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Public Law Update - AB 538: Public Works Payroll Records and Awarding Body Duties

Purpose and Overview

Assembly Bill (“AB”) 538 clarifies how the public agency that awarded a public works contract (the “awarding body,” such as a city, county, special district, or state agency) must respond when a member of the public requests certified payroll records through that agency. The bill does not change what payroll records contractors must keep or those authorized to receive them. Instead, it addresses how awarding bodies must respond when they receive a public request and do not already have the records in their possession.^[1]

When a public request is routed through the awarding body, the agency must obtain the certified payroll records from the contractor or subcontractor and provide them to the requester in redacted form, consistent with existing law. Contractors have 10 days to comply with the awarding body’s written request. If they do not, the awarding body must notify the Division of Labor Standards Enforcement (“DLSE”), which may seek to have existing statutory penalties withheld from progress payments.^[2]

The California Public Records Act (“CPRA”) continues to treat certified payroll records as public records. CPRA supplies the general access and response framework, while Labor Code section 1776 provides the more specific rules governing how agencies must route requests, obtain records from contractors, redact personal information, and trigger enforcement. For this category of records, section 1776 requires awarding bodies to take steps beyond CPRA’s usual focus on records already in an agency’s possession.^[3]

Background

Existing law requires contractors and subcontractors on public works projects to keep detailed, certified payroll records showing worker classifications, hours worked, and wages paid. Contractors must make certified copies available to employees, awarding bodies, and DLSE upon request, subject to required redaction of personal identifying information. When an authorized entity makes a written request, the contractor must furnish the records within 10 days. Failure to do so can result in misdemeanor liability and a civil penalty of \$100 per calendar day, per worker.^[4]

Some awarding bodies denied public requests for certified payroll records simply because the agency did not already possess the records and did not view itself as responsible for obtaining them from contractors. AB 538 addresses that gap by clarifying that it is the awarding body's obligation to seek out the records and by strengthening the enforcement pathway when contractors fail to respond.[5]

Awarding Body Duties and 10-Day Rule

AB 538 preserves the rule that the public submits requests for certified payroll records through either the awarding body or DLSE, not directly to the contractor. The bill then imposes two clear procedural duties on awarding bodies:

- Obtain the records: If a public request comes through the awarding body and the agency does not already have the certified payroll records, the awarding body must obtain the records from the relevant contractor or subcontractor and make them available to the requester in redacted form. The public may not inspect records at the contractor's office, and existing cost reimbursement rules continue to apply.[6]
- Track the deadline and notify DLSE: When the awarding body issues a written request for certified payroll records in response to a public request, the contractor or subcontractor has 10 days to provide the records. If the contractor or subcontractor fails to comply within that period, the awarding body must notify DLSE. DLSE may then request that the existing \$100 per day, per worker penalties be withheld from progress payments due on the project.[7]

The awarding body does not calculate, impose, or collect penalties. Its role is to request the records, track the 10-day deadline, and notify DLSE when the contractor or subcontractor does not respond.

Relationship to Existing Payroll Record Requirements

AB 538 does not alter the substance of contractors' and subcontractors' payroll obligations. Contractors and subcontractors must still maintain accurate, certified payroll records, provide certified copies upon request to authorized entities, and furnish those copies within 10 days of receiving a written request. Existing redaction rules, special disclosure provisions for Taft-Hartley trust funds and joint labor management committees, and the \$100 per day, per worker penalty structure remain unchanged.[8]

The bill also leaves intact the separate electronic certified payroll reporting requirements under Labor Code section 1771.4. Providing electronic payroll data to DLSE does not substitute for furnishing

certified payroll records in response to a written request under section 1776.[9]

Practical Impacts for Public Agencies and Contractors

For public agencies acting as awarding bodies, AB 538 makes clear that responding to public payroll record requests is an active responsibility. If the agency does not already have the records, it must request them from the contractor, monitor the 10-day response period, and notify DLSE if the contractor or subcontractor does not comply. This structure removes ambiguity about agency duties and strengthens enforcement through existing penalty withholding mechanisms.[10]

For contractors and subcontractors, the bill reinforces the importance of timely compliance with written payroll record requests from awarding bodies. Failure to respond within the 10-day period now more predictably triggers DLSE involvement and potential penalty withholding, even though the underlying recordkeeping and disclosure requirements remain unchanged.[11]

Our office can assist with implementing AB 538, including advising on certified payroll request procedures, contract language, and compliance strategies.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to public works contracts and prevailing wage requirements.

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[1] Lab. Code, § 1776 (a), (b)(3).

[2] Lab. Code, § 1776 (b)(3)-(4), (h).

[3] Gov. Code, § 7927.705; Lab. Code, § 1776.

[4] Lab. Code, § 1776(a)-(b), (d), (e), (h).

[5] Assem. Floor Analysis, 3d reading of Assem. Bill No. 538 (2025-2026 Reg. Sess.) June 3, 2025; Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 538 (2025-2026 Reg. Sess.) Aug. 29, 2025.

[6] Lab. Code, § 1776(b)(3).

[7] Lab. Code, § 1776(b)(4), (h).

[8] Lab. Code, § 1776 (a)-(f), (h).

[9] Lab. Code, §§ 1771.4, 1776(c).

[10] Lab. Code, § 1776(b)(3)-(4), (h).

[11] Lab. Code, § 1776(h).