
THIRD READING

Bill No: AB 538
Author: Berman (D)
Amended: 5/23/25 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/25/25
AYES: Smallwood-Cuevas, Cortese, Durazo, Laird
NOES: Strickland

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/29/25
AYES: Caballero, Cabaldon, Dahle, Grayson, Richardson, Wahab
NOES: Seyarto

ASSEMBLY FLOOR: 65-3, 6/3/25 - See last page for vote

SUBJECT: Public works: payroll records

SOURCE: California-Nevada Conference of Operating Engineers

DIGEST: This bill requires the awarding body of a public works project to obtain certified payroll records (CPRs) from a contractor and make CPRs available to the requesting entity, 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 United States Code (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.)

- 3) Establishes multiemployer Taft-Hartley trust funds, which are collectively bargained pension, health, or welfare benefit trusts jointly administered by an equal number of employer and employee representatives, as specified. (29 U.S.C. §186(c)(5)-(c)(8))

Existing state law:

- 1) Establishes within the Department of Industrial Relations (DIR) the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC to ensure a just day's pay in every work place and to promote justice through the 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) Defines "awarding body" or "body awarding the contract" as a department, board, authority, officer or agent awarding a contract for public work. (Labor Code §1722)
- 4) 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)
- 5) 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. (Labor Code §1776 (a))
- 6) Requires the payroll records in 5), above, to be certified and made available for inspection to all of the following:
 - a) An employee's CPR must be made available for inspection or furnished to the employee or the employee's authorized representative, upon request.

- b) All CPRs must be made available for inspection or furnished upon request to a representative of the body awarding the contract and DLSE.
 - c) All CPRs must be made available upon request by the public for inspection or for copies thereof.
(Labor Code §1776(b))
- 7) Requires requests by the public for CPRs to be made through either the body awarding the contract or DLSE. The requesting party shall reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public cannot access records at the principal office of the contractor. (Labor Code §1776(b))
- 8) Requires any copy of CPRs made available for inspection as copies or furnished upon request to the public or any public agency by the awarding body or DLSE to be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. (Labor Code §1776(e))
- 9) Requires any copy of CPRs made available for inspection by, or furnished to, JLMCs to be marked or obliterated only to prevent disclosure of an individual's social security number. (Labor Code, §1776(e))
- 10) Requires any copy of CPRs made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund to be marked or obliterated only to prevent disclosure of an individual's full social security number, but to provide the last four digits of the social security number. (Labor Code, §1776(e))
- 11) Requires a contractor or subcontractor to file CPRs with the entity that requested the records within 10 days after written receipt. (Labor Code §1776(d))
- 12) Requires contractors and subcontractors, in the event that they do not comply within the 10-day period, to pay to the state or subdivision on whose behalf the contract was made or awarded a penalty of \$100 per day or portion thereof for every worker until strict compliance is effectuated. A contractor is not subject to a penalty due to the failure of a subcontractor to comply with this section. (Labor Code §1776(h))
- 13) 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, §1771.4 (a)(3))

- 14) Requires DIR, by July 1, 2024, to develop and implement an online database, accessible only to multiemployer Taft-Hartley trust funds and JLMCs, of electronic certified payroll records submitted in compliance with public works requirements. (Labor Code, §1771.4 (e))

This bill:

- 1) Requires the awarding body of a public works project, upon request by the public, to obtain CPRs from a contractor and make CPRs available to the requesting entity.
- 2) Requires a contractor to comply within 10 days of receiving written notice from an awarding body requesting a certified copy of payroll records.
- 3) Provides that if a contractor or subcontractor fails to comply within the 10-day period, the awarding body shall notify DLSE who may request penalties be withheld from progress payments, as specified.

Background

CPRs Requests. All contractors 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 maintaining accurate payroll records and making them available for inspection or copy. Records must contain 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. Access to CPRs varies depending on the requesting entity. For example, representatives from awarding bodies and DLSE can inspect CPRs at all reasonable hours at the principal office of the contractor, whereas the public cannot. CPRs made available to the public or any public agency must be marked or obliterated to prevent disclosure of an individual’s name, address, and social security number. Any CPRs made available to a multiemployer Taft-Hartley trust fund shall be marked or obliterated only to prevent disclosure of an individual’s full social security address, but shall provide the last four digits. CPRs available to JLMCs shall be marked or obliterated only to prevent disclosure of an individual’s social security number.

A request by the public to inspect CPRs must be made through either the awarding body or DLSE. Once made, contractors and subcontractors have ten days upon receipt of a written request to furnish CPRs. In the event that a contractor or subcontractor fails to comply, they forfeit one hundred dollars for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Penalties are paid to the state or subdivision on whose behalf the contract was made or awarded. To facilitate compliance, DLSE provides a standard public works payroll reporting form (Form A-1-131) in all written requests. However, contractors and subcontractors can use an alternate format as long as it contains all of the required information.

CPRs are an essential tool for combatting wage theft. DLSE and JLMCs use the records to confirm that contractors and subcontractors pay prevailing wages. Multiemployer Taft-Hartley trust funds use the records to allocate contributions to pension, health, or welfare benefit trusts.

Electronic Certified Payroll Records Database. Contractors and subcontractors working on public works projects are required 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 DIR's website. This requirement is *separate and distinct* from the requirement to make CPRs available within 10 days upon receipt of a written request. Electronic certified payroll records (e-CPRs) do not contain all of the payroll information that is required for a contractor to comply with written requests. Contractors and subcontractors who fail to submit e-CPRs are liable for penalties of one hundred dollars a day for non-compliance, up to a total of five thousand dollars per project. Penalties are deposited in the State Public Works Enforcement Fund. DIR maintains an online database of e-CPRs accessible only to JLMCs and multiemployer Taft-Hartley trust funds.

The e-CPR database was temporarily paused from June 22, 2024 to June 22, 2025. During that time, the requirement to submit e-CPRs monthly was paused. Given that the database is one of the methods through which JLMCs and multiemployer Taft-Hartley trust funds verify contractors' compliance with prevailing wage requirements, both entities have had to make formal requests through awarding bodies to obtain CPRs.

This Bill. Although the requirement to maintain CPRs falls on contractors and subcontractors, requests by the public to access CPRs go through either the awarding body or DLSE. The author and sponsor of this bill contend that awarding

bodies are increasingly denying access to CPRs without attempting to contact contractors. AB 538 would require an awarding body, upon request by the public, to obtain CPRs from a contractor and make them available to the requesting entity. Contractors would have 10 days to comply upon receipt of a written notice. If a contractor fails to comply, the awarding body would be required to notify DLSE who may request penalties be withheld from progress payments.

Opponents are concerned with the 10-day timeline and argue that it unnecessarily subjects contractors to excessive penalties. However, the timeline is consistent with existing public works law, which already requires contractors to furnish payroll records, upon request, within 10 days.

Related/Prior Legislation

AB 963 (Petrie-Norris, 2025) would require an owner or developer undertaking any public works project to make specified records available upon request to DLSE, to multiemployer Taft-Hartley trust funds, and to JLMCs. *This bill is pending on the Senate Floor.*

AB 2182 (Haney, Vetoed, 2024) would have, among other things, specified that when the LC requests to review a contractor's payroll records to verify their accuracy, the contractor must make available all of the items specified in the California Code of Regulation's definition of payroll records. *This bill was vetoed by the Governor.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The Department of Industrial Relations (DIR) indicates that this bill would result in first-year costs of \$876,000, and \$828,000 annually thereafter, to impose penalties on additional non-compliant contractors (State Public Works Enforcement Fund). Current law penalizes a contractor that does not comply with a CPR request within 10 days; however, this bill would require the awarding body to notify DIR's Division of Labor Standards Enforcement (DLSE) of such non-compliance, thus providing DLSE with additional specific enforcement cases workload.
- This bill could result in costs to the State as an awarding body of a public works project to request a CPR from a contractor, redact personally identifying information from the CPR, provide the CPR to the requesting entity, and notify DLSE when a contractor does not comply with a CPR request in a timely

manner. The magnitude is unknown, and would depend on the number of requests and impacted departments, but could exceed \$150,000 per year (General Fund or special fund).

SUPPORT: (Verified 8/29/25)

California-Nevada Conference of Operating Engineers (Source)

California Federation of Labor Unions

California State Association of Electrical Workers

California State Council of Laborers

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

State Building and Construction Trades Council of California

Western States Council of Sheet Metal Workers

OPPOSITION: (Verified 8/29/25)

Associated Builders and Contractors of California

California Council for Affordable Housing

California Housing Consortium

California Housing Partnership

California Special Districts Association

California State Association of Counties

City of Rancho Cucamonga

County of Kern

County of Riverside

Housing California

League of California Cities

Non-profit Housing Association of Northern California

Rural County Representatives of California

San Diego Housing Federation

Southern California Association of Non-profit Housing

Urban Counties of California

ARGUMENTS IN SUPPORT:

The sponsors of the measure, the California-Nevada Conference of Operating Engineers, argue:

“Existing law requires that contractors and subcontractors on public works projects keep accurate payroll records... Contractors are additionally required to make

these records available for inspection at reasonable hours at their principal office for authorized employee representatives, as well as for representatives of the awarding body and the Division of Labor Standards Enforcement (DLSE).

In addition to a contractor's responsibility to maintain these records and only produce them for select entities, existing law places an obligation on awarding bodies and the Division of Labor Standards Enforcement to produce copies of public works certified payroll records at the request of the public...

While existing law is clear as it relates to the public's obligation to only make a certified payroll records request through the awarding body or DLSE, the law is silent on situations in which the awarding body does not have the payroll record in their possession at the time of the request.

In situations in which a public request is made through DLSE, existing law establishes a process under which the contractor must comply with DLSE's request for records within 10 days, or face a potential penalty of \$100 per day, for each worker, until compliance is effectuated. Guidance on how contractors are expected to respond to a public works payroll request from the awarding body does not appear to currently exist in statute.

Recently, labor compliance entities have noted increasing instances of awarding bodies denying public requests for payroll records simply because they do not have the records in their possession at the time of the request...

In an effort to bring clarity to awarding bodies, contractors, labor compliance entities, and the public, AB 538 (Berman) would clarify that when the public makes a lawful request to an awarding body for public works payroll records on their project, the awarding body is required to make an attempt to obtain the record from the relevant contractor and make them available to the requesting entity."

ARGUMENTS IN OPPOSITION:

A coalition of opponents, including Housing California and the California Housing Partnership, argue:

"Our organizations represent the development, non-profit, financial, and public sectors united in the goal of increasing the supply of safe, stable, and affordable housing options for California residents.

Under existing law, contractors and subcontractors are required to maintain accurate payroll records and make them available for inspection or furnished upon request to a representative of the awarding body or to the California Department of

Industrial Relations (DIR). Current law also imposes penalties that contractors and subcontractors are subject to if they do not comply with these requirements.

We fail to understand why the existing process for awarding agencies and DIR to collect information regarding payroll records is deficient. We also have significant concerns with the 10-day compliance deadline the bill imposes on contractors and subcontractors when receiving requests from awarding bodies, as it unnecessarily subjects them to excessive penalties.

For these reasons, we remain opposed to AB 538. Please feel free to reach out to us if you have any questions or need additional information regarding our position.”

ASSEMBLY FLOOR: 65-3, 6/3/25

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

NOES: DeMaio, Ellis, Tangipa

NO VOTE RECORDED: Alanis, Castillo, Dixon, Flora, Hadwick, Hoover, Macedo, Michelle Rodriguez, Sanchez, Ta, Wallis

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