

**A-Engrossed**  
**House Bill 4154**

Ordered by the House February 15  
Including House Amendments dated February 15

Sponsored by Representative FAHEY (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.

Makes contractor liable for unpaid wages, including other benefit payment or contribution, of employee of subcontractor at any tier.

Permits [*third party*] **exclusive representative of collective bargaining unit** to bring action against contractor on behalf of employee for [*benefit payment or contribution owed to third party*] **unpaid wages**.

Permits joint labor and management committee to bring action against contractor on behalf of employee for unpaid wages.

Requires subcontractor **at any tier** to provide certain information to contractor upon request.

**Requires contracts entered into between contractors and first-tier subcontractors or between first-tier subcontractors and subcontractor at any tier to include certain provisions to ensure timely payments of wages to employees.**

Allows contractor **to pay unpaid wages to employee of subcontractor and** to withhold payment to subcontractor **in amount equal to amount of unpaid wages** for subcontractor's failure to meet certain requirements.

Applies to contractors who enter into contract with subcontractor on or after January 1, 2019.

**A BILL FOR AN ACT**

1  
2 Relating to wages of employees of subcontractors.

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

4 **SECTION 1. Section 2 of this 2018 Act is added to and made a part of ORS 652.310 to**  
5 **652.414.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Construction" has the meaning given that term in ORS 701.410.**

8 (b) **"Contractor" has the meaning given that term in ORS 701.410.**

9 (c) **"Exclusive representative" means the exclusive representative described in ORS**  
10 **663.015.**

11 (d) **"Subcontractor" has the meaning given that term in ORS 701.410.**

12 (2)(a) **For purposes of a wage claim filed under ORS chapter 652 by an employee of a**  
13 **subcontractor at any tier, the contractor who entered into a contract to use the services of**  
14 **the subcontractor to perform construction work shall be liable to the employee wage claim-**  
15 **ant in an amount equal to wages earned and unpaid, including any other benefit payments**  
16 **and contributions made as part of the employee's total compensation, and interest owed.**

17 (b) **Liability under this subsection does not extend to penalties or liquidated damages.**

18 (c) **Liability for unpaid wages under this subsection is limited to wages earned by the**  
19 **employee for services performed under the contract and interest owed.**

20 (3) **The Commissioner of the Bureau of Labor and Industries may proceed under ORS**

**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 **652.310 to 652.414 against the contractor as if the contractor was the subcontractor who had**  
2 **employed the employee wage claimant to enforce the liability prescribed by subsection (2)(a)**  
3 **of this section.**

4 **(4) The exclusive representative of a collective bargaining unit that represents the em-**  
5 **ployee wage claimant may bring an action against the contractor on behalf of the employee**  
6 **to enforce the liability prescribed by subsection (2)(a) of this section.**

7 **(5) A joint labor and management committee established under a collective bargaining**  
8 **agreement may bring an action on behalf of the employee wage claimant against the con-**  
9 **tractor to enforce the liability prescribed by subsection (2)(a) of this section.**

10 **(6) An action under subsection (4) or (5) of this section shall be commenced within the**  
11 **applicable statute of limitations prescribed under ORS 12.080.**

12 **(7) Nothing in this section creates a new right of action of an employee of a subcon-**  
13 **tractor against a contractor.**

14 **(8)(a) Upon the request of a contractor who has entered into a contract to use the ser-**  
15 **vices of a subcontractor at any tier to perform construction work, the subcontractor and**  
16 **any lower tier subcontractors under the contract shall provide payroll records, including the**  
17 **employee's name and address, classification, rate of pay, daily and weekly number of hours**  
18 **worked and gross wages earned and unpaid.**

19 **(b) The information requested under this subsection shall be limited to those records of**  
20 **employees of a subcontractor who have filed a wage claim under ORS chapter 652.**

21 **(c) A subcontractor's failure to comply with this subsection does not relieve a contractor**  
22 **of the liability prescribed by subsection (2)(a) of this section.**

23 **(9) The remedies and obligations provided in this section are in addition to any other**  
24 **remedies and obligations otherwise provided by law, except that nothing in this section shall**  
25 **be construed to impose liability on a contractor for anything other than unpaid wages, in-**  
26 **cluding any benefit payments and contributions made as part of the employees total com-**  
27 **ensation, and interest owed.**

28 **(10) This section does not apply to work performed under a public contract under ORS**  
29 **279C.800 to 279C.870.**

30 **(11)(a) Every contract entered into between a contractor and a first-tier subcontractor**  
31 **or between a first-tier subcontractor and a subcontractor at any tier to use the services of**  
32 **a subcontractor to perform construction work must include at a minimum:**

33 **(A) A provision in which the subcontractor agrees to make timely payments to employees**  
34 **of the subcontractor for wages earned for services performed under the contract; and**

35 **(B) A provision that permits the contractor to withhold payment to a subcontractor at**  
36 **any tier for the failure of a subcontractor to make timely payments to employees of the**  
37 **subcontractor for wages earned for services performed under the contract.**

38 **(b) Lack of privity does not deprive the commissioner or an exclusive representative of**  
39 **a collective bargaining unit that represents an employee wage claimant from bringing an**  
40 **action against a contractor to enforce the liability prescribed by subsection (2)(a) of this**  
41 **section.**

42 **(12)(a) Nothing in this section shall alter a contractor's obligation to timely pay a sub-**  
43 **contractor under ORS chapter 701, except that a contractor may withhold payment to a**  
44 **subcontractor because of the subcontractor's failure to:**

45 **(A) Comply with the request for information under subsection (8) of this section; or**

1       **(B) Pay wages earned by employees of the subcontractor for services performed under**  
2 **the contract described under subsection (2)(a) of this section.**

3       **(b) Any payment withheld by a contractor under this subsection may not exceed an**  
4 **amount equal to the unpaid wages described under subsection (2) of this section.**

5       **(c) A contractor may pay to an employee of a subcontractor an amount equal to wages**  
6 **earned and unpaid and withhold payment to the subcontractor until:**

7       **(A) The subcontractor satisfies the contractor's request for information under sub-**  
8 **section (8) of this section; and**

9       **(B)(i) A court order has been issued in the wage claim proceeding under ORS chapter 652;**  
10 **or**

11       **(ii) The commissioner dismisses the wage claim proceeding, enters into a settlement**  
12 **agreement or enters a final order in the matter.**

13       **SECTION 3.** **Section 2 of this 2018 Act applies to contractors who entered into a contract**  
14 **to use the services of a subcontractor to perform construction work on or after the effective**  
15 **date of this 2018 Act.**