

THIRD READING

Bill No: SB 909
Author: Smallwood-Cuevas (D)
Amended: 5/14/26
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 3/25/26
AYES: Smallwood-Cuevas, Cortese, Durazo, Laird
NOES: Strickland

SENATE JUDICIARY COMMITTEE: 11-1, 4/14/26
AYES: Umberg, Allen, Ashby, Caballero, Durazo, McNerney, Reyes, Stern,
Wahab, Weber Pierson, Wiener
NOES: Niello
NO VOTE RECORDED: Valladares

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/14/26
AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

SUBJECT: Public works

SOURCE: California Federation of Labor Unions
California-Nevada Conference of Operating Engineers
District Council of Ironworkers

DIGEST: This bill seeks to increase public works enforcement by 1) authorizing the Director of the Department of Industrial Relations (DIR) to establish and adjust contractor registration and renewal fees of up to \$1000, 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:

- 1) Authorizes the Director to establish and adjust annual contractor registration and renewal fees of up to \$1000 by publishing the fees on the DIR's internet website.
- 2) Provides that any action taken to establish or adjust annual contractor registration and renewal fees in excess of \$1000 shall be subject to the rulemaking provisions of the Administrative Procedure Act (APA), as specified.
- 3) Prohibits the Director from adjusting the initial contractor registration and renewal fees more than once annually, as specified.
- 4) Directs 50% of penalties received through a CWPA to be deposited in the Fund and to be used for specified purposes.
- 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) Directs 50% of penalties received through prevailing wage violations to be deposited in the Fund and to be used for specified purposes.

- 8) 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.
- 9) 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.
- 10) 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.
- 11) Directs 50% of penalties received through apprenticeship obligation violations to be deposited in the Fund and to be used for specified purposes.
- 12) 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.
- 13) Directs 50% of penalties received through overtime violations to be deposited in the Fund and to be used for specified purposes.
- 14) Replaces references to “his or her” with “their” in Labor Code §§1741, 1775, and 1777.7.
- 15) Makes various findings and declarations related to public works and the LC.

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 (CWPA's). CWPA's 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.

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. The Fund began 2025-2026 with an estimated reserve of \$19 million.

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.

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

According to the Senate Appropriations Committee:

- 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.

SUPPORT: (Verified 5/14/26)

California Federation of Labor Unions (Co-source)

California-Nevada Conference of Operating Engineers (Co-source)

District Council of Ironworkers (Co-source)

California Alliance for Retired Americans

California School Employees Association

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: (Verified 5/14/26)

Associated General Contractors
Western Electrical Contractors Association

ARGUMENTS IN SUPPORT:

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.”

ARGUMENTS IN OPPOSITION:

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.”

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