

Introduced by Senator MendozaFebruary 19, 2016

An act to add Section 1176.5 to the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1342, as introduced, Mendoza. Wages: investigations: subpoenas.

Existing law authorizes the Industrial Welfare Commission to subpoena witnesses. Existing law provides that if a person fails to comply with an order or subpoena of the commission or a witness refuses to testify to any matter regarding which he or she may lawfully be interrogated before any wage board or the commission, it shall be the duty of the superior court to compel obedience in a manner by which such obedience could be compelled in a proceeding pending before the court.

This bill would authorize a board of supervisors of a county or a legislative body of a city to delegate that board or body's authority to issue subpoenas, by resolution or ordinance, to a county or city officer or department head for the purpose of conducting investigations to enforce local wage laws. The bill would require these subpoenas to only be issued for purposes of obtaining records and testimony reasonably necessary to determine if a local wage ordinance was violated, to be reviewed by the county counsel or city attorney, and signed by the designated officer or department head before it is issued. The bill would provide that if any person so duly subpoenaed to appear and give evidence or to produce any books or papers before the designated officer or department head, neglects or refused to appear, or to produce any books or papers, as required by the subpoena, or refuses to testify or answer any questions that the designated officer or department head decides are proper and pertinent, he or she shall be in contempt, and

the designated officer or department head shall report that fact to the judge of the superior court of the county.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Wage theft is prevalent among immigrant and low-wage
4 workers in California.

5 (2) Los Angeles County, where approximately \$26.6 million in
6 wages are stolen from laborers every week, has been dubbed by
7 some as the “wage theft capital” of the United States.

8 (3) The Economic Roundtable and the University of California,
9 Los Angeles, indicate that violations of wage laws in Los Angeles
10 are pervasive, with 30 percent of low-wage workers in Los Angeles
11 receiving less than the minimum wage and 88.5 percent of workers
12 experiencing some sort of wage theft.

13 (4) Wage theft can cause workers extreme financial hardship,
14 making it harder for workers experiencing wage theft to take care
15 of their families and contribute to the state economy.

16 (5) According to the Milton Marks “Little Hoover” Commission
17 on California State Government Organization and Economy, wage
18 enforcement resources in California have not kept pace with
19 increases in the number of employers and increased complexity
20 of the employer-employee relationship. Local jurisdictions,
21 including the City and County of San Francisco, the City of Los
22 Angeles, and the County of Los Angeles, have addressed the need
23 for additional wage enforcement resources by establishing local
24 wage enforcement agencies.

25 (6) In California, 14 local jurisdictions have enacted minimum
26 wage ordinances. The majority of these jurisdictions have
27 designated or created a local agency to enforce local wage laws.

28 (7) Local wage enforcement is an effective means of combating
29 wage theft. For example, San Francisco’s Office of Labor Standards
30 Enforcement recovered 90.5 percent of wages and interest owed
31 to workers between 2003 and 2013.

32 (b) It is the intent of the Legislature in enacting this measure to
33 promote honest pay for fair work by giving local wage enforcement

1 programs all of the tools necessary to conduct successful wage
2 claim investigations in order to recover unpaid back wages for
3 hard working Californians.

4 SEC. 2. Section 1176.5 is added to the Labor Code, to read:

5 1176.5. (a) (1) The board of supervisors of a county may
6 delegate the board's authority to issue subpoenas, by resolution
7 or ordinance, to a county officer or department head for the purpose
8 of conducting investigations to enforce local wage laws.

9 (2) The subpoena shall only be for purposes of obtaining records
10 and testimony reasonably necessary to determine if a local wage
11 ordinance was violated. The subpoena shall be reviewed by the
12 county counsel and signed by the designated county officer or
13 department head before it is issued. The subpoena shall be served
14 in the same manner as subpoenas are served in civil actions.

15 (3) If a county and a city contract for purposes of the county
16 conducting investigations to enforce local wage laws within the
17 boundaries of a city, that contract may provide a county officer or
18 department head with the authority to issue subpoenas within the
19 contracting city's boundaries with the same force and effect as if
20 issued in unincorporated areas of that county. A subpoena issued
21 pursuant to this subdivision shall be reviewed by the county counsel
22 before being issued.

23 (b) (1) The legislative body of a city may delegate that body's
24 authority to issue subpoenas, by resolution or ordinance, to a county
25 officer or department head for the purpose of conducting
26 investigations to enforce local wage laws.

27 (2) The subpoena shall only be for purposes of obtaining records
28 and testimony reasonably necessary to determine if a local wage
29 ordinance was violated. The subpoena shall be reviewed by the
30 city attorney and signed by the designated city officer or
31 department head before it is issued. The subpoena shall be served
32 in the same manner as subpoenas are served in civil actions.

33 (3) If a county and a city contract for purposes of the city
34 conducting investigations to enforce local wage laws within the
35 unincorporated areas of the county, that contract may provide a
36 city officer or department head with the authority to issue
37 subpoenas within the contracting county's unincorporated areas
38 with the same force and effect as if issued within the city's
39 boundaries. A subpoena issued pursuant to this subdivision shall
40 be reviewed by the city attorney before being issued.

1 (c) If any person duly subpoenaed pursuant to this section to
2 appear and give evidence or to produce any books or papers before
3 the designated officer or department head, neglects or refused to
4 appear, or to produce any books or papers, as required by the
5 subpoena, or refuses to testify or answer any questions that the
6 designated officer or department head decides are proper and
7 pertinent, he or she shall be in contempt, and the designated officer
8 or department head shall report the that fact to the judge of the
9 superior court of the county.

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