, which can and should be a critical component of determining if a contractor can be trusted to properly utilize taxpayer funds.

It's important to note that various localities including the City of Gilroy and the City of San Jose have internally taken steps to require contractors to disclose in their bid documents whether they have been found to have violated federal, state, or local wage and hours law as a mechanism to assist in determining if a contractor is responsible and can be entrusted with public monies. Further, this information is also included as part of the Department of Industrial Relations pre-qualification model questionnaire that has been developed for localities seeking to pre-qualify contractors for their construction projects. DIRs model questionnaire outlines the importance of wage theft history as an indicator of contractor responsibility."

**Arguments in Opposition**

The Western Electrical Contractors Association is opposed unless amended and states that "AB 1838 as currently drafted would establish a disclosure requirement that applies unevenly across the construction industry, while failing to address well-known enforcement gaps that exist on certain projects performed under project labor agreements (PLAs)...contractors working on non-PLA projects will be required to disclose enforcement actions that are publicly documented, while contractors working under PLAs may resolve similar violations privately through grievance procedures that produce no public record at all. In other words, AB 1838 risks creating a disclosure regime that penalizes transparency while shielding violations resolved through private labor-management arrangements. If the Legislature's goal is meaningful transparency in public contracting, the disclosure requirements must apply equally regardless of how a violation is resolved.

To correct this imbalance, WECA respectfully requests the bill be amended to require disclosure of wage-and-hour violations resolved through private grievance or arbitration procedures, including those arising under collective bargaining agreements or project labor agreements."

**FISCAL COMMENTS**

None.

**VOTES**

**ASM LABOR AND EMPLOYMENT: 7-0-0**

**YES:** Ortega, Alanis, Chen, Elhawary, Kalra, Lee, Arambula

**UPDATED**

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