

Senate Bill 426

Sponsored by Senator PROZANSKI, Representative FRAGALA, Senator MANNING JR; Senator MEEK, Representatives GRAYBER, RUIZ (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes laws about unpaid wages for workers who work on construction projects. (Flesch Readability Score: 65.7).

Makes an owner and a direct contractor jointly and severally liable in a civil action for any unpaid wages owed to the unrepresented employees of the direct contractor and subcontractors at any tier. Provides the statute of limitations for actions regarding recovery for unpaid and overtime wages.

Requires subcontractors to provide certain payroll records and other information to the owner or the direct contractor, upon request. Permits the owner and the direct contractor to withhold payment to a subcontractor in certain circumstances.

A BILL FOR AN ACT

1
2 Relating to wages.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS**
5 **chapter 652.**

6 **SECTION 2. (1) As used in this section and section 3 of this 2025 Act:**

7 (a) **“Authorized third party representative” means a third party who is authorized by an**
8 **unrepresented employee to assert the rights of the unrepresented employee.**

9 (b) **“Construction contract” means an express or implied agreement:**

10 (A) **For the construction, reconstruction, alteration, maintenance, moving or demolition**
11 **of any building, structure or improvement.**

12 (B) **Relating to the excavation of or other development of or improvement to land.**

13 (c) **“Construction trade labor organization” means a bona fide labor organization that**
14 **represents employees in the building and construction trades.**

15 (d) **“Direct contractor” means:**

16 (A) **Any person, including a construction manager, joint venture or any combination**
17 **thereof, the person’s successors, heirs or assigns, that enters into a construction contract**
18 **with an owner.**

19 (B) **An owner that enters into a construction contract with more than one contractor**
20 **or subcontractor, if such contract relates to real property other than property for which the**
21 **owner could claim the homestead exemption under ORS 307.286.**

22 (e) **“Labor organization” means an organization, agency or an employee representation**
23 **committee or plan, in which employees participate and which exists, in whole or in part, for**
24 **the purpose of dealing with employers concerning grievances, labor disputes, wages, rates**
25 **of pay, hours of employment or work conditions.**

26 (f)(A) **“Owner” means any person, firm, partnership, corporation, association, company,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 organization or other entity, or any combination thereof, with an ownership interest,
 2 whether the interest or estate is in fee, as vendee under a contract to purchase, as lessee
 3 or another interest or estate less than fee that causes:

4 (i) A building, structure or improvement, new or existing, to be constructed, recon-
 5 structed, erected, altered, remodeled, repaired, maintained, moved or demolished; or

6 (ii) Land to be excavated or otherwise developed or improved.

7 (B) "Owner" does not mean a public agency, as defined in ORS 279C.800.

8 (g) "Subcontractor" means any person, who may or may not have direct privity with a
 9 direct contractor, but who is a party to an express or implied contract with a direct con-
 10 tractor or with a direct contractor's subcontractors at any tier to perform any portion of
 11 work within the scope of the direct contractor's construction contract with an owner.

12 (h) "Unrepresented employee" means an employee of a direct contractor or a subcon-
 13 tractor who is:

14 (A) Not represented by a construction trade labor organization that has established itself
 15 or its affiliates as the collective bargaining representative for persons performing work on
 16 a project; and

17 (B) Not covered by a collective bargaining agreement that:

18 (i) Contains a grievance procedure that results in a final and binding decision; and

19 (ii) Provides a mechanism for recovering unpaid wages and fringe benefits on behalf of
 20 the employees covered by the agreement.

21 (2) An owner who enters into a construction contract with a direct contractor shall be
 22 jointly and severally liable with the direct contractor for any unpaid wages, including fringe
 23 benefits and penalties, owed to any unrepresented employee of the direct contractor and any
 24 unrepresented employee of a subcontractor at any tier for labor performed on a project
 25 within the scope of the construction contract.

26 (3)(a) Any of the following persons may bring a civil action against an owner, direct
 27 contractor or subcontractor in any court of competent jurisdiction to recover unpaid wages,
 28 including interest and penalty wages, damages, attorney fees and costs incurred in con-
 29 nection with the action:

30 (A) An unrepresented employee.

31 (B) An authorized third party representative.

32 (C) The Attorney General on behalf of an unrepresented employee.

33 (b) Prior to commencing a civil action against an owner or a direct contractor under this
 34 subsection, a person must send a notice to the owner and direct contractor that sets forth
 35 the alleged violation and the nature of the claim. Such notice does not operate to limit the
 36 liability of the owner or direct contractor or preclude a person from subsequently amending
 37 a complaint after the action is commenced to include additional parties to the action.

38 (c) A civil action under this subsection to recover unpaid wages must be commenced
 39 within six years from the date on which the wages and fringe benefits became due.

40 (d) Notwithstanding ORS 12.110, a civil action under this section to recover unpaid over-
 41 time wages must be commenced within six years from the date on which the wages were
 42 earned.

43 (4) Any agreement to waive or release an owner or direct contractor or to indemnify an
 44 owner or direct contractor for liability assigned under this section is invalid.

45 (5) Nothing in this section impairs the right of an owner or direct contractor to bring

1 an action against a subcontractor to seek recovery of actual and liquidated damages for the
2 amounts paid by the owner or direct contractor for unpaid wages, including interest and
3 penalty wages, damages, attorney fees and incurred costs associated with an action brought
4 under this section.

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

7 (7) The Commissioner of the Bureau of Labor and Industries may adopt any rules nec-
8 essary to implement the provisions of this section.

9 **SECTION 3.** (1) Any subcontractor with whom a direct contractor has entered into a
10 contract to perform a portion of a construction project within the scope of a construction
11 contract between the direct contractor and an owner shall provide the following records to
12 the direct contractor and the owner, upon the request, respectively, of the direct contractor
13 or the owner:

14 (a) Certified payroll reports, that, at a minimum, include sufficient information for the
15 direct contractor to determine whether a subcontractor has paid in full all wages earned by
16 unrepresented employees who performed work on the project as part of the employees' total
17 compensation.

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

19 (c) The names of all workers who performed work on the construction project and nota-
20 tion of whether each worker is classified as an employee or independent contractor.

21 (d) The name of any subcontractor with whom the first-tier subcontractor contracts.

22 (e) The anticipated contract start date and scheduled duration of work.

23 (f) An affidavit that attests to whether the subcontractor or any of the subcontractor's
24 current principals has, within the preceding five years, participated in any civil, administra-
25 tive or criminal proceeding involving a violation of any law providing for payment of wages
26 or imposing a crime as a penalty for the violation and the outcome of the proceeding, in-
27 cluding damages, fees or penalty amounts paid to workers or a government agency, if any.

28 (2) A subcontractor's failure to comply with this section does not relieve an owner or a
29 direct contractor of the liability prescribed by section 2 of this 2025 Act.

30 (3) Nothing in this section shall alter an owner's or direct contractor's obligation to
31 timely pay a subcontractor under ORS chapter 701, except that an owner and direct con-
32 tractor may withhold payment to a subcontractor:

33 (a) Because of the subcontractor's failure to comply with the request for records under
34 subsection (1) of this section.

35 (b) In an amount and to the extent that the owner or direct contractor has paid, on be-
36 half of the subcontractor, wages owed to the employees of the subcontractor.

37 (4) A direct contractor or subcontractor may not disclose personally identifying infor-
38 mation about workers who perform work on a construction project except to the extent
39 necessary to comply with federal or state laws.

40 (5) As used in this section, "principal" means a person, including an owner or a direct
41 contractor, who commissions a construction project and who is responsible for the project's
42 scope, standards and objectives.

43 **SECTION 4.** Sections 2 and 3 of this 2025 Act apply to labor performed by employees on
44 a project for a direct contractor or subcontractor on or after the effective date of this 2025
45 Act.

