
UNFINISHED BUSINESS

Bill No: SB 355
Author: Pérez (D), et al.
Amended: 6/26/25 in Assembly
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/9/25
AYES: Smallwood-Cuevas, Strickland, Cortese, Durazo, Laird

SENATE JUDICIARY COMMITTEE: 13-0, 4/29/25
AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Valladares, Wahab, Weber Pierson, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Dahle

SENATE FLOOR: 38-0, 5/29/25
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Limón, Reyes

ASSEMBLY FLOOR: 79-0, 9/8/25 - See last page for vote

SUBJECT: Judgment debtor employers: Employment Development Department

SOURCE: California Federation of Labor Unions, AFL-CIO
Sheet Metal, Air, Rail, and Transportation Workers Local 105

DIGEST: This bill 1) requires employers with unsatisfied judgments for owed wages to provide documentation to the Labor Commissioner (LC) that the judgment is fully satisfied or the judgment debtor entered into an agreement for the

judgment to be paid in installments, as prescribed; 2) subjects the judgment debtor employer to a civil penalty for violations; and 3) requires the LC to notify the Tax Support Division of the Employment Development Department of unsatisfied judgments as a notice of potential tax fraud.

Assembly Amendments of 6/26/25 make clarifying changes and add a 90-day timeline within which the prescribed civil penalty against an employer will be due.

ANALYSIS:

Existing law:

- 1) Establishes within the Department of Industrial Relations (DIR), various entities including the Division of Labor Standards Enforcement (DLSE) under the direction of the 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)
- 2) Establishes a citation process for the LC to enforce violations of the minimum wage that includes, among others, the following procedural requirements:
 - a) A citation issued to an employer, as specified.
 - b) The LC shall promptly take all appropriate action to enforce the citation and to recover the civil penalty assessed, wages, liquidated damages, and any applicable penalties.
 - c) To contest a citation, a person shall, within 15 business days after service of the citation, notify the office of the LC that appears on the citation of their appeal by a request for an informal hearing. The LC or their deputy or agent shall, within 30 days, hold a hearing.
 - d) Any amount found due by the LC as a result of a hearing shall become due and payable 45 days after notice of the findings, written findings, and order have been mailed to the party assessed.
 - e) A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the LC designated on the citation the amount specified for the violation within 15 business days after issuance of the citation. (Labor Code §1197.1 et seq.)
- 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). 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)

- 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. (Labor Code §98.1 and §98.2)
- 5) Provides that 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 30 days after the time to appeal therefrom has expired and no appeal therefrom is pending, the employer shall not continue to conduct business in this state, as specified, *unless the employer has obtained a bond from a surety company* and has filed a copy of that bond with the Labor Commissioner. The bond shall be effective and maintained until satisfaction of all judgments for nonpayment of wages. The principal sum of the bond shall not be less than the following:
 - a) Fifty thousand dollars (\$50,000) if the unsatisfied portion of the judgment is no more than five thousand dollars (\$5,000).
 - b) One hundred thousand dollars (\$100,000) if the unsatisfied portion of the judgment is more than five thousand dollars (\$5,000) and no more than ten thousand dollars (\$10,000).
 - c) One hundred fifty thousand dollars (\$150,000) if the unsatisfied portion of the judgment is more than ten thousand dollars (\$10,000). (Labor Code §238)
- 6) 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)

- 7) Requires, in order to ensure that judgments are satisfied, authorizes the LC to serve upon the judgment debtor, personally or by first-class mail at the last known address of the judgment debtor listed with the division, a form, as specified, to assist in identifying the nature and location of any assets of the judgment debtor. Requires the judgment debtor to complete the form and cause it to be delivered to the division within 35 days, unless the judgment has been satisfied. (Labor Code §98.2)
- 8) Provides that in case of willful failure by the judgment debtor to comply with a final judgment, the division or the judgment creditor may request the court to apply the sanctions provided in Section 708.170 of the Code of Civil Procedure including an order requiring a person to appear before the court. Failure to appear can result in a warrant to have the person brought before the court to answer for the failure to appear. (Labor Code §98.2)
- 9) Requires the LC to make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action. (Labor Code §98.2)
- 10) 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. (Labor Code §181)
- 11) Establishes the Employment Development Department (EDD) within the Labor and Workforce Development Agency. EDD is responsible for, among other duties, the collection of payroll taxes from employers in the following four categories: Unemployment Insurance Tax; Employment Training Tax; State Disability Insurance Tax; and California Personal Income Tax. EDD's Tax Branch works with employers to ensure that necessary payroll taxes and information are reported promptly and accurately to the department. (Unemployment Insurance Code §301 et seq.)

This bill:

- 1) Requires a judgment debtor employer, within 60 days of a final judgment being entered against an employer requiring payment to an employee or the state pursuant to existing law, to provide documentation to the Labor Commissioner that any of the following is true:
 - a) The judgment is fully satisfied.
 - b) The bond required by subdivision (a) of Section 238 has been posted.

- c) The judgment debtor has entered into an agreement for the judgment to be paid in installments pursuant to subdivision (b) of Section 238 and is in compliance with that agreement.
- 2) Subjects a judgment debtor employer who fails to comply with the above provisions liable for a civil penalty of two thousand five hundred dollars (\$2,500) in a citation issued by the Labor Commissioner.
- 3) Requires the LC, if a judgment debtor employer does not comply with the provisions specified in (1) above within the stipulated timeline, to, no later than 30 days from the passing of the 60 days, provide written notice to the judgment debtor employer that the LC will submit the unsatisfied judgment to the Tax Support Division of the EDD as a notice of potential tax fraud, and that the civil penalty, specified above, is due within 90 days of the notice.
- 4) If the judgment debtor employer does not both comply with the provisions specified in (1) above and pay the civil penalty prescribed by (2) within 90 days from the date of the written notice required by (3), then requires the Labor Commissioner to, within 30 days, provide to the EDD a notice that includes both of the following:
 - a) A summary of the final judgment.
 - b) The names and identifying information of the persons or entities liable for payment of the judgment, including social security numbers, taxpayer identification numbers, and addresses.

Background

Data on Wage Theft. 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.

State Auditor Report on the Labor Commissioner's Office. In May 29, 2024, the California State Auditor released a report summarizing the findings of an audit of the Division of Labor Standards Enforcement. Among other things, the report found:

- The LC's office often takes two years or longer to process wage claims, with a median of 854 days to issue a decision (more than six times longer than the law allows).
- The DLSE's Enforcement Unit's work results in only a small percentage of successful payment to workers. Between January 2018 and November 2023, about 28% of employers did not make LC-ordered payments. The LC consequently obtained judgments against those employers. In roughly 24% of judgments during that time, or about 5,000 cases, the workers referred their judgments to the Enforcement Unit. The unit successfully collected the entire judgment amount in only 12% of those judgments, or in about 600 cases.

Employment Development Department Payroll Tax Collection. California's Employment Development Department administers the State's payroll tax programs and is one of the largest tax collection agencies in the nation. EDD's Tax Branch administers the following payroll tax programs and works with employers to ensure that payroll taxes are reported promptly and accurately: Unemployment Insurance (UI), Employment Training Tax (ETT), State Disability Insurance (SDI), and Personal Income Tax (PIT) Withholding.

Failure by employers to pay their workers and their state tax responsibilities contributes to the underground economy. As noted by EDD, when businesses operate in the underground economy, they illegally reduce the amount of money used for insurance, payroll taxes, licenses, employee benefits, safety equipment, and safety conditions. These types of employers then gain an unfair competitive advantage over businesses that comply with the various business laws. This causes unfair competition in the marketplace and forces law-abiding businesses to pay higher taxes and expenses.¹

Need for this bill? According to the author: "Current enforcement mechanisms lack sufficient deterrents, allowing employers to treat wage theft as a calculated risk. They face very few tangible or immediate consequences for noncompliance, enabling them to deny claims, delay payments, or refuse payments altogether. SB 355 supports California workers who have been victims of wage theft by providing the Labor Commissioner's Office (LCO) with a new enforcement tool by authorizing the LCO to submit a notice of an unpaid wage theft claim to the Tax Support Division of the EDD as potential tax fraud."

¹ Ibid

Related/Prior Legislation

SB 261 (Wahab, 2025) aims to recover unpaid wages owed to workers by, among other things, subjecting, for final judgments unsatisfied after a period of 180 days, the employer to a civil penalty not to exceed three times the outstanding judgment amount.

SB 310 (Wiener, 2025) would permit the penalty for failure to pay wages owed to employees to be recovered through an independent civil action, as specified.

AB 1234 (Ortega, 2025) would, among other things, revise and recast the provisions relating to the process for the LC to investigate, hold a hearing, and make determinations relating to an employee's complaint of wage theft. Among other things, the bill would impose an administrative fee payable in the amount of 30% of the ODA to be deposited into the Wage Recovery Fund, created by the bill, and appropriated to compensate the LC for the staffing required to investigate and recover wages and penalties owed to aggrieved employees.

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

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

According to the Assembly Appropriations Committee:

- 1) Costs of approximately \$4 million in the first year and \$3.7 annually thereafter to the LC to issue and enforce citations against non-compliant employers (Labor Enforcement and Compliance Fund). Costs may be minimally offset by penalty revenue.
- 2) Minor and absorbable costs to EDD to receive notices about non-compliant employers from the LC. EDD notes that this bill does not require EDD to investigate a non-compliant employer, so EDD does not anticipate related enforcement costs.
- 3) Possible payroll tax revenue gain of an unknown amount, to the extent EDD identifies tax fraud by a non-compliant employer and recovers uncollected tax revenues (special fund).

SUPPORT: (Verified 9/8/25)

California Federation of Labor Unions, AFL-CIO (co-source)
Sheet Metal, Air, Rail, and Transportation Workers Local 105 (co-source)
California Federation of Teachers
California Immigrant Policy Center
California Nurses Association
California Rural Legal Assistance Foundation
California School Employees Association
California State Legislative Board of the SMART – Transportation Division
City of San Jose
Pilipino Workers Center
SEIU California State Council
Transport Workers Union of America, AFL-CIO
United Food and Commercial Workers, Western States Council
Worksafe

OPPOSITION: (Verified 9/8/25)

None received

ARGUMENTS IN SUPPORT: According to the sponsors:

“Current enforcement mechanisms lack sufficient deterrents, enabling employers to treat wage theft as a calculated risk, knowing that they face very few tangible or immediate consequences for noncompliance when the status quo allows them to deny claims, delay payments, or refuse payments altogether... The notice to the EDD is an important flag that there may be tax issues with the employer, either from failure to pay wages or misclassification of workers. This bill gives the LCO a powerful deterrent for employers who fail to pay outstanding wage theft judgments in a timely fashion, ensuring that the state does not continue to lose out on expected revenue and workers no longer have to continue waiting for the pay they have earned.”

ASSEMBLY FLOOR: 79-0, 9/8/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos,

Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio,
Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa,
Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Nguyen

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9/8/25 19:36:13

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