

SENATE BILL REPORT

SB 5278

As of February 1, 2021

Title: An act relating to the protection of construction worker wages and benefits.

Brief Description: Concerning the protection of construction worker wages and benefits.

Sponsors: Senators Stanford, Kuderer, Conway, Das, Hasegawa, Lovelett, Nguyen, Nobles, Saldaña and Wilson, C..

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 2/03/21.

Brief Summary of Bill

- Authorizes the Department of Labor and Industries to enforce against a direct contractor unpaid wages owed by a subcontractor.
- Authorizes a third-party owed fringe or other benefit payments or contributions by a subcontractor to bring a civil action against a direct contractor.
- Authorizes an interested party to bring a civil action against a direct contractor or subcontractor for wages owed by a subcontractor.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Staff: Jarrett Sacks (786-7448)

Background: An individual owed wages may file a wage payment complaint with the Department of Labor and Industries (L&I) under the Wage Payment Act (WPA). L&I must investigate, and if it finds a violation, must issue a notice and order of assessment, and may order the employer to pay employees all wages owed, including interest. L&I may also order a civil penalty if the violation was willful.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Under L&I rule, an employer must keep records of each employee's name, address, occupation, hours worked on a daily and weekly basis, rate or rates of pay, total wages earned, deductions, and net pay for the pay period.

Federal law recognizes joint labor-management cooperation committees to improve labor and management relations, and for other purposes.

Summary of Bill: A direct contractor entering into a contract for erecting, constructing, altering, or repairing a building, structure, or other private work is liable for any debt owed to an employee, or a third-party owed benefit contributions on a wage claimant's behalf, incurred by a subcontractor for the employee's work. The direct contractor's liability is for unpaid wages, including interest, and any fringe benefit payments or contributions. The liability does not include any penalties or other damages.

A direct contractor is a contractor having a direct contractual relationship with an owner. Fringe or other benefit payments or contributions are payments made by an employer on behalf of employees for group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

Causes of action are established as follows:

1. L&I may enforce the liability for unpaid wages, as well as interest, under the WPA. Alternatively, L&I may file a civil cause of action.
2. A third party owed fringe or other benefit payments or contributions may sue a direct contractor. A third party trust may only bring a civil action for unpaid trust contributions or benefits owed by a subcontractor if the subcontractor that owes the contributions or benefits has declared bankruptcy.
3. A joint labor-management cooperation committee established under federal law or an interested party may sue a direct contractor or subcontractor at any tier for unpaid wages, including the wages owed by the direct contractor under the direct contractor liability. Before filing in court, the joint committee or other interested party must provide at least 30 days' notice to the direct contractor and subcontractor that employed the employee.

An interested party is a contractor, subcontractor, an employee of a direct contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by provisions of the bill, or L&I.

Upon request by a direct contractor to a subcontractor, the subcontractor and any lower tier subcontractors must provide payroll records including the last four digits of the employees' Social Security numbers and contain sufficient information to apprise the direct contractor of the payment status of benefits payments or contributions and specified information regarding the project. If a subcontractor does not timely provide the information requested within ten days of the request, a direct contractor may withhold sums owed.

A one-year statute of limitations is provided, from the date the claimed labor was performed or the contract work was substantially completed or abandoned, whichever occurred first.

The provisions of the bill only apply to projects, or an aggregate of projects under one construction project, of a value greater than \$500,000.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.