UNFINISHED BUSINESS

Bill No: SB 909
Author: Smallwood-Cuevas (D)
Amended: 8/17/26
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

SENATE FLOOR: 29-7, 5/26/26
AYES: 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
NOES: Alvarado-Gil, Choi, Grove, Jones, Ochoa Bogh, Seyarto, Strickland
NO VOTE RECORDED: Dahle, Gonzalez, Niello, Valladares

ASSEMBLY FLOOR: Passed, 8/25/26

**SUBJECT:** Public works

**SOURCE:** California Federation of Labor Unions
California-Nevada Conference of Operating Engineering
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; 2) increasing penalties for specified public works violations; 3) depositing all civil penalties collected by the Labor Commissioner (LC) related to public works enforcement into the State Public Works Enforcement Fund (Fund); 4) depositing all penalties received by the LC related to violations of skilled and trained workforce requirements into the Fund; and 5) authorizing moneys in the Fund to be used to ensure sufficient staffing levels in the LC's Office for public works enforcement.

*Assembly Amendments*: 1) deposit all civil penalties collected by the LC related to public works violations into the Fund, rather than depositing 50% of specified penalties; 2) clarify that 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 shall deposit penalties and forfeitures with the awarding body; 3) require all penalties received by the LC related to violations of skilled and trained workforce requirements to be deposited into the Fund; 4) authorize moneys in the Fund to be used for the reasonable costs of ensuring sufficient staffing levels in the LC's Office for public works project enforcement; and 5) strike provisions of the bill that would have increased overtime penalties.

**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) 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))

7) 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)

8) 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)

9) Requires fees received pursuant to contractor and subcontractor registration to be deposited in the Fund. (Labor Code §1725.5(b))

10) 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)

11) 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)

12) 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))

13) 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))

14) 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))

15) 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)

16) 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)

17) 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) Authorizes moneys in the Fund to be used for the reasonable costs of ensuring sufficient staffing levels in the LC's Office for public works project enforcement.

3) 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.

4) 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.

5) 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.

6) 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.

7) 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.

8) 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.

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 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.

*Civil Wage and Penalty Assessments (CWPAs).* 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.

*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 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.

**SUPPORT:** (Verified 8/25/26)

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 & Construction Trades Council of California
Teamsters California
Western States Council Sheet Metal, Air, Rail and Transportation

**OPPOSITION:** (Verified 8/25/26)

American Subcontractors Association of California
Associated General Contractors, California Chapters
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 and the American Subcontractors Association of California oppose the measure, arguing:

"SB 909 would increase the statutory $800 cap on annual contractor registration fees to $1000 which increases monetary burdens particularly for small and midsized general contractor companies. The bill 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 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."

Prepared by: Emma Bruce / L., P.E. & R. / (916) 651-1556
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