

Date of Hearing: June 10, 2026

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION
Blanca Rubio, Chair
SB 33 (Cortese) – As Amended January 5, 2026

SENATE VOTE: 39-0

SUBJECT: Public contracts: claim resolution

SUMMARY: This bill would delete the sunset date of a claims resolution process that enables contractors to seek public agency review of claims that arise during public works projects. Specifically, **this bill:**

1) Removes the January 1, 2027, repeal date, thereby making the claim resolution process described above operative indefinitely.

2) Makes legislative findings and declarations.

EXISTING LAW:

1) Establishes the Public Contract Code (PCC), which is the basis of contracts between most public entities in this state and their contractors and subcontractors. With regard to charter cities, this code applies in the absence of an express exemption or a city charter provision or ordinance that conflicts with the relevant provision of the code. (PCC § 1100.7.)

2) Defines “public works contract,” as an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. (PCC § 1101.)

3) Establishes, for contracts entered into on or after January 1, 2017, a claim resolution process applicable to any claim by a contractor in connection with a public works project against a public entity. (PCC § 9204)

4) Defines “claim” as a separate demand by the contractor sent by registered mail or certified mail with return receipt requested, as specified.

5) Defines “public entity” to include, among others, a city, including a charter city, and county, including a charter county. “Public entity” shall not include the following: a) Department of Water Resources; b) Department of Transportation; c) Department of Parks and Recreation; d) Department of Corrections and Rehabilitation; e) Military Department; f) Department of General Services; and g) High-Speed Rail Authority. (PCC § 9204(c)(3).)

6) Requires a public entity, upon receipt of a claim from a contractor in connection with a public works project, to conduct a reasonable review and within 45 days provide the claimant with a written statement identifying the disputed and undisputed portions of the claim. Undisputed portions of the claim must be paid within 60 days.

7) Provides that if the claimant disputes the public entity’s written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the

claimant may demand in writing an informal conference to meet-and-confer for settlement of the issues in dispute. Requires the public entity to schedule a meet-and-conference within 30 days for settlement of the dispute, as defined (PCC § 9204(d)(2)(A).)

8) Requires, within 10 days following the meet-and-confer conference, the public entity, if the claim or any portion thereof remains in dispute, to provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any disputed portion of the claim, as identified by the contractor in writing, must be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. Undisputed portions of the claim must be paid within 60 days.

9) Specifies, if mediation does not resolve the dispute, that a public entity may require arbitration of the dispute under private arbitration or the Public Works Contract Arbitration Program. (PCC § 9204(d)(3).)

10) Provides that if a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of the subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work that was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity must furnish reasonable documentation to support the claim, as specified. (PCC § 9204(d)(5).)

11) Imposes a 7% annual interest rate on amounts not timely paid. (PCC § 9204(d)(4).)

12) Repeals the claims resolution process on January 1, 2027. PCC § 9204(i).

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

COMMENTS:

Purpose of the bill. The author states, “California is in an infrastructure crisis. To address these vital infrastructure weaknesses, we need contractors to know that they will be paid properly and without delay when they accept public contracts. Even further, contractors require reassurance that if there are discrepancies, there will be equitable options for mediation and resolution. To accomplish this goal, SB 33 eliminates the sunset date of Public Contract Code § 9204 and makes it permanent. This code established the fair, cost-saving process that has decreased construction delays, reduced litigation, and improved project delivery for public agencies, taxpayers, and contractors that has been in use for nearly a decade. Without eliminating the sunset, this cost-saving framework, originally enacted through a carefully negotiated policy that resolved public-agency opposition, will expire on January 1, 2027, and our infrastructure will only suffer for it.”

Background.

In public works projects, a public agency contracts with a general contractor who submits a bid or estimated cost to provide the materials and services for the construction, alteration,

demolition, installation, or repair work. In general, “public works” refers to the construction, alteration, demolition, installation, or repair work (including maintenance) of any public structure, building, road, or other improvement done under contract and paid with public funds, or if private funds are used, more than 50% of the square footage is leased to a public entity. Several laws regulate various aspects of public works projects to safeguard the public’s interest. Public works projects do not include those done by a public agency with its own employees.

At times, the cost of the materials and services is more than the general contractor’s bid due to changes in the project, which may result from inaccurate or incomplete project plans and specifications, additional demands by the public agency, or unexpected difficulties. In these cases, contractors generally seek reimbursement for the increased costs by submitting a claim to the public entity, which may lead to a dispute. To facilitate the prompt resolution of these disputes, the Legislature enacted AB 626 (Chiu, Statutes of 2016), which provided a claim resolution process applicable to any claim by a contractor in connection with a public works project against a public entity.

The Senate Committee on Judiciary analysis of AB 626 noted that it would provide a simplified, cost-effective claims resolution procedure to resolve contractor claims before arbitration or civil action.¹ Additionally, the analysis explained that AB 626 would provide a clear process for a subcontractor to submit claims through a general contractor in order to provide the subcontractor with information as to whether the general contractor has rejected the request to submit the subcontractor’s claim to the public agency. In 2019, AB 456 (Chiu, Statutes of 2019) extend the sunset date until January 1, 2027.

Before the enactment of AB 626 in 2016, a general contractor facing cost overruns for which the contractor was not at fault had no recourse to resolve a disputed claim other than pursuing arbitration or filing a civil action. Additionally, a subcontractor that performed additional services or supplied materials beyond the scope of the original contract, but which were necessary to complete the project, could not seek payment directly from the public agency due to the absence of contractual privity. Delays in payment for the extra work provided by the contractor or subcontractor often placed the contractor or subcontractor at financial risk and jeopardized the project. These recurrent issues occasionally culminated in costly litigation that drained the resources of the public agency, contractors, and subcontractors.

This bill removes the sunset date, thereby continuing the process established by AB 626 indefinitely. This bill does not make any other substantive changes to the scope or operation of current law.

In support. This bill is supported by several labor organizations, who write in support, “PCC § 9204 has been in effect for nearly a decade and has proven to be a cost saving, litigation reducing framework that benefits public agencies, taxpayers, and contractors alike. The statute requires public agencies to timely respond to contractor claims for extra or change order work, promptly pay undisputed amounts, and engage in a structured dispute resolution process, including meet-and-confer discussions and nonbinding mediation, before disputes escalate into costly litigation. Prior to enactment of this statute, contractors performing required extra work often waited months or even years for payment, despite continuing to pay wages, benefits, materials, and

¹ Sen. Jud. Comm. analysis of AB 456 as amended June 8, 2016 (2015-16 reg. sess.).

overhead in real time. These delays strained working capital, reduced competition, increased bid prices, and, in some cases, forced otherwise responsible contractors out of business. This bill preserves a system that restores balance, predictability, and fairness to public works contracting.

Importantly, current law was the product of a carefully negotiated policy compromise that resolved public agency opposition at the time of enactment. Since then, the statute has demonstrated that timely claim review and early dispute resolution improve project delivery without imposing undue burdens on public owners. Absent SB 33, this proven framework will expire on January 1, 2027, undoing years of progress and returning public works to a system that incentivizes delay, increases disputes, and drives up costs for taxpayers.”

Related legislation. SB 1205 (Valladares) of 2026. This bill would prohibit any retention payments for contracts under design bid-build directly between a public entity and an individual or legal entity permitted by law to practice the profession of architecture or engineering from exceeding 5% of the payment. (Assembly Committee on Governmental Organization)

Prior legislation. SB 61 (Cortese), Chapter 49, Statutes of 2025. Imposed limits on the amount an owner can withhold from a direct contractor, or a contractor from a subcontractor, for a private construction projects of improvement to 5% or less. This cap was designed to protect contractors and subcontractors by improving cash flow during the project.

SB 440 (Ochoa Bogh), Statutes of 2025. Established a process, until January 1, 2030, by which disputes between an owner, direct contractor, or subcontractor regarding extensions of time and payment of additional compensation for approved changes to the contractor’s scope of work may be resolved through an informal conference and mediation.

AB 2173 (Petrie-Norris), Chapter 121, Statutes of 2022. Removed the sunset clause on the 5% retention cap policy related to public works projects, thereby permanently establishing it.

SB 1192 (Ochoa Bogh), Chapter 93, Statutes of 2022. Clarified that the term “contractor” includes design professionals for the purposes of authorizing the substitution of alternative securities in lieu of retention payments withheld when contracting with a state agency on a public works project, as specified.

AB 456 (Chiu), Statutes of 2019. Extended the sunset date on the claims process until January 1, 2027.

AB 626 (Chiu), Statutes of 2016. Established a claim resolution process applicable to any claim by a contractor in connection with a public works project against a public entity and repealed these provisions on January 1, 2020.

REGISTERED SUPPORT / OPPOSITION:

Support

National Electrical Contractors Association (NE) (Sponsor)

United Contractors (UCON) (Sponsor)

California Association of Sheet Metal & Air Conditioning Contractors National Association

California Legislative Conference of Plumbing, Heating & Piping Industry

California State Association of Electrical Workers

California State Council of Laborers
California State Pipe Trades Council
Finishing Contractors Association of Southern California
Northern California Allied Trades
Northern California Floor Covering Association
Southern California Glass Management Association (SCGMA)
Wall and Ceiling Alliance
Western Electrical Contractors Association
Western Painting and Coating Contractors Association
Western Wall and Ceiling Contractors Association (WWCCA)

Opposition

None on file

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