

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 261 (Wahab)
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Fiscal: Yes
Urgency: No
ID

SUBJECT

Division of Labor Standards Enforcement: orders, decisions, and awards

DIGEST

This bill requires the Labor Commissioner to post to its website a copy of orders, decisions, or awards filed by the Labor Commissioner and the information of employers with unsatisfied judgments, as specified, and establishes a civil penalty for a final judgment for nonpayment of wages that remains unpaid for 180 days.

EXECUTIVE SUMMARY

California has some of the strongest protections across the country for workers and for ensuring they can be made whole when they are wronged by their employer. However, laws are only as good as the extent to which they are followed and enforced, and labor law violations continue to be a major problem across the state. When an employee is not paid the wages they are owed, they can file a complaint with the Labor Commissioner's office, sue for their damages, or sue in place of the state under the Private Attorney's General Act (PAGA). When the Labor Commissioner enters an order, decision, or award in favor of an employee, recourse against the employer to ensure that the judgment is paid is limited. As a result, many judgments go unsatisfied. To help ensure greater enforcement of the labor laws and of the judgments entered against employers who violate labor laws, SB 261 proposes to require the Labor Commissioner to post a copy of its order, decision, or award on its website no later than 15 days from when the deadline to appeal the decision expired and no appeal is pending. SB 261 also would require the Labor Commissioner to post the information of employers with unsatisfied judgments when the time to appeal has expired and no appeal is pending, with provisions for the removal of such information and advance notice to such an employer. Additionally, SB 261 creates a new civil penalty of three times the outstanding judgment when an employer has a final judgment for nonpayment of wages that has remained unsatisfied for 180 days after the time to appeal has expired and that has no appeal pending. SB 261 is sponsored by the California Federation of Labor Unions,

AFL-CIO, the Civil Prosecutors Coalition, and the County of Santa Clara, and is supported by the California Employment Lawyers Association, California Rural Legal Assistance Foundation, Inc., Consumer Attorneys of California, the Santa Clara County Wage Theft Coalition, and a variety of other unions, individuals, and cities and counties. It is opposed by a variety of chambers of commerce and business associations. SB 261 previously passed out of the Senate Labor, Public Employment, and Retirement Committee by a vote of 4 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes within the Department of Industrial Relations (DIR) the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner, and empowers the Labor Commissioner to ensure a just day's pay in every work place and to promote justice through the robust enforcement of labor law. Empowers the Labor Commissioner to enforce, among other things, wage and hour law, anti-retaliation provisions, and employer notice requirements (Lab. Code §§ 79 et seq.)
- 2) Specifies certain requirements relating to an employee's compensation, allowable hours of work, overtime work and pay, required rest breaks and days off, and guaranteed time off. (Lab. Code §§ 200-2699.8.)
- 3) Authorizes the Labor Commissioner to investigate employee complaints, conduct hearings, and issue orders, decisions, and awards regarding complaints. Requires that the Labor Commissioner notify the parties within 30 days of the filing of a complaint whether a hearing will be held, the Labor Commissioner will prosecute the case, or whether no further action will be taken. Requires that, if the Labor Commissioner will hold a hearing, that the hearing be held within 90 days of the date of that determination, with the option of postponement as specified. Specifies the required notice that the Labor Commissioner must provide the parties regarding the complaint and the proceeding, and allows a defendant to file an answer within 10 days of service of the notice and complaint. (Lab. Code § 98.)
- 4) Requires that the Labor Commissioner file their order, decision, or award within 15 days after the hearing, and requires that the Labor Commissioner serve a copy of the decision on the parties. Requires that the Labor Commissioner's decision must notify the parties of their right to appeal, and that failing to do so within the prescribed period for appeals will result in the decision becoming final. Specifies that all awards granted by the Labor Commissioner pursuant to a hearing shall accrue interest, as specified. (Lab. Code § 98.1.)

- 5) Specifies that, within 10 days after the service of a notice of an order, decision, or award by the Labor Commissioner, either party may appeal the decision to the superior court, which will hear the appeal de novo. Specifies that, if no notice of appeal is filed within the 10-day period, the order, decision, or award is deemed a final order. Specifies that, as a condition to appeal, an employer appealing the decision must post a bond with the court in the amount of the order, decision, or award. (Lab. Code § 98.2.)
- 6) Authorizes, until January 1, 2029, a public prosecutor, defined as the Attorney General, a district attorney, a city attorney, a county counsel, or any other city or county prosecutor, to prosecute an action, either civil or criminal, for a violation of certain provisions of the labor code. Specifies that such an action by a public prosecutor must be limited to redressing violations that occur within the public prosecutor's geographic jurisdiction, unless the public prosecutor has statewide authority. Requires the court to award a prevailing plaintiff in actions brought by a public prosecutor reasonable attorney's fees and costs, including expert witness fees and costs. (Lab. Code §§ 180, 181.)
- 7) Prohibits an employer from conducting business in the state when a final judgment for the employer's nonpayment of wages remains unsatisfied for more than 30 days after the time for appeal has expired and no appeal is pending, unless the employer has obtained a bond or an accord for payment of the judgment, as specified. (Lab. Code § 238.)
- 8) Provides that an employer that conducts business in the state in violation of (7), above, is subject to a civil penalty of \$2,500, and that an employer that has previously been assessed this penalty and failed to pay shall be subject to an additional penalty of \$100 per each calendar day that the employer unlawfully conducts business in the state, not to exceed \$100,000. (Lab. Code § 238(f).)
- 9) Establishes a citation process for the Labor Commissioner to enforce violations of the minimum wage that includes, but is not limited to, issuing citations, making and noticing findings as prescribed, requiring any amounts due after a hearing be due 45 days after notice of the finding, and taking all appropriate actions to enforce the citation and recover a civil penalty assessed. (Lab. Code §§ 1197 et seq.)
- 10) Establishes the Private Attorneys General Act, providing a process through which an aggrieved employee may bring a civil action to recover a civil penalty for labor law violations on behalf of themselves and other current or former employees who suffered similar harm. Provides a specified civil penalty available through an employee's action when the provisions of labor code violated do not specifically provide for a civil penalty. (Lab. Code §§ 2699 et seq.)

- 11) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, that the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 12) Governs the disclosure of information collected and maintained by public agencies pursuant to the California Public Records Act. (Gov. Code §§ 7920.000 et seq.)
 - a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
 - b) Defines "public records" as any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
 - c) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)

This bill:

- 1) Makes various findings and declarations regarding wage theft, the inadequacy of current laws for enforcement of California's wage theft laws, and the intent of the Legislature to provide additional tools to enhance enforcement and timely collection of wage theft judgements.
- 2) Requires the Labor Commissioner to post a copy of any order, decision, or award made by the Labor Commissioner on its website no later than 15 days after the time to appeal the order, decision, or award has expired and no appeal is pending. Requires the Labor Commissioner to redact the name, address, and personal contact information of any employee or other complainant from the order, decision, or award before posting.
- 3) Requires the DLSE to post on its website, after the period for all judicial appeals has expired, the names, addresses, and essential information, including any fictitious business names, of any employer that:

- a) has an unsatisfied order, decision, or award issued by the Labor Commissioner when the time to appeal has expired and no appeal is pending; or
 - b) has an unsatisfied final court judgement based on the order, decision, or award.
- 4) Requires, for the postings required by (3), above, that the Labor Commissioner remove the posting within 15 business days after the Labor Commissioner determines that:
 - a) there has been a full payment of any unsatisfied judgement and any other financial liabilities for all violations, or that the employer has entered into an approved settlement dispensing the judgement and any liabilities; and
 - b) the employer has submitted certification, under penalty of perjury, that all violations in the order, decision, or award have been remedied or abated.
- 5) Provides that, for the removal process described in (4), above, an employer may rely on the regulations developed for the removal procedure of a port drayage motor carrier with an unsatisfied final court judgement pursuant to Labor Code section 2810.4(c)(1).
- 6) Requires that the DLSE notify by certified mail an employer whose information will be posted pursuant to (4), above, at least 15 days before posting, and that this notification include at least:
 - a) the name, email address, and telephone number of a contact person at the DLSE;
 - b) the alleged conduct and a copy of the citation, unsatisfied court judgement, assessment, order, decision, or award;
 - c) a copy of the regulations or rules of practice or procedure for the removal of the posting.
- 7) Specifies that a waiver of the procedures described in (3) through (6), above, is contrary to public policy and void and unenforceable, and that those provisions do not apply to orders, decisions, awards, or final court judgements issued against port drayage motor carriers.
- 8) Specifies that the Labor Commissioner may adopt regulations and rules of practice and procedure to administer and enforce the provisions of (3) through (7), above, and provides for specified definitions to apply unless and until the Labor Commissioner adopts such rules and regulations.
- 9) Specifies that a public prosecutor, defined by reference to existing law as the Attorney General, a district attorney, a city attorney, county counsel, or any other city or county prosecutor, as an assignee of the judgment creditor, must be awarded court costs and reasonable attorney's fees for enforcement of a final judgment.

- 10) Provides that an employer that has an unsatisfied judgment arising out of the employer's nonpayment of wages that has remained unsatisfied for 180 days after the time to appeal the judgment expired and no appeal is pending is subject to a civil penalty of three times the outstanding judgment amount, including post-judgment interest. Provides that a court must assess this penalty in any action brought to enforce the judgment or to induce compliance, to the amount requested except to the extent that the court finds that the employer has demonstrated by clear and convincing evidence that good cause exists to reduce the amount of the penalty.
- 11) Provides that the civil penalties provided for in (10), above, must be distributed in the following manner:
 - a) 50 percent to the employee or employees in whose favor the judgment was rendered, shared proportionally according to the amount due to each employee in the judgment;
 - b) 50 percent to DLSE for enforcement of the labor laws, and for the education of employers and employees about their rights and responsibilities, to be continuously appropriated to supplement DLSE's funding for those purposes.
- 12) Provides that the civil penalties provided for in (10), above, are in addition to any other penalties or fines permitted by law.
- 13) Provides that a successor to a judgment debtor, as defined, shall be jointly and severally liable for the civil penalties assessed pursuant to (10), above.
- 14) Specifies that a court must award a prevailing plaintiff all reasonable attorney's fees and costs in any action brought by a judgment creditor, the Labor Commissioner, or a public prosecutor, to enforce a final judgment against an employer, or to otherwise induce compliance or impose lawful consequences, for the nonsatisfaction of a final judgment against an employer arising from the employer's nonpayment of wages.
- 15) Makes the following finding and declaration regarding the provisions requiring redaction of an employee or complainant's information described in (2), above, which imposes a limitation on the public's right of access to the meetings of public bodies or the writing of public officials and agencies within the meaning of Section three of Article I of the California Constitution:
 - a) It is necessary to preserve the confidentiality of an employee or complainant's information in order to protect the privacy of employees and complainants while also seeking redress for wage theft.

COMMENTS

1. Author's statement

According to the author:

Wage theft is the #1 crime taking money out of Californians' pockets in the midst of an affordability crisis when millions of people are struggling to meet their basic needs. Workers are especially vulnerable to both wage violations and cost of living increases right now. When employers violate wage laws, they harm workers, families, and communities that need those dollars the most.

Ensuring Californians are paid every penny they have earned is a matter of justice that is critical to addressing socioeconomic disparities. While young workers (16-24) are at the highest risk of being paid below minimum wage, seniors over 65 are also more likely to experience minimum wage violations.

The existing system for recovering stolen wages is not enough. Only 12% of workers who report stolen wages to the Labor Commissioner's Office (LCO) receive the payment they're owed, and over half of wage theft judgments go unpaid. SB 261 will give local prosecutors and attorneys the tools to enforce judgments and help workers get paid by requiring transparency from the LCO and adding penalties for employers who refuse to pay.

2. Wage theft is a major issue in California

California has some of the strongest protections across the country for workers and for ensuring they can be made whole when they are wronged by their employer. These laws include rules for a minimum wage, rest and meal breaks, overtime pay, for the timely payment of wages, and rules against retaliation for an employee asserting their rights. Many of California's labor laws include statutory penalties and fines for employers who violate them. These laws ensure that California's workforce and economy are the strongest in the world and that workers' rights, fair treatment and pay, and dignity are respected.

However, laws are only as good as the extent to which they are followed and enforced, and labor law violations continue to be a major problem across the state. A 2017 study found that 19.2% of low-wage workers experience minimum wage violations in California each year, with employers stealing almost two billion dollars from California workers every year through minimum wage violations.¹ Another study found even higher losses for California workers: across three metropolitan areas covering Los

¹ David Cooper & Teresa Kroeger, "Employers steal billions from workers' paychecks each year," Economic Policy Institute (May 10, 2017), <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/>.

Angeles, San Diego, and the Bay Area, employers were estimated to have stolen an average of 2.3 to 4.6 billion dollars in earned wages from workers each year between 2014 and 2023.² Furthermore, the number of underpaid workers has more than doubled since 2014, with a dramatic increase of 56 percent from 2022 to 2023.³ This wage theft disproportionately affects African American, Latinx, noncitizen, and women workers. Given these statistics, wage theft remains a bigger problem of theft in California than all other forms of theft.⁴

Despite these serious and pervasive violations of labor law, employees and the public have limited options to ensure compliance. The main public enforcement agency for the labor code is chronically backlogged with cases. The Labor Commissioner, the office that hears and adjudicates unpaid wage claims and other labor law violations, has been continually dealing with staffing and funding shortages, resulting in cases typically taking 505 days to be adjudicated on average.⁵ A Legislative Analyst's Office analysis found that about 33,000 workers file wage claims with the Labor Commissioner every year, with workers reporting collecting less than 20 percent of unpaid wages owed.⁶ Moreover, the State Auditor found that, between 2018 and 2023, about 28 percent of employers liable for wage theft failed to make payments ordered by the Labor Commissioner.⁷ With such long processing times in cases before the Labor Commissioner and such low rates of recovery even after the Labor Commissioner finds for the employee, many workers simply give up and withdraw their claims.

Non-enforcement causes serious harm. When an employer violates labor law, it places law-abiding employers at a disadvantage, and if violations are not enforced, it incentivizes a race to the bottom as employers try to compete with their competitors in the market. Moreover, those employees wronged by violations or who have their wages stolen lose thousands of dollars every year, hurting their pocketbooks and livelihoods. Thus, enforcement is essential to ensuring California's strong labor laws actually protect workers and society from harm.

² Jake Barnes et al., Wage Theft in California: Minimum wage violations, 2014-2023, Rutgers School of Mgmt. and Lab. Rel. (May 2024), available at <https://www.smlr.rutgers.edu/news-events/smlr-news/minimum-wage-theft-rises-sharply-california>.

³ *Id.*

⁴ Ross Eisenbrey & Brady Meixell, "Wage theft is a much bigger problem than other forms of theft – but workers remain mostly unprotected," Economic Policy Institute (Sept. 18, 2014), <https://www.epi.org/publication/wage-theft-bigger-problem-forms-theft-workers/>.

⁵ Jeanne Kuang, "Agency battling wage theft in California is too short-staffed to do its job," CalMatters (Oct. 17, 2022), <https://calmatters.org/california-divide/2022/10/agency-battling-wage-theft/?series=unpaid-wages-california-workers>.

⁶ Legislative Analyst's Office, "The 2020-2021 Budget: Improving the State's Unpaid Wage Claim Process," (Feb. 19, 2020), <https://lao.ca.gov/Publications/Report/4165>.

⁷ California State Auditor, "2023-104 The California Labor Commissioner's Office: Inadequate staffing and poor oversight have weakened protections for workers," Report No. 2023-104 (May 29, 2024), <https://www.auditor.ca.gov/reports/2023-104/>.

3. California's current wage laws and avenues for workers to seek redress

The Labor Code outlines the minimum pay, rest and meal breaks, overtime pay, paid sick leave, and other rights and minimum requirements due workers in California. When an employer does not comply with these requirements, it can result in an unpaid wage claim. Examples include when an employer pays an employee less than the minimum wage, fails to pay the employee for their overtime work, prohibits an employee from taking meal or rest breaks or their paid sick leave, or makes unauthorized deductions from an employee's pay. In addition, some employers must pay workers their wages twice each calendar month on days designated in advance as regular paydays. (Lab. Code § 204.) When a worker is fired or terminated, an employer generally must pay the worker their final due wages immediately. (Lab. Code §§ 201-203.) When an employer fails to timely pay its workers, the worker can also bring a claim for nonpayment of wages. The Labor Code provides for various statutory and civil penalties for violations of its provisions, and also provides that, in an action for the nonpayment of wages, the court must award interest on all due and unpaid wages. (Lab. Code § 218.6.)

When an employer has failed to pay a worker what they are owed under the law, the worker generally must file a wage claim with the Labor Commissioner, sue for damages, or file a representative civil action against the employer through California's Private Attorneys General Act (PAGA). When a worker files a wage claim with the Labor Commissioner, the Labor Commissioner will notify both parties of the claims made, and set the matter for a hearing within 90 days if the Labor Commissioner determines a hearing is necessary. (Lab. Code § 98.) The Labor Commissioner must file and serve on each party its decision within 15 days after the hearing, after which the parties have 10 days from the date of service to seek review of the Labor Commissioner's decision in the superior court. (Lab. Code §§ 98.1, 98.2.) If no party appeals the Labor Commissioner's decision by this deadline, it is deemed final, and the Labor Commissioner has 10 days to file a copy of the final order with the superior court. (Lab. Code § 98.2(d)-(e).) The superior court then enters a judgment pursuant to the final order that has the same force and effect as a judgment in a civil action.

In 2023, the Legislature enacted AB 594 (Maienschein, Ch. 659, Stats. 2023) to help address the lack of enforcement of the state's labor laws. AB 594 clarified that public prosecutors, defined to include the Attorney General, a district attorney, a city attorney, a county counsel, or any other city or county prosecutor, can prosecute a civil or criminal violation of specified provisions of the Labor Code. (Lab. Code § 181(b).) AB 594 provided this power independent of the Labor Commissioner's own authority to enforce the labor laws, though AB 594 required that public prosecutors provide a 14-day notice to DLSE before prosecuting an action. (Lab. Code § 181(d).) A public prosecutor is limited to bringing a prosecution related to a labor code violation within the prosecutor's geographic jurisdiction, except for prosecutors with statewide jurisdiction or other specified authority.

4. Current avenues for ensuring payment of wage claim judgments

When there is a final judgment against an employer, the Labor Code currently provides for a variety of mechanisms to ensure the employer satisfies the judgment. Under Labor Code section 238, if a final judgment for unpaid wages remains unsatisfied after 30 days or more from the time to appeal the judgment and no appeal is pending on the judgment, the employer is prohibited from conducting any business in the state, unless it obtains a specified bond or has reached an accord with the holder of the judgment for payment. (Lab. Code § 238.) If an employer continues conducting business despite the unsatisfied judgment, the Labor Commissioner may order a stop order, or create a lien on any of the employer's real or personal property in California. (Lab. Code §§ 238.1-238.3.) Furthermore, any employer that continues to conduct business after 30 days from when the judgment became unsatisfied is subject to a civil penalty of \$2,500, and an additional penalty of \$100 for every day that the judgment remains unpaid when the employer has previously been assessed a civil penalty for an unsatisfied judgment. (Lab. Code § 238(f).)

5. SB 261 requires the Labor Commissioner and DLSE to publish the names of bad actors and final orders, decisions, and awards against employers for labor law violations

In light of the continuing issue that wage theft poses in California and the significant amounts of wage theft judgments that go unpaid every year, SB 261 proposes a number of new mechanisms for ensuring that employers with wage theft judgments entered against them satisfy those judgments. The first mechanism requires the Labor Commissioner to post a copy of any order, decision, or award made by the Labor Commissioner after a hearing on its website no later than 15 days after the time to appeal the order, decision, or award has expired when no appeal is pending. To ensure the employee or complainant's confidentiality, SB 261 requires the Labor Commissioner to redact from the order, decision, or award any personal information of an employee or complainant.

The author asserts that the posting of the order, decision, or award is necessary to assist with enforcement of the judgment against an employer because it provides enhanced transparency. Specifically, it would allow public prosecutors to obtain a copy of the underlying order in order to pursue an action against the employer or judgment debtor for failing to satisfy the judgment, as public prosecutors were authorized to do by AB 594. According to the author, without the underlying order, which provides the factual basis for the judgment, it is difficult for a public prosecutor to utilize their authority to enforce the wage theft judgment that was provided by AB 594. Requiring the Labor Commissioner to post a copy of their order, decision, and award would thus allow for greater enforcement of final judgments.

6. SB 261 would require the Labor Commissioner to post a list of employers with unsatisfied judgments

In addition to requiring the Labor Commissioner to post its orders, decisions, and awards, SB 261 would require the Labor Commissioner to post on its website a list of all employers that have an unsatisfied order, decision, or award that has no appeal pending after the deadline for appealing has passed, or that have an unsatisfied final court judgment. SB 261 would require that, at least 15 days before the Labor Commissioner post an employer's information, they must notify the employer and provide the employer with specified information, including information regarding how to request the employer's information be removed. In addition, SB 261 would provide that the Labor Commissioner must remove the employer's information within 15 days if the Labor Commissioner determines that the employer has made a full payment of the unsatisfied judgment or has entered into an approved settlement dispensing the judgment, and that the employer provided a certification that all violations have been remedied or abated.

This provision of SB 261 is modeled after the posting scheme for port drayage motor carriers with unsatisfied final judgments for wage theft and other labor law violations pursuant to Labor Code section 2810.4. Those provisions likewise provide a process for the Labor Commissioner to remove the names of port drayage motor carriers within 15 days when they satisfy the final judgment and meet other similar requirements as required by SB 261.

7. SB 261 would provide an additional civil penalty for employers who fail to satisfy a final judgment for more than 180 days after the judgment becomes final

SB 261 also creates a new civil penalty for when an employer fails to satisfy a final judgment for the nonpayment of wages for more than 180 days after the deadline to appeal has passed and no appeal is pending. This civil penalty is three times the outstanding judgment amount, including post-judgment interest due. SB 261 specifies that a court must assess the amount of this civil penalty requested, except where the court finds by clear and convincing evidence good cause to reduce the amount. This evidentiary standard is designed to make it difficult for the employer who has failed to pay the outstanding judgment to decrease the penalty sought. This civil penalty would be equally distributed between the aggrieved employee or employees and DLSE. Any successor to the employer, as successor is currently defined for liability in the Labor Code, would be jointly and severally liable for this civil penalty.

This additional civil penalty would provide employers with additional incentive to satisfy outstanding final judgments, and with its specified timeline, would target the most intransigent employers. It is designed to discourage employers from substantially delaying satisfying the judgment, and would be tied to the size of the outstanding judgment. According to the author, the current \$2,500 penalty is often an insufficient

deterrent to ensure an employer pays the judgement because it is not tied to the size of the wage theft judgment or the number of employees affected. Therefore, employers are not faced with a sufficient financial deterrent to incentivize them to pay unsatisfied judgments. SB 261's civil penalty is designed to provide that sufficient deterrent, but only when an employer has waited a considerable time to pay the judgment.

Lastly, SB 261 provides for reasonable attorney's fees and court costs for a judgment creditor, the Labor Commissioner, or a public prosecutor when they prevail in an action to enforce a final judgment for wage theft. This provision ensures that public prosecutors and the Labor Commissioner or another creditor is guaranteed compensation, at the expense of the intransigent employer, for bringing an action to ensure the wage theft judgment is paid by the employer. Without being entitled to attorney's fees and costs, a public prosecutor may not have the funding needed to cover the expenses of pursuing an enforcement action, thereby frustrating the purpose of Labor Code provisions meant to create additional tools by which the state can enforce wage theft judgements.

8. SB 261's limitation on disclosure of a public record

The California Constitution and laws generally recognize that public access to information regarding the conduct of the people's business is a fundamental right. However, this right must be balanced against the right to privacy. Thus, the general right of access to public records may be limited where the Legislature finds a public policy justification necessitating limiting access. SB 261 limits access to public records by requiring the Labor Commissioner to redact the personal information of any employee or complainant from the orders, decisions, and awards that it must publish on its website pursuant to Section 2 of the bill. It does so to protect the privacy of employees and complainants. Considering the private and personal nature of the information to be redacted, SB 261's limitation on the public's access to this information seems warranted.

9. Amendments

The Author has agreed to amendments that will impose a timeline for which final orders, decisions, and awards will remain posted on the Labor Commissioner's website, and will clarify that the bill's civil penalty is not available where an employer has entered into an agreement to pay the unsatisfied judgment, such as an agreement to pay through installment payments. A full mock-up of the amendments is attached at the end of this analysis.

10. Arguments in support:

According to the California Labor Federation, AFL-CIO, which is a co-sponsor of SB 261:

Despite the best efforts of the Labor Commissioner and other enforcement agencies, state-level enforcement of labor law violations is inadequate. There are numerous barriers to enforcement even if agencies [are] well-funded, but instead, these agencies are underfunded and understaffed – both Cal/OSHA and the Labor Commissioner’s Office have vacancy rates above 30%. Even when workers go through the burdensome and lengthy process to obtain a judgment under the California Labor Code, those judgments often go uncollected. In 2023, the LCO received 39,000 wage theft claims, yet only 12% of workers who reported stolen wages to the LCO received the payment they are owed, and over half of wage theft judgments go unpaid.

Employers generally face no penalties for failing to pay a wage theft judgment once awarded by LCO and entered in Superior Court. Employees are only entitled to simple interest when a judgment goes unpaid, even if unpaid for months or years. The LCO has authority to impose a small \$2,500 penalty on certain employers for the first nonpayment violation, and \$100 per day for subsequent violations, but these limited penalties have proven to be insufficient leverage to get employers to pay.

SB 261 creates a deterrent to prevent employers from avoiding payment of wage theft judgments and gives workers more access to attorneys and public prosecutors to help them collect wages that are due to them. The bill requires the LCO to broaden the wage theft data available on its public website by posting a copy of any underlying order, decision, or award (ODA) and create a central list of businesses with outstanding wage theft judgments against them. It also creates a real deterrent to irresponsible employers by imposing additional penalties after six months of prolonged nonpayment of a wage theft judgment of up to three times the amount of the judgment. Finally, it expands workers’ access to justice by providing mandatory attorneys’ fees and costs for any entity that takes judicial action to enforce compliance with wage theft judgments.

Wage theft enforcement makes sure workers are properly paid for every hour they work. That puts money back in workers’ pockets at a time when every dollar makes a difference to keep up with the rising cost of living. It also levels the playing field for responsible employers.

11. Arguments in opposition:

According to the California Chamber of Commerce, which opposes SB 261:

SB 261 requires the Labor Commissioner to post *every* order, decision or award (“ODA”) online for public viewing unless it is being appealed. ODAs are issued at the conclusion of hearings before the Labor Commissioner. Just as in court, there are many situations in which the parties may choose to participate in a hearing rather than reach settlement. For example, a genuine dispute about under what circumstances a reimbursement is due or whether a specific manager did or did not offer timely meal breaks. Many claims in labor and employment law arise where there are no concrete records or where the law is highly fact specific, resulting in legitimate, good faith disputes. Our concern is that creating a public list of all employers with ODAs places those in good faith disputes on the same list as those who have an ODA issued against them because they acted maliciously in withholding wages or failed to show up to the hearing at all. Further, posting every single ODA online effectively creates a shopping list for trial attorneys. The 2024 PAGA Reform legislation codified existing case law providing those higher penalties (\$200 per employee per pay period) under PAGA for subsequent violations may be awarded where the LWDA issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful. By handing trial attorneys a copy of every ODA issued, the Legislature is handing them a shopping list of employers to go threaten with litigation to see if they can get a higher penalty.

To be clear, we are not opposing the publishing of unsatisfied judgments where the employer is ignoring their obligation to pay an outstanding ODA. For Section Five of the bill, we simply request additional clarity that an employer who has entered into an agreement with the employee regarding a payment plan or schedule not be included under the new penalty created in that section. Our understanding of Section Three is that payment plans are accounted for based on existing regulations on the similar port drayage list and we believe this should apply to the increased penalty as well.

SUPPORT

California Federation of Labor Unions, AFL-CIO (sponsor)

Civil Prosecutors Coalition (sponsor)

County of Santa Clara (sponsor)

American Federation of State, County and Municipal Employees (AFSCME) Local 57

California Employment Lawyers Association

California Nurses Association

California Rural Legal Assistance Foundation, INC.

California School Employees Association

City and County of San Francisco
Consumer Attorneys of California
David Chiu, San Francisco City Attorney
Santa Clara County Wage Theft Coalition

OPPOSITION

Acclamation Insurance Management Services
Allied Managed Care
Anaheim Chamber of Commerce
Associated General Contractors
Associated General Contractors San Diego
Brea Chamber of Commerce
California Apartment Association
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Association of Winegrape Growers
California Builders Alliance
California Chamber of Commerce
California Farm Bureau
California League of Food Producers
California Restaurant Association
California Retailers Association
California Trucking Association
Carlsbad Chamber of Commerce
Civil Justice Association of California (CJAC)
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce
Construction Employers' Association
Corona Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Flasher Barricade Association
Folsom Chamber of Commerce
Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Hayward Chamber of Commerce
LA Canada Flintridge Chamber of Commerce
Lincoln Area Chamber of Commerce
Lodi District Chamber of Commerce
Long Beach Area Chamber of Commerce

Murrieta Wildomar Chamber of Commerce
National Federation of Independent Business
North San Diego Business Chamber
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Palos Verdes Peninsula Chamber of Commerce
Paso Robles Templeton Chamber of Commerce
Porterville Chamber of Commerce
Poway Chamber of Commerce
Rancho Cordova Chamber of Commerce
Rancho Mirage Chamber of Commerce
Redondo Beach Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Sacramento Regional Builders Exchange
San Diego Regional Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Seal Beach Chamber of Commerce
Shingle Springs/Cameron Park Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Torrance Area Chamber of Commerce
United Chamber Advocacy Network
Western Electrical Contractors Association
Yuba Sutter Chamber of Commerce

RELATED LEGISLATION

Pending Legislation:

SB 355 (Pérez, 2025) requires, if a judgment debtor to an order, decision, or award made by the Labor Commissioner fails to provide specified documentation to the Labor Commissioner within 60 days that the order, decision, or award becomes final, that the Department of Motor Vehicles must suspend the judgment debtor's driver's license within 90 days of a notice of the unsatisfied judgment. SB 355 is currently pending before the Senate Labor, Public Employment, and Retirement Committee.

SB 648 (Smallwood-Cuevas, 2025) authorizes the Labor Commissioner to investigate and issue a citation or initiate a civil action for a violation of state laws regarding tips, and specifies the procedures for issuing, contesting, or enforcing judgments for any such citation. SB 648 is currently pending before this Committee.

AB 1234 (Ortega, 2025) revises the process for the Labor Commissioner to investigate and hear employee complaints, and would make other changes to the process by which a party may appeal an order, decision, or award made by the Labor Commissioner. AB 1234 is currently pending in the Assembly Labor and Employment Committee.

AB 485 (Ortega, 2025) requires a state agency, if an employer is required to obtain a license or permit from that state agency, to deny a new license or permit or renewal for that employer when the employer is in violation of the prohibition against conducting business in the state for having an unsatisfied final judgment for the nonpayment of wages. AB 485 is currently pending before the Assembly Appropriations Committee.

Prior Legislation:

AB 594 (Maienschein, Ch. 659, Stats. 2023) authorized the Attorney General, district attorneys, city attorneys, county counsel, or any other city prosecutors to enforce specified provisions of the Labor Code. AB 594 provided for its provisions to be repealed on January 1, 2029.

SB 588 (De León, Ch. 803, Stats. 2015) prohibited an employer from conducting business in the state when a final judgment against the employer for unpaid wages remains unsatisfied for 20 days after the deadline for appeal has expired and no appeal is pending, and provided the Labor Commissioner the authority to impose a lien on an employer's personal and real property for the full amount of wages and other amounts due when the employer violates this provision.

AB 469 (Swanson, Ch. 655, Stats. 2011) made it a misdemeanor for an employer to willfully fail to pay a final court judgment, among other changes.

SB 796 (Dunn, Ch. 906, Stats. 2004) created the Labor Code Private Attorneys General Act of 2004, providing that an employee may bring a civil action on behalf of themselves and other employees who were subjected to a violation of the labor code by their employer, instead of pursuing their claim through the enforcement agency.

PRIOR VOTES:

Senate Labor, Public Employment and Retirement Committee (Ayes 4, Noes 1)

DRAFT OF PROPOSED AMENDMENTS TO SB 261 (Wahab)

(Amendments may be subject to technical changes by Legislative Counsel)

Mock-up based on Version Number 97 - Amended Senate 3/27/25

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The full and prompt payment of wages due to workers is, and has long been, a fundamental public policy of this state. Vindication of this policy, including, where necessary, through effective enforcement, is critical to ensuring that California's economy is vibrant and equitable for all Californians. The failure to timely pay all wages due robs the individual workers of what they have earned, and also harms the public at large, including by placing additional burdens on public services and unfairly disadvantaging businesses that comply with the law.

(2) Wage theft is a pervasive issue statewide, especially for low-income workers. A report from Rutgers University estimated that in four of California's largest metropolitan areas, employers unlawfully failed to pay low-wage workers \$2.3 to \$4.6 billion in earned wages each year between 2014 and 2023. Studies, including by the Economic Policy Institute, also show that workers lose far more through wage theft than retailers lose through shoplifting, drivers lose through carjacking, or residents lose through burglaries.

(3) Provisions of the Labor Code and Civil Code that allow collection of simple interest for nonpayment of a judgment are inadequate to deter prospective violators and ensure workers are promptly paid the judgments they are owed.

(4) The Labor Code and Business and Professions Code authorize public prosecutors to pursue actions against employers based on their failure to satisfy wage theft judgments, but information about the underlying violations is often needed to make these actions effective.

(b) Therefore, it is the intent of the Legislature to provide additional tools to enhance enforcement and collection of wage judgments to ensure workers who are victims of wage theft are paid in a timely manner, consistent with public policy of this state.

SEC. 2. Section 98.1 of the Labor Code is amended to read:

98.1. (a) (1) Within 15 days after the hearing is concluded, the Labor Commissioner shall file in the office of the division a copy of the order, decision, or award. The order, decision, or award shall include a summary of the hearing and the reasons for the decision. Upon filing of the order, decision, or award, the Labor Commissioner shall

serve a copy of the decision personally, by first-class mail, or in the manner specified in Section 415.20 of the Code of Civil Procedure on the parties. The notice shall also advise the parties of their right to appeal the order, decision, or award and further advise the parties that failure to do so within the period prescribed by this chapter shall result in the decision or award becoming final and enforceable as a judgment by the superior court.

~~(2) No later than 15 days after the time to appeal from the order, decision, or award has expired and no appeal therefrom is pending, the commissioner shall post a copy of the order, decision, or award on the division's internet website. The commissioner shall redact the name, address, and personal contact information of any employee or other complainant from the order, decision, or award before posting the order, decision, or award on the division's internet website.~~

(2) No later than 15 days after the time to appeal from the order, decision, or award has expired and no appeal therefrom is pending, the commissioner shall post a copy of the order, decision, or award on the division's internet website for seven years. The commissioner shall redact the name, address, and personal contact information of any employee or other complainant from the order, decision, or award before posting the order, decision, or award on the division's internet website.

(b) For the purpose of this section, an award shall include any sums found owing, damages proved, and any penalties awarded pursuant to this code.

(c) All awards granted pursuant to a hearing under this chapter shall accrue interest on all due and unpaid wages at the same rate as prescribed by subdivision (b) of Section 3289 of the Civil Code. The interest shall accrue until the wages are paid from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2.

SEC. 3. Section 98.15 is added to the Labor Code, immediately following Section 98.1, to read:

98.15. (a) (1) (A) The Division of Labor Standards Enforcement shall post on its internet website the names, addresses, and essential information, including, but not limited to, fictitious business names, of any employer with an unsatisfied order, decision, or award issued under this chapter as to which the time to appeal has expired and no appeal therefrom is pending, or with an unsatisfied final court judgment based on the order, decision, or award.

(B) The division shall not post the information required under this paragraph on its internet website until the period for all judicial appeals from the order, decision, or award has expired.

(C) A posting required by this paragraph shall be removed within 15 business days after the division determines that both of the following are true:

(i) There has been full payment of any unsatisfied judgment and any other financial liabilities for all violations identified pursuant to subparagraph (A) or that the employer has entered into an approved settlement dispensing of the judgment and any liabilities.

(ii) The employer has submitted certification, under penalty of perjury, that all violations identified pursuant to subparagraph (A) have been remedied or abated.

(2) No fewer than 15 business days before posting on its internet website the names, addresses, and essential information for any employer pursuant to paragraph (1), the division shall provide notification by certified mail to the employer that, at a minimum, shall include all of the following:

(A) The name, email address, and telephone number of a contact person at the division.

(B) The alleged conduct and a copy of the citation, unsatisfied court judgment, assessment, order, decision, or award.

(C) A copy of the regulations or rules of practice or procedure adopted pursuant to subdivision (d) for removal of the posting.

(b) A waiver of this section is contrary to public policy, and is void and unenforceable.

(c) This section shall not apply to orders, decisions, or awards, or final court judgments issued against port drayage motor carriers, as defined in paragraph (5) of subdivision (a) of Section 2810.4.

(d) The Labor Commissioner may adopt regulations and rules of practice and procedure necessary to administer and enforce the provisions of this section that are under the commissioner's jurisdiction. Unless and until the Labor Commissioner adopts regulations and rules of practice and procedure under this provision, for purposes of this section, the following apply:

(1) The term "essential information" shall have the meaning set forth in regulations adopted pursuant to subdivision (m) of Section 2810.4.

(2) "Sufficient documentation" shall conform to the description set forth in regulations adopted pursuant to clause (ii) of subparagraph (D) of paragraph (1) of subdivision (c) of Section 2810.4.

(3) An employer seeking removal under subparagraph (C) of paragraph (1) of subdivision (a) may rely on the removal procedure set forth in the regulation entitled "Removal from Public List" adopted pursuant to subdivision (m) of Section 2810.4.

SEC. 4. Section 98.2 of the Labor Code is amended to read:

98.2. (a) Within 10 days after service of notice of an order, decision, or award, the parties may seek review by filing an appeal to the superior court, where the appeal shall be heard de novo. The court shall charge the first paper filing fee under Section 70611 of the Government Code to the party seeking review. The fee shall be distributed as provided in Section 68085.3 of the Government Code. A copy of the appeal request shall be served upon the Labor Commissioner by the appellant. For purposes of computing the 10-day period after service, Section 1013 of the Code of Civil Procedure is applicable.

(b) As a condition to filing an appeal pursuant to this section, an employer shall first post an undertaking with the reviewing court in the amount of the order, decision, or award. The undertaking shall consist of an appeal bond issued by a licensed surety or a cash deposit with the court in the amount of the order, decision, or award. The employer shall provide written notification to the other parties and the Labor Commissioner of the posting of the undertaking. The undertaking shall be on the condition that, if any judgment is entered in favor of the employee, the employer shall pay the amount owed pursuant to the judgment, and if the appeal is withdrawn or dismissed without entry of judgment, the employer shall pay the amount owed pursuant to the order, decision, or award of the Labor Commissioner unless the parties have executed a settlement agreement for payment of some other amount, in which case the employer shall pay the amount that the employer is obligated to pay under the terms of the settlement agreement. If the employer fails to pay the amount owed within 10 days of entry of the judgment, dismissal, or withdrawal of the appeal, or the execution of a settlement agreement, a portion of the undertaking equal to the amount owed, or the entire undertaking if the amount owed exceeds the undertaking, is forfeited to the employee.

(c) If the party seeking review by filing an appeal to the superior court is unsuccessful in the appeal, the court shall determine the costs and reasonable attorney's fees incurred by the other parties to the appeal, and assess that amount as a cost upon the party filing the appeal. An employee is successful if the court awards an amount greater than zero.

(d) If no notice of appeal of the order, decision, or award is filed within the period set forth in subdivision (a), the order, decision, or award shall, in the absence of fraud, be deemed the final order.

(e) The Labor Commissioner shall file, within 10 days of the order becoming final pursuant to subdivision (d), a certified copy of the final order with the clerk of the superior court of the appropriate county unless a settlement has been reached by the parties and approved by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered has the same force and effect as, and is subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other

judgment of the court in which it is entered. Enforcement of the judgment shall receive court priority.

(f) (1) In order to ensure that judgments are satisfied, the Labor Commissioner may serve upon the judgment debtor, personally or by first-class mail at the last known address of the judgment debtor listed with the division, a form similar to, and requiring the reporting of the same information as, the form approved or adopted by the Judicial Council for purposes of subdivision (a) of Section 116.830 of the Code of Civil Procedure to assist in identifying the nature and location of any assets of the judgment debtor.

(2) The judgment debtor shall complete the form and cause it to be delivered to the division at the address listed on the form within 35 days after the form has been served on the judgment debtor, unless the judgment has been satisfied. In the case of a willful failure by the judgment debtor to comply with this subdivision, the division or the judgment creditor may request the court to apply the sanctions provided in Section 708.170 of the Code of Civil Procedure.

(g) (1) As an alternative to a judgment lien, upon the order becoming final pursuant to subdivision (d), a lien on real property may be created by the Labor Commissioner recording a certificate of lien, for amounts due under the final order and in favor of the employee or employees named in the order, with the county recorder of any county in which the employer's real property may be located, at the Labor Commissioner's discretion and depending upon information the Labor Commissioner obtains concerning the employer's assets. The lien attaches to all interests in real property of the employer located in the county where the lien is created to which a judgment lien may attach pursuant to Section 697.340 of the Code of Civil Procedure.

(2) The certificate of lien shall include information as prescribed by Section 27288.1 of the Government Code.

(3) The recorder shall accept and record the certificate of lien and shall index it as prescribed by law.

(4) Upon payment of the amount due under the final order, the Labor Commissioner shall issue a certificate of release, releasing the lien created under paragraph (1). The certificate of release may be recorded by the employer at the employer's expense.

(5) Unless the lien is satisfied or released, a lien under this section shall continue until 10 years from the date of its creation.

(h) Notwithstanding subdivision (e), the Labor Commissioner may stay execution of any judgment entered upon an order, decision, or award that has become final upon good cause appearing therefor and may impose the terms and conditions of the stay of

execution. A certified copy of the stay of execution shall be filed with the clerk entering the judgment.

(i) When a judgment is satisfied in fact, other than by execution, the Labor Commissioner may, upon the motion of either party or on its own motion, order entry of satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment upon the filing of a certified copy of the order.

(j) The Labor Commissioner shall make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action and requiring the employer to deposit a bond as provided in Section 240.

(k) The judgment creditor, or the Labor Commissioner or a public prosecutor, as defined in Section 180, as assignee of the judgment creditor, shall be awarded court costs and reasonable attorney's fees for enforcing the judgment that is rendered pursuant to this section.

SEC. 5. Section 238.05 is added to the Labor Code, to read:

238.05. (a) If a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state remains unsatisfied after a period of 180 days after the time to appeal therefrom has expired and no appeal therefrom is pending, the employer shall be subject to a civil penalty not to exceed three times the outstanding judgment amount, including postjudgment interest then due, *provided that an employer shall not be subject to a penalty under this subdivision if the employer reaches an accord described in subdivision (b) of Section 238 before the 180th day and then remains in full compliance with the accord until its full satisfaction.* The court may assess this penalty in any action brought to enforce the judgment or to otherwise induce compliance by or impose lawful consequences on a judgment debtor.

(b) In any action brought to enforce the judgment or to otherwise induce compliance by or impose lawful consequences on a judgment debtor, the court shall assess against the employer the entire amount of the requested penalty except to the extent that the court finds that the employer has demonstrated by clear and convincing evidence good cause to reduce the amount of the penalty.

(c) Penalties assessed by a court pursuant to this section shall be distributed as follows:

(1) Fifty percent to the employee or employees in whose favor the judgment was rendered, shared proportionally according to the amount due to each employee in the judgment entered in superior court.

(2) Fifty percent to the Division of Labor Standards Enforcement for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the division for those purposes.

(d) A successor to a judgment debtor, as defined in subdivision (a) of Section 200.3 or by any other law, shall be jointly and severally liable for penalties assessed pursuant to this section.

(e) Penalties assessed pursuant to this section shall be in addition to any other penalties or fines permitted by law.

SEC. 6. Section 238.10 is added to the Labor Code, immediately following Section 238.05, to read:

238.10. The court shall award a prevailing plaintiff all reasonable attorney's fees and costs in any action brought by a judgment creditor, the Labor Commissioner, or a public prosecutor, as defined in Section 180, to enforce a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state, or to otherwise induce compliance by or impose lawful consequences on a judgment debtor for nonsatisfaction of a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state.

SEC. 7. The Legislature finds and declares that Section 2 of this act, which amends Section 98.1 of the Labor Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of employees and complainants, while also seeking redress for wage theft, it is necessary to preserve the confidentiality of this information.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.