

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

SB 355 (Pérez)
Version: April 2, 2025
Hearing Date: April 29, 2025
Fiscal: Yes
Urgency: No
ID

SUBJECT

Judgment debtor employers: Employment Development Department

DIGEST

This bill requires an employer with a final judgment for a labor law violation to provide the Labor Commissioner specified documentation regarding their compliance with that judgment within 60 days of the entry of judgment, or be subject to a civil penalty and notice to the Employment Development Department regarding the judgment.

EXECUTIVE SUMMARY

The violation of California's labor laws is a significant issue throughout the state. Additionally, even when employers are found to have violated the law and ordered to pay damages and penalties for that violation, workers often have difficulty collecting the judgment. When an employee believes their employer has violated the labor laws, they may file a complaint with the Labor Commissioner (LCO). The LCO may hold a hearing regarding the complaint, and if it does, it must issue an order, decision, or award regarding the complaint within 15 days of the hearing. Parties to the case may then appeal the LCO's decision within 10 days. If no appeal is filed, the decision becomes final, and will be entered into the superior court to become a final judgment. The LCO has a variety of tools, such as issuing liens and additional penalties, to enforce final judgments and make an employer pay. However, in many cases, employers still do not pay their final judgments. SB 355 attempts to ensure greater compliance with final judgments of wage law violations by requiring employers with final judgments to file with the LCO specified documentation of their compliance with the judgment within 60 days of entry of judgment. If the employer fails to do so, SB 355 authorizes a civil penalty of \$2,500, and authorizes the LCO to notify the Employment Development Department (EDD) of the judgment and the employer's information. SB 355 is sponsored by the California Federation of Labor Unions, AFL-CIO and the Sheet Metal, Air, Rail and Transportation Workers' Union, Local 104, and is supported by the California Rural Legal Assistance Foundation, California School Employees

Association, CFT, and UFCW. The Committee has received no timely letters of opposition. SB 355 previously passed out of the Senate Labor, Public Employment, and Retirement Committee by a vote of 5 to 0.

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 LCO, and empowers the LCO to ensure a just day's pay in every work place and to promote justice through the robust enforcement of labor law. Empowers the LCO 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 LCO to investigate employee complaints, conduct hearings, and issue orders, decisions, and awards regarding complaints. Requires that the LCO notify the parties within 30 days of the filing of a complaint whether a hearing will be held, the LCO will prosecute the case, or whether no further action will be taken. Requires that, if the LCO 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 required notice that the LCO 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 LCO file their order, decision, or award within 15 days after the hearing, and requires that the LCO serve a copy of the decision on the parties. Requires that the LCO's decision must notify the parties of their right to appeal, and that failing to appeal within the prescribed period for appeals will result in the decision becoming final. Specifies that all awards granted by the LCO 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 LCO, 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) 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.)
- 7) Provides that an employer that conducts business in the state in violation of (6), 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).)

This bill:

- 1) Requires that, within 60 days of a final judgment being entered against an employer requiring the employer to pay an aggrieved employee or the LCO for a labor law violation, the judgment debtor employer provide the LCO with documentation of any of the following:
 - a) That the judgment was fully satisfied;
 - b) That a bond, as specified, has been posted; or
 - c) That the employer or judgment debtor has entered into an agreement to pay the judgment in installment payments, and that they are in compliance with that agreement.
- 2) Specifies that a judgment debtor employer who fails to comply with (1), above, is liable for a civil penalty of \$2,500.
- 3) Specifies that, if the employer or judgment debtor does not comply with (1), above, the LCO must mail by first class mail a notice to the judgment debtor employer within 30 days explaining that the LCO will submit the unsatisfied judgment to the Tax Support Division of the EDD as a notice of potential tax fraud.
- 4) Specifies that the LCO must mail this notice to the last known address of the judgment debtor listed with the LCO by first class mail.
- 5) Requires that, if the judgment debtor employer does not comply with (1), above, and pay the civil penalty provided for in (2), above, within 90 days of the notice, the LCO must provide the EDD a notice within 30 days. Specifies that this notice must include:
 - a) A summary of the final judgment;
 - b) The names and identifying information of the persons or entities liable for payment of the judgment, including social security numbers, taxpayer identification numbers, and addresses.

COMMENTS

1. Author's statement

According to the author:

SB 355 is a critical step in holding wage-theft/tax evaders accountable. Despite existing laws, unscrupulous employers continue to withhold wages and evade tax obligations, thus harming workers, law-abiding businesses, and the state's tax base. This bill strengthens enforcement by ensuring that employers who refuse to pay wage theft judgments face real consequences – including increased coordination between the Employment Development Department (EDD) and the Labor Commissioner's Office for tax fraud investigations.

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, and the timely payment of wages, and rules against retaliation for an employee asserting their rights. Many of California's labor laws include statutory or civil 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 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.

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>.

³ *Id.*

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 often are unable to obtain redress or recovery of stolen wages. The main public enforcement agency for the Labor Code, the Labor Commissioner (LCO), is chronically backlogged with cases. The LCO investigates employee complaints of labor law violations, hears and adjudicates claims, issues citations for violations of certain labor laws, and also prosecutes labor law violations on behalf of employees. However, the LCO has experienced chronic staffing and funding shortages for many years, resulting in cases 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 LCO 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 LCO.⁷ With such long processing times in cases before the LCO and such low rates of recovery even after the LCO 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, minimum wage violations and worker misclassification, where an employer wrongly classifies a worker as an independent contractor instead, result in lost payroll and sales tax revenue for the state. A report from the UC Berkeley Labor Center found that worker misclassification and informal employment costs state and federal programs almost \$3,000 per misclassified worker each year.⁸ Most importantly, those employees who have their wages stolen lose thousands of dollars every year, hurting their pocketbooks and livelihoods. Research has found that minimum wage violations in California contribute to a 22.9% increase in poverty rates among those

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/>.

⁸ Sarah Hinkley et al., Race to the Bottom: How Low-Road Subcontracting Affects Working Conditions in California's Property Services Industry, UC Berkeley Labor Center (Mar. 8, 2016), <https://laborcenter.berkeley.edu/race-to-the-bottom/>.

affected.⁹ Thus, enforcement is essential to ensuring California's strong labor laws actually protect workers and society from harm.

3. California has numerous wage laws and avenues for redress

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 LCO, the LCO will investigate the claim. The LCO must notify both parties within 30 days of the complaint as to whether a hearing is required to adjudicate the claim, whether the LCO will prosecute the labor law violation, or whether no further action will be taken. If the LCO determines a hearing is needed, it must set the matter for a hearing within 90 days. (Lab. Code § 98.) The LCO 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 LCO's decision in the superior court. (Lab. Code §§ 98.1, 98.2.) If no party appeals the LCO's decision by this deadline, it is deemed final, and the LCO 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, and the LCO or the employee can take action to enforce that judgment.

4. Current avenues for ensuring payment of wage claim judgments are insufficient

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. After 20 days from when a judgment is entered in favor of the LCO or in favor of an employee after a hearing before the LCO, the LCO may collect the outstanding amount of the judgment with the consent of the aggrieved employee by placing a levy on the employer's assets and property. (Lab. Code § 96.8.) 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 LCO 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).) If an employer who previously failed to pay a judgment for a labor law violation again fails to pay a

⁹ Cooper and Kroeger, *supra* note 1.

judgment within 10 years of the previous failure to pay a judgment, and may bring an action for a temporary restraining order against the employer prohibiting the employer from doing business in the state unless they deposit a bond to pay the wages of their employees under the law or satisfy any judgment for failing to do so. (Lab. Code § 243.)

5. SB 355 aims to ensure employees can recover when they win by creating a new civil penalty for failing to pay an unsatisfied judgment, and by requiring the employer to file specified documentation with the LCO

SB 355 aims to increase enforcement of LCO judgments and ensure that workers who are wronged by their employer can be paid. It requires that an employer against whom a final judgment has been entered as a result of an order, decision, or award by the LCO to file with the LCO within 60 days of the entry of the final judgment certain documentation that the judgment has been satisfied, that the employer obtained a bond as required, or that the employer has entered into an agreement to pay the judgment in installments. If an employer does not file this required documentation with the LCO within the 60-day timeline, SB 355 makes the employer subject to a civil penalty of \$2,500.

Additionally, if an employer fails to provide the required documentation by the 60-day deadline, SB 355 also requires the LCO to provide the Employment Development Department (EDD) with a summary of the final judgment and the information of the employer. It first requires the LCO to provide a delinquent employer with a notice by first class mail within 30 days after the 60-day deadline expires, explaining that the LCO will submit the judgment to the EDD as a notice of potential tax fraud. If, within 90 days of that notice, the employer still fails to provide the LCO with the required documentation of their compliance with the final judgment and fails to pay the civil penalty for that failure, SB 355 requires the LCO to provide the EDD with the summary of the judgment and the employer's information within 30 days.

According to the author, this process is meant to strengthen enforcement of final judgments of wage theft, and to ensure cross-agency collaboration so that bad actors are also held accountable for the tax fraud that often accompanies wage theft. This would act as a tool of deterrence to ensure final judgments are actually paid by employers. Providing the information of an employer who has a judgment for wage theft to the EDD is relevant because an employer underpays their share of state payroll taxes when they underpay their workers. This is a form of tax fraud, which the EDD can investigate and issue assessments and tax liens for committing. Thus, while an employer has liability to the LCO or an employee against whom it committed wage theft, an employer can have additional liability to the EDD for failing to pay payroll taxes on the wages stolen from their employee. Thus, SB 355 attempts to pressure employers to pay their wage theft judgments through the threat of additional liability and enforcement action from the EDD, and provides the EDD with the information of recalcitrant employers so that the EDD can engage in enforcement activities regarding tax fraud.

6. Arguments in support

According to the California Federation of Labor Unions, AFL-CIO, which is the sponsor of SB 355:

Wage theft is an employer's failure to pay workers the wages and benefits they owe for hours worked. This practice has a disproportionate impact on disadvantaged and immigrant workers who are overrepresented in low wage industries with higher rates of wage theft, including agriculture, construction, garment, and hospitality. Unfortunately, the practice is pervasive in California and in 2023 alone, the LCO received 39,000 wage theft claims. Wage theft costs workers billions in lost wages annually, but it also costs taxpayers. When employers fail to pay the full amount of wages owed, they are also not paying payroll taxes to the state on those wages.

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 were 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 fully funded and staffed, there are millions of employers and workplaces in California and wage theft is pervasive. Enforcement agencies need more tools to make sure workers are paid for all the hours they work at the appropriate rate.

One of the most frustrating situations for workers is when the LCO issues an order, decision or award (ODA) for a worker, but the employer fails to pay. Employers may deliberately delay the process as much as possible or refuse to communicate with the LCO, making it impossible to collect stolen wages. In 2017 alone, workers filed \$320 million in wage theft claims, and only \$40 million were recovered, with less than half of workers recovering any wages at all.

Current enforcement mechanisms lack sufficient deterrents, enabling employers to treat wage theft as a calculated risk, knowing that they face very few tangible or immediate consequences for noncompliance when the status quo allows them to deny claims, delay payments, or refuse payments altogether.

SB 355 provides the LCO with new enforcement tools to address the failure to pay wage judgments. First, it requires employers who have an outstanding ODA to notify the LCO if they have already paid the judgment, have posted bond, or have entered into an agreement to pay, after 60 days of an ODA becoming final. This simple requirement will clear up many cases that are already closed and are creating backlogs at the LCO, saving the agency valuable resources.

Secondly, when an employer fails to pay an order, decision, or award for wage theft to a worker, it authorizes the LCO to provide written notice to the judgment debtor employer that the Labor Commissioner will submit the ODA to the Tax Support Division of the Employment Development Department (EDD), which collects payroll tax, as a notice of potential tax fraud. The notice to the EDD is an important flag that there may be tax issues with the employer, either from failure to pay wages or misclassification of workers. This bill gives the LCO a powerful deterrent for employers who fail to pay outstanding wage theft judgments in a timely fashion, ensuring that the state does not continue to lose out on expected revenue and workers no longer have to continue waiting for the pay they have earned.

SUPPORT

California Federation of Labor Unions, AFL-CIO (sponsor)
Sheet Metal Workers' Local Union No. 104 (SMART) (sponsor)
California Rural Legal Assistance Foundation
California School Employees Association
CFT- a Union of Educators & Classified Professionals, AFT, AFL-CIO
Sheet Metal Workers' Local Union No. 104 (SMART)
UFCW - Western States Council

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

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.

SB 261 (Wahab, 2025) 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. SB 261 is currently pending before the Senate Appropriations 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.

AB 2509 (Steinberg, Ch. 876, Stats. 2000) revised the processes for the Labor Commissioner to conduct administrative hearings and issue orders, decisions, and awards for violations of labor law, and prohibited employers from receiving or deducting gratuities paid by patrons directly to a dancer subject to specified orders of the commission. AB 2509 also required employers to remit to their employees gratuities paid by credit card, without deduction for credit card fees, not later than the next regular payday following the date the credit card payment is authorized by the patron.

PRIOR VOTES:

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