

A-Engrossed House Bill 2057

Ordered by the House April 3
Including House Amendments dated April 3

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor for Northwest Carpenters Union)

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 **jointly and severally liable in civil or administrative action** for unpaid wages[, *including other benefit payment or contributions*] of **unrepresented** employee of subcontractor at any tier. **Provides statute of limitations for actions regarding recovery for unpaid and overtime wages.**

[*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*] **under certain circumstances.**

A BILL FOR AN ACT

1
2 Relating to wages.

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

4 **SECTION 1. Sections 2 and 3 of this 2023 Act are added to and made a part of ORS**
5 **chapter 652.**

6 **SECTION 2. (1) As used in this section and section 3 of this 2023 Act:**

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) **"Labor organization"** has the meaning given that term in ORS 663.005.

10 (d) **"Owner"** has the meaning given that term in ORS 701.410.

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

12 (f) **"Unrepresented employee"** means an employee of a contractor or a subcontractor who
13 **is:**

14 (A) **Not represented by a labor organization certified to represent employees for purposes**
15 **of collective bargaining; and**

16 (B) **Not subject to the terms of a collective bargaining agreement.**

17 (2) **A contractor who enters into a construction contract with a subcontractor to per-**
18 **form construction work on a project shall be jointly and severally liable in any civil or ad-**
19 **ministrative action for any unpaid wages owed to an unrepresented employee of a**
20 **subcontractor at any tier for the employee's performance of labor on the project, and any**
21 **damages, penalty wages or attorney fees or costs incurred in an action brought by the em-**
22 **ployee.**

23 (3)(a) **A civil action under this section to recover unpaid wages must be commenced**

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 within six years from the date on which the wages became due.

2 (b) A civil action under this section to recover unpaid overtime wages must be com-
3 menced within two years from the date on which the wages were earned.

4 (4) Except as provided in subsection (5) of this section, any agreement or release by an
5 unrepresented employee or subcontractor to waive liability assigned to a contractor under
6 this section is invalid.

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

9 (6) This section does not prohibit a contractor from entering into an agreement with a
10 subcontractor to indemnify the contractor for the liability described in subsection (2) of this
11 section, provided that the agreement does not diminish the rights of an employee under this
12 section.

13 (7) Nothing in this section impairs the right of a contractor to bring an action against a
14 subcontractor for the amounts of unpaid wages and any damages or attorney fees paid by a
15 contractor under this section.

16 (8) This section does not apply to work performed under a public contract under ORS
17 279C.800 to 279C.870.

18 (9) The Commissioner of the Bureau of Labor and Industries may adopt any rules nec-
19 essary to implement the provisions of this section.

20 **SECTION 3.** (1) Any subcontractor with whom a contractor has entered into a contract
21 to perform a portion of a construction project within the scope of a construction contract
22 between the contractor and an owner shall provide the following records to the contractor,
23 upon the contractor's request:

24 (a) Certified payroll reports that, at a minimum, include sufficient information for the
25 contractor to determine whether a subcontractor has paid in full all wages earned by un-
26 represented employees who performed work on the project as part of the employees' total
27 compensation.

28 (b) The name, address and phone number of a contact for the subcontractor.

29 (c) The names of all workers who performed work on the construction project and nota-
30 tion of whether each worker is classified as an employee or an independent contractor.

31 (d) The name of any subcontractor with whom the first-tier subcontractor contracts.

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

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

35 (3) Nothing in this section alters a contractor's obligation to timely pay a subcontractor
36 under ORS chapter 701, except that a contractor may:

37 (a) Withhold payment to a subcontractor because of the subcontractor's failure to com-
38 ply with the request for records under subsection (1) of this section; and

39 (b) Withhold payment to a subcontractor if the contractor has paid wages, on behalf of
40 the subcontractor, to the subcontractor's employees.

41 **SECTION 4.** Sections 2 and 3 of this 2023 Act apply to labor performed by employees on
42 a project for a contractor or subcontractor on or after the effective date of this 2023 Act.

43