

Date of Hearing: June 10, 2026

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

SB 1316 (Smallwood-Cuevas) – As Amended March 25, 2026

**SENATE VOTE:** 37-0

**SUBJECT:** Employment

**SUMMARY:** Authorizes a lien on real property utilized by the Labor Commissioner (LC) for an unsatisfied wage judgment to be renewed for additional periods of 10 years. Further provides that a public works contractor or subcontractor shall be precluded from introducing as evidence, or in any other way using or relying on as evidence, at a hearing or a writ proceeding related to a review of a civil wage and penalty assessment, books, documents, or records that are not provided pursuant to a duly served written request by the LC within the time the LC requests them. Specifically, **this bill:**

- 1) Makes technical and clarifying changes.
- 2) Authorizes a lien on real property utilized by the LC for an unsatisfied judgment to be renewed for additional periods of 10 years by the LC recording a renewal of certificate of lien or a copy of a renewed judgment at any time prior to its expiration.
- 3) Specifies that the prohibition on an employer, who may be liable for a violation of the labor code from introducing as evidence, in an administrative proceeding contesting a citation or writ, as specified, certain books, documents, or records, that are not provided pursuant to a duly served written request by the LC within the time the LC requests, also prohibits *using or relying* on these documents as evidence, including attempting to impeach a witness with them.
- 4) Adds to the administrative proceedings covered in 3) above a proceeding involving a discrimination or retaliation complaint.
- 5) Clarifies which sections of the labor code require payroll, time, and employment records to be maintained at the place of employment or at a central location within the state by the employer.
- 6) Provides that a public works contractor or subcontractor shall be precluded from introducing as evidence, or in any other way using or relying on as evidence, including, but not limited to, attempting to impeach any witness, at a hearing or a writ proceeding related to a review of a civil wage and penalty assessment, books, documents, or records that are not provided pursuant to a duly served written request by the LC within the time the LC requests those books, documents, or records be produced, pursuant to either of the following:
  - a) When the LC provides for no less than 10 days to respond, subject to the exception described in 8), 9), 10), and 11) below.
  - b) When the LC provides for less than 10 days to respond, subject to the exception described in 8) and 10) below, if the LC, in their discretion, determines that

circumstances exist that make it necessary to require a shorter period of production for the LC to conduct a complete investigation. In this instance, a statement indicating that determination of necessity shall be included with the written request from the LC.

- 7) States that the books, documents, or records to which 6) applies are payroll, time, and employment records that are required to be maintained at the place of employment or at a central location within the state by the contractor or subcontractor, as specified.
- 8) States that 6) above shall not apply in the event that the contractor or subcontractor subject to the written request by the LC for the production of books, documents, or records opposes such a request in court, prior to the issuance of a civil wage and penalty assessment, as specified, and a court determines that the books, documents, or records are not required to be produced.
- 9) States that 6) a) above shall not apply to the failure to produce any books, documents, or records within the time requested by the LC if such failure is due to an inadvertent error, provided that such error is corrected and the books, documents, or records are produced to the LC no later than 20 days from the date originally requested. For purposes of this section, “inadvertent error” means any clerical mistake causing an unintended delay in production of the requested books, documents, or records.
- 10) Requires the LC to take into consideration a reasonable request from the contractor or subcontractor subject to 6) above for an extension on the time for production of books, documents, or records. No extension granted shall extend the time in which a contractor or subcontractor is required to produce certified payroll records to the LC. The LC shall determine the reasonableness of the request and may consider, among other things, the location of the books, documents, or records and the volume of production. The LC, in their discretion, may admit and consider books, documents, or records that are produced beyond the time limits provided for in this section upon a finding that both of the following conditions are satisfied:
  - a) The contractor or subcontractor cooperated with the underlying investigation and substantially complied with the request within the time limit prescribed.
  - b) The contractor or subcontractor made good faith efforts to comply with the request, including discovery of the late-produced books, documents, or records.
- 11) Requires, for purposes of 6) a) above and notwithstanding 10) above, a contractor or subcontractor that provides a timely good faith response to the LC that additional time is needed to gather requested books, documents, or records, to be provided an automatic extension of 15 days. This provision does not apply to requests for certified payroll records, as specified.
- 12) Provides that nothing in 6)-11) above shall apply to a contractor or subcontractor’s obligation to provide certified payroll records to the LC in response to a written request, as specified.

#### **EXISTING LAW:**

- 1) Authorizes, as an alternative to a judgment lien, upon an order, decision or award for unpaid wages, a lien on real property to be created by the LC recording a certificate of lien, for

amounts due under the final order and in favor of the employee or employees named in the order, at the LC's discretion and depending upon information the LC obtains concerning the employer's assets. Labor Code §98.2(g)(1).

- 2) Provides that the lien in 1) above attaches to all interests in real property of the employer located in the county where the lien is created to which a judgment lien may attach, as described. Labor Code §98.2(g)(1).
- 3) Provides that, unless the lien in 1) above is satisfied or released, the lien shall continue until 10 years from the date of its creation. Labor Code §98.2(g)(5).
- 4) Prohibits an employer, who may be liable for a violation of the labor code from introducing as evidence, in an administrative proceeding contesting a citation or writ, as specified, certain books, documents, or records, that are not provided pursuant to a duly served written request by the LC within the time the LC requests, pursuant to either of the following:
  - a) When the LC provides for less than 15 days to respond, subject to certain exceptions.
  - b) When the LC provides for less than 15 days to respond, subject to certain exceptions, if the LC, in their discretion determines the circumstances exist that make it necessary to require a shorter period of production for the LC to conduct a complete investigation. Labor Code §1174.1(a).
- 5) Identifies the sections of the Labor Code that require payroll, time, and employment records to be maintained at the place of employment or at a central location within the state by the employer. Labor Code §1174.1(b).
- 6) Requires, if the LC or their designee determines after an investigation that there has been a violation of public works law, the LC to with reasonable promptness issue a civil wage and penalty assessment to the contractor or subcontractor, or both. The assessment shall be in writing, shall describe the nature of the violation and the amount of wages, penalties, and forfeitures due, and shall include the basis for the assessment. Labor Code §1741(a).
- 7) Permits a contractor or subcontractor to obtain review of a civil wage and penalty assessment as described in 6) above by transmitting a written request to the office of the LC that appears on the assessment within 60 days after service of the assessment. Labor Code §1742(a).
- 8) Requires, upon receipt of a timely request, a hearing to be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge, as specified. Labor Code §1742(b).
- 9) Provides that the contractor or subcontractor shall have the burden of proving that the basis for the civil wage and penalty assessment is incorrect. The assessment shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing. Labor Code §1742(b).
- 10) Requires, within 45 days of the conclusion of the hearing, the director to issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. Labor Code §1742(b).

11) Permits the contractor or subcontractor to obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court, as specified, within 45 days after service of the decision. Labor Code §1742(c).

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:** Note: This bill is double-referred to the Assembly Judiciary Committee upon passage from this committee.

California's Office of the LC is charged with, among other things, adjudicating worker wage claims. Wage claims can cover a number of issues, including, unpaid overtime, missed meal and rest periods, or the failure to pay wages. The LC is statutorily required to determine whether a wage claim needs a hearing within 30 days of receiving the claim. In addition, the LC has 90 days to hold a hearing from making that determination and 15 days from the hearing to issue a decision. Unfortunately, the reality is that workers' claims generally take two years or longer to go through the adjudicatory process.<sup>1</sup>

When an employer refuses to pay a wage claim or declines to participate in the process, the LC can file a lien against their real property. This allows the LC to record a legal claim against their property and can prevent the sale or transfer of the property until the wage judgment is paid. Given the time it can take to collect unpaid wages through the LC's wage claim process, it is important that these liens can be renewed—as proposed by SB 1316.

Additionally, in the public works context, the Labor Commissioner has experienced dilatory tactics from contractors in hearings to review civil wage and penalty assessments for violating the law. For example, in one case, the LC and a public works contractor appeared for a public works hearing and the contractor failed to follow the Hearing Officer's orders to timely furnish exhibits and evidence to the LC. On the day of the hearing, the contractor showed up with a stack of documents. The LC objected, stating the documents were not timely furnished as exhibits and the contractor failed to follow the Hearing Officer's orders. However, the Hearing Officer subsequently determined that they *did not have any regulatory authority* to deny a contractor's request to submit additional documents. Day 2 of the hearing was not scheduled until months later for the purpose of allowing the contractor to introduce and submit additional evidence into the record. This measure would prohibit a public works contractor or subcontractor from introducing new evidence in a hearing in this manner.

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.

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<sup>1</sup> California State Auditor Report, "The California Labor Commissioner's Office: Inadequate Staffing and Poor Oversight Have Weakened Protections for Workers." Report #2023-104, May 29, 2024.

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 improve the timely recovery of unpaid wages without creating new penalties or expanding enforcement authority beyond current law.”

### **Arguments in Support**

The California Federation of Labor Unions, AFL-CIO, is in support, and states that the measure “will help protect workers by strengthening the Labor Commissioner’s ability to enforce wage theft claims.

Wage theft is an employer’s failure to pay workers the wages and benefits they owe for hours worked. This practice has a disproportionate impact on disadvantaged and immigrant workers who are overrepresented in low wage industries with higher rates of wage theft, including agriculture, construction, garment, and hospitality. Unfortunately, the practice is pervasive in California, and in 2023 alone, the LCO received 39,000 wage theft claims...

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.”

### **Arguments in Opposition**

None on file.

### **Prior Legislation**

SB 588 (De Leon) Chapter 803, Statutes of 2015 provided, among other things, that beginning 20 days after a judgment is entered by a court of competent jurisdiction in favor of the LC, or in favor of any employee pursuant to an appeal, the LC may with the consent of any employee in whose favor the judgment is entered, collect any outstanding amount of the judgment by mailing a notice of levy upon all persons having in their possession, or who will have in their possession or under their control, any credits, money, or property, belonging to the judgment debtor, or who owe any debt to the judgment debtor at the time they receive the notice of levy.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Federation of Labor Unions, AFL-CIO

### **Opposition**

None on file.

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