
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 1316 (Smallwood-Cuevas) - Employment

Version: March 25, 2026

Policy Vote: L., P.E. & R. 5 - 0, JUD. 13 - 0

Urgency: No

Mandate: No

Hearing Date: May 4, 2026

Consultant: Robert Ingenito

Bill Summary: SB 1316 would increase the Labor Commissioner's ability to enforce claims of wage theft, as specified.

Fiscal Impact: The Department of Industrial Relations (DIR) has yet to determine its administrative impacts that would result from this bill. However, these costs would likely total, at a minimum, in the hundreds of thousands of dollars annually (special fund).

Background: Wage theft captures many labor law violations, including the minimum wage, overtime, denied meal periods, and misclassification of employees as independent contractors. A 2022 report to the Legislature on the state's wage claim adjudication process reveals that there were nearly 19,000 wage claims filed in 2021 with a total of \$335 million being owed to workers. Due to challenges in staffing, resources, and a growing case backlog (as documented in a May 2024 California State Auditor report), only approximately \$40 million has been paid in awards or settlements through the wage claim adjudication unit of the LC. In 2022, the Labor Commissioner's office recovered through the wage claim process an average of 63 percent of wages owed, totaling more than \$47 million paid to workers.

When an employer has failed to pay a worker what they are owed under the law, the worker generally must (1) file a wage claim with DIR's Division of Labor Standards Enforcement (DLSE) headed by the Labor Commissioner (LC), (2) sue for damages, or (3) file a representative civil action against the employer through California's Private Attorneys General Act (PAGA). A public prosecutor, which includes the Attorney General, a district attorney, a city attorney, a county counsel, or any other city or county prosecutor, can prosecute a civil or criminal violation of specified provisions of the Labor Code.

Under current law, when a worker files a wage claim with the LC, the Commissioner will investigate the claim. The LC must notify both parties within 30 days of the complaint as to whether (1) a hearing is required to adjudicate the claim, (2) the LC will prosecute the labor law violation, or (3) no further action will be taken. If the Commissioner determines a hearing is needed, it must set the matter for a hearing within 90 days, except that it may postpone the hearing or grant additional time if doing so would lead to an equitable solution. Hearings before the LC are informal hearings in which the rules of evidence are relaxed, though both parties are able to call, examine, and cross examine witnesses and introduce exhibits.

After the hearing, the LC must file and serve on each party its decision within 15 days, after which the parties have 10 days from the date of service to seek review of the

Commissioner's decision in the superior court. If no party appeals the Commissioner's decision by this deadline, it is deemed final, and the Commissioner has 10 days to file a copy of the final order with the superior court. The superior court then enters a judgment pursuant to the final order that has the same force and effect as a judgment in a civil action, and the Commissioner or the employee can take action to enforce that judgment.

The Labor Code currently provides for a variety of other mechanisms to ensure the employer satisfies a final judgment. After 20 days from when a judgment is entered in favor of the LC or in favor of an employee after a hearing before the Commissioner, the LC may collect the outstanding amount of the judgment with the consent of the aggrieved employee by placing a levy on the employer's assets and property. If a final judgment for unpaid wages remains unsatisfied after 30 days or more from the time to appeal the judgment and no appeal is pending on the judgment, the employer is prohibited from conducting any business in the State, unless it obtains a specified bond or has reached an accord with the holder of the judgment for payment. In addition, the LC may place a lien on the real property of the employer for the amount due. The lien attaches to all interests in real property of the employer that is located in the county where the lien is created, as specified. If the employer pays the amount due, the LC must issue a certificate of release for the lien; otherwise, it continues for 10 years from the date of its creation.

Thus, once the LC issues an order, decision, or award (ODA), the employer has a limited time after service of the LC decision to file an appeal. If no appeal is filed within the specified period, the LC must file a certified copy of the decision with the appropriate Superior Court and obtain a judgment against the employer for the amount owed. When the LC does request that the court enter the judgment against the employer, the worker can choose the option of referring the judgment to the LC's Enforcement Unit for collection or pursue collection on their own or through the use of an external partner, such as a private attorney or advocacy groups. DLSE's Enforcement Unit can use a variety of means to collect judgment amounts, including levies against employers' bank accounts and liens on properties.

Proposed Law: This bill would do the following:

- Authorize the Labor Commissioner to renew a lien on real property for owed wages for additional periods of 10 years by recording a renewal certificate of lien or a copy of a renewed judgment at any time prior to the original liens' expiration.
- For provisions regarding the requirement to timely provide books, documents, or records during an investigation into employee owed wages, would additionally:
 - preclude an employer or other person or entity from using or relying on such books, documents, or records as evidence, including, but not limited to, attempting to impeach any witness (challenge or discredit their credibility during an investigation).
 - Revise and expand the types of books, documents, or records to which the provisions are applicable including by making them applicable to

specified administrative proceeding contesting citations for retaliation or discrimination complaints.

- Extend these provisions to preclude a public works contractor or subcontractor from introducing as evidence, or in any other way using or relying on as evidence, at a hearing or writ of mandate proceeding, as specified, any books, documents, or records that are not provided pursuant to a duly served written request by the LC within the time that the LC requests those books, documents, or records to be produced, except as specified.
 - Require the LC to take into consideration a reasonable request from the contractor or subcontractor for an extension of time for production of books, documents, or records, as specified.

Related Legislation:

- SB 261 (Wahab, Chapter 747, Statutes of 2025) permitted a public prosecutor, as assignee of the judgement creditor, to be awarded court costs and reasonable attorney's fees for enforcing a final judgement regarding a violation of labor law.
- SB 62 (Durazo, Chapter 329, Statutes of 2022) prohibited the practice of piece-rate compensation for garment manufacturing, except as specified, and precluded the introduction or use of records relating to the payment of wages for garment manufacturing from administrative proceedings contesting an order of the Commissioner when those records were not provided to the Commissioner upon request.
- SB 96 (Committee on Budget and Fiscal Review, Chapter 28, Statutes of 2017) among other things, prohibited any employer from introducing as evidence in an administrative proceeding contesting a citation or writ under certain provisions of law, books, documents, or records that are not provided pursuant to a duly served written request by the commissioner, as specified.
- SB 588 (De Leon, Chapter 803, Statutes of 2015) permitted the Commissioner to file a lien or levy on an employer's property to satisfy a final judgment relating to a violation of labor law.
- AB 1386 (Committee on Labor and Employment, Chapter 750, Statutes of 2013) provided for the creation of a lien upon an order of the Commissioner becoming final, permitted the Commissioner to record a certificate of lien to attach to an employer's property for the satisfaction of the final judgement, and specified that this lien would continue for ten years, or until satisfied or released before expiration.

Staff Comments: As noted above, this bill would (1) authorize the renewal of a lien on real property for another 10 years before it expires, (2) limit how employers can use books, documents, or records in an attempt to delay specified investigations of the LC, and (3) apply these late-records rule provision of books, documents, or records to contractors or subcontractors in public works projects.

Regarding the other provisions of the bill, currently, when the LC investigates claims of specified violations, it asks employers to provide information that would rebut the allegations as part of the investigation. Some employers may simply not respond to the LC requests for documents, oftentimes to delay the proceedings. Current processes allow the dismissal of cases where complainants do not provide timely information or are uncooperative in an investigation; however, no such provision exists for respondents.

Existing Labor Code Section 1174.1 already allows LC's Bureau of Field Enforcement (BOFE) hearing officers to exclude time and payroll records from a hearing if a BOFE deputy requests it and the employer does not provide it. This evidentiary preclusion applies to a narrow set of documents that the Labor Code requires employers to keep, generally payroll and time records. The proposed language would extend these same evidentiary preclusions in wage theft claims as well as public works claims.

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