

HB 2057 -4, -5 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 3/8, 3/27

WHAT THE MEASURE DOES:

Establishes joint liability between a contractor and subcontractor on a non-prevailing wage project (PWR) for unpaid wages, including other benefit payment or contributions of employee. Permits third party owed payment or contribution made as part of employee compensation to bring action against contractor on behalf of employee for unpaid wages. Requires subcontractor to provide certain payroll records and other information to contractor upon request. Permits contractor to withhold payment to subcontractor for failure to comply with request for records.

ISSUES DISCUSSED:

- Impact of wage theft on workers
- Criminal and civil enforcement of wage theft
- Wage claim process
- Different ways that wage theft can occur
- Utilization of wage bonds
- Ability of general contractor to regulate subcontractor
- Reduction in business opportunities for new and emerging contracting businesses

EFFECT OF AMENDMENT:

-4 Narrows liability to unpaid wages; removes fringe benefits and wage supplements. Defines "unrepresented employee." Clarifies that contractor and subcontractor are jointly and severally liable in civil or administrative action for unpaid wages. Removes ability for third party who is owed payment or contribution on behalf of the employee for benefits to bring action against contractor on behalf of employee to enforce wage liability. Changes statute of limitations to bring civil action: six years for unpaid wages and two years for unpaid overtime wages. Removes requirement that subcontractor provide contractor names of any local unions with whom the subcontractor is a signatory contractor. Permits contractor to withhold payment to a subcontractor if contractor has paid wages on behalf of subcontractor. Removes language regarding disclosure of personally identifying information about workers who perform work on a construction project.

-5 Construction labor contractors are jointly and severally liable in civil or administrative action for unpaid wages. Removes ability for third party who is owed payment or contribution on behalf of the employee for benefits to bring action against contractor on behalf of employee to enforce wage liability. Changes statute of limitations to bring civil action: six years for unpaid wages and two years for unpaid overtime wages. Removes requirement that subcontractor provide contractor names of any local unions with whom the subcontractor is a signatory contractor. Permits contractor to withhold payment to a subcontractor if contractor has paid wages on behalf of subcontractor. Removes language regarding disclosure of personally identifying information about workers who perform work on a construction project.

BACKGROUND:

Wage theft is term used to describe a range of situations in which an employer fails to pay an employee, and it can take many forms – from employers paying employees less than the minimum wage or failing to pay overtime to withholding tips, not providing employees with their final paycheck, or requiring employees to work off the clock.

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A worker who has experienced wage theft may take civil action against an employer or file a wage claim with the Bureau of Labor and Industries (BOLI) alleging their employer has not fully paid wages due the worker. When a wage claim is filed BOLI can investigate, act to resolve the dispute, or take action through administrative proceedings or through court proceedings. Even when a judgment is made against the employer, the worker is not always successful in collecting the unpaid wages from the employer. Beginning June 23, 2021, a worker who had obtained a judgement or final order against their an employer for unpaid wages from BOLI could be paid the wages due from the Wage Security Fund. BOLI would pursue collection of the wages from the employer.

House Bill 2057 establishes joint liability between a contractor and subcontractor on a non-prevailing wage project (PWR) for unpaid wages, including other benefit payment or contributions of employee. Upon request, a subcontractor must provide the contractor certified pay roll records to determine whether subcontractors paid workers in full and if subcontractor fails to provide records a contractor may withhold payment.