

THIRD READING

Bill No: SB 1316
Author: Smallwood-Cuevas (D)
Amended: 3/25/26
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/15/26
AYES: Smallwood-Cuevas, Strickland, Cortese, Durazo, Laird

SENATE JUDICIARY COMMITTEE: 13-0, 4/21/26
AYES: Umberg, Niello, Allen, Ashby, Caballero, Durazo, Laird, Reyes, Stern,
Valladares, Wahab, Weber Pierson, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Employment

SOURCE: Author

DIGEST: This bill strengthens the Labor Commissioner's (LC) ability to enforce claims of wage theft by 1) authorizing the renewal of a lien on real property for wage theft obligations for an additional 10 years before its expiration; 2) limiting how employers can use books, documents, or records that the employer failed to provide to the LC within specified timelines, as specified; and 3) applying these late-records rule provision of books, documents, or records to contractors or subcontractors in public works projects.

ANALYSIS:

Existing law:

- 1) Establishes the Department of Industrial Relations (DIR) in the Labor and Workforce Development Agency (LWDA), and vests it with various powers and duties to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment. (Labor Code §50.5)

- 2) Establishes within the DIR, various entities including the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC with ensuring a just day's pay in every workplace and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)
- 3) Authorizes the LC to investigate employee complaints and provide for a hearing in any action to recover wages, penalties, and other demands for compensation, including liquidated damages if the complaint alleges payment of a wage less than the minimum wage, as specified. (Labor Code §98)
- 4) Precludes any employer, or other person or entity, who may be liable for a violation of any provision of the labor code from introducing as evidence, in an administrative proceeding contesting a citation or writ proceeding, as specified, books, documents, or records that are not provided pursuant to a duly served written request (providing not less than 15 days to respond) by the LC requiring the provision of such records, as specified. Grants the LC discretion to admit for consideration books, documents, or records that are produced beyond the time limits specified if:
 - a) The person or entity cooperated with the underlying investigation and substantially complied with the request within the time limits prescribed; and
 - b) The person or entity made good faith efforts to comply with the request, including discovery of the late-produced books, documents, or records. (Labor Code §1174.1)
- 5) Requires the LC, within 15 days after the hearing is concluded, to file in the office of the division a copy of the order, decision, or award (ODA). The ODA shall include a summary of the hearing and the reasons for the decision. Additionally, the ODA includes any sums found owing, damages proved, and any penalties awarded pursuant to the Labor Code, including interest on all due and unpaid wages, as specified. (Labor Code §98.1)
- 6) Upon filing of the ODA, requires the LC to:
 - a) Serve a copy of the decision personally, by first-class mail, or in the manner specified in Section 415.20 of the Code of Civil Procedure on the parties.
 - b) Advise the parties of their right to appeal the decision or award and further advise the parties that failure to do so within 10 days shall result in the

decision or award becoming *final and enforceable as a judgment* by the superior court.

(Labor Code §98.1 and §98.2)

- 7) Specifies that if no appeal of the ODA is filed within the period specified, the ODA shall, in the absence of fraud, be deemed the final order. Existing law then requires the LC to file, within 10 days of the ODA becoming final, a certified copy of the final order with the clerk of the superior court of the appropriate county unless a settlement has been reached by the parties and approved by the LC. *Judgment shall be entered immediately* by the court clerk in conformity therewith. (Labor Code §98.2)
- 8) Authorizes the LC, as an alternative to a judgment lien, upon the order becoming final pursuant, to create a lien on real property recording a certificate of lien, for amounts due under the final order and in favor of the employee or employees named in the order, with the county recorder of any county in which the employer's real property may be located, as specified. (Labor Code §98.2)
- 9) Requires the LC, upon payment of the amount due under the final order, to issue a certificate of release, releasing the lien created under provisions specified above and specifies that, unless the lien is satisfied or released, a lien under these provisions shall continue until 10 years from the date of its creation. (Labor Code §98.2)

This bill:

- 1) Authorizes 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.
- 2) Prohibits an employer, or other person or entity, who fails to provide the Commissioner with specified books, documents, or records related to payroll and employment within certain timelines to rely upon or use those documents as evidence, including to impeach a witness, in any administrative proceeding contesting a citation writ, as specified.
- 3) Extends this prohibition to any administrative proceeding contesting a citation regarding retaliation or discrimination.

- 4) Includes within the definition of books, documents, or records: the job title and wage rate history for each employee; records of wages and wage rates, job classifications, and other terms and conditions of employment for its employees; and employee performance, education and training, or grievance records.
- 5) Includes within the existing law exemption for when the employer opposes the LC's request for records in court prior to the issuance of any citation, and the court determines that such books, documents, or records are not required to be produced, any records for a citation related to claims of retaliation or discrimination.
- 6) Precludes a public works contractor or subcontractor from introducing as evidence, or in any other way using or relying on as evidence, including to impeach a witness, at a hearing regarding a civil wage and penalty assessment (CWPA), any books, documents, or records that the contractor or subcontractor fails to provide to the LC pursuant to a request of the LC, as specified:
 - a) When the LC provides for at least 10 days to respond to the request; or
 - b) When the LC provides less than 10 days to respond, if the LC determines that circumstances exist that make it necessary to require a shorter period of production of the documents, and includes a statement of that determination in the request.
- 7) Regarding requests for access to books, documents, or records of a public works contractor or subcontractor:
 - a) Make these provisions inapplicable when the contractor or subcontractor opposes the LC's request for records, documents, or books in court prior to the issuance of the CWPA, and the court determines that the books, documents, or records are not required to be produced.
 - b) Makes these provisions inapplicable when the failure to produce the books, documents, or records within 10 days was due to an inadvertent error, provided that the error is corrected and the books, documents, or records are produced no later than 20 days from the date originally requested. Defines "inadvertent error" as any clerical mistake causing an unintended delay in production of the requested books, documents, or records.
 - c) Requires 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.

- d) Permits the LC to admit and consider, in their discretion, books, documents, or records that are produced beyond the time limits provided, upon a finding that:
 - i. The contractor or subcontractor cooperated with the underlying investigation and substantially complied with the request within the time limit prescribed; and
 - ii. The contractor or subcontractor made good faith efforts to comply with the request, including discovery of the late-produced books, documents, or records.
- e) Provides an automatic extension of 15 days to a contractor or subcontractor that provides a timely good faith response to the LC's request stating that additional time is needed to gather the books, documents, or records, except for in the case of certified payroll records.
- f) Exempts from all these requirements a contractor or subcontractor's obligation to provide certified payroll records to the LC pursuant to Labor Code section 1776.

Background

California leads the nation with some of the strongest workplace protections for workers. Unfortunately, those laws are meaningless if they are not implemented or enforced, leaving workers struggling to recoup owed wages. Wage theft in California, which impacts low-wage workers disproportionately, is well documented. Wage theft captures many labor law violations including violations of the minimum wage, overtime, denied meal periods, or misclassification of employees as independent contractors, among others. 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.¹ Due to challenges in staffing, resources, and a growing case backlog (as documented in a May 2024 California State Auditor report on the DLSE) only approximately \$40 million has been paid in awards or settlements through the wage claim adjudication unit of the LC.² 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.

A 2024 Rutgers School of Management and Labor Relations report assessed minimum wage violations across four metropolitan statistical areas of interest – Los Angeles/Long Beach/Anaheim, San Jose/Sunnyvale/Santa Clara, San

¹ Wage Claims Adjudication Unit Annual Report Pursuant to Labor Code Section 96.1, Calendar Year 2021, California Labor Commissioner's Office, p. 15.

² *Ibid.*

Diego/Carlsbad/San Marcos, and San Francisco/Oakland/Fremont.³ Among the key findings of the report are the following:

- An average of \$2.3 to \$4.6 billion in earned wages were lost by workers each year from 2014 to 2023 due to minimum wage violations across these four metro areas.
- The majority of lost wages were in the Los Angeles area, where we estimate an average of \$1.6 to \$2.5 billion was lost a year during the study period.
- Those that were paid below the minimum wage lost roughly 20 percent of their total paycheck on average, or nearly \$4,000 in earned wages a year if working full-time.
- The most impactful violations occurred in the San Francisco area, where workers lost an average of \$4,300 to \$4,900 annually to minimum wage violations.
- The number of workers paid below both the state and primary metro minimum wages has more than doubled since 2014, growing particularly dramatically over the most recent year of the study (2023).

Wage theft does not only affect workers, but it also creates unfair competition for responsible employers who follow the law. The State of California is also harmed when labor laws are not enforced because more workers fall into poverty, the safety net is eroded, and payroll taxes are not paid.

Need for this bill? According to the author:

Current labor enforcement statutes contain outdated timelines, inconsistent document production requirements, and technical gaps that can delay investigations and complicate wage recovery. These inconsistencies are often exploited by noncompliant employers to delay proceedings or avoid accountability on procedural grounds rather than compliance with labor laws. As a result, workers, particularly low-wage workers, immigrant workers, and workers in industries with high rates of wage theft, experience prolonged delays in recovering wages already determined to be owed.

SB 1316 makes targeted technical and clarifying amendments to labor enforcement statutes to ensure consistent document production timelines, clarify evidentiary rules, and align lien duration and renewal authority with existing judgment lien law. These changes strengthen the Labor

³ Daniel J. Galvin, Jake Barnes, Janice Fine, and Jenn Round. *Wage Theft in California: Minimum Wage Violations, 2014-2023*. (Rutgers School of Management and Labor Relations, May 2024)

Commissioner's ability to enforce existing worker protections, reduce unnecessary litigation over procedural issues, and improve the timely recovery of unpaid wages without creating new penalties or expanding enforcement authority beyond current law.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information.]

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

SUPPORT: (Verified 5/11/26)

California Federation of Labor Unions

OPPOSITION: (Verified 5/11/26)

None received

ARGUMENTS IN SUPPORT: According to the California Federation of Labor Unions: "Current labor enforcement statutes contain outdated timelines, inconsistent document production requirements, and technical gaps that can delay investigations and complicate wage recovery. Noncompliant employers often exploit these inconsistencies to delay proceedings or avoid accountability on procedural grounds rather than comply with labor laws. As a result, workers, particularly low-wage workers, immigrant workers, and workers in industries with high rates of wage theft, experience prolonged delays in recovering wages that have been stolen from them.

SB 1316 makes targeted technical and clarifying amendments to labor enforcement statutes to ensure consistent document production timelines, clarify evidentiary rules, and align lien duration and renewal authority with existing judgment lien law. These changes strengthen the Labor Commissioner's ability to enforce existing worker protections, reduce unnecessary litigation over procedural issues, and will help ensure workers no longer have to continue waiting for the pay they have earned."

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