



Martha Sonato
Legislative Advocate
971.801.5031
msonato@oregonlawcenter.org
522 SW Fifth Avenue, Suite 812
Portland, OR 97204

Senate Committee on Business and Labor

Testimony in support of HB 2057

04/26/2023

Chair Taylor, Vice chair Bonham, members of the committee,

On behalf of the Oregon Law Center, please accept this testimony in strong support of HB 2057, which aims to address the rampant problem of wage theft in the construction industry by holding general contractors liable for unpaid wages made by subcontractors at any level.

OLC is a statewide non-profit organization that provides free legal help to people struggling to make ends meet. Our mission is to achieve justice for low-income communities in Oregon by providing a full range of the highest quality civil legal services. Wage theft in the construction industry impacts our clients, often Latine, low wage workers, and folks of color.

The construction industry is one of the industries most plagued by wage theft. Between 2015 to 2016, the construction industry had the second highest number of wage claims as a share of its workforce.¹ Nationally, in 2021, the U.S Department of Labor recovered more than \$36 million in wages for more than 21,000 construction workers.²

Wage theft robs an individual's ability to take care of themselves and their families, and it disproportionately impacts low wage workers, women, people of color, and immigrant workers. On top of this, a worker's long-term economic well-being and stability diminishes from the lack of contributions to their social security, unemployment insurance, paid leave Oregon, or tax accounts. Wage theft is wrong

¹ <https://www.ocpp.org/2018/02/12/hb-4154-wage-theft-construction/>

² <https://www.dol.gov/agencies/whd/data/charts/low-wage-high-violation-industries>

and anyone who robs their workers of their hard-earned wage regardless of who they are should be held accountable.

Why the HB 2057 approach?

The construction industry relies heavily on a complex system of subcontracting. Subcontractors carry out specialized scopes of work in a larger construction project, such as doing roofing or electrical work. Any construction job site may employ multiple tiers or layers of contractors between workers and project owners. The tier of employment makes it difficult for workers to reclaim unpaid wages because each tier is free from any liability to the next.

Additionally, many workers often find themselves at a crossroads when attempting to seek justice. Many may not know their rights and protections, especially if English is not their first language, and who they can reach out to for help. Many may choose to not report wage theft for fear of retaliation.

Ultimately, HB 2057 incentivizes the construction industry to self-regulate from wage theft and pushes general contractors to be thoughtful, intentional, and diligently ensure that whoever they are subcontracting with, are responsible and honest in paying their workers. General contractors (GC's) already have in depth experience of going into contracts with subcontractors and are in a much better position than workers to prevent wage theft in the first place by contracting only with licensed subcontractors and requesting certified payroll records that contain enough information on the subcontractor's ability to pay in full all wages of their workers.

This allows the construction industry to self-regulate and get rid of the unscrupulous contractors because once general contractors are held jointly liable, they will be less likely to take on the risk of hiring contractors who cheat and steal wages from workers. Ultimately, this expands opportunities for all contractors including minority contractors who follow the laws and pay workers what they are owed.

HB 2057 is an important tool for workers to seek justice when they have experienced wage theft. Our current law and rules do not offer adequate and timely pathways for workers in the construction industry to recoup their wages:

- Construction Contractor Board and BOLI labor contractor bonds are important but are usually only available when the subcontractors are licensed. When there is a bond, it is a limited amount of money that may only cover some unpaid wages, especially if there are numerous workers who were not paid.
- The Wage Security Fund- Workers can get up to \$10,000 of unpaid wages for work performed from the Wage Security Fund in two ways- by making a claim that is subject to 60-day rule or by obtaining a final judgment from BOLI or the court.
- Construction liens have a very short deadline and require filing claim (which requires investigation and pay fees), and only apply to the property where the work was done, which is difficult for workers to identify who work at multiple properties.
- Joint employer liability under minimum wage and overtime laws involves a complicated multi-factor test that only provides minimum wage protections and not contract wage, which is usually much more.

Wage theft harms our communities and hinders the economic stability of workers and their families. Many workers rely on their paycheck each pay period and it is unfair for them to wait for their hard-earned wages. Construction workers, of whom many are low wage workers and immigrant, are a critical workforce and contribute in immense ways to the development of more housing. We urge this committee to support HB 2057.