
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No: AB 1859 **Hearing Date:** June 24, 2026
Author: Ortega
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Urgency: No **Fiscal:** Yes
Consultant: Emma Bruce

SUBJECT: Public works

KEY ISSUE

This bill requires an awarding body or owner to allow representatives of a joint labor-management committee (JLMC) to have reasonable access to active public works job sites to monitor compliance with prevailing wage and apprenticeship requirements, as specified.

ANALYSIS

Existing federal law:

- 1) Permits, pursuant to the Labor Management Cooperation Act of 1978, the establishment of plant, area, and industrywide labor management committees (JLMCs), which have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry, as specified. (29 U.S.C. §175a)
- 2) Establishes labor management committees for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development, or involving workers in decisions affecting their jobs. (29 U.S.C. §175a)

Existing state law:

- 1) Establishes within the Department of Industrial Relations (DIR), various entities including the Division of Labor Standards Enforcement under the direction of the Labor Commissioner (LC) and empowers the LC to ensure a just day's pay in every workplace and to promote justice through robust enforcement of labor laws. (Labor Code §79-107)
- 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 §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 §1771)
- 4) Requires each contractor and subcontractor 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. These payroll records shall be certified (CPRs) and made available for inspection, as specified. (Labor Code §1776 (a))

- 5) Requires, for public works contracts in excess of \$30,000, a contractor to employ apprentices, who are active participants in an approved apprenticeship program, at specified ratios. (Labor Code §1777.5)
- 6) Requires awarding bodies to take cognizance of violations of public works law committed in the course of the execution of the contract, and to promptly report any suspected violations to the LC. (Labor Code §1726)
- 7) Requires the LC to, with reasonable promptness, issue a civil wage and penalty assessment to the contractor or subcontractor, or both, if the LC or their designee determines after an investigation that there has been a violation of public works law. (Labor Code §1741(a))
- 8) Authorizes a JLMC to bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees or that fails to provide certified payroll records, as specified. (Labor Code §1771.2)
- 9) Requires a JLMC to commence an action, brought pursuant to 8), not later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 18 months after acceptance of the public work, whichever occurs last. (Labor Code §1771.2)
- 10) Requires the court, for an action brought pursuant to 8) to award restitution to an employee for unpaid wages, plus interest, from the date that the wages became due and payable, and liquidated damages equal to the amount of unpaid wages owed, and authorizes the court to impose civil penalties, only against an employer that failed to pay the prevailing wage to its employees, injunctive relief, or any other appropriate form of equitable relief. Requires the court to award a prevailing joint labor-management committee its reasonable attorney's fees and costs incurred in maintaining the action, including expert witness fees. (Labor Code §1771.2)

This bill:

- 1) Requires an awarding body or owner to, except as specified, allow representatives of a JLMC established pursuant to the federal Labor Management Cooperation Act of 1978 to have reasonable access to active public works job sites to monitor compliance with the prevailing wage and apprenticeship requirements.
- 2) 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.
- 3) Provides that if a representative of a JLMC is injured on a job site while performing duties pursuant to these provisions, the JLMC'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, shall not have any liability.

- 4) Authorizes an awarding body, owner, contractor, or subcontractor to deny or revoke access to a representative of a JLMC that fails or refuses to comply with applicable job site safety requirements, including the use of required personal protective equipment.
- 5) Requires a JLMC to, upon request, provide proof of general liability insurance and workers' compensation coverage, if applicable, prior to being granted access to a job site.
- 6) Requires, as a condition of access to a job site pursuant to these provisions, a JLMC to indemnify and hold harmless the awarding body, owner, contractor, and subcontractors, from and against claims, damages, or liabilities to the extent caused by the negligent acts or omissions or willful misconduct of the JLMC or its representatives while on the job site.
- 7) Authorizes a JLMC to bring an action in any court of competent jurisdiction against an awarding body, contractor, or subcontractor that willfully denies the JLMC's representative reasonable access. The action shall be brought within six months after the denial of access.
- 8) Authorizes a court to award a prevailing JLMC a civil penalty not to exceed \$1,000 for each occasion that reasonable access was willfully denied. A court shall award reasonable attorney's fees and costs, including expert witness fees, to the prevailing party in any action brought pursuant to this subdivision.
- 9) Exempts from these provisions public works job sites that are required to comply with specified provisions of the Education Code.
- 10) Defines "reasonable access" as 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.
- 11) States that no reimbursement is required pursuant to Section 6 of Article XIII B of the California Constitution.

COMMENTS

1. Background:

All contractors and subcontractors working on "public works" projects are required to abide by a set of laws that ensure the responsible use of public funds. Among other requirements, this means paying prevailing wages, utilizing apprentices, and maintaining accurate payroll records and making them available for inspection or copy. When enforced consistently and accurately, California's public works law prevents worker exploitation and promotes the creation of a skilled workforce.

Joint Labor-Management Committees (JLMCs)

JLMCs, established pursuant to the federal Labor Management Cooperation Act of 1978, aim to improve communication and working relationships between labor and management, provide workers and employers with opportunities to explore joint approaches to problems, and develop ways to increase productivity and promote economic development. They are organized jointly by employers and labor organizations within a particular plant, area, or industry. Multiple unions can be affiliated with the same JLMC.

In California, JLMCs play a vital role in ensuring compliance with applicable state and federal public works law. Specifically, JLMCs are empowered to bring an action in any court of competent jurisdiction against an employer that fails to pay prevailing wages or that fails to provide payroll records, as specified. To assist with enforcement, payroll records made available to JLMCs are only marked or obliterated to prevent disclosure of an individual's social security number. This is different than payroll records provided to the public or public agencies¹, which must be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. In addition to bringing an action in court, JLMCs can refer cases to the LC.

According to data provided by the sponsors, between 2021-2025 DIR's Public Works Unit issued 2,509 civil wage and penalty assessments. Among those, 1,422 came from a JLMC-generated complaint, or 57% of all civil wage and penalty assessments. Furthermore, JLMC-generated complaints resulted in \$61,577,417.76 in assessed wages and penalties.

JLMCs also act as a resource for awarding bodies, contractors, and workers who may have questions about changes to public works law and/or new regulations. Many JLMCs conduct seminars and maintain phone lines to prevent violations before they occur.

Currently, JLMCs do not have statutory authority to access job sites. However, job sites may be covered by a project labor agreement that grants them access to conduct enforcement activities.

Wage Theft

Although California leads the nation with some of the strongest workplace protections, wage theft remains rampant. Even public works projects with their extensive wage and reporting requirements are not immune. In the 2020-2021 fiscal year, the Public Works Unit within the LC's Office, tasked with investigating wage and apprenticeship violations, opened 1,964 cases and assessed over \$12.6 million in penalties against employers.² However, recovering wages is not always easy. A 2024 audit conducted by the State Auditor found that due to an inefficient wage claim process, the LC often takes two years or longer to resolve the wage claims it receives.³ Even when a decision is issued, it can take years for a worker to receive their owed wages. In the meantime, victims of wage theft must find ways to survive amidst rising costs for groceries and housing. Without robust implementation and enforcement, the State's workplace protections are hollow.

This bill

AB 1859 would require an awarding body or owner 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. Reasonable access would be defined as access that is consistent with job site safety and security requirements and that does not disrupt the performance of work. If a representative of a JLMC is injured on a job site, the JLMC's workers' compensation or liability insurance policy, or both, would be the exclusive

¹ Public agencies aside from DIR.

² *The Bureau of Field Enforcement, Fiscal Year Report. 2020-2021.* California Labor Commissioner's Office. p.12. https://www.dir.ca.gov/dlse/BOFE_LegReport2021.pdf

³ Auditor of the State of California. *The California Labor Commissioner's Office: Inadequate Staffing and Poor Oversight Have Weakened Protections for Workers.* Report 2023-104. May 2024. <https://www.auditor.ca.gov/wp-content/uploads/2024/05/2023-104-Report.pdf>

remedy, and the awarding body, owner, contractor, or subcontractor, would not have any liability.

This bill would also authorize an awarding body, owner, contractor, or subcontractor to deny or revoke access to a representative of a JLMC that fails or refuses to comply with applicable job site safety requirements. As a condition of access to a job site, a JLMC would be required to indemnify and hold harmless the awarding body, owner, contractor, and subcontractors, from and against claims, damages, or liabilities to the extent caused by the negligent acts or omissions or willful misconduct of the JLMC or its representatives while on the job site.

Lastly, a JLMC would be authorized to bring an action in any court of competent jurisdiction against an awarding body, contractor, or subcontractor that willfully denies the JLMC's representative reasonable access. A court may award a prevailing JLMC a civil penalty not to exceed \$1,000 for each occasion that reasonable access was willfully denied.

The previous iteration of this bill, AB 2182 (Haney, 2024, Vetoed) did not offer awarding bodies, owners, contractors, and subcontractors the same protections that AB 1859 would. For example, an awarding body would not have been entitled to deny access to a JLMC under any circumstance, nor could they request proof of a JLMC's general liability insurance and workers' compensation coverage. AB 2182 would have also mandated, rather than authorized, civil penalties. Opponents of AB 1859 maintain that, among other things, the bill creates an ambiguous access mandate and does not sufficiently limit litigation risk

2. Need for this bill?

According to the author:

“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. Authorizing JLMC investigators similar 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. This measure 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.”

3. Proponent Arguments:

The sponsors of the measure, the California-Nevada Conference of Operating Engineers, the District Council of Ironworkers, and the State Building and Construction Trades, argue:

“Existing law requires that prevailing wage be paid to all workers employed on public works projects and requires the Labor Commissioner's Office (LCO), under the Department of Industrial Relations (DIR), to investigate allegations if a contractor violates public works

laws. More specifically, existing law authorizes the labor commissioner, as well as the Department of Industrial Relations Compliance Monitoring Unit (CMU), to have access to public works jobs sites in order to educate contractors on laws and monitor for wage and hour violations. **Further, every public works jobsite in the State is required by law to have a posted notice on the job site that states the following: ‘This public works project is subject to monitoring and investigative activities by the Compliance Monitoring Unit (CMU) of the Division of Labor Standards Enforcement, Department of Industrial Relations, State of California’**

Joint Labor-Management Committees (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 tax payer 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...

AB 1859 (Ortega) 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 the Division of Labor Standards Enforcement 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.”

4. Opponent Arguments:

The Associated General Contractors oppose the measure, arguing:

“AB 1859 creates significant new operational, legal, and financial risks for contractors working on public works projects. The bill expands enforcement authority beyond the Department of Industrial Relations (DIR) and the Labor Commissioner—California’s established enforcement agencies—and instead grants private, union-affiliated entities the ability to enter job sites and initiate civil actions. This shift toward a hybrid public-private enforcement model is unprecedented in public works and raises serious concerns about fairness, consistency, and due process.”

The League of California Cities, the California State Association of Counties, and the Rural County Representatives of California, among others, have an opposed unless amended position, arguing:

“Our opposition to AB 1859 is grounded in the bill’s structure, which would grant any third-party JLMCs a statutory right of access to public works job sites, coupled with a private right of action, civil penalties, and attorney’s fees against public agencies for alleged denial of access. This framework raises significant operational, legal, and fiscal concerns for public entities serving as awarding bodies.

First, AB 1859 creates a new and ambiguous access mandate that public entities would be responsible for administering and enforcing on active public works job sites. We appreciate that ‘reasonable access’ includes compliance with safety guidelines and personal protective equipment... This definition of ‘reasonable access’ does not contemplate public works projects that occur on private lands or are only accessible through private property, which our members have reported being problematic. They are especially concerned about granting access to lands they do not control and how this bill will impact fire mitigation and flood prevention work that is often done on private lands...

Another significant concern is that the bill requires granting ‘reasonable access’ to any JLMC to job sites, rather than those who have members on our sites. By allowing any JLMC access this puts public entities and contractors in the middle of multiple unions on our sites. This is a dispute we have no interest in, nor do we feel this is appropriate...

AB 1859 references joint labor-management committees authorized under federal law (LMRA §302(c)(9)), which are intended to promote labor-management cooperation and training. However, federal law does not grant these committees job site access rights, nor does it confer independent enforcement authority over prevailing wage compliance...

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...

Beyond the immediate legal and operational concerns, AB 1859 risks increasing the overall cost and complexity of delivering public works projects. Public entities may need to revise contract documents, develop new compliance protocols, and dedicate additional staff time to manage access requests and potential disputes.”

5. Dual Referral:

The Senate Rules Committee referred AB 1859 to the Senate Labor, Public Employment and Retirement Committee and the Senate Judiciary Committee.

6. Prior Legislation:

SB 909 (Smallwood-Cuevas, 2026) seeks to increase public works enforcement by 1) authorizing the Director to establish and adjust contractor registration and renewal fees of up to \$1000, as specified; 2) increasing penalties for various public works violations, including prevailing wage violations; and 3) directing 50% of penalties recovered through a civil wage

and penalty assessment to the State Public Works Enforcement Fund. *This bill is pending in the Assembly Appropriations Committee.*

SB 1241 (Smallwood-Cuevas, 2026) would have, among other things, required the LC to accept complaints from a JLMC alleging that a contractor failed to use a skilled and trained workforce. *This bill was ordered to the inactive file on the Senate Floor.*

AB 2182 (Haney, 2024) would have, among other things, required a change in the prevailing rate of per diem wages, as determined by the Director, to apply to any public works contract for which notice to bidders is published after July 1, 2026, and provided representatives of a JLMC access to active public works job sites, as specified. *This bill was vetoed by Governor Newsom.*

AB 3231 (Gray, Chapter 682, Statutes of 2018) authorized a JLMC to seek a court order requiring a public works contractor or subcontractor to provide certified payroll records.

SB 588 (Burton, Chapter 804, Statutes of 2001) granted JLMCs access to certified payroll records and authorized JLMCS to bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees.

SUPPORT

California-Nevada Conference of Operating Engineers (Co- sponsor)
District Council of Ironworkers (Co-sponsor)
State Building and Construction Trades (Co-sponsor)
California Federation of Labor Unions
California State Association of Electrical Workers
California State Pipe Trades Council
International Union of Painters and Allied Trades, District Council 16
International Union of Painters and Allied Trades, District Council 36
Teamsters California
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION

Association of California Healthcare Districts
Associated General Contractors of California
California Association of Recreation and Park Districts
California Building Industry Association
California Special Districts Association
California State Association of Counties
California State Council of Laborers
City of Corona
City of Fairfield
Community College Facility Coalition
El Dorado Irrigation District
League of California Cities
Rural County Representatives of California
Western Electrical Contractors Association