

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

SB 846 (McNerney)
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Fiscal: No
Urgency: No
ID

SUBJECT

Liens: harvested crops

DIGEST

This bill would eliminate the requirement that an owner of severed crops, farm products, or their proceeds be a limited partnership for the purposes of a lien that a farmworker may assert upon those crops or their proceeds for the value of two weeks' earnings of the farmworker.

EXECUTIVE SUMMARY

Agriculture is one of the largest industries in California, and California accounts for over a third of the nation's vegetables and two-thirds of its fruits and nuts. This industry relies on about 500,000 to 800,000 farmworkers, who work mostly outdoors to plant, irrigate, nurture, and harvest the hundreds of different crops grown throughout the state. Farmworkers complete some of the most difficult and dangerous work in the economy, while making some of the lowest incomes of California workers. Farmworkers also experience wage theft and other labor standards violations at significant rates. In 1976, the Legislature created a lien for farmworkers who experience wage theft for work harvesting crops or transporting harvested crops. This lien right allowed a farmworker to assert the lien on the severed crops, farm products, or their proceeds for the amount of two weeks' of the farmworker's earnings that are unpaid. However, this lien right only applies if the owner of the farming operation is a limited partnership. SB 846 proposes to eliminate this limitation, thereby applying the farmworker lien to any grower, regardless of their corporate structure, who fails to pay a farmworker their wages. SB 846 is author sponsored, and is supported by the California Rural Legal Services Foundation, the Teamsters Public Affairs Council, the California Farmworker Coalition, and a variety of other nonprofits. The Committee has received no timely letters of opposition.

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 (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 the 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) 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. Provides that the LCO may obtain a lien upon an employer's property for the satisfaction of a final judgment. (Lab. Code § 98.2.)
- 5) Specifies that every person who works harvesting or transporting harvested crop or farm products that are owned and grown by a limited partnership, as defined, has a lien upon any and all of the severed crops and farm products or their proceeds for the value of the person's labor for up to two weeks' earnings. Specifies that the lien attaches regardless of whether the work was done for the owner or another person acting under the owner's authority. (Civ. Code § 3061.5.)
- 6) Specifies that the liens provided for in (5), above, attach from the date of the worker's commencement of work, are preferred liens, and shall not be limited in amount by any contract price agreed upon between an owner and any contractor. Specifies that the maximum liability of severed crops or farm products or their proceeds is limited to the lesser of the actual proved claims, or 25% of the fair

market value of the crops, products, or their proceeds. Specifies that no person has a lien if the owner either gives the LCO either directly or through a labor contractor a bond for the payment of wages, as specified. (Civ. Code § 3061.5(b)-(c).)

- 7) Specifies that the lien provided for in (5), above, continues in force for 45 days from the time that the person holding the lien ceased the work for which the lien is claimed, unless the worker files a claim with the LCO or brings a civil action to foreclose on the lien. Specifies that, in such a case, the lien continues until the claim or action is resolved. Requires the LCO to resolve a lien claim under these provisions within 180 days of receiving the claim. (Civ. Code § 3061.6.)
- 8) Requires the LCO to determine whether or not the owner of the severed crops or farm products or their proceeds is capable financially of satisfying the claim, and that if the LCO determines that a lien is necessary to protect the interest of the claimants, the LCO must file a lien on the crop, farm product, or their proceeds, and notify in writing the owner and all persons who have filed financing statements on the crops. (Civ. Code § 3061.6(b).)
- 9) Specifies that, in a civil action for a lien pursuant to (5), above, a plaintiff worker may have the crops, farm products, or their proceeds attached, as specified. Specifies that multiple persons claiming liens may join in the same civil action or have separate actions consolidated, and that, if after the sale of the property of the lien the proceeds are insufficient to cover the lien, the proceeds must be divided pro rata among the multiple lien claimants. (Civ. Code § 3061.6(c)-(d).)
- 10) Specifies that, if the lien has attached to crops or products that are perishable goods, the lienholder may obtain a court order for the sale of the goods, except as specified, as long as the lien is in effect and it is prior to the filing of a foreclosure suit. (Civ. Code § 3061.6(e).)

This bill eliminates the requirement in (5), above, that the owner of the severed crops or farm products or their proceeds be a limited partnership for the lien right to exist.

COMMENTS

1. Author's statement

According to the author:

California relies on nearly 800,000 migrant and seasonal farmworkers who cultivate over 400 agricultural commodities across the state. Unfortunately, this vulnerable workforce experiences wage theft more often than workers in other industries. Recognizing this, the Legislature passed a law in 1976 to help farmworkers recover stolen wages from agricultural employers. However,

farmworkers today continue to suffer high rates of wage theft and are often unable to recover owed wages because the 1976 statute is out of date. SB 846 modernizes the 1976 statute to ensure that California agricultural businesses that engage in wage theft are held accountable and farmworkers can recover stolen wages.

2. California's agricultural workers often experience wage theft

Agriculture is one of the largest industries in California, and California accounts for over a third of the nation's vegetables and two-thirds of its fruits and nuts.¹ This industry relies on about 500,000 to 800,000 farmworkers, who work mostly outdoors to plant, irrigate, nurture, and harvest the hundreds of different crops grown throughout the state.² California's farmworkers are primarily Latinx, and the large majority are not United States citizens.³ Many farmworkers are also indigenous. The median personal annual income for a farmworker is about \$20,000 to \$25,000, and 73 percent of farmworker households earn less than 200% of the federal poverty line.⁴ Agriculture is one of the least regulated industrial workplaces in the nation. This is despite the fact that agricultural work primarily involves a significant amount of time outdoors, and is one of the most dangerous industries for workers.⁵ Thus, farmworkers complete some of the most difficult and dangerous work in the economy, while making some of the lowest incomes of California workers.

Farmworkers also experience wage theft and other labor standards violations at significant rates. A national report found that over 70% of labor investigations of farms by the Wage and Hour Division of the U.S. Department of Labor found a labor law violations like wage theft and inadequate housing.⁶ Agricultural work accounts for a disproportionate amount of wage and hour claims nationally. The worst actors in the agricultural industry are farm labor contractors, who provide labor for farms. In addition, a recent study of wage theft in four metropolitan areas throughout California

¹ California Department of Food & Agriculture, California Agricultural Statistics Review 2019-2020 (2020).

² Philip L. Martin, How many workers are employed in California agriculture?, California Agriculture Vol. 71(1) (Aug. 23, 2016), p. 30-34, available at <https://calag.ucanr.edu/Archive/?article=ca.2016a0011>.

³ United States Department of Labor, California Findings from the National Agricultural Workers Survey (NAWS) 2015-2019: A demographic and Employment Profile of California Farmworkers, Research Report No. 15 (Jan. 2022), available at <https://www.dol.gov/agencies/eta/national-agricultural-workers-survey/research>.

⁴ *Id.*, California Research Bureau, Farmworkers in California: A Brief Introduction, S-13-017 (Oct. 2013).

⁵ Bureau of Labor Statistics, National Census of Fatal Occupational Injuries in 2022, United States Department of Labor, USDL-23-2615 (Dec. 19, 2023) (finding that the fatal work injury rate in 2022 for all industries was 3.7 fatalities per 100,000 full-time equivalent workers, while it was 23.5 fatalities per 100,000 for farming, fishing, and forestry occupations, the highest rate of any industry.).

⁶ Daniel Costa et al., Federal Labor Standards Enforcement in Agriculture: Data reveal the biggest violators and raise new questions about how to improve and target efforts to protect farmworkers, Economic Policy Institute, (Dec. 15, 2020) <https://www.epi.org/publication/federal-labor-standards-enforcement-in-agriculture-data-reveal-the-biggest-violators-and-raise-new-questions-about-how-to-improve-and-target-efforts-to-protect-farmworkers/>.

found that the agricultural industry had some of the highest rates of wage theft, with a rate of 21.1% for violations of the state minimum wage for the Los Angeles area.⁷

3. California created a farmworkers' lien to help farmworkers recover stolen wages

When an employer steals a farmworker's wages, the farmworker may try to recover their wages through the Labor Commissioner or through a civil action. However, either process may take a considerable amount of time, and ultimate payout to an aggrieved worker even when they win can take even longer. All the while, the worker is out of their hard-earned wages, and may have to forego certain expenses or struggle to cover their basic needs.

Recognizing that farmworkers need a more immediate tool for ensuring that they are paid their wages, the Legislature created the farmworker lien in 1976. A lien is a powerful tool because it attaches to the property that is subject to the lien, affecting title to the property and requiring payment of the lien in order to sell or transfer the property. A lien essentially acts to secure the lien holder's interest in the property owner's property in order to pay the debt that the property owner owes the lien holder. If the property owner does not pay their debt to the lien holder, the lien holder may foreclose on the property owner's property in order to obtain payment of the debt.

Under the farmworker lien, a farmworker who works to harvest or transport harvested crops has a lien on the crops and the proceeds from their sale for two weeks of their earnings. (Civ. Code § 3061.5.) The lien is available regardless of whether the farmworker works directly under the grower, or under a farm labor contractor. The maximum liability under this lien is either the actual, proven claims, or 25% of the fair market value of the crops or their proceeds. This lien is a preferred lien, meaning that it is superior to all other liens, and it attaches to the crops at the time that the farmworker begins their work.

The lien continues to exist for 45 days from when the farmworker ceases the work for which the lien is claimed. (Civ. Code § 3061.6.) During that time period, the farmworker may file a claim with the labor commissioner or may bring a civil action to foreclose on the lien. If multiple farmworkers file liens on the crops, and the proceeds from the sale of the crops is insufficient to cover all liens, each lien claimant must receive a pro rata share of the proceeds. (Civ. Code § 3061.6(d).)

⁷ Daniel J. Galvan et al., Wage Theft in California: Minimum Wage Violations, 2014-2023, Rutgers School of Management and Labor Relations, p. 7 (May 2024), available at <https://www.smlr.rutgers.edu/news-events/smlr-news/minimum-wage-theft-rises-sharply-california>.

4. SB 846 proposes to make this farmworker lien available again

However, the farmworker lien includes an important limitation: it is only available when the grower against whom it is claimed is organized as a limited partnership. (Civ. Code § 3061.5.) SB 846 proposes to eliminate this requirement, thereby expanding the availability of the lien to all farmworkers, regardless of the corporate form that the grower who employs them takes. This is particularly useful, according to the author, because the limited partnership model is no longer commonly used in agriculture in California. Moreover, the farmworker lien statute refers to Corporations Code section 15501 for the applicable definition of a limited partnership; a provision of the Corporations Code that no longer exists.

Limited partnerships provide a variety of benefits and drawbacks. In a limited partnership, a partner can have their liability for the partnership's activities limited to the amount of their investment, though any general partner enjoys no limitation on the liability they may incur from the partnership. Limited partnerships also enjoy "pass through" tax treatment; as in, the profit of the partnership is only taxed once, as each partners' income. However, in 1994, California created the California limited liability corporation with the passage of the Beverly-Killea Limited Liability Company Act of 1994 (SB 469, Beverly, Ch. 1200, Stats. 1994.) A limited liability corporation is a mix of both partnerships and corporations, providing the benefits of both. Most significantly, LLCs provide their owners with limited liability for the corporation's actions. For this reason, LLCs are often the preferred business structure for business ventures.

Liens for workers' wages are not uncommon in California. In the construction industry, construction workers have long had what is called a "mechanics lien," which the construction worker can enforce upon the property of the construction project to ensure they are paid. Mechanics' liens are incredibly effective tools for construction workers to ensure they are paid. Additionally, the Labor Commissioner is currently allowed to impose a lien on an employer's property in order to ensure that the employer pays a final judgment entered against it for a violation of the labor laws. (Lab. Code § 98.2(b).) A variety of other liens exist in the labor code as well.

Liens are incredibly effective in ensuring that the lien holder is paid promptly for the debt they are owed, and thus are powerful tools in the employment context. California's farmworker lien has existed since 1976, though it has been limited by the fact that it only applies to agricultural producers who are organized as limited partnerships. The farmworker lien is also modest in the sense that it is limited to two weeks' worth of earnings for the farmworker that holds it. SB 846 would eliminate the limitation in the farmworker lien regarding the corporate structure of the grower against whom a farmworker can have a lien, thereby extending its applicability and usefulness as a tool for farmworkers who experience wage theft.

5. Arguments in support

According to the Teamsters Public Affairs Council, which supports SB 846:

The farmworker lien – which was enacted nearly 50 years ago – no longer functions as intended. In the 1970s, the Legislature gave farmworkers the right to a lien to secure payment of up to two weeks of wages. This lien attaches to crops, farm products, and the proceeds from their sale. However, the farmworker lien currently only applies to businesses that operate as a “limited partnership” as defined in Corporations Code Section 15501. Limited partnerships became obsolete in the agricultural industry – and most other industries – decades ago, and few businesses use this structure anymore. Thus, the farmworker lien has become largely useless.

SB 846 removes the reference to “limited partnerships” in the existing farmworker lien statute to align with how agricultural business is conducted today. This issue needs urgent resolution because farmworkers continue to suffer high rates of wage theft and are unable to recover owed wages because of outdated language in the California farmworker lien. Without this proposal, the existing farmworker lien will remain useless, nullifying the Legislature’s original purpose in passing the lien statute and denying workers this basic protection given to them 50 years ago.

SUPPORT

California Coalition for Worker Power
California Farmworker Coalition
California Rural Legal Assistance Foundation, Inc.
California Teamsters Public Affairs Council
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Centro Binacional Para El Desarrollo Indigena Oaxaqueño (CBDIO)
Mixteco/Indigena Community Organizing Project (MICOP)
Todec Legal Center

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 845 (Arambula, 2025) requires the Agricultural Labor Relations Board, the Division of Labor Standards Enforcement, and the Division of Occupational Safety and Health to, upon intake of a complaint from an agricultural employee,

collaborate with each other and take all reasonable efforts to transmit the complaint to the appropriate entity for processing and investigation. AB 845 is currently pending before the Assembly Appropriations Committee.

Prior Legislation: SB 469 (Beverly, Ch. 1200, Stats. 1994) *see Comment 4.*.
