

# DRAFT

## SUMMARY

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

Permits third party owed payment or contribution made as part of employee compensation to bring action against contractor on behalf of employee for unpaid wages.

Requires subcontractor to provide certain payroll records and other information to contractor upon request. Permits contractor to withhold payment to subcontractor for failure to comply with request for records.

## A BILL FOR AN ACT

Relating to wages.

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

**SECTION 1. Sections 2 and 3 of this 2023 Act are 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) “Fringe benefits” means the amount of compensation that accompanies or is in addition to an employee’s regular salary or wages, including, but not limited to, payment for profit-sharing plans, retirement or pension plans, insurance, severance pay or holiday, vacation or sick leave.**

**(d) “Owner” has the meaning given that term in ORS 701.410.**

**(e) “Subcontractor” has the meaning given that term in ORS 701.410.**

**(2) A contractor who enters into a construction contract with a**

1 subcontractor to perform construction work on a project shall assume  
2 liability in any civil or administrative action for any unpaid wages,  
3 benefits, or wage supplements owed to an employee of a subcontractor  
4 at any tier for the employee's performance of labor on the project, and  
5 any damages or attorney fees incurred in an action brought by the  
6 employee.

7 (3) A third party who is owed a payment or contribution on behalf  
8 of the employee for benefits, including fringe benefits as part of the  
9 employee's total compensation, may bring an action against the con-  
10 tractor on behalf of an employee to enforce the liability prescribed by  
11 subsection (2) of this section.

12 (4) An action under this section must be commenced within three  
13 years.

14 (5) In the case of a private civil action by an employee against a  
15 subcontractor for unpaid wages, the contractor and the subcontractor  
16 shall be jointly and severally liable for any unpaid wages, benefits and  
17 wage supplements due to the employee, and for any damages or at-  
18 torney fees incurred in the action.

19 (6) Except as provided in subsection (7) of this section, any agree-  
20 ment or release by an employee or subcontractor to waive liability  
21 assigned to a contractor under this section is invalid.

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

25 (b) The terms of a collective bargaining agreement may waive the  
26 liability assigned to a contractor under this section if:

27 (A) The collective bargaining agreement is with a bona fide building  
28 and construction trade labor organization; and

29 (B) Any waiver included in the agreement specifically refers to the  
30 liability imposed under this section.

31 (8) This section does not prohibit a contractor from entering into

1 an agreement with a subcontractor to indemnify the contractor for the  
2 liability described in subsection (2) of this section, provided that the  
3 agreement does not diminish the rights of an employee under this  
4 section.

5 (9) Nothing in this section shall impair the rights of a contractor  
6 to bring an action against a subcontractor for the amounts of unpaid  
7 wages, benefits and wage supplements and any damages or attorney  
8 fees paid by a contractor under this section.

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

11 SECTION 3. (1) Any subcontractor with whom a contractor has  
12 entered into a contract to perform a portion of a construction project  
13 within the scope of a construction contract between the contractor  
14 and the owner, shall provide the following records to the contractor,  
15 upon the contractor's request:

16 (a) Certified payroll reports, which, at a minimum, include suffi-  
17 cient information for the contractor to determine whether a subcon-  
18 tractor has paid in full all wages earned by employees who performed  
19 work on the project, including any applicable benefits, fringe benefits  
20 or contributions made to a third party on the employee's behalf, as  
21 part of the employee's total compensation.

22 (b) The name, address and phone number of a contact for the sub-  
23 contractor.

24 (c) The names of all workers who performed work on the con-  
25 struction project and notation of whether each worker is classified as  
26 an employee or independent contractor.

27 (d) The name of any subcontractor with whom the first-tier sub-  
28 contractor contracts.

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

31 (f) Any local unions with whom the subcontractor is a signatory

1 **contractor.**

2 **(2) A subcontractor's failure to comply with this section does not**  
3 **relieve a contractor of the liability prescribed by section 2 of this 2023**  
4 **Act.**

5 **(3) Nothing in this section shall alter a contractor's obligation to**  
6 **timely pay a subcontractor under ORS chapter 701, except that a con-**  
7 **tractor may withhold payment to a subcontractor because of the**  
8 **subcontractor's failure to comply with the request for records under**  
9 **subsection (1) of this section.**

10 **(4) A contractor or subcontractor may not disclose personally**  
11 **identifying information about workers who perform work on a con-**  
12 **struction project except to the extent necessary to comply with federal**  
13 **or state laws.**

14 **SECTION 4. Sections 2 and 3 of this 2023 Act apply to construction**  
15 **contracts between a contractor and subcontractor entered into, re-**  
16 **newed, extended or modified on or after the effective date of this 2023**  
17 **Act.**