

CONCURRENCE IN SENATE AMENDMENTS

AB 1838 (Berman)

As Amended June 11, 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.

Senate Amendments

- 1) Make technical and clarifying changes.
- 2) Provide that the documentation required to be submitted by a contractor to a local agency for a public works contract shall be submitted to the extent applicable, rather than at a minimum.
- 3) Delete the requirement that a contractor submit a written statement describing all actions taken to prevent future wage and hour violations, as specified.
- 4) Require a local agency to establish a process that allows a contractor to appeal a bid disqualification for failure to comply with the provisions of this bill, and to ensure that the process complies with specified requirements.
- 5) Provide that the bill's provisions do not apply to either of the following:
 - a) A public works contract that is covered by a project labor agreement.
 - b) A project for which a local agency requires contractors, as a condition of bidding, to prequalify by disclosing all wage and hour violations within the past five years, including violations regarding unpaid wages, overtime, meal or rest break requirements, or the misclassification of employees or independent contractors.

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 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."

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 hour 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 California Chapters of the Associated General Contractors state that "for many contractors, particularly small and mid-sized firms, gathering and submitting this information for every local bid would require substantial time and resources. This added paperwork requirement could discourage otherwise qualified contractors from bidding on public projects.

AB 1838 also captures a wide range of wage-and-hour issues, including minor or technical violations that were promptly corrected years ago. Treating all violations the same — regardless of severity, context, or corrective action — unfairly penalizes responsible contractors and exposes them to reputational harm long after issues have been resolved. The bill further authorizes disqualification of a bid if the required disclosures are incomplete or inadvertently missing documentation. Given the breadth and complexity of the required materials, contractors could be excluded from public contracts due to administrative errors rather than actual noncompliance. This creates uncertainty in the bidding process and increases the risk of bid protests and delays in project delivery."

FISCAL COMMENTS

According to the Senate Appropriations Committee, "Unknown state-mandated local costs. By requiring local agencies to establish and administer a bid disqualification appeals process, this bill imposes a state-mandated local program. One-time and ongoing local costs related to this requirement are unknown, but potentially significant in the aggregate, and would depend upon the frequency and individual circumstances of contractor appeals. These local costs may be state-reimbursable, subject to a determination by the Commission on State Mandates. (General Fund)"

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

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

ASSEMBLY FLOOR: 62-7-11

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Davies, Elhawary, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Wicks, Wilson, Zbur, Rivas

NO: DeMaio, Dixon, Gallagher, Hadwick, Macedo, Sanchez, Tangipa

ABS, ABST OR NV: Bonta, Castillo, Ellis, Flora, Hoover, Johnson, Lackey, Patterson, Celeste Rodriguez, Ta, Ward

UPDATED

VERSION: June 11, 2026

CONSULTANT: Erin Hickey / L. & E. / (916) 319-2091

FN: 0004059