

House Bill 4154

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 **as introduced**.

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

Permits third party to bring action against contractor on behalf of employee for benefit payment or contribution owed to third party.

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

Requires subcontractor to provide certain information to contractor upon request.

Allows contractor to withhold payment to subcontractor 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

Relating to wages of employees of subcontractors.

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

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

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

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

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

(c) "Subcontractor" has the meaning given that term in ORS 701.410.

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

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

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

(3) The Commissioner of the Bureau of Labor and Industries may proceed under ORS 652.310 to 652.414 against the contractor as if the contractor was the subcontractor who had employed the employee wage claimant to enforce the liability prescribed by subsection (2)(a) of this section.

(4) A third party who is owed a benefit payment or contribution on behalf of the employee wage claimant as part of the employee's total compensation may bring an action against the contractor to enforce the liability prescribed by subsection (2)(a) of this section.

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

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

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

5 **(8)(a) Upon the request of a contractor who has entered into a contract to use the ser-**
6 **vices of a subcontractor at any tier to perform construction work, the subcontractor and**
7 **any lower tier subcontractors under the contract shall provide:**

8 **(A) Payroll records documenting the total earnings for the hours worked by each em-**
9 **ployee of the subcontractor; and**

10 **(B) Information describing the subcontractor's payment status in making benefit pay-**
11 **ments or contributions to a third party on behalf of the employee as part of the employee's**
12 **total compensation.**

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

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

20 **(10) This section does not apply to work performed under a public contract under ORS**
21 **chapter 279C.**

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

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

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

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

30 **(c) A contractor may withhold payment to a subcontractor until the subcontractor sat-**
31 **isfies the contractor's request for information under subsection (8) of this section or until**
32 **a court order or administrative order has been issued in the wage claim proceeding under**
33 **ORS chapter 652, whichever occurs first.**

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