

PENALTY REFORM

How California's Public Works Enforcement Agency Could Better Protect Workers and Taxpayers

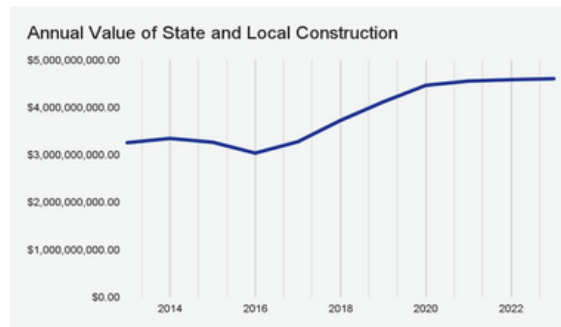


For every taxpayer dollar spent on Public Works Enforcement, the state recovers \$1.11 in penalties and wages—an investment in the public good.

- California's public works construction market is valued at **\$46 billion, up 37% over the last ten years.**
- When contractors win bids for public works projects, they must comply with California public works laws, including paying workers local market-rate wages, overtime, and fringe benefits.
- **Contractors awarded public works projects** must also follow licensure, registration, safety, apprenticeship and workforce development requirements, and to keep accurate payroll records.
- Too many contractors fail to act responsibly, exploit workers, and misuse taxpayer dollars. In 2021, the California Labor Commissioner's Office recovered **\$8.9 million in stolen wages and issued nearly \$4.8 million in penalties** against non-compliant public works contractors.
- Despite the ongoing expansion of California's public works construction sector and rising contractor revenues, penalties have remained unchanged for over a decade. This may fail to deter dishonest employers, harming competition for responsible ones.
- If penalties had been **adjusted to keep pace with inflation** since they were last increased in 2013, the California Department of Industrial Relations **could have generated an additional \$7.3 million in penalties** and funded over 40 new positions at the understaffed Division of Labor Standards Enforcement.
- If public works **registration fees were adjusted for inflation, there would be an \$6.8 million increase** in annual revenues to the Public Works Enforcement Fund, from \$12 million to \$18.8 million annually.
- California has a robust network of private compliance organizations that submit complaints to the DLSE, but **underfunded enforcement agencies risk missing opportunities to address violations within the statute of limitations.** Annual inflation-adjusted penalties would incentivize contractor responsibility and crucially enhance the ability of state labor enforcement agencies to protect workers and safeguard taxpayer dollars.
- Spending cuts have been essential in balancing California's 2025-2026 budget and addressing a multi-billion-dollar deficit. Increasing penalties presents an opportunity to **generate additional revenue, support long-term fiscal stability, and deliver benefits to taxpayers, contractors, and workers alike.**

CALIFORNIA'S PUBLIC WORKS CONSTRUCTION SECTOR

California's public works construction market is a \$46 billion industry, the second largest in the United States just behind Texas.¹ It includes all publicly funded infrastructure and related community projects—such as roads, bridges, broadband, and affordable housing. Over the past decade, California's public construction market has seen significant growth, with state and local [construction spending increasing by 41%](#).



Data based on United States Census Bureau "Annual Value of State and Local Construction Put in Place by State"

In public works construction, contracts are typically awarded to the lowest bidder to deliver value for taxpayers. For the over 36,000 registered public works contractors in California, more opportunities to win public works bids comes with the responsibility to operate with integrity and comply with applicable public works laws. These laws include maintaining the correct apprentice-to-journey worker ratio, registration, keeping and submitting accurate certified payroll records, and paying skilled workers the local market wage for their craft (also known as the prevailing wage), including fringe benefits. [Contractors on public works projects must abide by these laws](#) in addition to all other contracting laws, such as keeping a valid contractor's license and following all safety protocols. Public works laws are designed to protect taxpayers from fraud, strengthen and grow the construction labor force, and level the playing field so honest contractors have a fair chance to compete.

NON-RESPONSIBLE CONTRACTING

While prevailing wage laws serve as a safeguard against labor abuses, weak enforcement and penalties can incentivize contractors to misclassify workers, underpay them, and pocket the savings—without reducing the project's overall cost to taxpayers. The most common way contractors cheat workers is through wage theft: [employers use tactics like paying under the table or misclassifying workers into lower paid positions, avoiding payroll taxes and reducing the cost of fringe benefits.](#)



NON-RESPONSIBLE CONTRACTING

Wage theft undermines fair competition by allowing dishonest contractors to underbid responsible businesses. It shortchanges workers the pay they have rightfully earned, which ultimately creates more poverty and diminishes economic activity across the community. [Wage theft also increases burdens on taxpayers](#) because non-responsible contracting can not only result in project quality problems, it also results in under-payment of payroll taxes, income taxes, unemployment insurance, or worker's compensation premiums—thereby [destabilizing public budgets and increasing the tax burdens of those who play by the rules.](#)²

These lower income tax contributions undermine all matters of public services and especially weaken essential social programs like Social Security and Medicare. One study estimated that it costs “state and federal coffers at least \$3,000 annually for every worker that is misclassified.”³

Construction is the third highest industry with wage claims in California. **1 and 6** construction workers are misclassified by their employers.



The construction industry has one of the highest rates of misclassification, and is especially prone to wage theft.⁴ In California, construction ranks as the third highest industry for wage claims,⁵ with one study showing that in 2011, one in six construction workers were misclassified by their employers, [leading to a 30% reduction in pay.](#)⁶ In 2021, the most recent year with data available, [\\$9.2 million in wages](#) were recovered from theft in the public works construction sector alone.⁷

PENALTIES STRENGTHEN PUBLIC WORKS ENFORCEMENT

Importantly, in addition to requiring employers to pay back-owed wages, California law has established [penalties to disincentivize cheating](#), which can be an effective tool to protect workers and taxpayers. Public works contractors may owe penalties for failure to have the correct number of apprentices on the jobsite, not keeping accurate payroll records, and unpaid or underpaid overtime, as well as other misclassification and wage violations. Contractors may also be required to pay penalties to the California State License Board and Cal-OSHA for licensing and safety violations, respectively.

Prevailing wage violation penalties have existed in California's code since 1937. In 2012, Governor Jerry Brown signed AB 551 into law, which increased penalties for contractors who violate prevailing wage laws and payroll records requirements. Not surprisingly, during the 2012–2013 fiscal year, the DIR collected about \$1.3 million in public works⁸ penalties, and by 2013–2014 penalty collections went up to \$3.5 million,⁹ a 163% increase.

PUBLIC WORKS PENALTIES



Penalties for public works violations are investigated and issued by the Public Works Unit of the Division of Labor and Standards Enforcement (DLSE), an office of the California Department of Industrial Relations. The Public Works Unit is funded primarily through the State Public Works Enforcement fund, which covers the cost of investigations and registration administration fees.

In 2021, the most recent year with data available, the **DLSE Public Works Unit collected nearly \$4.8 million in public works penalties - recouping 40 percent of the Public Works Enforcement Fund's \$12.6 million expenditures.**¹⁰ The DLSE also found over \$9.2 million in wages owed in 2020-2021.^{12, 13} For every dollar spent on Public Works Enforcement, \$1.11 is recovered in penalties and wages, increasing the state's enforcement capacity and ensuring workers receive the wages they are owed.

Violation	1937	Date Unknown	AB 1418 (2003)	AB 551 (2012)
Maximum penalty for paying less than the prevailing wage	\$10	\$50	\$50	\$200
Minimum penalty for paying less than the prevailing wage			\$10	\$40
Minimum penalty for paying less than the prevailing wage, if assessed penalties within the previous three years			\$20	\$80
Minimum penalty for paying less than prevailing wage, willful			\$30	\$120

Often, the collected dollar amount of penalties is lower than the assessed amount, as the Labor Commissioner has the discretion to lower penalties or waive them altogether if the error was a result of a good faith mistake and then promptly corrected. This system is designed to balance accountability for violators while allowing leniency for administrative or clerical errors made in good faith, showing that the penalty increase specifically targets contractors who are repeat offenders and deliberately non-responsible.

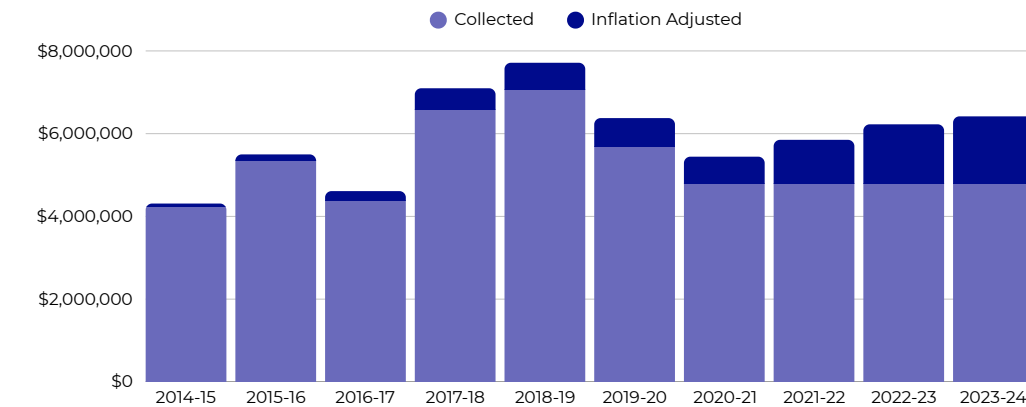
Contractor registration fees also support the Public Works Enforcement Fund, generating \$12 million in revenues in the 2022-2023 budget year. However, like penalties, the \$400 registration fee has not been increased in many years, since July 1, 2017.

CONTRACTOR REVENUES INCREASE, PENALTIES STAGNATE

While penalties help to disincentive contractors from cheating workers, taxpayers, and other employers, the expansion of California's public works sector alongside increases to contractors' revenues have weakened their effectiveness—especially since these penalties have remained unchanged for over a decade. According to the Engineering News-Record list of California's top revenue-earning contractors in 2023, the top ten ranked contractors achieved a cumulative revenue of \$19.9 billion.¹⁴ This marks a 7% increase over the cumulative revenue of the top ten contractors in 2022,¹⁵ and a 42% increase since 2013.¹⁶ **As contractor revenues continue to rise, the need for effective penalty reform becomes increasingly urgent.**

HIGHER PENALTIES COULD DETER CHEATERS AND GENERATE REVENUES NEEDED TO BOLSTER ENFORCEMENT

Inflation has surged significantly since the COVID-19 pandemic, and especially at the end of the last decade since penalties increased. If the DIR had collected the same penalty amounts in 2022, 2023, and 2024 as it did in 2021, [adjusting penalties for inflation may have generated an additional \\$1.6 million in collections](#). This 34% increase could have funded at least nine new positions in one year at the DIR's Division of Labor Standards Enforcement. ¹⁷



Data based on penalties collected between 2014 - 2021, with projections for 2021-2022, 2022-2023, and 2023-2024 based on the 2020-2021 collection amount of \$4,792,107.30. Inflation calculation based on the Bureau of Labor Statistics CPI Inflation Calculator for January of each year. Collections may have decreased between the 2019-2021 fiscal years as the COVID-19 pandemic caused construction delays and other bureaucratic disruptions.

Looking back further, if public works penalties had been adjusted for inflation for the last ten years, between 2014 and 2024 the DIR may have collected an additional [\\$7.3 million in penalties](#). This would have funded over 40 new enforcement positions, which is particularly important given a recent audit revealing that the California Labor Commissioner's Office is significantly understaffed, limiting its ability to investigate and resolve wage claims.¹⁸ These additional staff reflect a nearly 5% increase in DLSE personnel, which would have likely increased adjudicated penalties if assigned to the Public Works Unit. [An additional 5% increase in staff, on top of inflation adjustments, could have generated an extra \\$343,000 in one year](#). To increase staff to the public works unit itself, registration fees could also be adjusted for inflation, from the \$400 current fee to \$520. With 36,144 currently registered public works contractors, this could generate [\\$18.8 million in annual revenue to the Public Works Enforcement Fund](#).

To support state enforcement investigators, California benefits from a robust private network of compliance entities working in the field, monitoring projects, and composing complaints of potential non-compliance with public works laws. Increased revenue from annual inflation-adjusted penalty increases could not only deter contractors from cheating workers and violating public works laws but also provide essential support for the DSLE, helping to expand the capacity of the Public Works Unit to handle the growing volume of complaints. Addressing complaints in a timely manner is important because delays could result in the statute of limitations expiring, potentially closing the case.

Allowing penalties to lag behind inflation not only rewards those who cheat but also shifts an even greater tax burden onto law-abiding citizens. As California works to recover from a multi-billion-dollar fiscal crisis and reduce rampant wage theft, legislators must begin to consider the necessity of public works penalty reform.

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10. See page 6: California Budget, Department of Industrial Relations, 3-Year Expenditures and Positions. <https://ebudget.ca.gov/2022-23/pdf/GovernorsBudget/7000/7350.pdf>
11. See page 5 for Public Works Unit wages and penalties collected https://www.dir.ca.gov/dlse/BOFE_LegReport2021.pdf
12. See Labor Code 1775(a)(2)(A)(i) and (a)(2)(B)(i).
13. The discrepancy between collection and assessment amounts can also result from lengthy collection processes: collections may include monies that were found due in previous years.
14. ENR California 2023 Top Contractors. <https://www.enr.com/California/Toplists/2023-Top-Contractors-Preview>
15. The revenue of the top ten 2022 contractors, when adjusted for inflation, was \$18.6 billion. <https://www.enr.com/California/Toplists/2022-Top-Contractors-Preview>
16. The revenue of the top ten 2013 contractors, when adjusted for inflation, was \$14 billion. https://www.enr.com/california/toplists/2013_Top_Contractors
17. During the 2022 – 2023 fiscal year, the California Division of Labor Standards Enforcement expenditures totaled \$145,502,000 across nearly 817 positions, for an average of about \$178,093.
18. See "The Labor Commissioner's Office: Inadequate staffing and poor oversight have weakened protections for workers." May 2024. <https://www.auditor.ca.gov/wp-content/uploads/2024/05/2023-104-Report.pdf>



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ABOUT NCIC

NorCal Construction Industry Compliance (NCIC) is a joint labor management organization committed to paving the way to a level playing field for contractors and workers by promoting equitable contracting, and ensuring compliance with all applicable state and federal labor laws governing the construction industry. Learn more at norcalcic.org.

