

AMENDED IN SENATE APRIL 12, 2016

SENATE BILL

No. 1342

Introduced by Senator Mendoza

February 19, 2016

An act to add Section ~~1176.5 to the Labor Code, 53060.4 to the Government Code~~, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1342, as amended, 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 specify that a legislative body of a city or county is authorized to delegate that board or body's authority to issue subpoenas, by resolution or ordinance, subpoenas and to report noncompliance thereof to the judge of the superior court of the county, to a county or city officer official or department head for the purpose of conducting investigations in order 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. The bill would provide legislative findings in support of this provision.~~

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~~ *is* 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

1 designated or created a local agency *local agencies* to enforce local
2 wage laws.

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

7 (8) Pursuant to Sections 25207, 27721, and 37104, and *Dibb*
8 *v. County of San Diego*, (8 Cal. 4th 1200), cities and counties are
9 authorized to delegate to local officials the authority to issue
10 subpoenas in support of enforcing local wage ordinances.

11 (b) It is the intent of the Legislature in enacting this measure to
12 promote honest pay for fair work by giving local wage enforcement
13 programs all of the tools necessary to conduct successful wage
14 claim investigations in order to recover unpaid back wages for
15 ~~hard working~~ *hardworking* Californians.

16 (c) Cities and counties are encouraged to develop and enact
17 specific measures to target and remedy wage theft.

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

19 1176.5.— (a) (1) ~~The board of supervisors of a county may~~
20 ~~delegate the board’s authority to issue subpoenas, by resolution~~
21 ~~or ordinance, to a county officer or department head for the purpose~~
22 ~~of conducting investigations to enforce local wage laws.~~

23 (2) ~~The subpoena shall only be for purposes of obtaining records~~
24 ~~and testimony reasonably necessary to determine if a local wage~~
25 ~~ordinance was violated. The subpoena shall be reviewed by the~~
26 ~~county counsel and signed by the designated county officer or~~
27 ~~department head before it is issued. The subpoena shall be served~~
28 ~~in the same manner as subpoenas are served in civil actions.~~

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

37 (b) (1) ~~The legislative body of a city may delegate that body’s~~
38 ~~authority to issue subpoenas, by resolution or ordinance, to a county~~
39 ~~officer or department head for the purpose of conducting~~
40 ~~investigations to enforce local wage laws.~~

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

7 ~~(3) If a county and a city contract for purposes of the city~~
8 ~~conducting investigations to enforce local wage laws within the~~
9 ~~unincorporated areas of the county, that contract may provide a~~
10 ~~city officer or department head with the authority to issue~~
11 ~~subpoenas within the contracting county's unincorporated areas~~
12 ~~with the same force and effect as if issued within the city's~~
13 ~~boundaries. A subpoena issued pursuant to this subdivision shall~~
14 ~~be reviewed by the city attorney before being issued.~~

15 ~~(e) If any person duly subpoenaed pursuant to this section to~~
16 ~~appear and give evidence or to produce any books or papers before~~
17 ~~the designated officer or department head, neglects or refused to~~
18 ~~appear, or to produce any books or papers, as required by the~~
19 ~~subpoena, or refuses to testify or answer any questions that the~~
20 ~~designated officer or department head decides are proper and~~
21 ~~pertinent, he or she shall be in contempt, and the designated officer~~
22 ~~or department head shall report the that fact to the judge of the~~
23 ~~superior court of the county.~~

24 ~~SEC. 2. Section 53060.4 is added to the Government Code, to~~
25 ~~read:~~

26 ~~53060.4. (a) The legislative body of a city or county may~~
27 ~~delegate to a county or city official or department head its authority~~
28 ~~to issue subpoenas and to report noncompliance thereof to the~~
29 ~~judge of the superior court of the county, in order to enforce local~~
30 ~~wage laws.~~

31 ~~(b) The Legislature finds and declares that these provisions do~~
32 ~~not constitute a change in, but are declaratory of, existing law.~~