



Senate

General Assembly

File No. 354

January Session, 2015

Substitute Senate Bill No. 1039

Senate, April 1, 2015

The Committee on Labor and Public Employees reported through SEN. GOMES of the 23rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING GENERAL CONTRACTOR LIABILITY FOR WAGES AND WORKERS' COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) Notwithstanding any
2 provisions of the general statutes, a general contractor and any
3 subcontractor serving at the direction of such general contractor shall
4 be jointly liable to any employee of such subcontractor, or any
5 employee of a lower tier subcontractor, for (1) any unpaid wages
6 earned by the employee while working for such subcontractor, or a
7 lower tier subcontractor, while the subcontractor was serving at the
8 direction of such general contractor, and (2) any unpaid workers'
9 compensation claims resulting from an injury to the employee that
10 occurred while working for such subcontractor, or a lower tier
11 subcontractor, while the subcontractor was serving at the direction of
12 such general contractor.

13 (b) Any general contractor who is required to make any payment as

14 a result of a subcontractor's or lower tier subcontractor's failure to pay
15 wages or benefits pursuant to subsection (a) of this section, may bring
16 a civil action in the Superior Court to recover no more than the
17 damages sustained by the general contractor by reason of making such
18 payment, together with costs and reasonable attorney's fees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes a private general contractor and any subcontractor serving at his or her direction jointly liable to an employee for unpaid wages and workers' compensation claims. This does not result in any fiscal impact to the state or municipalities.

It is unclear what impact the bill has on the Second Injury Fund, however private employers are liable for any payments made from the fund and thus the bill does not impact the state.

There is no impact to the Judicial Department from allowing contractors required to make payments due to subcontractors' failure to pay to bring a civil action in Superior Court. The number of civil actions is not anticipated to be great enough to need additional resources. The court system disposes of over 450,000 cases annually.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1039*****AN ACT CONCERNING GENERAL CONTRACTOR LIABILITY FOR WAGES AND WORKERS' COMPENSATION.*****SUMMARY:**

Regardless of any other statutes, this bill makes a general contractor and a subcontractor serving at his or her direction jointly liable to an employee of the subcontractor or a lower tier subcontractor for unpaid wages and workers' compensation claims. At the time the wages were earned or injury occurred, the employee must have been working for the subcontractor or lower tier contractor while the subcontractor was serving at the general contractor's direction.

For unpaid workers' compensation claims, the bill makes the general contractor and subcontractor liable for the claim regardless of the Second Injury Fund's obligation to pay an employee's claim when his or her employer does not. It is unclear whether the (1) fund will no longer pay these claims or must pay them in addition to what the employee may recover from the general contractor and subcontractor or (2) employee's claim will be deemed "unpaid" if the Second Injury Fund pays it, as required by law.

The bill allows general contractors (but not subcontractors) to bring a civil suit to recover any payments they had to make because of a subcontractor's or lower-tier subcontractor's failure to pay wages or workers' compensation benefits, plus costs and reasonable attorney's fees.

EFFECTIVE DATE: October 1, 2015

BACKGROUND***Unpaid Wages***

By law, employers are subject to criminal penalties for violating the wage payment laws based on the amount of unpaid wages. If unpaid wages are:

1. up to \$500, each offense is punishable by up to three months in prison, a fine of \$200 to \$500, or both;
2. between \$500 and \$1,000, each offense is punishable by up to six months in prison, a fine of \$500 to \$1,000, or both;
3. between \$1,000 and \$2,000, each offense is punishable by up to one year in prison, a fine of \$1,000 to \$2,000, or both;
4. over \$2,000, each offense is a class D felony punishable by up to five years in prison, a fine of between \$2000 and \$5,000, or both for each offense (CGS § 31-71g).

By law, an employee has a civil action against an employer who violates the wage payment laws for twice the amount of the unpaid wages, costs, and reasonable attorney's fees. The labor commissioner may also file a civil action to collect unpaid wages (CGS § 31-72).

By law, the labor commissioner may investigate complaints of nonpayment of wages (CGS § 31-76a).

Second Injury Fund

This fund provides workers' compensation insurance coverage to workers whose employers failed to provide it. Employers are liable for any payments made from the fund and the state can collect the money in a civil action or by any means used to collect taxes. The state may also file a lien against the employer (CGS §§ 31-355 and -355a).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 5 (03/12/2015)