

Date of Hearing: June 10, 2026

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

SB 909 (Smallwood-Cuevas) – As Amended May 14, 2026

SENATE VOTE: 29-7

SUBJECT: Public works

SUMMARY: Increases the maximum registration and renewal fees for public works contractors and subcontractors; increases certain penalties associated with public works violations, as specified; and directs 50 percent of the penalties received through Civil Wage and Penalty Assessments (CWPAs), and through prevailing wage, apprenticeship obligation, and overtime violations under public works law, to be deposited in the State Public Works Enforcement Fund (Fund). Specifically, **this bill:**

- 1) Increases, from \$800 to \$1,000, the fee limit for the annual registration and renewal fees that the Department of Industrial Relations (DIR) Director is authorized to establish and adjust by publishing the fees on the DIR's internet website, and makes conforming changes.
- 2) Increases from \$200 to \$280, 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, as specified.
- 3) Increases the minimum penalties the Labor Commissioner (LC) shall assess for prevailing wage violations, as follows:
 - a) 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) 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for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.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) From \$120 to \$168 for each calendar day, or portion thereof, for each worker paid less than the prevailing wage, if the LC determines that the violation was willful.
- 4) Increases the maximum penalty a contractor or subcontractor shall forfeit for failure to comply with requests for certified payroll records (CPRs) within 10 days from \$100 to \$140 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated.
- 5) 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.

- 6) 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.
- 7) 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 without overtime pay, as specified, from \$25 to \$35.
- 8) Directs 50 percent of the penalties received through CWPAs, and through prevailing wage, apprenticeship obligation, and overtime violations, to be deposited in the Fund.
- 9) Makes technical and conforming changes.
- 10) Makes related findings and declarations.

EXISTING LAW:

- 1) Establishes the Division of Labor Standards Enforcement (DLSE), under the direction of the LC, within the DIR, and authorizes the LC to investigate employee complaints and enforce labor laws, as specified. Labor Code § 79 et seq.
- 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) Establishes the 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).
- 4) 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).
- 5) Authorizes, to provide adequate cashflow for the purposes specified in (4), 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).

- 6) 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.
- 7) Authorizes the Director of the DIR 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(a)(1)(A).
- 8) Requires fees received pursuant to contractor and subcontractor registration to be deposited in the Fund. Labor Code § 1725.5(b).
- 9) Requires the LC to, with reasonable promptness, issue a 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).
- 10) 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.
- 11) Subjects unregistered contractors or subcontractors engaged in the performance of any public work contract to specified penalties, and directs those penalties to be deposited into the Fund. Labor Code § 1771.1(g) and (m).
- 12) Requires contractors and subcontractors to submit CPRs electronically to the LC on a monthly basis, as specified, and subjects uncompliant contractors and subcontractors to a penalty of \$100 per day. Labor Code § 1771.4(a)(3)(A)-(B).
- 13) 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.
- 14) 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 and made available for inspection, as specified. Labor Code § 1776(a).
- 15) Requires a contractor or subcontractor to comply with a request for the records in (14), above, within 10 days of receipt of written notice or pay 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 at specified ratios. Labor Code § 1777.5.

- 17) Provides that if the LC or their 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) Subjects contractors and subcontractors to a penalty of \$25 per worker, 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 without receiving overtime pay, as specified. Labor Code § 1813.
- 19) Authorizes work performed by employees of contractors in excess of 8 hours per day, and 40 hours during one week, if the work is compensated at not less than time and one-half the basic rate of pay. Labor Code § 1815.

FISCAL EFFECT: 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.

COMMENTS: Public works projects are defined as construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part with public funds. These projects come with numerous compliance requirements to ensure transparency, labor equity, and quality of work.

Public works contractor and subcontractor registration requirements:

To be eligible to bid on or perform work on a public works contract, contractors and subcontractors must have workers' compensation insurance, be licensed with the Contractors State Licensing Board, and not have any delinquent unpaid CWPAs or be under federal or state debarment. Contractors and subcontractors 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 and can be renewed for up to three years at a time for a fee of \$400 per year. The DIR Director has discretion to raise the fee up to \$800. The fee can be raised further than \$800 but doing so would be subject to the rulemaking provisions of the Administrative and Procedure Act. All registration and renewal fees are deposited in the Fund.

State Public Works Enforcement Fund (Fund):

The Legislature established the Fund in 2011 via SB X2-9 (Padilla, Chapter 296, Statutes of 2009) 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 with

administering and enforcing public works law. Currently, the Labor Code inconsistently directs revenue from public works penalty assessments to the Fund. This bill would address that by requiring that most public works penalties to be deposited into the Fund.

Public works compliance requirements:

Public works contractors must satisfy three main requirements to comply with the law: 1) pay prevailing wages; 2) maintain and submit payroll records; and 3) comply with apprenticeship requirements. A brief explanation of each requirement follows.

- *Prevailing Wages:* All workers on public works projects must be paid the prevailing wage rate. This rate is set by the DIR Director and, according to the DIR, “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 (if a majority of such workers are paid at a single rate). If there is no single rate paid to a majority, then the single or modal rate being paid to the greater number of workers is prevailing.”¹
 - *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.
- *Payroll Records:* To ensure compliance with pay requirements, contractors and subcontractors on most public works projects are required to electronically submit CPRs to the LC on a monthly basis. These records are also available to the public but must be requested through the LC or the entity awarding the contract.
- *Apprenticeship Requirements:* Contractors and subcontractors on public works projects of \$30,000 or more must hire apprentices at minimum ratios, unless the craft or trade does not require the use of apprentices, as indicated in the corresponding prevailing wage determination. This requirement applies to all contractors and subcontractors on a project, even if their individual part of the project is less than \$30,000.

Failure to comply with public works requirements can result in civil penalties, criminal prosecution, or both. The LC is charged with enforcement and works with district attorneys' offices to prosecute violations. Common public works violations include misclassification, under-reporting of hours, failure to report all workers, demands that workers pay wage kickbacks, and failure to fund fringe benefits.

Repercussions for violators include restitution of wages owed, plus interest and liquidated damages; monetary penalties; debarment of up to three years; criminal prosecution; and/or reimbursement of investigation costs to DIR. Contractors and subcontractors are held jointly and severally liable for the amounts owed as a result of a violation. CWPAs are the statutory enforcement mechanism the LC uses to recover unpaid wages or penalties for public works violations.

According to the author:

¹ https://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html#q1

“California invests billions of taxpayer dollars each year in infrastructure, yet workers on those projects still face wage theft and inadequate enforcement. These investments should create good-paying jobs and preserve high labor standards, not reward contractors who violate labor laws or commit wage theft.

SB 909 is an important worker-protection and taxpayer-accountability measure because it strengthens California’s ability to enforce existing public works laws. The bill updates penalty amounts that have not kept pace with inflation, dedicates a portion of collected penalties to the State Public Works Enforcement Fund, and helps ensure enforcement resources expand alongside California’s increasing public infrastructure investments.”

The author adds that the measure supports equity, per HR 39 (Gipson, 2021) in that “According to the Rutgers School of Management and Labor Relations, Black and Latinx workers, women, noncitizens, young people (ages 16-24), seniors (65+), workers without a college degree, and part-time and hourly workers are more likely to experience minimum wage theft. Lost wages increase reliance on public assistance and reduce household stability, particularly in communities already facing economic inequities. When workers are underpaid, families struggle to cover basic needs like rent, food, and childcare—creating ripple effects that weaken local economies and deepen disparities.”

Committee Comments:

While increasing funding and resources for enforcement of public works law is important, it is worth noting that the DIR and its DLSE have experienced high vacancy levels for many years. The author may wish to consider directing some of the funding to other enforcement entities – or requiring the DLSE to do so.

Arguments in Support

The International Union of Operating Engineers, the California Federation of Labor Unions, and the District Council of Iron Workers, co-sponsors of this measure, write that “public works penalties that are intended to deter contractors from abusing workers and misusing taxpayer dollars haven’t been increased in over 13 years, while the value of California’s public works construction market has increased 37% and is now valued at \$47 billion. According to NorCal Construction Industry Compliance, if public works penalties had been adjusted to keep pace with inflation since they were last increased in 2013, the California Department of Industrial Relations could have generated an additional \$7.3 million in penalties and funded over 40 new positions at the understaffed Division of Labor Standards Enforcement.

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.”

Arguments in Opposition

The California Chapters of the Associated General Contractors, state that “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 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. These costs will ultimately be reflected in higher bids, reduced competition, and increased project costs for state and local agencies—at a time when California is already facing infrastructure funding pressures.”

Prior and Related Legislation

AB 538 (Berman), Chapter 616, Statutes of 2025, required the awarding body, if a CPR request is made by the public through the awarding body and the body is not in possession of the CPRs, to obtain those records from the relevant contractor and make them available to the requesting entity; authorizes the DLSE to enforce certain penalties if a contractor fails to comply with the awarding body's request within 10 days of receipt of the notice.

AB 2135 (Schiavo) of 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. Held in the Senate Appropriations Committee.

AB 171 (Committee on Budget), Chapter 52, Statutes of 2024, among other things, specifically exempted the establishment and adjustment of the public works contractor and subcontractor registration fees from the Administrative Procedure Act.

AB 130 (Committee on Budget), Chapter 39, Statutes of 2023, clarified registration requirements for all contractors and subcontractors on a development project pursuant to AB 2011 (Wicks, Chapter 647, Statutes of 2022) and SB 6 (Caballero, Chapter 659, Statutes of 2022) and provided the DIR with the authority to establish and adjust annual registration and renewal fees of up to \$800.

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.

SB 377 (Lieu), Chapter 780, Statutes of 2013, among other things, tolled the period for service of CWPA's and for commencing an action brought by a JLMC for the period of time required by the DIR Director to make a determination of whether the project is a public work, as specified; tolled those periods for the period of time that a contractor or subcontractor fails to provide CPRs pursuant to a request from the LC, a JLMC, or an approved labor compliance program; tolled the period for service of assessments and for commencing an action brought by a JLMC for the length of time notice is not provided to the LC.

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 to their current levels.

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

AB 921 (Keeley), Chapter 903, Statutes of 1999, increased the penalty for violating the apprenticeship requirements to their current amount of \$100 per day of noncompliance, and added the \$300 per day penalty for subsequent violations within a three-day period.

AB 1616 (Monagan), Chapter 964, Statutes of 1963, renumbered the Labor Code provision related to the penalties for not paying a worker overtime on a public works contract and increased the penalty from \$10 per day to the current rate of \$25 per day.

REGISTERED SUPPORT / OPPOSITION:

Support

International Union of Operating Engineers, California Nevada Conference (Sponsor)

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

Teamsters California

Western States Council Sheet Metal, Air, Rail and Transportation

Opposition

American Subcontractors Association-California

Associated General Contractors, California Chapters

Western Electrical Contractors Association

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