

**ASSEMBLY BILL**

**No. 2288**

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**Introduced by Assembly Member Cedillo**

February 24, 2012

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An act to add Section 218.7 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2288, as introduced, Cedillo. Labor-related liabilities: original contractor.

Under existing law, an action may be brought for nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions.

This bill would require a direct contractor, as defined, making or taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other work, to assume, and be liable for, any debt owed to a wage claimant for labor incurred by a subcontractor or contractor acting under, by, or for the direct contractor in performing labor, construction, or other work included in the subject of the original contract. The bill would authorize civil actions to enforce this liability, as provided.

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. Section 218.7 is added to the Labor Code, to  
2 read:

1 218.7. (a) (1) A direct contractor making or taking a contract  
2 in the state for the erection, construction, alteration, or repair of a  
3 building, structure, or other work, shall assume, and is liable for,  
4 any debt owed to a wage claimant for labor incurred by a  
5 subcontractor or contractor acting under, by, or for the direct  
6 contractor in performing labor, construction, or other work included  
7 in the subject of the contract between the direct contractor and the  
8 owner.

9 (2) The direct contractor’s liability shall extend to any wage,  
10 fringe or other benefit, trust fund contribution, workers’  
11 compensation payment or contribution, damage, or penalty owed  
12 to a wage claimant.

13 (3) A direct contractor or any other person shall not evade, or  
14 commit any act that negates, the requirements of this section.

15 (b) A wage claimant may sue directly or through an assignee,  
16 including a multiemployer plan established under Section 1002 of  
17 Title 29 of the United States Code, for the debt described in  
18 subdivision (a).

19 (c) The district attorney of a county or prosecuting attorney of  
20 a city where the direct contractor resides or is found may institute  
21 a civil action against the direct contractor for the amount owed.

22 (d) Unless otherwise provided by law, property of the direct  
23 contractor may be attached for the payment of any judgment  
24 received pursuant to this section.

25 (e) An action brought pursuant to this section shall be filed  
26 within one year of the date of completion of the work for which  
27 the labor was performed.

28 (f) This section does not apply to an employee of the state, a  
29 special district, a city, a county, or any political subdivision of the  
30 state.

31 (g) For purposes of this section, “direct contractor” and  
32 “subcontractor” have the same meanings as provided in Sections  
33 8018 and 8046, respectively, of the Civil Code.