
UNFINISHED BUSINESS

Bill No: SB 597
Author: Cortese (D)
Amended: 9/2/25 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, 4/22/25
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: Labor-related liabilities: direct contractor and subcontractor

SOURCE: Western States Council of Sheet Metal Workers

DIGEST: This bill seeks to overcome an adverse court decision by revising the statutory remedy that allows a labor trust fund to collect from a direct contractor the unpaid contributions owed to workers by a subcontractor. This bill aligns the

statutory remedy with the state's mechanic's lien law in an attempt to avoid preemption by the federal Employee Retirement Income Security Act (ERISA).

Assembly Amendments of 9/2/25 1) address chaptering out issues; 2) clarify that 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, shall assume, and is liable for, *any indebtedness for the performance of labor*, as specified; and 3) modify this bill's safe harbor provisions.

ANALYSIS:

Existing federal law:

- 1) Establishes, under the Employee Retirement Income Security Act of 1974 (ERISA), minimum standards for most voluntarily established retirement and health plans offered by private-sector employers to protect the rights of plan participants and beneficiaries. (Title 29 United States Code (U.S.C.) §1001-1461)
- 2) Provides that every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement. (29 U.S.C. §1145)

Existing state law:

- 1) Establishes within the Department of Industrial Relations (DIR) the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC to ensure a just day's pay in every work place and to promote justice through robust enforcement of labor laws. (Labor Code §79-107)
- 2) Requires, for contracts entered into on or after January 1, 2022, 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 debt owed to a wage claimant or third party on the wage claimant's behalf, incurred by a subcontractor at any tier acting under, by, or for the direct contractor for the wage claimant's performance of labor included in the subject of the contract between the direct contractor and the owner. (Labor Code §218(a)(1))

- 3) Extends the direct contractor's liability to penalties, liquidated damages, and interest owed by the subcontractor on account of the performance of the labor covered by the contract, unless specified requirements are met. (Labor Code §218.8(a)(2))
- 4) Provides that, if a worker employed by a subcontractor on a private construction project is not paid the wage, fringe or other benefit payment or contribution owed by the subcontractor, the direct contractor of the project is not liable for any associated penalties or liquidated damages unless 1) the direct contractor had knowledge of the subcontractor's failure to pay the specified wage, fringe or other benefit payment or contribution, or 2) the direct contractor fails to comply with all of the following requirements:
 - a) The contractor must monitor the payment by the subcontractor of wage, fringe or other benefit payment or contribution to the employees or the labor trust fund, by periodic review of the subcontractor's payroll records, as specified.
 - b) Upon becoming aware of the failure of the subcontractor to pay wages, the contractor must diligently take corrective action to halt or rectify the failure.
 - c) Prior to making final payment to the subcontractor, the contractor must obtain an affidavit from the subcontractor affirming that all workers have been properly paid. (Labor Code §218.8(a)(3))
- 5) Provides that 2) through 4), above, 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 the nonpayment of wages, fringe or other benefit payments, or contributions by that subcontractor or by a subcontractor at any tier working under that subcontractor, including liability for associated penalties and liquidated damages. (Labor Code §218.8(a)(5))
- 6) Authorizes the LC to enforce against a direct contractor the liability for unpaid wages, liquidated damages, interest, and penalties created by 2) through 4), above, as specified. (Labor Code §218.8(b)(1))
- 7) Authorizes a third party owed fringe or other benefit payments or contributions on a wage claimant's behalf 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) through 4), above. (Labor Code §218.8(b)(2))

- 8) Authorizes a Joint Labor-Management Committee (JLMC) established pursuant to the federal Labor Management Cooperation Act of 1978 to bring an action in any court of competent jurisdiction against a direct contractor or subcontractor at any tier to enforce 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 on a private work pursuant to 2) through 4), above. (Labor Code §218.8(b)(3))
- 9) Provides that, for purposes of Division 4, Part 6 of the Civil Code (commencing with Section 8000), “laborer” 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 described in Section 1773.1 of the Labor Code and implementing regulations, is paid by agreement with that laborer or the collective bargaining agent of that laborer. (Civil Code §8024(b))
- 10) Provides that a person or entity described in 9), above, that has standing under applicable law to maintain a direct legal action, in its own name or as an assignee, to collect any portion of compensation owed for a laborer for a work of improvement, shall have standing to enforce any rights or claims of the laborer under Part 6 of the Civil Code, to the extent of the compensation agreed to be paid to the person or entity for labor on that improvement. (Civil Code §8024(c))
- 11) Defines “per diem wages,” for purposes of any statute applicable to public works, as employer payments for, among other things:
 - a) Health and welfare.
 - b) Pension.
 - c) Subsistence.
 - d) Industry advancement and collective bargaining agreements administrative fees, provided that these payments are made pursuant to a collective bargaining agreement to which the employer is obligated.
- 12) Specifies that employer payments include the rate of contribution irrevocably made by the employer to a trustee or third person pursuant to a plan, fund, or program. (Labor Code §1773.1)

- 13) Authorizes a direct contractor, subcontractor, or laborer to file a mechanic's lien to enforce a claim of wages, including fringe benefits, as specified. (Civil Code §§8400, 8416, and 8430)

This bill:

- 1) Except as specified below, maintains the language used to establish and enforce direct contractor liability in Section 218.8 of the Labor Code.
- 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 for the performance of labor, including that described in subdivision b of Section 8024 of the Civil Code, 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.
- 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) Extends the direct contractor's liability to any indebtedness for labor described in 2), above, penalties or liquidated damages, and interest owed by the subcontractor on account of the performance of the labor.
- 5) Prohibits a direct contractor or any other person from evading, or committing any act that negates, the requirements of these provisions. Establishes that this section does 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 described in this subdivision by that subcontractor or by a subcontractor at any tier working under that subcontractor, including liability for associated penalties and liquidated damages.
- 6) Authorizes the LC to enforce against a direct contractor the liability created by this section pursuant to Section 98 or 1197.1 or through a civil action.
- 7) Authorizes specified laborers, as defined in subdivision (c) of Section 8024 of the Civil Code, 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 this section.

- 8) Prohibits an action pursuant to this section from being based on the employer's misclassification of the craft of a worker.
- 9) Makes the remedies created by this section cumulative of any other available remedies.
- 10) Exempts a direct contractor from liability pursuant to claims brought by the Labor Commissioner, a laborer as defined, or a joint labor-management cooperation committee with respect to fringe or other benefit contributions, if they comply with the following:
 - 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.
- 11) 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.
- 12) Grants a joint-labor management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 USC Section 175a) standing to sue a construction contractor for failure to make health care expenditures required by Government Code Sections 65912.131, 65913.4, and 65913.16.
- 13) Addresses chaptering out issues with AB 130.

Background

Joint Liability: AB 1701 (Thurmond, 2017) and SB 727 (Levy, 2021). Although California leads the nation with some of the strongest workplace protections, wage theft remains rampant. Every year, tens of thousands of workers lose millions of dollars in stolen wages.¹ California consistently struggles with enforcement. Wage theft is particularly rampant in the construction industry. In 2021, the Wage Claim Adjudication Unit of the LCO found that the construction industry was one of the top three industries with the highest number of wage claims.² To address this issue, the Legislature approved several bills aimed at increasing the enforcement of labor laws.

In 2017, the Legislature approved AB 1701 (Thurmond) establishing 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. The bill also authorized the LCO, 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. The passage of AB 1701 created a clear financial incentive for direct contractors to work with reputable subcontractors.

In 2021, the Legislature extended the liability created by AB 1701 to include statutory penalties and liquidated damages associated with wages, fringe benefits, and contributions that go unpaid by subcontractors (SB 727, Leyva). SB 727 also established a mechanism for direct contractors to avoid liability for penalties and liquidated damages if they comply with specified requirements.

[Please see the Senate Labor, Public Employment and Retirement Committee and Senate Judiciary Committee bill analyses for more information on ERISA, preemption, and the court case that inspired SB 597.]

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

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.

¹ Auditor of the State of California, "The California Labor Commissioner's Office: Inadequate Staffing and Poor Oversight Have Weakened Protections for Workers," Report 2023-104, May 2024, <https://www.auditor.ca.gov/wp-content/uploads/2024/05/2023-104-Report.pdf>

² Wage Claims Adjudication Unit, "Annual Report Pursuant to Labor Code Section 96.1, Calendar Year 2021," California Labor Commissioner's Office, <https://www.dir.ca.gov/DLSE/Labor-Code-Section-96.1-2021.pdf>

- 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.

SUPPORT: (Verified 9/8/25)

Western States Council of Sheet Metal Workers (Source)
 California Association of Sheet Metal & Air Conditioning Contractors National Association
 California Building Industry Association
 California Federation of Labor Unions
 California Safety and Legislative Board of the Sheet Metal, Air, Rail, and Transportation Workers
 California State Association of Electrical Workers
 California State Pipe Trades Council
 International Union of Painters and Allied Trades, District Council 16,
 International Union of Painters and Allied Trades, District Council 36,
 District Council of Iron Workers
 International Brotherhood of Boilermakers
 Santa Clara County Wage Theft Coalition
 State Building and Construction Trades Council
 Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 9/8/25)

None received

ARGUMENTS IN SUPPORT:

According to the sponsors of the measure, The Western States Council of Sheet Metal Workers:

“Under current law, direct contractors are liable for unpaid wages and benefits owed by subcontractors on private construction projects. However, a 2024 ruling

by the Santa Clara Superior Court found that portions of existing law were preempted by the Employee Retirement Income Security Act (ERISA), undermining the ability of trust funds to recover unpaid benefit contributions. This decision has created uncertainty and weakened protections for workers in the construction industry.

SB 597 addresses this issue by modifying the statutory remedy against general contractors to ensure it remains enforceable and effective. The bill conforms its language to California's existing mechanics lien law, which courts have ruled is not preempted by ERISA, thereby preserving the ability of workers and trust funds to recover compensation owed for work performed. Additionally, the bill clarifies that direct contractor liability applies to any entity engaging contractors or subcontractors for a project, preventing efforts to evade accountability.

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."

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

NOES:

NO VOTE RECORDED: Nguyen

Prepared by: Emma Bruce / L., P.E. & R. / (916) 651-1556
9/8/25 19:51:46

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