SENATE THIRD READING
SB 909 (Smallwood-Cuevas)
As Amended August 17, 2026
Majority vote

SUMMARY

Increases the maximum registration and renewal fees for public works contractors and subcontractors; increases certain penalties associated with public works violations, as specified; directs all civil penalties collected by the Labor Commissioner (LC) related to public works enforcement, and all penalties received by the LC related to violations of skilled and trained requirements, to be deposited into the State Public Works Enforcement Fund (Fund); and authorizes moneys in the Fund to be used to ensure sufficient staffing levels in the LC's office for public works enforcement.

Major Provisions

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 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 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for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.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) Expands the list of purposes for which moneys in the Fund may be used to include ensuring sufficient staffing levels in the LC's office for public works project enforcement.

8) Requires all civil penalties collected by the LC related to public works enforcement to be deposited into the Fund.

   a) *Requires, if the involvement of the LC in a labor compliance program enforcement action has been limited to a determination of the actual amount of penalty or forfeiture or underpayment of wages, and the matter has been resolved without litigation by or against the LC, the awarding body to deposit penalties and forfeitures with the awarding body that has enforced public works law, as specified.*

9) Requires all penalties received by the LC related to violations of skilled and trained workforce requirements to be deposited into the Fund.

10) Makes technical and conforming changes.

11) Makes related findings and declarations.

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 Civil Wage and Penalty Assessments or be under federal or state debarment. Contractors and subcontractors must register with the DIR by paying an initial application fee 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.

1) *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]

2) *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.

3) *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.

According to the Author

"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

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

State Public Works Enforcement Fund, and helps ensure enforcement resources expand alongside California's increasing public infrastructure investments."

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."

Arguments in Opposition
The California Chapters of the Associated General Contractors, state that the bill "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."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Minor and absorbable costs to DIR to update and administer increased registration and renewal fee limits and maximum penalty amounts.

2) Increased fee and penalty revenue of an unknown, but potentially significant amount, in excess of $150,000, to the extent contractors are required to pay more in fees and penalties (SPWEF). The magnitude of the increase depends on the fee and penalty amounts determined by DIR and the LC, respectively, and the number of impacted contractors.

3) General Fund revenue loss of an unknown, but potentially significant amount, by requiring all penalty revenue received by the LC be redirected from the General Fund and deposited in the SPWEF.

VOTES

SENATE FLOOR: 29-7-4
YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener
NO: Alvarado-Gil, Choi, Grove, Jones, Ochoa Bogh, Seyarto, Strickland
ABS, ABST OR NV: Dahle, Gonzalez, Niello, Valladares

ASM LABOR AND EMPLOYMENT: 7-0-0
YES: Ortega, Alanis, Chen, Arambula, Kalra, Lee, Ward

ASM APPROPRIATIONS: 11-2-2
YES: Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache
NO: Dixon, Tangipa
ABS, ABST OR NV: Hoover, Ta

UPDATED

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CONSULTANT: Erin Hickey / L. & E. / (916) 319-2091 FN: 0003720