

SENATE THIRD READING
SB 597 (Cortese)
As Amended September 2, 2025
Majority vote

SUMMARY

Revises, in light of an adverse court decision, the statutory remedy that allows a labor trust fund to collect from a direct contractor the unpaid contributions owed to workers by a subcontractor; instead conforms the remedy to the state's mechanic's lien law.

Major Provisions

- 1) Except as specified below, maintains the language used to establish and enforce direct contractor liability in Labor Code Section 218.8.
- 2) Requires for contracts entered into on or after January 1, 2026, a direct contractor making or taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other private work, to assume, and be liable for, any indebtedness to a laborer incurred by a subcontractor at any tier acting under, by, or for the direct contractor included in the subject of the contract between the direct contractor and the owner.
 - a. Maintains and utilizes the definition of "laborer" in existing law, which includes a person or entity to which a portion of a laborer's compensation for a work of improvement, including, but not limited to, employer payments (defined as contributions made to a trustee or third person for benefits like health and welfare, pension, and apprenticeship programs and implementing regulations), is paid by agreement with that laborer or the collective bargaining agent of that laborer.
- 3) Provides that the direct contractor's liability under these provisions is limited to payments for labor required by the subcontractor's agreement with the laborer or the subcontractor's collective bargaining agreement with the labor organization representing the laborer.
- 4) Provides that these provisions do not prohibit a direct contractor or subcontractor at any tier from establishing by contract or enforcing any otherwise lawful remedies against a subcontractor it hires for liability created by any indebtedness for labor by that subcontractor or by a subcontractor at any tier working under that subcontractor, including liability for associated penalties and liquidated damages.
- 5) Authorizes a laborer, as defined in (2)(a) above, to bring a civil action against a direct contractor to enforce the liability for any unpaid wage, fringe or other benefit payment or contribution, penalties or liquidated damages, and interest owed by the subcontractor on account of the performance of the labor pursuant to (2) above.
- 6) Provides that an action pursuant to these provisions shall not be based on the employer's misclassification of the craft of a worker.
- 7) Provides that the remedies created by these provisions are cumulative of any other available remedies.

- 8) Provides that a direct contractor that makes contribution payments pursuant to the following shall not be held liable with respect to fringe or other benefit contributions:
- a. If a direct contractor has been provided documentation that the subcontractor has been notified by the trust, plan, fund, or program that the subcontractor has failed to make timely required contribution payments for a private construction project, the direct contractor may make the contribution payments for performance of labor for that project in compliance with all of the following:
 - i. The direct contractor makes a payment using a joint check made payable to the subcontractor and the trust, plan, fund, or program for any fringe or other benefit payment or contribution.
 - ii. The subcontractor provides the name, type, number, and address of the trust, plan, fund, or program to the direct contractor.
 - iii. The direct contractor notifies the trust, plan, fund, or program that it has paid the subcontractor with a joint check.
- 9) Defines "direct contractor" as a contractor that has a direct contractual relationship with an owner or any other person or entity engaging contractors or subcontractors for the erection, construction, alteration, or repair of a building, structure, or other private work on behalf of the owner.
- 10) Addresses chaptering out issues with AB 130.

COMMENTS

In 2017, the Legislature passed AB 1701 (Thurmond), Chapter 804, which established that a direct contractor on a private construction project is jointly liable with a subcontractor for any wages, fringe benefits, and labor trust fund contributions owed to any worker on its project. AB 1701 also authorized the LC, a JLMC, or a third party owed fringe or other benefit payments or contributions on a wage claimant's behalf to bring an action to enforce this liability.

With the passage of SB 727 (Leyva), Chapter 338, in 2021, the Legislature expanded this liability to include statutory penalties and liquidated damages associated with wages, fringe benefits, and contributions that go unpaid by subcontractors. SB 727 also established a mechanism for direct contractors to avoid liability for penalties and liquidated damages, provided they comply with specified requirements.

AB 1701 and SB 727 created a clear incentive for direct contractors to work with reputable subcontractors, as well as to monitor their subcontractors' compliance with their payment obligations.

However, in a 2024 lawsuit (*Sheet Metal Workers Pension Trust of Northern California et al. v. KB Home*, Santa Clara Superior Court Case No. 22CV401583) brought by a trust fund against a general contractor to recover unpaid benefit contributions owed by a subcontractor, the Santa Clara Superior Court ruled that the remedies created by AB 1701 and SB 727 are preempted by the federal ERISA, at least with respect to the ability of a trust fund to recover unpaid

contributions. *(Please see the Senate Judiciary Committee analysis for more information on the Santa Clara Superior Court decision and other related legal background.)*

This bill revises the statutory remedy to instead use the mechanic's lien law, which thus far has not been ruled by courts to be preempted by ERISA. The mechanics' lien law allows contractors, subcontractors, material suppliers, equipment lessors, laborers, and design professionals to file a legal claim (a mechanics' lien) against a property if they were not paid for work or materials provided for improvements to that property. The change in language would instead provide a labor trust fund standing to enforce a mechanics lien against a direct contractor to recover unpaid benefit contributions owed by a subcontractor.

According to the Author

"Wage theft in the California construction economy has been described as "rampant" by the California Bureau of Field Enforcement at the California Department of Industrial Relations. Since 2022 the courts have received countless wage theft cases, but amendments to Labor code unintentionally left workers underpaid and discouraged from speaking out against their employers for fear of retaliation. SB 597 bolsters statutory remedies against general contractors to eliminate ERISA preemption and incentivizes general contractors to monitor their subcontractors' compliance. Furthermore, this bill only applies to work performed on private construction projects on or after January 1, 2026. SB 597 protects workers and ensures the courts have the tools they need to review cases."

Arguments in Support

The Western States Council of Sheet Metal Workers, sponsor of this measure, write in support that "by reinforcing the responsibility of general contractors, SB 597 incentivizes greater oversight of subcontractors' compliance with wage and benefit obligations, reducing the risk of wage theft and ensuring that workers receive the compensation they have rightfully earned. Furthermore, this bill will help maintain a level playing field for responsible contractors who adhere to fair labor standards, promoting integrity and accountability within the construction industry."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Absorbable costs to the LC to enforce the liability against a direct contractor through an administrative or civil action.
- 2) Annual cost pressures (General Fund (GF) or Trial Court Trust Fund (TCTF)) of an unknown, but potentially significant amount, to the courts in additional workload by allowing the LC or a laborer to file a civil action to enforce the liability against a direct contractor. It is unclear how many new civil actions may be filed statewide under this revised statutory remedy, but the estimated workload cost of one hour of court time is \$1,000. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a demand for increased court funding from the GF to perform existing duties. The Budget Act of 2025 provides \$82 million ongoing GF to the TCTF for court operations.

VOTES**SENATE FLOOR: 38-0-2**

YES: 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

ABS, ABST OR NV: Limón, Reyes

ASM LABOR AND EMPLOYMENT: 7-0-0

YES: Ortega, Flora, Chen, Elhawary, Kalra, Lee, Ward

ASM JUDICIARY: 12-0-0

YES: Kalra, Dixon, Bauer-Kahan, Bryan, Connolly, Harabedian, Macedo, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

ABS, ABST OR NV: Sanchez, Dixon, Ta, Tangipa

UPDATED

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