
OLR Bill Analysis

sSB 409

AN ACT CONCERNING WAGE THEFT RESPONSIBILITY.

SUMMARY

Under the existing wage claim law, an employee can sue an employer for failing to pay wages or fringe benefits (unpaid wages) and may be awarded up to twice their unpaid wages as well as any related costs and attorney's fees (CGS § 31-72). For construction contracts executed on or after October 1, 2024, this bill makes a construction contractor liable for the unpaid wages owed by one of the contractor's subcontractors in these lawsuits. The bill applies to debt incurred by a subcontractor at any tier acting under, by, or for the contractor or the contractor's subcontractors.

Under the bill, an employee who performed work under a construction contract or a labor organization may bring a civil action against the subcontractor, the contractor, or both if the subcontractor fails to pay the employee.

Under the bill, a construction contract, with some exceptions, is any (1) contract entered into for construction, renovation, or rehabilitation, including improvements to real property that are associated with any of this work, or (2) subcontract for construction, renovation, or rehabilitation between an owner and a contractor, a contractor and a subcontractor, or a subcontractor and another subcontractor.

EFFECTIVE DATE: October 1, 2024

CONTRACTOR LIABLE FOR SUBCONTRACTOR'S WAGE DEBT (§§ 1 & 2)

For contracts executed on or after October 1, 2024, the bill makes a construction contractor liable for the unpaid wages owed by one of their subcontractors. It applies to any employee whose labor is included in a

construction contract of (1) any subcontractor in a direct contractual relationship with the contractor, or (2) any subcontractor of a subcontractor. The bill covers wages that are compensation for labor or services rendered by an employee regardless of how they are determined (e.g., a time, commission, or other basis).

The bill does not apply to (1) public works (i.e., prevailing wage) contracts or any contract entered into with this state, any other state, or the United States (CGS § 31-53) or (2) a home improvement contract for the construction, renovation, or rehabilitation of (a) an owner-occupied residence or (b) a one-family or two-family dwelling unit, except when the contract is for the construction of more than 15 one-family or two-family dwelling units at one site.

Definitions (§ 1(a))

The bill also includes the following definitions:

1. A “contractor” is any person, partnership, company, or other entity, including a construction manager, general or prime contractor, joint venture, or any combination of these, that enters into a construction contract with an owner.
2. An “owner” is any person, partnership, company, or other business entity that is the owner of record or lessee of real property where the construction work under the construction contract will be performed.
3. A “subcontractor” is any person, partnership, company, or other entity that is a party to a contract with (1) a contractor or (2) another party who has a separate contract with a contractor; or that performs work, at any tier, for the contractor’s construction contract with an owner, whether or not the subcontractor has a direct contract with the contractor.

Permitted Contractor Protections and Prohibited Provisions (§ 1(c))

The bill (1) allows a contractor to include in each subcontract a remedy for any liability created by a subcontractor’s nonpayment of

wages, provided it does not (1) interfere with an employee's right to take action to collect unpaid wages or (2) waive or release the contractor from any liability assigned under the bill.

Also, the bill prohibits any provision that waives or releases the contractor's liability from being enforceable.

§ 2 — PAYROLL AND OTHER PROJECT INFORMATION

The bill requires subcontractors to provide the following information upon a contractor's or a contractor's subcontractor's request:

1. the names of all the subcontractor's project workers, including independent contractors, working under the contract;
2. attested and certified payroll records for all project employees;
3. the name, address, and phone number of any subcontractor with whom the responding subcontractor is under contract;
4. for any projects the subcontractor is contracted for, the scheduled duration and start date; and
5. the collective bargaining agreements the subcontractor is party to, when applicable.

Payroll Records (§ 2(a))

In addition to being certified, the payroll records must indicate the subcontractor's and any lower-tier subcontractor's payment status in paying wages to employees. Payroll records must be redacted to prevent disclosing an employee's full Social Security number.

Notification and Deadline (§ 2(b) & (c))

The information request must be sent to the subcontractor by certified mail and notify the subcontractor that they have 30 days to respond. The bill requires the subcontractor, and any lower-tier subcontractor under contract, to provide the information within 30 days of receiving the request. Under the bill, a failure to comply with the request for information is cause for a contractor to withhold payments owed to a subcontractor.

§ 3 — ENFORCEMENT

Under the bill, an employee who performed work under a construction contract or a labor organization may bring a civil action for any unpaid wages against the subcontractor, the contractor, or both.

At least 10 days before bringing a civil action, the employee must provide notice to the contractor of an alleged violation by the subcontractor. The notice must describe the general nature of the violation.

This notice requirement does not apply if the employee has previously given notice to a contractor of either the same violation or a prior violation by the same subcontractor. The bill also states the notice provided to a contractor does not limit their liability or prevent amending an action to encompass additional employees of the subcontractor.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4 (03/19/2024)