
**Labor & Workplace Standards
Committee**

HB 1395

Brief Description: Concerning direct contractor liability for payment of wages and benefits.

Sponsors: Representatives Pellicciotti, Hansen, Reeves, Sells, Frame, Peterson, Dolan, Doglio, Ormsby, Blake, Riccelli, Valdez and Goodman.

Brief Summary of Bill

- Allows the Department of Industries to enforce against a direct contractor unpaid wages owed by a subcontractor.
- Allows a third party owed fringe or other benefit payments or contributions by a subcontractor to bring a civil action against a direct contractor.
- Allows an interested party to bring a civil action against a direct contractor or subcontractor for wages owed, including against the direct contractor for wages owed by a subcontractor, after 30 days' notice to the direct contractor and subcontractor.

Hearing Date: 1/31/19

Staff: Joan Elgee (786-7106).

Background:

An individual owed wages may file a wage payment complaint with the Department of Labor and Industries (Department) under the Wage Payment Act (WPA). The Department must investigate and if it finds a violation, must issue a notice and order of assessment and may order the employer to pay employees all wages owed, including interest. The Department may also order a civil penalty if the violation was willful. An employee may pursue a private cause of action if it terminates the administrative action within 10 business days after it receives the Department's notice of assessment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under some circumstances, joint employment may exist and more than one employer may be liable for wage payments.

Under Department rule, an employer must keep records of each employee's name, address, occupation, hours worked on a daily and weekly basis, rate or rates of pay, total wages earned, deductions, and net pay for the pay period.

Federal law recognizes Joint Labor-Management Cooperation Committees to improve labor and management relations, and for other purposes.

Summary of Bill:

A direct contractor entering into a contract for the erection, construction, alteration, or repair of a building, structure, or other private work is liable for any debt owed to an employee. A direct contractor is also liable for a debt owed to a third party for fringe or other benefit payments or contributions made on behalf of an employee, incurred by a subcontractor at any tier on behalf of the employee's work. The liability does not include any penalties or other damages. A direct contractor or subcontractor may enforce against a subcontractor it hires any liability created by this provision.

The liability created does not apply to work entered into by the state or any political subdivision.

Causes of action are established as follows:

- The Department may enforce the liability for unpaid wages, as well as interest, under the WPA. Alternatively, the Department may file a civil cause of action.
- A third party owed fringe or other benefit payments or contributions may sue a direct contractor.
- A joint labor-management cooperation committee established under federal law or an interested party may sue a direct contractor or subcontractor at any tier for unpaid wages, including the wages owed by the direct contractor under the direct contractor liability. Before filing in court, the joint committee or other interested party must provide at least 30 days' notice to the direct contractor and subcontractor that employed the employee.

A third party or a joint labor-management cooperation committee that prevails is entitled to reasonable attorneys' fees, costs, and expert witness fees.

Upon request by a direct contractor to a subcontractor, the subcontractor and any lower tier subcontractors must provide payroll records that include the last four digits of the employees' Social Security numbers and contain sufficient information to apprise the direct contractor of the payment status in making fringe or other benefits payments or contributions and specified information regarding the project. If a subcontractor does not timely provide the information requested within 10 days of the request, a direct contractor may withhold as disputed all sums owed.

A one-year statute of limitations is provided, from the date the claimed labor was performed or the contract work was substantially completed or abandoned, whichever occurred first.

A "direct contractor" is a contractor that has a direct contractual relationship with an owner. Fringe or other benefit payments or contributions are payments made by an employer on behalf of employees for group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

Appropriation: None.

Fiscal Note: Requested on January 30, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.