
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No:	SB 909	Hearing Date:	March 25, 2026
Author:	Smallwood-Cuevas		
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Urgency:	No	Fiscal:	Yes
Consultant:	Emma Bruce		

SUBJECT: Public works

KEY ISSUE

This bill seeks to increase public works enforcement by 1) requiring the Director of the Department of Industrial Relations (DIR) to annually adjust contractor registration and renewal fees based on the increase in the Bureau of Labor Statistics Consumer Price index (CPI), as specified; 2) increasing penalties for various public works violations; and 3) directing 50% of penalties recovered through a civil wage and penalty assessment (CWPA) to the State Public Works Enforcement Fund (Fund).

ANALYSIS

Existing law:

- 1) Establishes within the Department of Industrial Relations (DIR), various entities including the Division of Labor Standards Enforcement under the direction of the Labor Commissioner (LC) and empowers the LC to ensure a just day's pay in every workplace and to promote justice through robust enforcement of labor laws. (Labor Code §79-107)
- 2) Defines "public works," for the purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. (Labor Code §1720(a))
- 3) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over \$1,000 dollars and imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)
- 4) Establishes the State Public Works Enforcement Fund (Fund) as a special fund in the State Treasury that is available upon appropriation of the Legislature. All public works registration fees and any other moneys as are designated by statute or order shall be deposited in the Fund, as specified. (Labor Code §1771.3(a))
- 5) Provides that moneys in the Fund shall be used only for the following purposes:
 - a) The reasonable costs of administering the registration of contractors and subcontractors to perform public work and the reasonable costs of administering the registration of contractors and subcontractors to perform work on projects or developments subject to prevailing wage or skilled and trained workforce requirements, as specified.
 - b) The costs and obligations associated with the administration and enforcement of the requirements of public works law by the DIR.

- c) The monitoring and enforcement of any requirement of the Labor Code by the LC on a public works project or in connection with the performance of public work, or in connection with the performance of work on projects or developments subject to prevailing wage or skilled and trained workforce requirements. (Labor Code §1771.3(b))
- 6) Authorizes, to provide adequate cashflow for the purposes specified in 5), the Director of Finance, with the concurrence of the Secretary of the Labor and Workforce Development Agency, to approve a short-term loan each fiscal year from the Labor Enforcement and Compliance Fund to the Fund. (Labor Code §1771.3(d))
- 7) Requires the LC to, with reasonable promptness, issue a civil wage and penalty assessment (CWPA) to the contractor or subcontractor, or both, if the LC or their designee determines after an investigation that there has been a violation of public works law. (Labor Code §1741(a))
- 8) Requires contractors and subcontractors to register with the DIR, as specified, to be qualified to bid on, be listed in a bid proposal, or engage in the performance for any public work contract. (Labor Code §1725.5)
- 9) Authorizes the Director of the DIR (Director) to establish and adjust annual registration and renewal fees of up to \$800 by publishing the fees on the DIR's internet website. Any action taken to establish or adjust annual registration and renewal fees in excess of \$800 shall be subject to the rulemaking provisions of the Administrative Procedure Act. (Labor Code §1725.5)
- 10) Requires fees received pursuant to contractor and subcontractor registration to be deposited in the Fund. (Labor Code §1725.5(b))
- 11) Directs penalties assessed against an unregistered contractor or subcontractor for performing work on a public works project to be deposited in the Fund, as specified. (Labor Code §1771.1)
- 12) Provides that a contractor and any subcontractor under the contract shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than \$200 for each calendar day, or portion thereof, for each worker paid less than the prevailing wage for any public work, as specified. Directs the LC to determine the amount of the penalty based on specified criteria. (Labor Code §1775)
- 13) Requires each contractor and subcontractor to keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. These payroll records shall be certified (CPRs) and made available for inspection, as specified. (Labor Code §1776 (a))
- 14) Requires a contractor or subcontractor to comply with a request for the records in 12), above, within 10 days of receipt of written notice. (Labor Code §1776(h))

- 15) Requires a contractor and subcontractor, in the event that they do not comply within the 10-day period, to pay to the state or subdivision on whose behalf the contract was made or awarded a penalty of \$100 per day or portion thereof for every worker until strict compliance is effectuated. A contractor is not subject to a penalty due to the failure of a subcontractor to comply with this section. (Labor Code §1776(h))
- 16) Requires, for public works contracts in excess of \$30,000, a contractor to employ apprentices, who are active participants in an approved apprenticeship program, at specified ratios. (Labor Code §1777.5)
- 17) Provides that if the LC or his or her designee determines after an investigation that a contractor or subcontractor knowingly violated apprenticeship obligations, the contractor and any subcontractor responsible for the violation shall forfeit, as a civil penalty to the state or political subdivision on whose behalf the contract is made or awarded, not more than \$100 for each full calendar day of noncompliance. Directs the LC to determine the amount of the penalty based on specified criteria. (Labor Code §1777.7)
- 18) Provides that a contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit \$25 for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week. (Labor Code §1813)
- 19) Authorizes work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, if the work is compensated at not less than time and one-half the basic rate of pay. (Labor Code §1815)
- 20) Provides that a contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit \$25 for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week. (Labor Code §1813)

This bill:

Registration Provisions

- 1) Requires the Director to establish and adjust annual contractor registration and renewal fees by publishing the fees on the DIR's internet website.
- 2) Removes the requirement that any action taken to establish or adjust annual contractor registration fees in excess of \$800 be subject to the rulemaking procedures of the Administrative Procedure Act.
- 3) Requires the Director to annually adjust contractor registration and renewal fees based on the increase or decrease in the Bureau of Labor Statistics Consumer Price Index (CPI). Provides that the initial registration and renewal fees may be adjusted no more than annually, as specified.

Civil Wage and Penalty Assessments (CWPAs)

- 4) Directs 50% of penalties received through a CWPA to be deposited in the Fund and to be used for specified purposes.

Prevailing Wage Violations

- 5) Increases the *maximum* penalty a contractor or subcontractor shall forfeit for each calendar day, or portion thereof, for each worker paid less than the prevailing wage from \$200 to \$280, as specified.
- 6) Increases the *minimum* penalties the LC shall assess for prevailing wage violations. Specifically, this bill:
 - a) Increases the minimum penalty from \$40 to \$56 for each calendar day, or portion thereof, for each worker paid less than the prevailing wage, if the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
 - b) Increases the minimum penalty from \$80 to \$112 for each calendar day, or portion thereof, for each worker paid less than the prevailing wage, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.
 - c) Increases the minimum penalty from \$68 to \$168 for each calendar day, or portion thereof, for each work paid less than the prevailing wage, if the LC determines that the violation was willful.
- 7) Requires the LC to adjust the penalties for prevailing wage violations annually, based on the increase or decrease in the CPI.
- 8) Directs 50% of penalties received through prevailing wage violations to be deposited in the Fund and to be used for specified purposes.

Certified Payroll Records (CPRs)

- 9) Increases the penalty a contractor or subcontractor shall forfeit for failure to comply with requests for CPRs within 10 days from \$100 to \$140 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated.

Apprenticeship Obligation Violations

- 10) Increases the *maximum* penalty a contractor or subcontractor shall forfeit for knowingly violating apprenticeship obligations from \$100 to \$140 for each full calendar day of noncompliance.
- 11) Increases the *maximum* penalty a contractor or subcontractor shall forfeit for knowingly committing a second or subsequent violation of apprenticeship obligations within a three-year period from \$300 to \$420 for each full calendar day of noncompliance.

- 12) Directs 50% of penalties received through apprenticeship obligation violations to be deposited in the Fund and to be used for specified purposes.

Overtime Violations

- 13) Increases the penalty a contractor or subcontractor shall forfeit for each worker required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week from \$25 to \$35.
- 14) Directs 50% of penalties received through overtime violations to be deposited in the Fund and to be used for specified purposes.

Miscellaneous

- 15) Replaces references to “his or her” with “their” in Labor Code §§ 1741, 1775, and 1777.7.
- 16) Makes various findings and declarations related to public works and the LC.

COMMENTS

1. Public Works Background:

All contractors and subcontractors working on “public works” projects are required to abide by a set of laws that ensure the responsible use of public funds. When enforced consistently and accurately, California’s public works law prevents worker exploitation and promote the creation of a skilled workforce. Below is a brief overview of the public works requirements relevant to SB 909.

Contractor Registration

Contractors and subcontractors that bid on or engage in the performance of a public works contract must register with the DIR by paying an initial application and an annual renewal fee. Registration covers one fiscal year (July 1- June 30) regardless of the date on which the fee is paid. Currently, the fee is set at \$400 and can be renewed for up to three years at a time. Although the Director has discretion to raise the fee above \$800, doing so would be subject to the rulemaking provisions of the Administrative and Procedure Act. All fees are deposited in the Fund to be used for enforcement.

To be eligible to register, contractors and subcontractors must have workers’ compensation insurance and be licensed with the Contractors State Licensing Board. They cannot have any delinquent unpaid CWPAs nor can they be under federal or state debarment. Bidding or working on a public works project while unregistered will result in a \$2,000 penalty and repeat offenders may be disqualified from working in public works for up to 12 months at a time.

Prevailing Wages

The prevailing wage rate is the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area. The Director issues wage determinations semiannually, on February 22 and August 22. In determining the rates, the Director ascertains and considers

the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works.

Contractors and subcontractors are jointly liable for prevailing wage violations, except when specified safe harbor provisions are met. When assessing penalties, the LC considers two factors: 1) whether the failure to pay the correct rate of per diem wages was a good faith mistake and if the error was promptly and voluntarily corrected; and 2) whether there is a prior record of failing to meet prevailing wage obligations. The LC can assess a *maximum* penalty of \$200 for each calendar day, or portion thereof, for each worker paid less than the prevailing wage. The LC has discretion when assessing penalties but must adhere to specified *minimum* penalties depending on the severity of the violation.

Certified Payroll Records (CPRs)

All contractors and subcontractors, with few exceptions, are required to maintain accurate payroll records and make them available for inspection or copy. Records must contain the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor. Access to CPRs varies depending on the requesting entity.

A request by the public to inspect CPRs must be made through either the awarding body of a project or the LC. Once made, contractors and subcontractors have ten days upon receipt of a written request to furnish CPRs. In the event that a contractor or subcontractor fails to comply, they forfeit \$100 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. This requirement is separate and distinct from a similar one that directs contractors and subcontractors to furnish payroll records to the LC in an electronic format.

Apprenticeship Obligations

Public works contracts valued at \$30,000 or more carry an obligation to hire apprentices. Contractors and subcontractors satisfy this obligation in three main ways. First, they submit contract award information to an approved apprenticeship program before commencing work so that the program can dispatch apprentices. Second, they employ apprentices at the approved ratio of one hour of apprentice work for every five hours performed by a journeyman level worker. Third, they make training fund contributions to the California Apprenticeship Council.

Contractors and subcontractors that knowingly violate apprenticeship obligations forfeit a maximum penalty of \$100 for each full calendar day of noncompliance. If a second or subsequent violation is knowingly committed within a three-year period, the LC may assess a maximum penalty of \$300 for each full calendar day of noncompliance.

Overtime

Work performed on public works projects in excess of 8 hours per day, or 40 hours per week, must be compensated at not less than time and one-half the basic rate of pay. Contractors and subcontractors that violate overtime requirements forfeit \$25 for each worker out of compliance. Unlike other penalties, the LC has no discretion to not assess or to modify the penalty amount.

Civil Wage and Penalty Assessments (CWPAAs)

CWPAs are the statutory enforcement mechanism the LC uses to recover unpaid wages or penalties for public works violations. This includes penalties for the violations discussed above. The LC has 18 months after the filing of a valid notice of completion in the office of the county recorder in which the public work was performed, or not later than 18 months after acceptance of the public work to issue a CWSA. Contractors or subcontractors can then appeal the penalty by transmitting a written request to the LC within 60 days after the service of the assessment. Within 90 days of the appeal, the Director shall appoint an impartial hearing officer, as specified, to review evidence and issue a written decision affirming, modifying, or dismissing an assessment. Within 45 days after service of the decision, the affected contractor or subcontractor may file a petition for a writ of mandate with the appropriate superior court. Upon a final decision affirming an assessment, the following penalties may apply restitution of wages owed, plus interest and liquidated damages, monetary penalties, and debarment of up to three years.

State Public Works Enforcement Fund (Fund)

In 2011, the Legislature established the Fund to support public works enforcement. Moneys in the Fund can only be used for the costs associated with administering the contractor registration and renewal fee requirement and the costs associated with administering and enforcing public works law. In the 2024-2025 fiscal year, the Fund had a total balance of \$37,110, with the majority of its revenue coming from regulatory licenses and permits.¹ Penalty assessments raised a paltry \$755 in revenue, whereas regulatory licenses and permits provided \$20,062 in revenue.

The Labor Code inconsistently directs revenue from penalty assessments to the Fund. For example, 100% of penalties collected through electronic certified payroll violations are deposited in the Fund, but penalties collected through CPR violations are not. This inconsistency makes it difficult to generate sufficient revenue to enforce public works law.

2. U.S. Bureau of Labor Statistics Consumer Price Index (CPI):

The CPI is a measure of the average change over time in the prices paid by consumers for a representative basket of consumer goods and services. This market basket is based on 200 categories in eight major goods and services groups including food, housing, apparel, transportation, medical care, recreation, education and communication and other goods and services. The CPI is the most widely used measure of inflation and is often used by the government and business leaders to guide economic decisions.

The U.S. Department of Labor calculates the CPI every year from detailed spending information from families and individuals. Several CPIs are calculated, but the two most referenced are the CPI for All Urban Consumers (CPI-U) and the CPI for Urban Wage Earners and Clerical Workers (CPI-W).

SB 909 would tie increases in contractor registration fees and increases in prevailing wage penalties to the CPI. Unlike other references to the CPI in the Labor Code, this bill does not specify a particular index. For example, CPI-W is used to calculate annual minimum wage increases. *The author may wish to amend the bill to designate a particular index.*

¹ Governor's Budget, Fund Condition Statements. 2026-2027. p.6. <https://ebudget.ca.gov/2026-27/pdf/GovernorsBudget/7000/7350FCS.pdf>

3. Comments:

Although California leads the nation with some of the strongest workplace protections, wage theft remains rampant. Even public works projects with their extensive wage and reporting requirements are not immune. In the 2020-2021 fiscal year, the Public Works Unit within the LC's Office, tasked with investigating wage and apprenticeship violations, opened 1,964 cases and assessed over \$12.6 million in penalties against employers.² However, recovering wages is not always easy. A 2024 audit conducted by the State Auditor found that due to an inefficient wage claim process, the LC often takes two years or longer to resolve the wage claims it receives.³

The author and sponsors of SB 909 argue that public works penalties have failed to keep pace with inflation and have lost their deterrent power. Furthermore, low registration and renewal fees have deprived the Fund of key revenue, hindering the State's enforcement capabilities. SB 909 would tie contractor registration and renewal fees to the CPI and increase penalties for specified public works violations. Additionally, the bill would direct 50% of penalties collected through CWPAs, as well as 50% of penalties collected through prevailing wage, apprenticeship, and overtime violations to the Fund, to be used for further enforcement. The committee notes that only prevailing wage penalties would be tied to the CPI, the other increases would not be updated annually.

4. Need for this bill?

According to the author:

“California’s public works construction market exceeds \$46 billion annually, yet wage theft and labor violations remain widespread, particularly impacting low-wage workers, immigrants, and workers of color. Penalties for public works violations have not been meaningfully updated since 2012 and have lost deterrent value due to inflation. A 2024 State Auditor report found that the Labor Commissioner’s Office faces severe staffing shortages, resulting in enforcement delays and low wage recovery rates, between 2017 and 2023, workers received the full amount owed in only about 12 percent of wage claim cases. Under-enforcement allows dishonest contractors to underbid responsible employers, misuse taxpayer dollars, and destabilize communities.

SB 909 updates contractor registration fees and public works penalties, requires annual inflation adjustments, and directs 50 percent of collected penalties into the State Public Works Enforcement Fund. By reinvesting enforcement revenue into staffing and investigations, the bill strengthens deterrence, improves wage recovery, supports responsible contractors, and ensures public construction dollars deliver fair wages and high-quality work.”

5. Proponent Arguments:

² *The Bureau of Field Enforcement, Fiscal Year Report. 2020-2021.* California Labor Commissioner’s Office. p.12. https://www.dir.ca.gov/dlse/BOFE_LegReport2021.pdf

³ 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>

The sponsors of the measure, the California Federation of Labor Unions, the California-Nevada Conference of Operating Engineers, and the District Council of Ironworkers, argue:

“[SB 909] would modernize public works contractor registration fees, update penalties for prevailing wage violations for the first time in nearly 15 years, and take a critical step to ensure that the State’s public works enforcement capabilities are as robust as our strong laws in statute by requiring that a minimum of 50% of funds collected for public works violations go back into the State’s public works enforcement fund...

While public works penalties have failed to keep pace with inflation and contractor profits in the industry have soared, penalties that have been levied and secured by the State for violations of public works laws are currently not being utilized for further enforcement activity. Rather, these funds are undesignated and routed to the General Fund, where there is no guarantee that they will be used for further enforcement. Legislation is needed to ensure that state policy prioritizes the protection of workers and taxpayer dollars on public works construction projects.

Furthermore, SB 909 (Smallwood-Cuevas) seeks to ensure the protection of construction workers and the proper utilization of taxpayer dollars by modernizing contractor registration fees for the first time since 2017, increasing prevailing wage penalties for the first time since 2013, and ensuring that penalties that are collected by the State for violations of public works laws are being utilized for further public works enforcement activity.

By implementing these changes, the state will be taking an active step toward prioritizing the protection of workers on taxpayer-funded projects and will ensure that state policy related to public works enforcement reflects the strong labor protections that we currently have in statute.”

5. Opponent Arguments:

The Associated General Contractors oppose the measure, stating:

“SB 909 would remove the statutory \$800 cap on annual contractor registration fees and authorize the Department of Industrial Relations (DIR) to set a fee amount each year without a transparent public process. This lack of visibility is especially concerning given the bill’s removal of the fee cap. This also creates uncertainty exposure for contractors particularly for small and mid-sized general contractor companies.

SB 909 additionally would increase daily civil penalties for prevailing wage, certified payroll, and related violations. This increases further potential financial exposure for contractors even for clerical or unintentional errors. Prime contractors remain liable for subcontractor compliance, compounding the risk.

Directing 50 percent of all collected penalties into the State Public Works Enforcement Fund (Fund) does not solve the staffing issues and case backlogs at the DIR as it would expand enforcement authority without addressing the underlying challenges identified by the State Auditor. Increasing penalties and fees without improving administrative capacity will not resolve enforcement delays or improve outcomes for workers. By prioritizing funding to this Fund, this could shift DIR’s focus from contractor compliance to revenue generation, which could increase legal actions and administrative disputes.

Higher fees, higher penalties, and increased enforcement activity will raise the cost of doing business on public works.”

6. Double Referral:

The Senate Rules Committee referred SB 909 to the Senate Labor, Public Employment and Retirement Committee and the Senate Judiciary Committee.

7. Prior Legislation:

AB 2135 (Schiavo, 2024) would have increased, from 18 to 24 months, the time period the LC or their designee has to issue a CWPA, as specified, to the contractor or subcontractor, or both, on a public works project. *AB 2135 was held in Senate Appropriations Committee.*

SB 854 (Committee on Budget and Fiscal Review, Chapter 28, Statutes of 2014) established, among other things, a public works contractor registration program to replace prior Compliance Monitoring Unit and Labor Compliance Program requirements for bond-funded and other specified public works projects.

AB 1336 (Frazier, Chapter 792, Statutes of 2013) increased from 180 days to 18 months the statute of limitations for the LC to issue a CWPA, as specified.

AB 551 (Campos, Chapter 677, Statutes of 2011) increased penalties for prevailing wage and payroll record violations on public works projects.

AB 1023 (Wagner, Chapter 378, Statutes of 2011) repealed and recast provisions of the Labor Code that established the Fund.

SB 45 (Padilla, 2009) would have increased the penalties for prevailing wage violations and permanently debarred contractors that willfully violate prevailing wage requirements. *SB 45 was vetoed by Governor Schwarzenegger.*

SB X2-9 (Padilla, Chapter 296, Statutes of 2009) established the Fund and specified that money in the Fund shall be used for public works enforcement, as specified.

SB 191 (Padilla, 2008) would have established an alternative mechanism to fund enforcement of prevailing wage and apprenticeship requirements on specified public works projects by, among other things, creating the Fund. *SB 191 was vetoed by Governor Schwarzenegger.*

SUPPORT

California Federation of Labor Unions (Co-sponsor)
California-Nevada Conference of Operating Engineers (Co-sponsor)
District Council of Ironworkers (Co-sponsor)
California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council
State Building and Construction Trades Council of California

Teamsters California
Western States Council of Sheet Metal Workers

OPPOSITION

Associated General Contractors

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