

From the Desk of  
Representative Kevin L. Mannix

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The Honorable Colorado State House of Representatives  
The 74th General Assembly  
Second Regular Session  
State Capitol  
200 E. Colfax Ave.  
Denver, CO 80203

Dear Honorable Members of the Colorado State House of Representatives,

Today I vetoed House Bill 24-1008, "Wage Claims Construction Industry Contractors" at 4:15 PM.

House Bill 24-1008 (HB 24-1008) would expand general contractor accountability and liability for wage claims involving subcontractors in the construction industry. Specifically, it would hold general contractors in the construction industry liable for wages legally owed to an employee of any of its subcontractors, at any tier.

Wage theft is a deplorable crime: Not paying employees for an honest day's work is both morally wrong and against the law. The Colorado Wage Act (C.R.S. 8-4-101 et seq.) requires Colorado employers to pay employees their earned wages in a timely manner. Victims of wage theft include some of our most vulnerable workers, and ensuring that they are paid what they are owed is a moral imperative, and we must do more to prevent wage theft.

That is why during my administration we have made unprecedented efforts to crack down on wage theft and ensure that victims of wage theft receive prompt and fair restitution. To that end, I have signed into law several pieces of legislation to address wage theft, including SB 22-161 (Wage Theft Employee Misclassification Enforcement), HB19-1267 (Penalties For Failure To Pay Wages), and SB23-231 (Amend Fund To Allow Payment Overdue Wage Claims). My administration also created the highly successful Strategic Wage Education with Employers Program (SWEET), a pilot program to educate employers about inadvertent wage theft violations and provide restitution to workers, which the General Assembly made permanent in the Long Bill this year. Finally, during my administration, funding related to labor standards (including wage theft enforcement) has quadrupled.

This bill, however, would let subcontractors who fail to pay their workers off the hook, do little if anything to prevent additional wage theft, and penalize good actors who pay all their workers on time. The bill misaligns incentives for subcontractors to pay their workers by making general contractors liable and failing to require that wage theft investigations start with the offending subcontractor and work their way up (as is the law in the City and County of Denver). Instead, under the bill the general contractor – even when not at fault under any reasonable standard – would effectively pay for the same work twice (in addition to fines, penalties, and interest), raising costs.

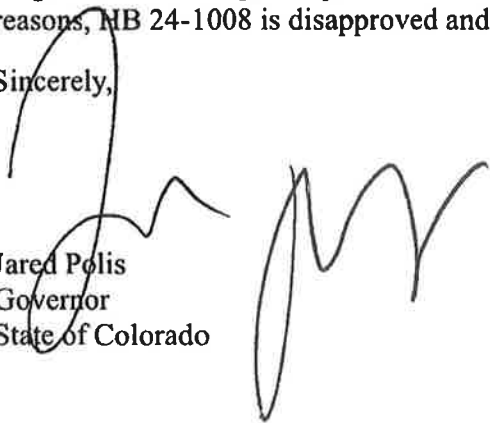
General contractors should of course seek to use subcontractors with a history of following the law

and paying all of their employees. But crafting a unique and novel joint liability mechanism for wage claims in this sector only – including in situations where the general contractor has no relationship with the responsible employer – would not punish the real wrongdoers.

Throughout the legislative process, my administration provided options to proponents and sponsors to address wage theft that would have allowed me to sign this bill. This included multiple iterations of a proposal to hold liable general contractors who are at fault for wage theft, such as those who were negligent or should have known a subcontractor was committing wage theft. In addition, I proposed additional measures to adjudicate claims more quickly and provide rapid restitution to wage theft victims. Unfortunately, proponents and sponsors were unwilling to entertain more targeted measures along these lines. I remain open to a more effective approach to the specific issue of joint liability in the construction industry, as well as wage theft in general. To that end, in addition to the steps outlined above that my administration has already taken to address wage theft, I am directing the Department of Labor and Employment to work with stakeholders on all sides to further explore legislative and budgetary proposals to address wage theft, and in particular, wage theft impacting subcontractors, so that victims of wage theft receive prompt and fair restitution as well as to prevent and disincentivize this crime in the first place, and to provide recommendations within 60 days.

Wage theft is wrong, but punishment for any crime should focus on the wrongdoers. For the above reasons, NB 24-1008 is disapproved and vetoed.

Sincerely,



Jared Polis  
Governor  
State of Colorado

cc: Jena Griswold, Colorado Secretary of State