

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

SB 597 (Cortese)
Version: March 28, 2025
Hearing Date: April 22, 2025
Fiscal: Yes
Urgency: No
ID

SUBJECT

Labor-related liabilities: direct contractor and subcontractor

DIGEST

This bill provides, for contracts entered into on or after January 1, 2026, joint liability for a direct contractor in a contract relating to construction of a private work for any indebtedness for the performance of labor incurred by a subcontractor, except as specified.

EXECUTIVE SUMMARY

A “private work of improvement” is work to construct, alter, repair, demolish, or remove buildings, bridges, and other structures, or to conduct work such as leveling, grading, or landscaping of real property for a private entity. Often, works of improvement involve multiple parties, as the owner of the project contracts with a direct contractor for the work, and the direct contractor contracts with subcontractors for the completion of specific components of the project. To ensure that workers of subcontractors can receive their compensation due under the contract, state law makes direct contractors jointly liable with subcontractors for the wages and other payments due to the subcontractor’s employees. The federal Employee Retirement Income Security Act (ERISA) sets minimum standards for private employee benefit plans to protect participants’ benefits. A recent court case ruled that ERISA preempted the state’s joint liability statute with regard to unpaid contributions to employee benefit plans. SB 597 aims to recast and revise the state’s joint liability statute to address these preemption concerns, and makes a number of other changes to the joint liability statute, including that a direct contractor may avoid liability if they pay subcontractors and benefit plans through a joint check arrangement, as specified. SB 597 is sponsored by the Western States Council of Sheet Metal Workers, and is supported by the California Building Industry Association and a number of unions and worker associations. The Committee has received no timely letters of opposition. SB 597 previously passed out of

the Senate Committee on Labor, Public Employment and Retirement by a vote of five to zero.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Permits, pursuant to the Labor Management Cooperation Act of 1978, the establishment of plant, area, and industry-wide joint labor management committees, which are organized jointly by employers and labor organizations representing employees in that plant, area, or industry, as specified. (29 U.S.C. § 175a.)
- 2) Establishes labor management committees for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development, or involving workers in decisions affecting their jobs. (29 U.S.C. § 175a.)
- 3) Establishes the Employee Retirement Income Security Act (ERISA) to set the minimum standards for employee benefit trusts in private industry, including by providing plan participants with the right to sue for benefits. Specifies that ERISA supersedes all state laws to the extent that they relate to employee benefit plans covered by ERISA. (29 U.S.C. 1001 et seq.)

Existing state law:

- 1) Requires, for contracts entered into on or after January 1, 2022, a direct contractor making or taking a contract for the erection, construction, alteration, or repair of a building, structure, or other private work, to assume, and be liable for, any debt owed to a wage claimant or third party on the wage claimant's behalf, incurred by a subcontractor at any tier acting under, by, or for the direct contractor for the wage claimant's performance of labor included in the subject of the contract between the direct contractor and the owner. (Lab. Code § 218.8(a)(1).)
- 2) Extends the direct contractor's liability to penalties, liquidated damages, and interest owed by the subcontractor on account of the performance of the labor covered by the contract, unless specified requirements are met. (Lab. Code § 218.8(a)(2).)
- 3) Provides that, if a worker employed by a subcontractor on a private construction project is not paid the wage, fringe, or other benefit payment or contribution owed by the subcontractor, the direct contractor of the project is not liable for any associated penalties or liquidated damages unless the direct contractor had knowledge of the subcontractor's failure to pay the specified wage, fringe, or other benefit payment or contribution, or the direct contractor fails to comply with all of the following requirements:

- a) the contractor monitors the payment by the subcontractor of wage, fringe, or other benefit payment or contribution to the employees or the labor trust fund, by periodic review of the subcontractor's payroll records, as specified;
 - b) upon becoming aware of the failure of the subcontractor to pay wages, the contractor diligently takes corrective action to halt or rectify the failure; and
 - c) prior to making final payment to the subcontractor, the contractor must obtain an affidavit from the subcontractor affirming that all workers have been properly paid. (Lab. Code § 218.8(a)(3).)
- 4) Specifies that the Division of Labor Standards Enforcement must notify the contractor and subcontractor on a private works project within 15 days of receiving a complaint for failure of the subcontractor to pay wage, fringe, or other benefits to workers. (Lab. Code § 218.8.(a)(4).)
- 5) Specifies that a direct contractor or any other person may not evade or negate the requirements of the sections described in (1) through (4), above.
- 6) Permits the Labor Commissioner to enforce against a direct contractor liability for unpaid wages, liquidated damages, interest, and penalties pursuant to (1) through (4), above, through a hearing before the Labor Commissioner, a citation, or a civil action. (Lab. Code § 218.8(b)(1)(A).)
- 7) Permits a third party owed fringe or other benefit payments or contributions on a wage claimant's behalf to bring a civil action against a direct contractor to enforce liability for any wage, fringe, or other benefit payment or contribution, penalties, or liquidated damages, and interest owed by a subcontractor. Specifies that a prevailing plaintiff in such a civil action must be awarded reasonable attorney's fees and costs, including expert witness fees. (Lab. Code § 218.8(b)(2).)
- 8) Permits a Joint Labor-Management Cooperation Committee (JLMCC) established pursuant to the federal Labor Management Cooperation Act of 1978 to bring an action in any court of competent jurisdiction against a direct contractor or subcontractor at any tier to enforce liability for any unpaid wage, fringe, or other benefit payment or contribution, and for corresponding penalties or liquidated damages, and interest owed by the subcontractor on account for a worker's labor on a private work. (Section 218.8(b)(3).)
 - a) Requires a court to award a prevailing plaintiff its reasonable attorney's fees and costs, including expert witness fees, for claims brought by a JLMCC, as specified. (Lab. Code § 818.8(b)(3).)

- 9) Specifies that property of the direct contractor may be attached after trial for payment of any judgment received pursuant to (1) through (8), above. (Lab. Code § 218.8(c).)
- 10) Specifies that an action pursuant to (1) through (8), above, must be filed within one year of: the recordation of the notice of completion of the direct contractor, or recordation of a notice of cessation of work covered by the direct contract, or actual completion of the work covered by the contract. (Lab. Code § 218.8(d).)
- 11) Specifies that the provisions in (1) through (10), above, do not apply to work performed by an employee of the state, a special district, a city, a county, a city and county, or any political subdivision of the state. (Lab. Code § 218.8(e).)
- 12) Requires, upon request by a direct contractor, that a subcontractor and lower subcontractors provide payroll records that contain, at a minimum, specified information regarding its employees who are providing labor on the private work. Requires the subcontractor or lower subcontractor to provide the direct contractor award information, as specified, and specifies that a subcontractor's failure to do so does not relieve a direct contractor from any obligations described above. (Lab. Code § 218.8(f).)
- 13) Defines, for the purposes of the above provisions, "direct contractor" and "subcontractor" by reference to specified sections of the Civil Code. By reference, these sections define a direct contractor as a contractor that has a direct contractual relationship with an owner, including a "prime contractor," and define a subcontractor as a contractor that does not have a direct contractual relationship with an owner, including a contractor that has a contractual relationship with a direct contractor or subcontractor. (Lab. Code § 218.8(g); Civ. Code §§ 8018, 8046.)
- 14) Specifies that nothing in the provisions described above alters an owner's obligation to timely pay a direct contractor or a direct contractor's obligation to timely pay a subcontractor, as specified, or alters the penalties for failing to do so. (Lab. Code § 218.8(h).)
- 15) Specifies that, for any contract entered into on or after January 1, 2022, a direct contractor must specify in its contract with a subcontractor the specific information and documents that the direct contractor will require, in order to withhold payments as disputed under (14), above, above provides subcontractors the same requirements for withholding payment from their subcontractors. (Lab. Code § 218.8(i).)

This bill:

- 1) Specifies that the provisions described in existing law, (1) through (15) above, apply only to contracts entered into before January 1, 2026.
- 2) Specifies that, for contracts entered into on or after January 1, 2026, a direct contractor making or taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other private work, assumes, and is liable for, any indebtedness for the performance of labor, as specified, incurred by a subcontractor at any tier acting under, by, or for the direct contractor included in the subject of the contract between the direct contractor and the owner. Specifies that the direct contractor's liability is limited to payments for labor required by the subcontractor's agreement with the laborer or the labor organization representing the laborer.
- 3) Specifies that a direct contractor's liability under (2), above, extends to any indebtedness for labor, as described, penalties or liquidated damages, and interest owed by the subcontractor.
- 4) Replicates the provisions described in (3) through (6) of existing state law, above, to apply pursuant to (2), above, with conforming changes.
- 5) Specifies that a person or entity, as specified in a particular provision of the Civil Code, may bring a civil action against a direct contractor to enforce the liability for any unpaid wage, fringe, or other benefit payment or contribution, penalties or liquidated damages, and interest owed by the subcontractor for labor, and specifies that the court must award a prevailing plaintiff reasonable attorney's fees and costs, including expert witness fees.
- 6) Replicates the provisions described in (8) through (12) of existing state law, above, to apply pursuant to (2), above.
- 7) Specifies that an action pursuant to these provisions may not be based on an employer's misclassification of the craft of a worker.
- 8) Specifies that the remedies provided by these provisions are cumulative of any other available remedies.
- 9) Defines, for the purposes of the above provisions:
 - a) "Direct Contractor" to mean a contractor that has a direct contractual relationship with an owner or any other person or entity engaging contractors or subcontractors for the erection, construction, alteration, or repair of a building or other private work on behalf of the owner.

- b) “Subcontractor” to mean the definition provided in a particular Civil Code provision, which defines subcontractor as a contractor that does not have a direct contractual relationship with an owner, including a contractor that has a contractual relationship with a direct contractor or another subcontractor.
- 10) Replicates the provisions described in (14) and (15) of existing state law, above, to apply pursuant to (2), above.
- 11) Provides that a direct contractor may not be held liable pursuant to (2) and (3), above, to the extent that the direct contractor has made payment compliant with the following:
- a) the direct contractor made a payment using a joint check made payable to the subcontractor and the trust, plan, fund, or program or any fringe or other benefit payment or contribution;
 - b) the subcontractor provides the name, type, number, and address of the trust, plan, fund, or program to the direct contractor; and
 - c) the direct contractor notifies the trust, plan, fund, or program that it has paid the subcontractor with a joint check.

COMMENTS

1. Author’s statement

According to the author:

Wage theft in the California construction economy has been described as “rampant” by the California Bureau of Field Enforcement at the California Department of Industrial Relations. Since 2022, the courts have received countless wage theft cases, but amendments to the Labor code unintentionally left workers underpaid and discouraged from speaking out against their employers for fear of retaliation. SB 597 bolsters statutory remedies against general contractors to eliminate ERISA preemption and incentivizes general contractors to monitor their subcontractors’ compliance. Furthermore, this bill only applies to work performed on private construction projects on or after January 1, 2026. SB 597 protects workers and ensures the courts have the tools they need to review cases.

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, for rest and meal breaks, for overtime pay, for the timely payment of wages, and for gratuities, 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, 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 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 Wage theft can include a variety of labor law violations, including when an employer fails to pay a worker what they are owed under their employment contract, or fails to provide the benefits to which the worker is entitled.

3. Various laws aim to protect workers of subcontractors in the private works of improvement context

A "work of improvement" is work to construct, alter, repair, demolish, or remove buildings, bridges, and other structures, or to conduct work such as leveling, grading, or landscaping real property. (Civ. Code § 8050.) Residential or mixed-use and commercial projects can be a work of improvement. When a work of improvement is contracted for by a public entity, it is considered a public work of improvement, while all other works of improvement are private works of improvement. (Civ. Code §§ 8160, 9000.) Often, works of improvement are quite complex, as they require different tasks and types of construction work to be completed for the same project, such as laying a building's foundation, erecting the building's frame, and installing electrical components. Thus, the owner of the project often contracts with direct contractors for the work, and direct contractors contract with subcontractors for completion of specific components of the project.

When a direct contractor contracts with a subcontractor, the subcontractor's employees only have a contractual relationship with the subcontractor as their employer, despite the fact that the project is for the direct contractor. Due to this arrangement, if a subcontractor failed to pay one of its workers, before 2017, the only recourse for the worker was to pursue the subcontractor for those wages or benefits. This sometimes left workers out to dry when a subcontractor would simply dissolve or become insolvent,

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/>.

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>.

and would allow the direct contractor to avoid liability while benefiting from the unpaid labor. Moreover, without an adequate way of recouping their wages or benefits from the direct contractor that hired the subcontractor, workers would be without a remedy and would lose the wages and benefits they already earned.

4. Labor Code sections 218.7 and 218.8 provide direct contractors on private works of improvement with joint liability for the wages, benefits payments and contributions, and penalties and liquidated damages owed by a subcontractor to its workers

To help address this issue and provide workers greater ability to recover stolen wages or benefits, the Legislature passed AB 1701 (Thurmond, Ch. 804, Stats. 2017) in 2017. AB 1701 established, as Labor Code section 218.7, that a direct contractor on a private work of improvement project is jointly liable with a subcontractor for all of the wages, fringe benefits, and labor trust fund contributions due to any worker of the subcontractor. This provided workers on private construction projects with another avenue through which they could collect any unpaid wages or benefits, and created an incentive for direct contractors to monitor their subcontractors and the payment of wages and benefits for compliance. AB 1701 authorized the Labor Commissioner, a third party that is owed fringe or other benefit payments on behalf of a worker, or a joint labor-management cooperation committee (JLMCC) to bring a civil action to recover the unpaid wages or fringe benefit payments. JLMCCs are entities created under the federal Labor Management Cooperation Act of 1978 (P.L. 94-524 (1978)) to improve communications and working relationships between labor and management.

In 2021, the Legislature passed SB 727 (Leyva, Ch. 338, Stats. 2021), which added a sunset date to Labor Code section 218.7 so that it only applied to contracts entered into between January 1, 2018 and December 31, 2021. SB 727 also added Labor Code section 218.8 which provided for similar joint liability as Labor Code section 218.7 for contracts entered into after January 1, 2022. Under this section, SB 727 extended the liability created under AB 1701 to include statutory penalties, liquidated damages, and interest, in addition to liability for unpaid wages, fringe benefits, and labor trust fund contributions. (SB 727, Leyva, Ch. 338, Stats. 2021.) SB 727 allowed a direct contractor to avoid liability for penalties and liquidated damages when the direct contractor did not know of the subcontractor's failure to pay the specified wage or benefit, or if they conducted monitoring, diligently corrected any failure by a subcontractor to pay its workers of which the contractor became aware, and obtained an affidavit from the subcontractor upon the completion of the work stating that the subcontractor paid all due wages to its workers. (Lab. Code § 218.8(a)(3).)

In addition to the options in Labor Code sections 218.7 and 218.8, workers on construction projects who are not paid their wages or benefits contributions have the ability to file a mechanics lien on the property for the payments they are owed. After a mechanics lien is filed on a property, that lien attaches to the property, and the property owner must pay the underlying debts in order to clear the lien from the property's title.

However, the process for filing a mechanics lien is complicated, and mechanics liens must be filed within two to three months after completion of the project. (Civ. Code § 8414.) For private works of improvement, a laborer has a right to file a mechanics lien claim. (Civ. Code § 8400.) A “laborer” is defined for the purposes of works of improvement to mean a person who performs labor or bestows skill or necessary services upon a work of improvement as an employee. (Civ. Code § 8024.) The term laborer also includes a person or entity to which a portion of the laborer’s compensation, including employer payments toward health and welfare and a worker pension, is paid by agreement with the worker or a collective bargaining unit. (Civ. Code § 8024; Lab. Code § 1773.1.)

5. The ERISA preemption cases behind this bill

The Employee Retirement Income Security Act of 1974 (Pub. L. No. 93-406 (Sept. 2, 1974) 88 Stat. 829) (ERISA) sets minimum standards for most voluntarily established health and retirement plans for private employers. ERISA places a number of requirements on such plans, including that they provide plan participants with specified information, that they establish grievance and appeals processes for participants, and that managers and controllers of a plan’s assets have fiduciary duties to the plan. In addition, ERISA provides plan participants with the right to sue for benefits. ERISA specifies that it supersedes “any and all State laws insofar as they may now or hereafter relate to any employee benefit plan.” (29 U.S.C. 1144(a).)

As ERISA includes a preemption provision, questions have arisen regarding whether California laws that allow for pension trust funds to recover contributions for workers’ labor are legal. The United States Supreme Court explained in *California Division of Labor Standards Enforcement v. Dillingham Construction* that a state law impermissibly relates to a covered employee benefit plan and thus is preempted by ERISA if it makes reference to, or has a connection with, such a plan. (*California Division of Labor Standards Enforcement v. Dillingham Construction* (1997) 519 U.S. 316.) In the case *Southern California IBEW-NECA Trust Funds v. Standard Industrial Electric Company*, a workers’ pension trust fund served a stop notice and made claims against a payment bond when a subcontractor on a school construction project failed to make payments to the pension trust fund for the subcontractors’ workers’ pensions. (*Southern California IBEW-NECA Trust Funds v. Standard Industrial Electric Company* (2001) 247 F.3d 920.) The defendant subcontractor moved to dismiss the lawsuit on the theory that the claims were preempted by ERISA. The Court ruled that California’s payment bond statute that allowed for a trust fund to collect on the bond was not preempted by ERISA. The Court’s reasoning was that it did not impermissibly “refer” to an employee benefit plan within the meaning of ERISA because it functioned irrespective of an ERISA plan, and was not necessarily limited to ERISA plans. (*S. Cal. IBEW-NECA Trust Funds*, 247 F.3d at 926.)

In the case *Betancourt v. Storke Housing Investors*, the California Supreme Court found that the state's mechanics lien laws also were not preempted by ERISA. Workers recorded a mechanics lien for unpaid contributions to their union's trust funds, and sued to foreclose on the lien when the contributions remained unpaid. (*Betancourt v. Storke Housing Investors*, (2003) 31 Cal. 4th 1157.) The California Supreme Court ruled that ERISA did not preempt an action to enforce a mechanics lien, because the mechanics lien provision did not "relate to" or have a "connection with" ERISA plans since the statute was a remedial statute of general applicability. (*Betancourt*, 31 Cal. 4th at 1166.) Relevant to the Court's analysis was the language of the mechanics lien statute, because it did not directly reference ERISA employee benefit plans, but instead referenced (as it does still) the definition of laborer in another code section that included trust funds in the definition. Because the mechanics lien provisions did not specifically reference ERISA plans, and functioned irrespective of ERISA plans, it did not make reference to ERISA plans sufficient for ERISA to preempt it. In addition, the Court found the mechanics lien statute had no connection with ERISA plans because the statute permitted laborers and other persons, including participants in ERISA plans or the plans themselves, to obtain a lien to secure payment, but did not compel ERISA plans to function any certain way. (*Betancourt*, 31 Cal. 4th at 1167.)

This bill arises out of a local dispute in which a trust fund related to the sponsors of this measure sued under the joint liability provisions of Labor Code sections 218.7 and 218.8 to recover unpaid worker benefit contributions on a home construction project. (*Sheet Metal Workers Pension Trust of Northern California et al. v. KB Home*, Santa Clara Superior Court Case No. 22CV401583.) In the dispute, the direct contractor failed to pay any of the benefit contributions to the plaintiff benefit plans required under the agreement, despite the plans' participants having provided all of the labor required under the contract. The defendant direct contractor countered the plaintiff's claims by arguing that Labor Code sections 218.7 and 218.8 were preempted by ERISA. The district court agreed with the defendants, finding that Labor Code sections 218.7 and 218.8 were preempted by ERISA because they provide an alternative scheme for holding direct contractors liable for fringe benefits beyond what would be permissible under ERISA. The plaintiff trust funds appealed the district court's ruling, but subsequently settled and dismissed the appeal before it could be decided.

6. SB 597 attempts to fortify the law from ERISA preemption concerns

However, while the appeal was dismissed, the district court's ruling still stands. Thus, SB 597 aims to amend the joint liability provisions created by Labor Code sections 218.7 and 218.8 to bring them more in line with the mechanics lien statute, in case future issues regarding whether those sections are preempted by ERISA arise. SB 597 does so by adopting the language from the mechanics lien statute that references the definition of laborer in the works of improvement statute, language which was part of the court's analysis of the mechanics lien statute's legality in *Betancourt v. Storke Housing Investors*. SB 597 places this language into a new section of the Labor Code set to take effect upon

all contracts entered into after January 1, 2026, and limits the applicability of Labor Code section 218.8 to contracts entered into before January 1, 2026. The new section created by SB 597 is substantially similar to Labor Code section 218.8, but with the language used by the mechanics lien statute.

This change would mean that the new joint liability provision would not directly refer to employee benefit plans, though the definition of laborer referenced does include employee benefit plans. Since the mechanics lien statute has already been found to not be preempted by ERISA, SB 597's change would help conform the joint liability provision with language that is already protected. While this may bolster the statutes' ability to withstand an ERISA preemption challenge, it does not necessarily guarantee that they will not be found to be preempted by future courts. Moreover, it should be noted that the district court's finding in *Sheet Metal Workers Pension Trust of Northern California et al. v. KB Home* that ERISA preempts Labor Code sections 218.7 and 218.8 does not hold precedential value on other courts, since it is a district court opinion.

7. SB 597 also amends a variety of other provisions related to works of improvement

SB 597 makes a number of other changes to the joint liability provisions and other related provisions as well. Firstly, it specifies for the purposes of joint liability that the direct contractor's liability under that section is limited to payments for labor required by the subcontractor's agreement with the laborer or their collective bargaining unit. It also specifies that an action pursuant to the joint liability provision may not be based on the employer's misclassification of the craft of the worker. This provision is meant to specify that an action under the joint liability cannot be brought on the claim that the worker's employer misclassified their craft, as in, incorrectly paid them or failed to contribute to a particular benefits fund because the employer said the skilled worker's specialized skills or the particular craft they practice was incorrect. Similar language exists in a Labor Code provision that provides JLMCCs the ability to sue an employer for failing to pay its workers prevailing wages in the public works context. (Labor Code § 1771.2.) Additionally, SB 597 specifies that the remedies under its joint liability provisions are cumulative of any other available remedy.

Lastly, SB 597 creates a new safe harbor from liability for direct contractors to utilize a "joint check" system. This system involves a direct contractor paying the subcontractor with a check that is payable to the subcontractor and to the trust, plan, fund, or other employee benefit program for the required contributions to that plan. The direct contractor would also have to notify the trust or benefit plan that it has paid the subcontractor with a joint check. The final requirement for this safe harbor is that the subcontractor provide the direct contractor with the name, address, and other relevant information for the trust or fund. Joint check arrangements have long been utilized in the construction industry as a tool for accountability because they require both payees on the joint check to endorse the check before it can be cashed. This allows a subcontractor or supplier to request payment from the other party or contractor on the

check in exchange for their endorsement, and thus better ensure that they will be paid what they are owed of the issued payment. In California, a direct contractor can avoid liability for nonpayment to a subcontractor when they issue a joint check, no agreement is provided for how the two parties listed on the check must allocate the proceeds, and the subcontractor or would-be claimant endorses the check. (*Post Bros Construction Co. v. Yoder* (1977) 20 Cal. 3d 1, 5.) In that scenario, a payee is deemed to have received the money due to them because they endorsed the check. In SB 597, a similar standard, though less stringent because it does not require the trust or benefit fund's endorsement of the check, would provide immunity from joint liability to a direct contractor.

8. Arguments in support

According to the Western States Council of Sheet Metal Workers, which is the sponsor of SB 597:

Under current law, direct contractors are liable for unpaid wages and benefits owed by subcontractors on private construction projects. However, a 2024 ruling by the Santa Clara Superior Court found that portions of existing law were preempted by the Employee Retirement Income Security Act (ERISA), undermining the ability of trust funds to recover unpaid benefit contributions. This decision has created uncertainty and weakened protections for workers in the construction industry.

SB 597 addresses this issue by modifying the statutory remedy against general contractors to ensure it remains enforceable and effective. The bill conforms its language to California's existing mechanics lien law, which courts have ruled is not preempted by ERISA, thereby preserving the ability of workers and trust funds to recover compensation owed for work performed. Additionally, the bill clarifies that direct contractor liability applies to any entity engaging contractors or subcontractors for a project, preventing efforts to evade accountability.

By reinforcing the responsibility of general contractors, SB 597 incentivizes greater oversight of subcontractors' compliance with wage and benefit obligations, reducing the risk of wage theft and ensuring that workers receive the compensation they have rightfully earned. Furthermore, this bill will help maintain a level playing field for responsible contractors who adhere to fair labor standards, promoting integrity and accountability within the construction industry.

SUPPORT

Western States Council Sheet Metal, Air, Rail and Transportation (sponsor)
California Association of Sheet Metal & Air Conditioning Contractors National
Association
California Building Industry Association

California Federation of Labor Unions, AFL-CIO
California Safety and Legislative Board of Smart – Transportation Division
(SMART - TD)
California State Association of Electrical Workers
California State Pipe Trades Council
District Council of Iron Workers of the State of California and Vicinity
Santa Clara County Wage Theft Coalition
State Building and Construction Trades Council

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None.

Prior Legislation:

AB 2696 (Rendon, Ch. 734, Stats. 2023) authorized a joint labor-management cooperation committee to bring an action against a direct contractor to enforce liability for any unpaid wage, fringe, or other benefit payment or contribution, penalties or liquidated damages, and interest owed by a direct contractor for labor on a private work.

SB 727 (Leyva, Ch. 338, Stats. 2021), provided a sunset date of December 31, 2021, to Labor Code provisions related to joint liability created by AB 1701, and provided for similar joint liability for contracts entered into after January 1, 2022. It extended joint liability to include statutory penalties, liquidated damages, and interest, in addition to liability for unpaid wages, fringe benefits, and labor trust fund contributions, and allowed a direct contractor to avoid liability for penalties and liquidated damages when the direct contractor did not know of the subcontractor's failure to pay the specified wage or benefit, or if they met other specified requirements.

AB 1701 (Thurmond, Ch. 804, Stats. 2017) established that a direct contractor on a private work of improvement project is jointly liable with a subcontractor for all of the wages, fringe benefits, and labor trust fund contributions due any worker of the subcontractor.

PRIOR VOTES:

Senate Labor, Public Employment and Retirement Committee (Ayes 5, Noes 0)
