

HB 2057 A STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

Action Date: 05/11/23

Action: Without recommendation as to passage and request referral to Rules.

Vote: 3-0-0-2

Yeas: 3 - Jama, Patterson, Taylor

Abs: 2 - Bonham, Hansell

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 4/27, 5/9, 5/11

WHAT THE MEASURE DOES:

Makes contractor who enters into construction contract with subcontractor jointly and severally liable in any civil or administrative action for unpaid wages owed to an unrepresented employee of a subcontractor at any tier for employee's performance of labor. Defines key terms. Provides statute of limitations for civil action to recover unpaid wages and unpaid overtime wages. Prohibits waiver of liability for contractor. Exempts work performed under prevailing wage rate projects. 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 or if contractor has paid wages on behalf of subcontractor. Applies to labor performed by employees on or after effective date.

ISSUES DISCUSSED:

- Meaning and examples of wage theft
- Contractors' oversight and liability for subcontractors
- Current remedies to address wage theft
- Backlog of cases at Bureau of Labor and Industries
- Potential impact of measure on small and emerging businesses
- Utilization of wage bonds

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Wage theft is a term used to describe a range of situations in which an employer fails to pay an employee, and it can take many forms --from employers paying employees less than the minimum wage or failing to pay overtime to withholding tips, not providing employees with their final paycheck, or requiring employees to work off the clock.

A worker who has experienced wage theft may take civil action against an employer or file a wage claim with the Bureau of Labor and Industries (BOLI) alleging their employer has not fully paid wages owed to the worker. When a wage claim is filed, BOLI can investigate, act to resolve the dispute, or take action through administrative proceedings or through court proceedings. Even when a judgment is made against the employer, the worker is not always successful in collecting the unpaid wages. Beginning June 23, 2021, a worker who had obtained a judgment or final order, from BOLI, against an employer for unpaid wages, could be paid the wages due from the Wage Security Fund. BOLI would then pursue collection of the wages from the employer.

House Bill 2057 A establishes joint and several liability between a contractor and subcontractor on a non-prevailing wage rate (PWR) project for unpaid wages. Upon request, a subcontractor must provide the

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contractor certified payroll records to determine whether subcontractors paid workers in full and if subcontractor fails to provide records, a contractor may withhold payment. In addition, the measure permits a contractor to withhold payment if the contractor has paid wages on behalf of the subcontractor.