

Date of Hearing: July 15, 2025

ASSEMBLY COMMITTEE ON JUDICIARY

Ash Kalra, Chair

SB 261 (Wahab) – As Amended May 23, 2025

SENATE VOTE: 29-6

SUBJECT: DIVISION OF LABOR STANDARDS ENFORCEMENT: ORDERS, DECISIONS, AND AWARDS

KEY ISSUES:

- 1) IN ORDER TO FACILITATE COLLECTION OF WAGE ORDERS ISSUED BY THE LABOR COMMISSIONER, SHOULD THE DIVISION OF LABOR STANDARDS BE REQUIRED TO POST THE INFORMATION OF EMPLOYERS WHO HAVE AN UNSATISFIED ORDER, DECISION, OR AWARD ISSUED AGAINST THEM FOR WHICH THE TIME TO APPEAL HAS LAPSED OR THERE IS NO APPEAL PENDING?
- 2) IN ORDER TO INCENVITIZE EMPLOYERS TO SATISFY A JUDGMENT, SHOULD THE LEGISLATURE AUTHORIZE CIVIL PENALTIES OF UP TO THREE TIMES AN OUTSTANDING BALANCE ON A JUDGMENT FOR VIOLATIONS OF THE LABOR CODE THAT ARE PENDING FOR AT LEAST 180 DAYS?

SYNOPSIS

Despite California’s impressive labor laws intended to protect workers from countless harms in the work place, wage theft remains pervasive. According to one report studying wage theft in minimum wage industries across the four largest metropolitan areas in California, between 2014 and 2023, workers lost an annual average of \$2.3 – \$4.6 billion in earned wages due to minimum wage violations. In order to recover wages, workers can pursue an administrative claim before the Labor Commissioner. After evaluating the claim through their administrative proceedings, the Labor Commissioner then enters an order, decision, or award (ODA) reflecting the amount due to the worker. Due in part to the Labor Commissioner’s limited resources, many ODAs go unenforced. A 2023 report from the State Auditor reported that between 2018 and 2023, the Labor Commissioner collected the full amount owed in only 12 percent of cases.

This bill seeks to enhance the statutory tools available to enforce ODAs and recover wages that have already been determined to be owed to workers. First, in order to enhance the information available to prosecutors to enforce ODAs, the bill requires DLSE to post identifying information for each employer with an unsatisfied ODA. Second, this measure seeks to allow a “judgment creditor” to assign the judgment to a public prosecutor, thereby authorizing a public prosecutor to enforce an unpaid judgment. Finally, in order to incentivize employers to pay their judgments in full, this bill proposes to authorize civil penalties of up to three times an outstanding balance on a judgment. This bill is sponsored by the County of Santa Clara, the California Federation of Labor Unions, and the Civil Prosecutors Coalition. The Valley Industry and Commerce Association (VICA) and the Tri-County Chamber Alliance oppose SB 261, although, as noted in the COMMENTS section of this analysis, it appears that their concerns have been addressed by amendments adopted in the Senate. A coalition of local chambers of commerce and other business industry advocates led by the California Chamber of Commerce have removed their

opposition. This bill was previously heard by the Assembly Committee on Labor and Employment where it was approved on a vote of 7-0.

SUMMARY: Establishes public posting requirements for employers who have unsatisfied orders, decisions, or awards assessed by the Labor Commissioner and authorizes civil penalties for unpaid amounts pending for at least 180 days. Specifically, **this bill:**

- 1) Makes several findings and declarations on behalf of the Legislature related to wage theft in California.
- 2) Requires the Division of Labor Standards Enforcement (DLSE) to post on its internet website the names, addresses, and essential information, including, but not limited to, fictitious business names, of any employer with an unsatisfied order, decision, or award as to which the time to appeal has expired and no appeal therefrom is pending, or with an unsatisfied final court judgment based on the order, decision, or award. Prohibits DLSE from posting the information on its internet website until the period for all judicial appeals from the order, decision, or award has expired.
- 3) Requires a posting to be removed within 15 business days after the DLSE determines that both of the following are true:
 - a) There has been full payment of any unsatisfied judgment and any other financial liabilities for all violations or that the employer has entered into an approved settlement dispensing of the judgment of any liabilities;
 - b) The employer has submitted certification, under penalty of perjury, that all violations have been remedied or abated.
- 4) Requires the DLSE to provide notification by certified mail to the employer that, at a minimum, includes all of the following, no fewer than 15 business days before posting on its internet website the names, addresses, and essential information for any employer:
 - a) The name, email address, and telephone number of a contact person at the division;
 - b) The alleged conduct and a copy of the citation, unsatisfied court judgment, assessment, order, decision, or award;
 - c) A copy of the regulations or rules of practice or procedure adopted pursuant to this section for removal of the posting;
- 5) Makes a waiver of this section contrary to public policy, and void and unenforceable.
- 6) Exempts orders, decisions, or awards, or final court judgments issued against port drayage motor carriers, as defined, from this section.
- 7) Authorizes the Labor Commissioner (LC) to adopt regulations and rules of practice and procedure necessary to administer and enforce the provisions of this section that are under their jurisdiction. Unless and until the LC adopts regulations and rules of practice and procedure under this provision, for purposes of this section, defines “essential information” and “sufficient documentation” to have the same meaning as set forth in the specified regulations.

- 8) Authorizes an employer seeking removal of their information from the DLSE's website as specified.
- 9) Requires a public prosecutor, as defined, as assignee of the judgment creditor to be awarded court costs and reasonable attorney's fees for enforcing the judgment rendered pursuant to Section 98.2 of the Labor Code.
- 10) Makes an employer liable for a civil penalty of up to three times the outstanding judgment amount if a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state remains unsatisfied after a period of 180 days after the time to appeal has expired and no appeal is pending, including postjudgment interest then due.
- 11) Requires the court to assess against the employer the entire amount of the requested penalty in any action brought to enforce the judgment or to otherwise induce compliance by or impose lawful consequences on a judgment debtor, except to the extent that the court finds that the employer has demonstrated by clear and convincing evidence good cause to reduce the amount of the penalty.
- 12) Requires penalties assessed by a court pursuant to this section to be distributed as follows:
 - a) Fifty percent to the employee or employees in whose favor the judgment was rendered, shared proportionally according to the amount due to each employee in the judgment entered in superior court;
 - b) Fifty percent to the DLSE for the enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under the Labor Code, to be continuously appropriated to supplement and not supplant the funding to the division for those purposes.
- 13) Makes a successor to a judgment debtor, as defined, jointly and severally liable for penalties assessed pursuant to this section.
- 14) Makes penalties assessed pursuant to this section additional to any other penalties or fines permitted by law.
- 15) Requires a court to award a prevailing plaintiff all reasonable attorney's fees and costs in any action brought by a judgment creditor, the LC, or a public prosecutor, as defined, to enforce a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state, or to otherwise induce compliance by or impose lawful consequences on a judgment debtor for nonsatisfaction of a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state.

EXISTING LAW:

- 1) Establishes the Department of Labor Standards Enforcement (DLSE), under the direction of the Labor Commissioner (LC), within the Department of Industrial Relations (DIR) and sets forth its powers and duties regarding the enforcement of labor laws. (Labor Code Section 79 *et seq.* All further statutory references are to the Labor Code unless otherwise noted.)

- 2) Authorizes the LC to investigate employee complaints and to provide for a hearing in any action to recover wages, penalties, and other demands for compensation, as specified. (Section 98.)
- 3) 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), which 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. (Section 98.1.)
- 4) Requires, upon filing of the ODA, 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. (Sections 98.1, 98.2.)
- 5) 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. 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. Requires the judgment to be entered immediately by the court clerk in conformity therewith. (Section 98.2.)
- 6) Authorizes, until January 1, 2029, a public prosecutor to prosecute an action, either civil or criminal, for a violation of certain provisions of the labor code or to enforce those provisions independently. (Section 181.)
- 7) Requires a successor to a judgment debtor to be liable for any wages, damages, and penalties owed to any of the judgment debtor's former workforce pursuant to a final judgment, after the time to appeal therefrom has expired and for which no appeal therefrom is pending. Provides criteria for establishing successorship. (Section 200.3 (a).)
- 8) Provides for enforcement if a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state remains unsatisfied after specified periods, including prohibiting the employer from conducting business in the state, as specified, if a final judgment against the employer remains unsatisfied for 30 days. (Section 238.)
- 9) Entitles an employee to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon, as specified, but provides the LC or a court discretionary power to refuse to award liquidated damages if they find the employer acted in good faith. (Section 1194.2.)
- 10) Establishes a citation process for the LC to enforce violations of the minimum wage that includes, but is not limited to, issuing citations, making and noticing findings as prescribed, requiring any amounts due after a hearing be due 45 days after notice of the finding, and

taking all appropriate actions to enforce the citation and recover a civil penalty assessed.
(Section 1197.1 *et seq.*)

- 11) Directs the DLSE to post on its website the names, addresses, and essential information for a port drayage motor carrier with an unsatisfied final court judgment, tax assessment, or tax lien, as specified. (Section 2810.4 (c)(1)(A).)
- 12) Directs the DLSE to post on its website a list consisting of the names, addresses, and essential information for a prior offender with a subsequent judgment, ruling, citation, order, decision, or award finding that the port drayage motor carrier has violated a labor or employment law or regulation, even if all periods for appeals have not expired. (Section 2810.4 (c)(1)(B).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: Under the Labor Code, an employer engages in wage theft any time they withhold any amount of money owed to a worker; this includes paying less than minimum wage, withholding tips, and refusing rest breaks. (Labor Code Section 1182.12, Section 351, Section 226.7.) According to one report studying wage theft in minimum wage industries across the four largest metropolitan areas in California, between 2014 and 2023, workers lost an annual average of \$2.3 – \$4.6 billion in earned wages due to minimum wage violations. The range reflected the differing patterns between the studied cities, each area’s individual minimum wage ordinances, and the wide variety of industries included in the study. (Galvin, Barnes, Fine, and Round, *Wage Theft in California: Minimum Wage Violations, 2014 – 2023*, (May 2024) Rutgers School of Management and Labor Relations available at: https://smlr.rutgers.edu/sites/default/files/Documents/Centers/WJL/California_MinimumWage_Study_May2024.pdf.)

Existing enforcement mechanisms under the Labor Code. In order to recover wages, workers can pursue an administrative claim before the Labor Commissioner. Workers can also sue in civil court, either on their own behalf to recover their wages or under the Private Attorneys General Act to recover penalties. Labor Code Section 180 *et seq.* also allows public prosecutors, where authorized, to bring civil claims to enforce again violations of the Labor Code. However, it can be challenging for a worker to retain and pay for a private attorney to pursue their claim in court. Therefore, many workers opt to pursue their claim before the Labor Commissioner. In order to recover wages through the Labor Commissioner, a worker must first file a complaint. After evaluating the claim through their administrative proceedings, the Labor Commissioner then enters an order, decision, or award (ODA) reflecting the amount due to the worker. Once an ODA is finalized, and the time for appeal has lapsed or the appeals process has concluded, the Labor Commissioner then files the ODA with the court, where it is entered by the court as a final judgment. Due in part to the Labor Commissioner’s limited resources, many ODAs go unenforced. (Labor Code Sections 98 – 98.2.) A 2023 report from the State Auditor reported that from 2018 to 2023, the Labor Commissioner collected the full amount owed in only 12 percent of cases. According to the author:

Wage theft is the #1 crime taking money out of Californians’ pockets in the midst of an affordability crisis when millions of people are struggling to meet their basic needs. Workers are especially vulnerable to both wage violations and cost of living increases right now. When employers violate wage laws, they harm workers, families, and communities

that need those dollars the most. Ensuring Californians are paid every penny they have **earned** is a matter of justice that is critical to addressing socioeconomic disparities.

The existing system for recovering stolen wages is not enough. Most wage theft goes unreported to authorities, and even for those workers who go through the time-consuming and burdensome process to pursue their wage claims and are awarded judgments, the vast majority never see the money they earned. In fact, of the judgments that are referred to the Labor Commissioner's Office (LCO) for judgment enforcement, over three quarters go entirely unpaid, and only 12% are fully paid. SB 261 will give local prosecutors and attorneys the tools to enforce judgments and help workers get paid by requiring transparency from the LCO and adding penalties for employers who refuse to pay.

This bill adds additional transparency and enforcement tools to assist workers in collecting unpaid wages. Specifically, this bill:

1. Requires the California Labor Commissioner's Office (LCO) to create a central list of businesses with outstanding wage theft judgments;
2. Authorizes a court to impose additional penalties of up to 3 times the outstanding judgment after 6 months of nonpayment of a wage theft judgment unless the employer is in compliance with an agreed-upon payment plan; and
3. Provides that delinquent employers pay attorneys' fees and court costs for public prosecutors and other attorneys that take judicial action to enforce compliance with wage theft judgments.

This bill seeks to enhance the statutory tools available to enforce ODAs in order to more fully recover wages that have already been determined to be owed to workers. First, in order to enhance the information available to prosecutors to enforce ODAs, the bill requires DLSE to post identifying information for each employer with an unsatisfied ODA. Importantly, the employer's information is *only* posted if the time for appealing the order has expired and there is no appeal pending. Additionally, the employer's information is removed from the DLSE's website if 1) the remaining payment is satisfied in full or the employer has entered into an approved settlement agreement that addresses the pending liabilities and 2) the employer submits certification that it has satisfied the order. The DLSE is also required to notify the employer that their information is to be posted on their website, and provide the employer with specified contact information for the DLSE, information to inform the employer of the unsatisfied order, and guidance on how to have the posting removed. Each of these elements appear to strike the appropriate balance between providing sufficient information for public prosecutors, where they are able, to enforce judgments against delinquent employers while not overburdening those, such as well-meaning small businesses, who may be in the process of satisfying a judgment.

Second, existing law permits a "judgment creditor," in this case a worker whose wages were stolen, to assign the judgment to the Labor Commissioner. This allows the Labor Commissioner to enforce the order in civil court on the worker's behalf. This bill proposes to also allow a "judgment creditor" to assign the judgment to a public prosecutor to do the same. The bill also proposes to amend the statute to *require*, rather than allow, courts to award both the Labor Commissioner and public prosecutors reasonable attorney's fees for enforcing the judgment. Acknowledging the already-immense workload of the Labor Commissioner, this minor change in existing law could help shift some of the burden of collecting wages owed to workers from the

overburdened agency to local public attorneys better situated to enforce judgments on behalf of workers.

Finally, the bill seeks to increase penalties, thereby encouraging employers to pay the adjudicated wage order in a timely manner, for an employer's failure to satisfy the final judgment. For each judgment that remains unpaid for at least 180 days, an employer is subject to a civil penalty of up to three times the outstanding balance on the judgment, including post-judgment interest. Again looking to incentivize employers to satisfy outstanding judgments, the bill shields employers from facing this new penalty if they reach an agreement with the person holding the unsatisfied judgment, as provided for in existing law under Labor Code Section 238. The bill requires a court to issue an order for the entire amount requested, but allows for employers to demonstrate, by clear and convincing evidence, that there is good cause to reduce the penalty amount. Any penalty ultimately recovered is split equally between the employee, or employees, on whose behalf the order was recovered and the DLSE. Finally, the bill makes any successor to the debtor jointly and severally liable for any penalties assessed. This provision conforms to existing law under Labor Code Section 200.3 and helps ensure that a worker can collect their earned wages, regardless of what happens to the original debtor.

In sum, SB 261 proposes reasonable measures tailored to provide enhanced enforcement mechanisms for collection of unpaid wages that have already been determined to be owed to workers.

While prior amendments appear to have removed significant portions of opposition to this measure, a couple business industry advocates seem to remain concerned. In a letter dated March 26, the Tri County Chamber Alliance raises concerns with SB 261: "SB 261 goes too far by publicly listing employers with pending or unresolved claims, even before due process has concluded. Mandating the posting of orders and decisions on a public website prior to final resolution undermines legal protections for employers and risks reputational harm regardless of the ultimate outcome." Similarly, the Valley Industry and Commerce Association (VICA) argues "this bill risks damaging a business's reputation before due process is complete. The proposed posting and penalties assume guilt and create new liabilities for employers who may still be disputing claims or unaware of judgments."

However, the bill only allows for the posting of an employer's information once either an appeal has been adjudicated or the time for an appeal has concluded. Thus, it does not appear that any posting would occur "prior to final resolution," and would in fact only happen once the ultimate outcome is confirmed.

ARGUMENTS IN SUPPORT: This bill is sponsored by the County of Santa Clara, the California Federation of Labor Unions, and the Civil Prosecutors Coalition. In support of the measure the County of Santa Clara submits:

Between 2010-2024, the California Labor Commissioner's Office (LCO) issued wage and hour judgements amounting to over \$35 million in Santa Clara County alone. From 2022-2023, LCO received over 39,000 wage theft claims. This bill augments existing enforcement tools to help ensure employers will pay the wages they owe—which many employers do not, even when there is an order from the LCO and/or a Superior Court judgment.

Many wage theft judgments remain unpaid. This may be the result of the lack of consequences for employers who fail to pay. Under current law, employees are only entitled

to simple interest when a judgment goes unpaid, even if unpaid for months or years. The Labor Commissioner has authority to impose a small \$2,500 penalty on employers operating with unpaid judgments for the first violation, and \$100 per day for subsequent violations, but these limited penalties have proven to be insufficient leverage to get employers to pay because they are not tethered to the size of the unpaid wage judgment or the number of workers affected. Equally important, the law does not require those penalties to be distributed to the workers who are harmed by the violations.

[...]

The additional transparency and enforcement tools in SB 261 would improve the enforcement of labor standards, provide greater protection for workers' rights, and promote a fairer workplace environment statewide.

ARGUMENTS IN OPPOSITION: Valley Industry and Commerce Association (VICA) and the Tri-County Chamber Alliance oppose SB 261. VICA submits the following:

The Valley Industry and Commerce Association (VICA) opposes SB 261 (Wahab), which would require the Division of Labor Standards Enforcement to publicly post the names of employers with unsatisfied wage orders and impose severe penalties, including civil fines up to three times the amount of outstanding judgments.

While wage enforcement is important, this bill risks damaging a business's reputation before due process is complete. The proposed posting and penalties assume guilt and create new liabilities for employers who may still be disputing claims or unaware of judgments. SB 261 also mandates automatic attorney's fees for plaintiffs, which could encourage unnecessary litigation and raise costs for employers.

At a time when California businesses are already facing high operating costs, SB 261 adds unnecessary risk and undermines fair resolution processes.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Labor Unions, AFL-CIO
 Civil Prosecutors Coalition
 County of Santa Clara
 American Federation of State, County and Municipal Employees (AFSCME) Local 57
 American Federation of State, County and Municipal Employees, AFL-CIO
 California Employment Lawyers Association
 California Nurses Association
 California Rural Legal Assistance Foundation, INC.
 California School Employees Association
 CFT - A Union of Educators & Classified Professionals, AFT, AFL-CIO
 City and County of San Francisco
 City of Santa Ana
 Consumer Attorneys of California
 David Chiu, San Francisco City Attorney
 Santa Clara County Wage Theft Coalition

South Bay AFL-CIO Labor Council
Western Center on Law & Poverty, INC.

Opposition

Tri County Chamber Alliance
Valley Industry and Commerce Association (VICA)

Analysis Prepared by: Manuela Boucher-de la Cadena / JUD. / (916) 319-2334