
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 909 (Smallwood-Cuevas) - Public works

Version: January 26, 2026

Policy Vote: L., P.E. & R. 4 - 1, JUD. 11 -
1

Urgency: No

Mandate: No

Hearing Date: April 27, 2026

Consultant: Robert Ingenito

Bill Summary: SB 909 would make specified changes to (1) certain Department of Industrial Relations (DIR) fees and penalty amounts, and (2) their allocation in the State Treasury.

Fiscal Impact:

- DIR has yet to determine the fiscal impacts that would result from the bill, but annual costs to the department could exceed \$150,000 annually (special funds).
- The bill would likely result in increased penalty revenue, the annual magnitude of which is unknown (State Public Works Enforcement Fund).
- Redirecting penalty money to the State Public Works Enforcement Fund could reduce the annual amounts deposited into other funds, including the General Fund, by an unknown amount.

Background: When a state or local agency completes any construction or similar work through the use of public funds, it is considered a “public works” project. 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 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. DIR has discretion to raise the fee above \$800; however, doing so would be subject to the rulemaking provisions of the Administrative and Procedure Act. All fees are deposited in the State Public Works Enforcement Fund to be used for enforcement.

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. DIR issues wage determinations semiannually.

Contractors and subcontractors are jointly liable for prevailing wage violations, except when specified safe harbor provisions are met. When assessing penalties, the Labor Commissioner (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.

Contractors and subcontractors generally 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 certified payroll records (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.

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.

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.

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 CWPA. 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.

In 2011, the Legislature established the State Public Works Enforcement 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. The Fund began 2025-26 with an estimated reserve of \$19 million.

The Labor Code directs some, but not all related revenue from penalty assessments to the Fund. For example, 100 percent of penalties collected through electronic certified payroll violations are deposited in the Fund, but penalties collected through CPR violations are not.

Proposed Law: This bill, among other things, would do the following:

- Eliminate the \$800 limit on the annual registration and renewal fee for contractors and subcontractors working on public works projects and require DIR to (1) establish the annual registration and renewal fees, and (2) annually adjust them based on the increase or decrease in the Consumer Price Index (CPI), as specified.
- Eliminate the requirement that any action by DIR to establish or adjust the registration and renewal fee above \$800 be subject to the rulemaking process of the Administrative Procedure Act.
- Increase the daily maximum penalty for a contractor or subcontractor who pays a worker less than the prevailing wage rates, from \$200 to \$280 per individual, as specified. Increase minimum penalty from \$40 to \$56 per day, as specified. Increase the minimum penalty from \$80 to \$112 per day or a portion thereof when the contractor or subcontractor has been assessed penalties within the previous three years for violating the prevailing wage rules. Increase the minimum penalty from \$120 to \$168 per day or a portion thereof when the LC determines that the violation was willful. Require the LC to annually adjust these penalty amounts based on the CPI, as specified.
- Increase the penalty for a contractor or subcontractor failing to provide payroll records within 10 days of the request from \$100 to \$140 per day or a portion thereof for each worker.
- Increase the maximum penalty for a contractor or subcontractor who knowingly violates the apprenticeship requirements from \$100 to \$140 and increase the maximum penalty for a contractor or subcontractor who knowingly commits a second or subsequent violation within a three-year period from \$300 to \$420.
- Increase the penalty for a contractor or subcontractor who fails to comply with the overtime rules from \$25 to \$35.

- Require 50 percent of any penalties received through a civil wage and penalty assessment to be deposited in the State Public Works Enforcement Fund, as specified.

Related 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. The bill was held under submission on the Suspense File of this 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.

Related Legislation: As noted above, the penalty amounts for violations of the prevailing wage rules and the payroll records were last adjusted in 2011. The penalty for violating the apprenticeship requirements has not been increased since 1999. The penalty for violating the overtime rules has not been updated since 1963. Historical CPI data indicate that the increases in the penalty amounts under the bill are all relatively consistent with the subsequent increases in inflation since their last adjustments, except for the overtime and apprenticeship penalties. If adjusted using CPI data, the latter two penalties would be substantially greater than the increase under this bill.

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