

HB 2057-4
(LC 2204)
3/20/23 (JAS/ps)

Requested by HOUSE COMMITTEE ON BUSINESS AND LABOR (at the request of Representative Paul Holvey)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2057**

1 On page 1 of the printed bill, delete lines 4 through 28 and delete pages
2 2 and 3 and insert:

3 **“SECTION 1. Sections 2 and 3 of this 2023 Act are added to and
4 made a part of ORS chapter 652.**

5 **“SECTION 2. (1) As used in this section and section 3 of this 2023
6 Act:**

7 **“(a) ‘Construction’ has the meaning given that term in ORS 701.410.**

8 **“(b) ‘Contractor’ has the meaning given that term in ORS 701.410.**

9 **“(c) ‘Labor organization’ has the meaning given that term in ORS
10 663.005.**

11 **“(d) ‘Owner’ has the meaning given that term in ORS 701.410.**

12 **“(e) ‘Subcontractor’ has the meaning given that term in ORS
13 701.410.**

14 **“(f) ‘Unrepresented employee’ means an employee of a contractor
15 or a subcontractor who is:**

16 **“(A) Not represented by a labor organization certified to represent
17 employees for purposes of collective bargaining; and**

18 **“(B) Not subject to the terms of a collective bargaining agreement.**

19 **“(2) A contractor who enters into a construction contract with a
20 subcontractor to perform construction work on a project shall be
21 jointly and severally liable in any civil or administrative action for any**

1 **unpaid wages owed to an unrepresented employee of a subcontractor**
2 **at any tier for the employee’s performance of labor on the project, and**
3 **any damages, penalty wages or attorney fees or costs incurred in an**
4 **action brought by the employee.**

5 **“(3)(a) A civil action under this section to recover unpaid wages**
6 **must be commenced within six years from the date on which the**
7 **wages became due.**

8 **“(b) A civil action under this section to recover unpaid overtime**
9 **wages must be commenced within two years from the date on which**
10 **the wages were earned.**

11 **“(4) Except as provided in subsection (5) of this section, any agree-**
12 **ment or release by an unrepresented employee or subcontractor to**
13 **waive liability assigned to a contractor under this section is invalid.**

14 **“(5) Nothing in this section is intended to diminish the rights,**
15 **privileges or remedies of an employee under a collective bargaining**
16 **agreement.**

17 **“(6) This section does not prohibit a contractor from entering into**
18 **an agreement with a subcontractor to indemnify the contractor for the**
19 **liability described in subsection (2) of this section, provided that the**
20 **agreement does not diminish the rights of an employee under this**
21 **section.**

22 **“(7) Nothing in this section impairs the right of a contractor to**
23 **bring an action against a subcontractor for the amounts of unpaid**
24 **wages and any damages or attorney fees paid by a contractor under**
25 **this section.**

26 **“(8) This section does not apply to work performed under a public**
27 **contract under ORS 279C.800 to 279C.870.**

28 **“(9) The Commissioner of the Bureau of Labor and Industries may**
29 **adopt any rules necessary to implement the provisions of this section.**

30 **“SECTION 3. (1) Any subcontractor with whom a contractor has**

1 entered into a contract to perform a portion of a construction project
2 within the scope of a construction contract between the contractor
3 and an owner shall provide the following records to the contractor,
4 upon the contractor's request:

5 “(a) Certified payroll reports that, at a minimum, include sufficient
6 information for the contractor to determine whether a subcontractor
7 has paid in full all wages earned by unrepresented employees who
8 performed work on the project as part of the employees' total com-
9 pensation.

10 “(b) The name, address and phone number of a contact for the
11 subcontractor.

12 “(c) The names of all workers who performed work on the con-
13 struction project and notation of whether each worker is classified as
14 an employee or an independent contractor.

15 “(d) The name of any subcontractor with whom the first-tier sub-
16 contractor contracts.

17 “(e) The anticipated contract start date and scheduled duration of
18 work.

19 “(2) A subcontractor's failure to comply with this section does not
20 relieve a contractor of the liability prescribed by section 2 of this 2023
21 Act.

22 “(3) Nothing in this section alters a contractor's obligation to
23 timely pay a subcontractor under ORS chapter 701, except that a con-
24 tractor may:

25 “(a) Withhold payment to a subcontractor because of the
26 subcontractor's failure to comply with the request for records under
27 subsection (1) of this section; and

28 “(b) Withhold payment to a subcontractor if the contractor has paid
29 wages, on behalf of the subcontractor, to the subcontractor's employ-
30 ees.

1 **“SECTION 4. Sections 2 and 3 of this 2023 Act apply to labor per-**
2 **formed by employees on a project for a contractor or subcontractor**
3 **on or after the effective date of this 2023 Act.”.**

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