

Date of Hearing: April 7, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 1859 (Ortega) – As Introduced February 11, 2026

SUBJECT: PUBLIC WORKS

KEY ISSUE: SHOULD JOINT LABOR-MANAGEMENT COMMITTEES BE GRANTED REASONABLE ACCESS TO PUBLIC WORKS WORKSITES TO MONITOR COMPLIANCE WITH PREVAILING WAGE AND APPRENTICESHIP LAWS?

SYNOPSIS

Existing law imposes prevailing wage requirements and apprenticeship standards for workers on public work projects. Unfortunately, despite repeated efforts by the Legislature to address the issue, rates of wage theft throughout the construction industry continue to outstrip the capacity of the Department of Labor Standards and Enforcement to address it. In an effort to stem that tide, this bill entitles joint labor management committees (entities comprised of representatives from both labor unions and employers to represent the interest of employers and workers on a given job site) to reasonable access to a public works worksite in order to monitor compliance with prevailing wage and apprenticeship requirements. The bill also makes an awarding body, contractor, or subcontractor that willfully denies reasonable access liable for a civil penalty of up to one thousand dollars for each violation, along with reasonable attorneys fees and costs.

This measure is sponsored by the International Union of Operating Engineers, the District of Ironworkers, and the California State Building and Construction Trades Council. The bill is opposed, unless amended, by a coalition of local government representatives. It is formally opposed by the California Chapters of Associated General Contractors, the California Building Industry Association, and the El Dorado Irrigation District.

This bill was previously heard by the Assembly Committee on Labor and Employment where it was approved unanimously.

SUMMARY: Requires a joint labor-management committee (JLMC) be granted reasonable access, as defined, to a public works worksite to monitor compliance with prevailing wage and apprenticeship requirements. Specifically, **this bill:**

- 1) Requires an awarding body, owner, contractor, or subcontractor to allow representatives of a JLMC to have reasonable access to active public works job sites to monitor compliance with prevailing wage and apprenticeship requirements.
- 2) Defines “reasonable access” to mean access that is consistent with job site safety and security requirements, including the use of personal protective equipment, that does not disrupt performance of work. Reasonable access includes access to workers during nonwork time.
- 3) Provides that an awarding body, owner, contractor or subcontractor is not liable for any violations of safety standards caused by a representative of a JLMC.

- 4) Specifies that, if a representative of a JLMC is injured on a job site while monitoring compliance, the committee's workers' compensation or liability insurance policy, or both, shall be the exclusive remedy of the representative, and the awarding body, owner, contractor, or subcontractor, will not have any liability.
- 5) Authorizes a joint-labor management committee to bring an action in court of competent jurisdiction against an awarding agency, contractor, or subcontractor that willfully denies the committee's representative reasonable access in violation of this section within six months after the denial of access.
- 6) Establishes a statute of limitations in a claim brought pursuant to 5) of six months after the denial of access.
- 7) Authorizes a court to award a prevailing joint labor-management committee a civil penalty of \$1,000 for each occasion the reasonable access was denied, as well as reasonable attorney's fees and costs, including expert witness fees, to a prevailing joint labor-management committee.
- 8) Exempts public work job sites for entities that are required to comply with specified provisions of the Education Code that require criminal background checks for school personnel.

EXISTING LAW:

- 1) Establishes the Division of Labor Standards Enforcement (DLSE), under the direction of the Labor Commissioner (LC), within the Department of Industrial Relations (DIR), and authorizes the LC to investigate employee complaints and enforce labor laws, as specified. (Labor Code Section 79 *et seq.*)
- 2) Defines "public works," for the purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. (Labor Code Section 1720 (a).)
- 3) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over \$1,000 dollars and imposes misdemeanor penalties for violation of this requirement. (Labor Code Section 1771.)
- 4) Requires contractors and subcontractors, while performing public works, to furnish specified payroll records at least once a month directly to the LC, in an electronic format, in the manner prescribed by the LC, on the department's internet website. (Labor Code Section 1771.4 (a)(3).)
- 5) Requires each contractor and subcontractor on a public works project to keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. (Labor Code Section 1776 (a).)
- 6) Defines "graduate of an apprenticeship program" to mean either of the following:

- a) An individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the chief.
 - b) An individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor. (Public Contract Code Section 2601 (c).)
- 7) Provides that when the use of a skilled and trained workforce to complete a contract or project is required, the public entity shall include in all bid documents and construction contracts a notice that the project is subject to the skilled and trained workforce requirement. (Public Contract Code Section 2600 (c).)
- 8) Establishes joint labor-management committees pursuant to the federal Labor Management Cooperation Act of 1978. (29 U.S.C. Section 175a.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: Joint labor management committees (JLMC) are entities made up of representatives from both employers and labor organizations to represent the interest of the workers and business on a given project. As authorized by federal law, JLMCs are “established for the purpose of improving labor management relationships, job security, organization effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest in concern.” (29 U.S.C. section 175a.) Existing law imposes a prevailing wage requirement on public work projects and authorizes a JLMC to bring a claim against any employer that fails to pay prevailing wages to its workers. (Labor Code Section 1771.2 (a).) Despite these safeguards, it seems that rates of wage theft continue to be unacceptably high in public works projects across the state. The author contends that, in light of the Department of Labor Standards Enforcement’s significant backlog in reviewing wage theft claims, JLMCs can help bolster contractors’ compliance with prevailing wage requirements. According to the author:

California’s prevailing wage and apprenticeship laws are designed to prevent a race to the bottom where contractors win bids by cutting corners on wages or safety. When contractors comply with these laws, public projects are built by a local, skilled, and highly trained workforce. One of the main tools utilized by DLSE investigators to ensure compliance with public works laws is random on-site visits. These often include visual inspections of required job-site notices, records, and worksite activities, as well as interviews with workers and others involved in a project. Despite these powers, the DLSE faces an enforcement gap and has a massive backlog of wage theft claims. Authorizing JLMC investigators with similar in-person access to public works job sites would significantly enhance our enforcement capabilities without straining DLSE resources.

AB 1859 authorizes JLMC representatives reasonable access to active public works jobsites to monitor compliance with prevailing wage and apprenticeship requirements. Crucially, this bill balances access with protections for contractors, ensuring that site visits do not disrupt work or create liability risks for the builder. AB 1859 safeguards taxpayer dollars by ensuring they are used as intended and that contractors fulfill their contractual obligations. It protects law-abiding contractors from being undercut by those who violate the law, while helping ensure California’s infrastructure is built safely and to the highest standards.

In an effort to increase oversight of public works projects where a contractor may be engaging in wage theft or coercive conduct, *this bill* requires the entity that granted the contract or owner to allow representatives of a JLMC to have “reasonable access” to active work sites to monitor compliance with prevailing wage and apprenticeship requirements. The bill defines “reasonable access” to mean access that “is consistent with job site safety and security requirements, including the use of personal protective equipment, that does not disrupt performance of work. The bill also includes access to workers during nonwork time under the scope of “reasonable access.” The bill does not apply to certain educational entities that have to complete criminal background checks for school employees.

Of particular relevance for this analysis, AB 1859 provides a right of action for a joint labor-management committee that is denied reasonable access to a public works site. The bill authorizes the court to order a civil penalty of \$1,000 per instance that an awarding body, contractor, or subcontractor willfully denies the JLMC’s reasonable access. A number of local government representatives are opposed to the bill unless amended, although it is unclear what their proposed amendments may be. They raise a number of concerns. First, they argue “[p]ublic owners often turn oversight of the project and job site over to the contractor, both legally and functionally, yet under AB 1859 the owners would be subject to civil penalties for failure to provide ‘reasonable access’ to JLMC members – something the owner would likely not be actively managing on a day-to-day basis.” While the opponents’ concern over potential increased liability is understandable, and in fact is a common refrain from stakeholders on practically every bill before this Committee, it seems at least partially assuaged in this instance insofar as the liability would seem to only fall on the awarding body, contractor or subcontractor *that willfully denies* the reasonable access. In other words, liability under this bill’s provisions would only fall on the entity that actually denies the JLMC’s reasonable access. A public owner that has turned over control of the work site to a contractor would arguably not be liable, because they themselves were not even present to deny the JLMC’s access. Instead, it would be the contractor or subcontractor that denies the access that may be liable for the authorized penalty. The limit on liability imposed by the language of the proposed statute would also seem to limit any potential liability to the cities, which opponents contend would be significantly expanded should this bill be enacted. Again, unless the city itself willfully denied reasonable access to the JLMC, it does not appear that *this bill* would impose any additional liability on the city.

Second, the opponents contend that “AB 1859 would effectively deputize external entities with statutory access rights and legal standing to monitor compliance, creating a duplicative and potentially conflicting oversight structure,” in light of the authority already granted to the DLSE and Department of Industrial Relations (DIR). Whether to grant such authority, and the appropriate scope of this authority, is a question better suited for the Committee on Labor and Employment and to the extent that Committee has already approved this legislation, this Committee sees no need to second guess their judgment. It is also worth noting that the department’s backlog and apparent inability to effectively respond to complaints of labor violations and wage theft claims is exactly what prompted the “deputization” of JLMCs proposed by this measure.

The bill is opposed by the California Building Industry Association (CBIA). They argue that, because some public works projects involve private components, this bill would grant JLMCs “access to private property without advance notice and without any clear credentialing requirements. Property owners would have little ability to verify that individuals requesting entry are legitimate representatives rather than individuals seeking unauthorized access to materials or

equipment. This raises serious concerns in light of the United States Supreme Court’s decision in *Cedar Point Nursery v. Hassid*, which held that government-mandated access to private property by private parties can constitute an unconstitutional taking.”

In *Cedar Point Nursery*, the Supreme Court evaluated the constitutionality of a California regulation that granted labor organizations a “right to take access” to an agricultural employer’s property and required the employer to allow union organizers onto their property for up to three hours per day, 120 days per year. The Court held that the regulation “appropriate[d] a right to invade the growers’ property and therefore constitute[d] a *per se* physical taking. Rather than restraining the growers’ use of their own property, the regulation appropriates for the enjoyment of third parties (here union organizers) the owners’ right to exclude.” (*Cedar Point Nursery v. Hassid* (2021) 594 U.S. 139, 140.)

There are at least two important distinctions between the regulation at question in *Cedar Point* and the current measure. First, the regulation in *Cedar Point* granted access to *private* worksites. The Takings clause of the Fifth Amendment protects an owner’s interest in their *private* property against the risk that a government action may decrease or eliminate its value. Although the opponents contend that some public works abut or potentially overlap with private property, this proposed statute applies explicitly and solely to *public* works. Since the government does not violate the Takings clause by mandating access to *public* property, it seems possible that the Constitution is not implicated in the same way as *Cedar Point*. Second, the regulation questioned in *Cedar Point* mandated a significant amount of time during which a labor union must be able to access the property specifically to engage in organizing efforts. The current measure would only require *reasonable access* for purposes of ensuring compliance with existing wage requirements. It is impossible for a Committee analysis to predict how a constitutional challenge to a proposed statute may conclude. However, it is entirely possible that the public status of the worksites to be accessed by the JLMC and the “reasonable” requirement proposed by this bill may sufficiently distinguish it from the prior regulation so as to survive constitutional scrutiny.

ARGUMENTS IN SUPPORT: This measure is sponsored by the International Union of Operating Engineers, the District of Ironworkers, and the California State Building and Construction Trades Council. It enjoys additional support from labor unions and the California Federation of Labor Unions. In support of the bill the California State Building and Construction Trades Council submits:

JLMCs are federally approved, cooperative, formal bodies, consisting of equal representation from both labor unions and management. These groups are designed to improve workplace conditions, safety, and productivity. Simply put, JLMCs are the gold standard of labor and management collaboration. In the construction industry, JLMCs play a critical role in ensuring a level playing field for contractors and workers by promoting equitable contracting on public works projects and ensuring compliance with all applicable state and federal labor laws governing the construction industry.

The value that JLMCs provide in ensuring that taxpayer dollars are properly utilized on public works projects is already well established in statute. These groups are currently given specialized access to certified payroll records to monitor compliance with public works laws and utilize this access to perform investigations into issues like wage theft, apprenticeship violations, safety violations, and violations of public contract code. JLMCs work hand in hand with the Division of Labor Standards Enforcement (DLSE) by turning over their finalized

investigations to the Labor Commissioner, which can have the affect of significantly streamlining State investigations while not costing the State any additional resources.

The LCO is responsible for enforcing labor laws and ensuring fair wages are paid to workers. Unfortunately, the office has faced severe challenges in enforcing regulations due to a lack of funding and staff capacity. For example, according to the LCOs data, there were 47,000 backlogged claims at the end of fiscal year 2022-23 and in November 2023, the LCO had a backlog of nearly 33,000 claims that had been part of a continuous backlog issue for at least three years. In addition, a 2024 report by the California State Auditor found that the DLSE has accumulated a substantial backlog of wage theft claims, with many cases taking months—or even years—longer than the timelines required by statute to reach resolution.

AB 1859 seeks to provide additional resources for the Division of Labor Standards Enforcement by clarifying that Joint Labor Management Committees are authorized to have “reasonable access” to public works jobsites in order to monitor for violations of public works laws. This in return will assist in streamlining investigations for DLSE while requiring no additional funding from the State. Importantly, the bill provides critical protections for contractors by making clear that contractors shall not be liable for any violations of safety standards caused by a representative of a joint labor-management committee during a site visit.

ARGUMENTS IN OPPOSITION: This bill is opposed by the Associated General Contractors, California Chapter, the California Building Industry Association, and the El Dorado Irrigation District. In support of their position the El Dorado Irrigation District submits:

EID opposes AB 1859 for several reasons. First, existing law already requires contractors and subcontractors, while performing public works, to furnish specified payroll records at least once a month directly to the Labor Commissioner, in an electronic format, in the manner prescribed by the Labor Commissioner, on the department’s internet website. Labor Code § 1771.4(a)(3). Second, rather than focusing on fixing the problems at the Labor Commissioner’s office (LCO), AB 1859 would add a duplicative requirement onto joint labor-management committees, and worse, open up local agencies like EID to litigation, civil penalties, and legal costs.

As the author has noted, according to the LCO’s data, it had 47,000 backlogged claims at the end of fiscal year 2022–23. The State Auditor found:

“Its Wage Claims Adjudications Unit (Adjudications Unit) lacks a sufficient number of staff throughout its field offices and thus can neither process new wage claims in a timely manner nor efficiently reduce the extensive backlog of wage claims. Further, the LCO lacks complete and accurate data to enable it to provide proper oversight and ensure compliance with statutory requirements. We analyzed the LCO’s staffing and available workload data, and estimated that it needs hundreds of additional positions under its existing process to resolve the backlog. The lack of adequate staffing is exacerbated by the fact that the LCO currently has a high vacancy rate, and an inefficient and lengthy recruitment process”

It is not the responsibility of local agencies to serve as the enforcement backstop for the LCO. From fiscal year 2017–18 through fiscal year 2022–23, the State Auditor found that the LCO has not complied with statutorily required claim processing times for issuing a decision after receiving a claim. State law requires that the LCO issue a decision on a claim within

135 days after it is filed. However, State Auditor found that the LCO used a median time of 854 days to issue a decision on a claim during fiscal year 2022–23, which is more than six times longer than the maximum of 135 days allowed by law.

The State Auditor made numerous recommendations to address the backlog. To monitor the LCO's progress in reducing its backlog of claims and filling vacant positions, the State Auditor recommended that the Legislature should require the LCO to report annually to the Legislature on its progress in both of these areas. As of May 2025, the Legislature had not taken any action in the 2025/26 Legislative Session to address this specific recommendation. Many recommendations remain pending.

Local agencies are considered awarding bodies that are required to use registered contractors and register a public works project for any work subject to prevailing wage requirements. In California, joint labor-management committees (JLMC) typically consist of an equal number of representatives from management and union members, such as union stewards, bargaining unit employees, and management officials. They are designed to improve labor relations and resolve workplace issues. They should not be responsible for monitoring compliance with prevailing wage and apprenticeship requirements. EID believes the inclusion of awarding bodies under AB 1859 is unnecessary and will increase the burden of labor compliance on its management officials. It is unclear, for example, the manner in which a joint labor management committee, which includes representation of the local agency awarding body, could determine whether to bring an action in any court of competent jurisdiction against the awarding body.

AB 1859 does not specify a process for reaching a decision to litigate.

AB 1859 should focus on implementing the Bureau of State Audits 2021 recommendations, and the Legislature, through development of the state budget, should focus on providing the staff, resources, and data management improvements for the LCO.

REGISTERED SUPPORT / OPPOSITION:

Support

International Union of Operating Engineers, Cal-Nevada Conference (co-sponsor)
District Council of Iron Workers of the State of California and Vicinity (co-sponsor)
State Building and Construction Trades Council (co-sponsor)
California Federation of Labor Unions, AFL-CIO
California State Association of Electrical Workers
California State Pipe Trades Council
District Council 16, International Union of Painters and Allied Trades
State Building & Construction Trades Council of California
Teamsters California
Western States Council Sheet Metal, Air, Rail and Transportation

Opposition

Associated General Contractors, California Chapters
California Building Industry Association
El Dorado Irrigation District

Oppose Unless Amended

Association of California Healthcare Districts (ACHD)

California Special Districts Association

California State Association of Counties

Community College Facility Coalition

League of California Cities

Rural County Representatives of California

Western Electrical Contractors Association

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