

House Bill 205

Introduced and printed pursuant to House Rule 12.00. Presession 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 **as introduced**.

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

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

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

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

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) Except as provided in subsection (7) of this section, any agreement or release by an
2 employee or subcontractor to waive liability assigned to a contractor under this section is
3 invalid.

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

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

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

10 (B) Any waiver included in the agreement specifically refers to the liability imposed un-
11 der this section.

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

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

19 (10) This section does not apply to work performed under a public contract under ORS
20 279C.800 to 279C.870.

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

25 (a) Certified payroll reports, which, at a minimum, include sufficient information for the
26 contractor to determine whether a subcontractor has paid in full all wages earned by em-
27 ployees who performed work on the project, including any applicable benefits, fringe benefits
28 or contributions made to a third party on the employee's behalf, as part of the employee's
29 total compensation.

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

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

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

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

35 (f) Any local unions with whom the subcontractor is a signatory contractor.

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

38 (3) Nothing in this section shall alter a contractor's obligation to timely pay a subcon-
39 tractor under ORS chapter 701, except that a contractor may withhold payment to a sub-
40 contractor because of the subcontractor's failure to comply with the request for records
41 under subsection (1) of this section.

42 (4) A contractor or subcontractor may not disclose personally identifying information
43 about workers who perform work on a construction project except to the extent necessary
44 to comply with federal or state laws.

45 SECTION 4. Sections 2 and 3 of this 2023 Act apply to construction contracts between a

1 **contractor and subcontractor entered into, renewed, extended or modified on or after the**
2 **effective date of this 2023 Act.**

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