

2018-2019 THE BUREAU OF FIELD ENFORCEMENT FISCAL YEAR REPORT

CALIFORNIA LABOR COMMISSIONER'S OFFICE



Labor Code section 90.5(d) requires the Labor Commissioner to report annually to the Legislature concerning the effectiveness of the Bureau of Field Enforcement (the Bureau or BOFE). This report includes: (1) the enforcement plan adopted by the Labor Commissioner and the rationale for the priorities; (2) the number of establishments investigated by the Bureau and the number and types of violations found; (3) the amount of wages found to be unlawfully withheld from workers and the amount of unpaid wages recovered for workers; and (4) the amount of penalties and unpaid wages transferred to the General Fund as a result of the Bureau's efforts.

The Labor Commissioner's Office (also known as the Division of Labor Standards Enforcement or DLSE) consists of several units working together to provide a wide variety of essential services for California workers and employers, including adjudication of wage claims, inspections of workplaces, enforcement of prevailing wage rates and apprenticeship standards in public works projects, licensing and registration of businesses, investigations of retaliation complaints, criminal prosecution for wage theft, and education of the public on labor laws. The mission of the California Labor Commissioner's Office is to ensure a just day's pay in every workplace in the state and to promote economic justice through robust enforcement of labor laws. By combating wage theft, protecting workers from retaliation, and educating the public, the Division puts earned wages into workers' pockets and helps level the playing field for law-abiding employers.

One of the Division's key enforcement arms is the BOFE, which investigates complaints and takes enforcement actions to ensure that employees are neither required nor permitted to work under unlawful conditions. Actions taken by Bureau investigators include the enforcement of minimum wage and overtime requirements and child labor laws and of employers' requirement to carry workers' compensation insurance; audits of payroll records, collection of unpaid wages, such as prevailing wages on public works jobs; issuing citations for violations of any applicable Labor Code sections; confiscating illegally manufactured garments; and seeking injunctive relief to prevent further violations of the law.

BOFE focuses on major underground economy industries in California in which labor law violations are the most rampant, including agriculture, garment, construction, car wash, and restaurants. In the past few years, the Division has increased its focus in industries where wage theft has been particularly challenging to combat, such as janitorial work, residential care homes, and warehousing.

Strategic Enforcement Plan

In the past nine years, the Bureau has reinforced the Labor Commissioner's core mission of collecting wages for California's wage earners and penalizing employers that participate in the underground economy. It is unacceptable for scofflaws that violate labor laws to gain a competitive advantage over law-abiding employers.

One of the key components of this administration's enforcement plan is strategic targeting of law-breaking employers. In lieu of broad "sweeps" and random inspections, the Labor Commissioner has adopted an approach that uses active collaboration with key partners on the ground and improved data to target businesses that are intentionally cheating. The Labor Commissioner's Office has also devoted considerable resources to ensuring every tool at its disposal is used to prosecute these violators to the full extent of the law. This includes working in collaboration with sister state agencies, local law enforcement, and other government agencies as well as nongovernmental stakeholders, from community-based organizations to industry associations. Those partnerships have resulted in better leads to uncover wage theft and strengthened the Division's ability to interview workers in a safe environment so that the Division can understand the nature of violations in the workplace. Deputy Labor Commissioners in BOFE interview workers off site and outside regular business hours to maximize their ability to gain worker trust and participation. The Bureau does not rely solely on complaint-based investigations but also

engages in proactive, strategic enforcement based on leads obtained by organizations, associations, and industry representatives.

Over the past several years, legislative changes have given the Bureau more power to issue civil citations for certain violations that were once enforceable only through the Berman wage claim process or through private lawsuits. For example, the Bureau can issue citations for liquidated damages when minimum wage violations occur and for waiting-time penalties under Labor Code section 203. These changes did not expand liability for employers breaking the law but streamlined the Division's ability to crack down on perpetrators of underground economy violations, protecting honest employers and resulting in a more efficient use of government resources. Other changes expanded liability, including the creation of a "client employer" definition that addresses violations created by entities that subcontract for labor by making those entities responsible for wage theft under certain circumstances.

As part of the Labor Commissioner's continued effort to fight wage theft, BOFE investigators not only focus on civil penalties but also conduct detailed audits for unpaid wages—in particular, minimum and overtime wages owed to workers. BOFE's efforts help ensure that workers are paid their lawful wages and legitimate employers are not forced out of business by those operating illegally in the underground economy. The Labor Commissioner's Office has hired more auditors for this purpose and has organized and conducted statewide training for deputies on wage auditing.

In addition, the Labor Commissioner's Office partners with other state agencies, community groups, industry associations, and other law enforcement agencies to enhance enforcement of labor laws. The Labor Commissioner's enforcement efforts generate substantial revenue for the state in the form of penalties paid by employers that are caught breaking the law. As a direct result of an enforcement plan that prizes quality over quantity and in-depth investigations over quick "in-and-out" inspections, the Division has performed fewer inspections overall than in prior years but has found more wages owed to workers in California than at any time in BOFE's history. Notably, the ratio of citations to inspections increased dramatically and continues to increase over time. In other words, better targeting leads fewer law-abiding employers to be inspected, more unpaid wages to be found, and more violations identified per employer inspected.

The Division offers training, particularly on conducting wage audits to determine the extent of wage theft and to return wages to workers, as well as additional field enforcement training to give staff a better understanding of various schemes used by unscrupulous employers to avoid compliance with the law. This commitment to staff training enables the Bureau to conduct deeper, more substantive investigations.

The Labor Commissioner's Office publicizes the results of notable BOFE investigations through news releases. These news releases create a deterrent effect on wage theft and other labor law violations by highlighting the hefty penalties issued to employers for failing to comply with the law. An archive of news releases can be found here: https://www.dir.ca.gov/dlse/DLSE_whatsnew.htm

Enforcement Results

In fiscal year 2018-2019, the Bureau conducted 1,734 inspections, which led to the issuance of citations for 3,586 violations.¹ The largest single source of violations and citations was once again the failure to carry workers' compensation insurance: 1,564 citations were issued for this violation, and a total of \$31,796,536 was assessed in penalties. The second-highest number of citations was for the failure to issue an itemized wage statement (742 violations), which also had the second-highest penalty assessment in its citation category, \$16,476,375. The following tables illustrate the Bureau's performance, including its special programs, such as prevailing wage enforcement through the Public Works Unit and the collaborative efforts of the Labor Enforcement Task Force (LETf).

The amounts below do not include citations that were reduced or dismissed in fiscal year 2018-2019 due to settlement or for other reasons. In fiscal year 2018-2019, 322 violations were reduced or dismissed for a total reduction of \$9,403,134 in wages and penalties. These reduced or dismissed citations may have been assessed in prior fiscal years.

¹ The *total* number of inspections and citations and all statistics throughout this report comprises the performance of all Bureau programs, including the Labor Enforcement Task Force. It does not include 85 violations for contract wages found due that were not citable prior to January 1, 2020, the effective date of SB 688, which amended Labor Code section 1197.1 to give the Labor Commissioner the authority to issue citations for failure to pay wages set by contract.

Table 1. Bureau Assessed Report (Including Public Works) FY 2018-2019, Results by Industry

Industry	# of Inspections	# of Violations	Penalties Assessed	Wages Assessed
Agriculture	71	115	\$2,240,273.96	\$1,336,782.37
Auto Repair	186	341	\$3,069,782.39	\$2,383,574.79
Car Wash	98	225	\$2,774,404.49	\$5,464,978.17
Construction	232	336	\$3,300,269.17	\$14,796,731.52
Garment	65	191	\$3,186,355.46	\$1,004,563.26
Hotel	18	31	\$478,171.61	\$291,343.48
Janitorial	8	25	\$767,288.11	\$32,193.85
Nail Salon	108	246	\$2,357,720.62	\$928,815.74
Other	441	909	\$21,473,301.65	\$21,051,357.92
Residential Care	4	6	\$43,620.47	\$120,110.28
Restaurant	417	946	\$12,248,015.59	\$9,981,868.10
Retail	79	200	\$5,719,016.20	\$1,347,156.96
Security	5	12	\$343,441.16	\$122,987.17
Warehouse	2	3	\$67,500.00	\$42,600.00
Total	1,734	3,586^a	\$58,069,160.88	\$58,905,063.61
Public Works	1,791	863 ^b	\$27,452,145.15 ^c	\$18,538,986.72
GRAND TOTALS	3,525	4,449	\$85,521,306.03	\$77,444,050.33

^a The total number of violations excludes 85 demands made for wage pursuant to Labor Code section 223 for contract wages above the minimum wage.

^b The Public Works Unit does not conduct inspections but, rather, measures performance based on cases opened for audit purposes. Thus, the data in this table should be understood as 1,791 audits conducted, with 863 civil wage and penalty assessments (CWPAs) issued (rather than the number of citations/violations). These measurements are included here to provide a full picture of the Division's performance.

^c Includes penalty assessments under Labor Code sections 1775, 1777.7, 1813, and 1776.

Table 2. Bureau (Including Public Works) FY 2018-2019 Amounts Collected by Industry

Employer Industry	Wages Collected ^a	Penalties Collected	Interest Collected	Total Collected
Agriculture	\$362,275.67	\$127,733.30	\$6,371.28	\$496,380.25
Auto Repair	\$119,701.16	\$578,087.71	\$86,652.55	\$784,441.42
Car Wash	\$210,771.80	\$709,817.71	\$40,864.31	\$961,453.82
Construction	\$235,887.75	\$512,557.96	\$35,303.37	\$783,749.08
Garment	\$21,125.00	\$155,533.50	\$2,455.27	\$179,113.77
Hotel	\$22,312.05	\$209,023.88	\$0.00	\$231,335.93
Janitorial	\$429,166.08	\$435,583.66	\$36,520.79	\$901,270.53
Nail Salon	\$76,499.22	\$504,578.31	\$3,648.27	\$584,725.80
Other	\$2,101,853.02	\$1,601,686.43	\$96,303.51	\$3,799,842.96
Residential Care	\$988,231.15	\$443,228.05	\$180,556.24	\$1,612,015.44
Restaurant	\$2,356,802.34	\$1,662,199.25	\$79,119.09	\$4,098,120.68
Retail	\$111,924.03	\$233,770.22	\$4,577.61	\$350,271.86
Security Guard	\$1,323.00	\$200.00	\$195.70	\$1,718.70
Warehouse & Transportation	\$5,295.30	\$105,950.00	\$0.00	\$111,245.30
BOFE Total	\$7,043,167.57	\$7,279,949.98	\$572,567.99	\$14,895,685.54^b
Public Works Total	\$10,286,086.28	\$7,056,890.96^c		\$17,342,977.24
Grand Total Collected				\$32,238.662.78

^a Because of the ongoing nature of BOFE investigations and collections from employers, these amounts might include what is later determined to be penalties, instead of wages. As a result, some of these amounts continue to be allocated by the Labor Commissioner's Office.

^b Penalties and wages collected in fiscal year 2018-2019 might include the collection of wages assessed in earlier reporting periods. This statistic also includes wages collected as a result of Bureau-assisted employer self-audits as well as actions taken by the Legal Unit, such as litigation, settlements, and Legal Unit-assisted employer self-audits, all of which were initiated by the Bureau.

^c Includes penalty collections under Labor Code sections 1775, 1777.7, 1813, and 1776.

Table 3. Bureau (including Public Works) FY 2018-2019, Results by Violation Category

Violation Category	# of	Penalties	Wages
	Violations	Assessed	Assessed
Workers' Compensation	1,564	\$31,796,535.88	
Child Labor	112	\$595,500.00	
Itemized Statement	742	\$16,476,375.00	\$7,256,934.18
Minimum Wage	470	\$2,402,000.00	\$23,202,044.49
Overtime	192	\$853,900.00	\$5,528,264.61
Garment	51	\$382,100.00	
Garment Registration	17	\$19,000.00	
Janitorial Registration	2	\$20,000.00	
Car Wash Registration	77	\$647,100.00	
Unlicensed Construction Contractor	27	\$888,000.00	
Rest and Meal Period	164	\$1,861,350.00	\$11,045,829.93
Misclassification	12	\$2,070,000.00	
Unlicensed Farm Labor Contractor	4	\$33,700.00	
Lactation Accommodation	1	\$400.00	
Reimbursable Business Expenses	8	\$14,050.00	\$41,657.01
Violation of Reporting Time	10	\$6,150.00	\$11,658.72
Failure to Maintain Records	6	\$3,000.00	
Waiting Time Penalties	127		\$11,818,674.67
Total	3,586^a	\$58,069,160.88	\$58,905,063.61
Public Work Totals	863^b	\$27,452,145.15^c	\$18,538,986.72
GRAND TOTALS	4,449	\$85,521,306.03	\$77,444,050.33

^a The total number of violations excludes 85 demands made for wages pursuant to Labor Code section 223 for contract wages.

^b The Public Works Unit does not conduct inspections but, rather, measures performance based on cases opened for audit purposes. Thus, the data in this table should be understood as 1,791 audits conducted, with 863 civil wage and penalty assessments (CWPA's) issued (rather than the number of citations/violations). These measurements are included here to provide a full picture of the Division's performance.

^c Includes penalty collections under Labor Code sections 1775, 1777.7, 1813, and 1776.

Table 4. Bureau (including Public Works) FY 2018-2019, Amounted Collected by Violation Category

Employer Industry	Wages Collected ^a	Penalties Collected	Interest Collected	Total Collected
Workers' Compensation		\$4,265,838.71	\$204,857.87	\$4,470,696.58
Child Labor		\$166,370.00	\$202.94	\$166,572.94
Itemized Statement	\$321,823.01	\$1,760,561.81	\$123,528.20	\$2,205,913.02
Contract Rate	\$58,270.00		\$0.00	\$58,270.00
Minimum Wage	\$1,074,620.90	\$132,568.54	\$9,358.28	\$1,216,547.72
Split Shift	\$4,719.83	\$23,415.45	\$3,812.25	\$31,947.53
Liquidated Damage	\$776,756.11		\$1,178.31	\$777,934.42
Overtime	\$1,385,549.05	\$98,588.70	\$163,024.89	\$1,647,162.64
Garment	\$0.00	\$7,915.44	\$0.00	\$7,915.44
Garment Registration		\$40,446.44	\$1,752.30	\$42,198.74
Car Wash Registration		\$560,166.90	\$34,766.57	\$594,933.47
Unlicensed Construction Contractor		\$83,850.46	\$8,841.62	\$92,692.08
Rest and Meal Period	\$906,049.67	\$125,877.53	\$20,465.05	\$1,052,392.25
Misclassification	\$0.00	\$0.00	\$0.00	\$0.00
Unlicensed Farm Labor Contractor (FLC)		\$3,700.00	\$0.00	\$3,700.00
Failure to Provide Sexual Harassment Training (FLC)		\$8,300.00	\$0.00	\$8,300.00
Lactation Accommodation		\$400.00	\$0.00	\$400.00
Reimbursable Business Expenses	\$95.00		\$0.00	\$95.00
Violation of Reporting Time	\$1,532.08	\$1,950.00	\$0.00	\$3,482.08
Waiting Time Penalties	\$512,019.71		\$779.71	\$512,019.71
Payments to Be Processed ^d	\$2,001,732.21	\$0.00	\$0.00	\$2,001,732.21
BOFE Total	\$7,043,167.57	\$7,279,949.98	\$572,567.99	\$14,895,685.54
Public Works Total	\$10,286,086.28	\$7,056,890.96^b		\$17,342,977.24
				\$32,238.662.78^c

^a Because of the ongoing nature of BOFE investigations and collections from employers, these amounts include those that might later be determined to be penalties. As a result, some of these amounts continue to be allocated by the Labor Commissioner's Office.

^b Includes penalty collections under Labor Code sections 1775, 1777.7, 1813, and 1776.

^c Penalties and wages collected in fiscal year 2018-2019 may include collection of penalties and wages found due in earlier reporting periods. This statistic also includes wages collected as the result of Bureau-assisted employer self-audits as well as actions taken by the Legal Unit, such as litigation, settlements, and Legal Unit-assisted employer self-audits, all of which were initiated by the Bureau.

^d Payments to be processed are monies received but not yet designated as wages or penalties.

Audits

The Labor Commissioner's Office continued to train staff to uncover issues involving the nonpayment of wages, which resulted in more audits of employers' payroll records. The Division also continued its program for employers to conduct self-initiated audits to augment the investigations conducted in response to specific complaints. If employers are unable or unwilling to complete the self-audit, the Division conducts a thorough investigation and audit to discover unpaid wages. A sampling of notable outcomes of payroll audits performed under the supervision and direction of Bureau staff, which resulted in the assessment of wages due to employees (shown in the statistics above), includes:

June 2019

- Citation of Daly City residential care facility for more than \$631,000 for wage theft violations.

May 2019

- Citation of Chatsworth Construction company for \$495,015 for wage theft violations.

March 2019

- Citation of Culver City Car Wash for more than \$1.95 million for wage theft violations.
- Citation of Compton Furniture manufacturer for more than \$2.4 million for wage theft violations.

December 2018

- Citation of a Southern California construction company for nearly \$12 million for wage theft violations.
- Citation of a freight/trucking company in Southern California for over \$3 million for wage theft violations.

November 2018

- Citation of a car wash located in Escondido for more than \$1.39 million for wage theft violations.

September 2018

- Citation of a San Diego Construction company for \$789,609 for wage theft violations.

August 2018

- Citation of a meat-processing facility located in Hanford, California, for \$705,405 for wage theft violations.

July 2018

- Citation of a Temecula Nail Salon \$770,340 for wage theft violations.

Strategic Enforcement Outcomes

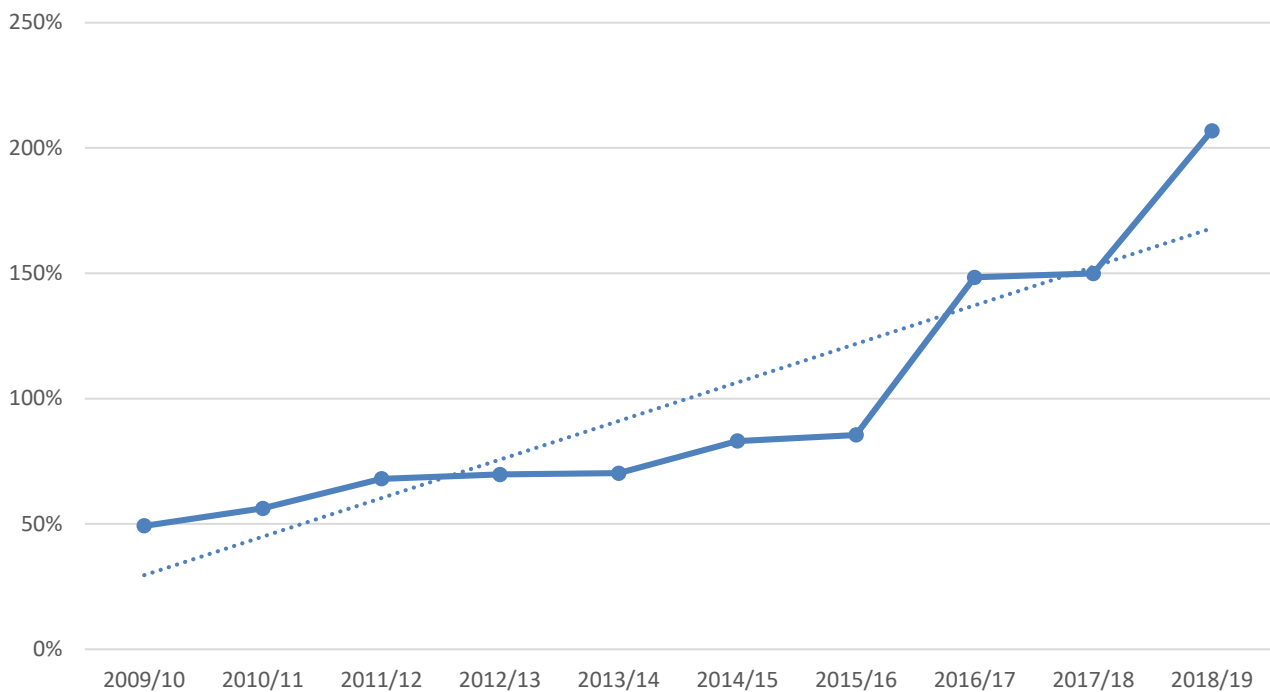
The Division's Strategic Enforcement Plan has proven effective in proactively targeting the worst violators and deterring bad actors throughout California, while putting wages back in the hands of those who earn them.

The Division has entered into strategic partnerships with key stakeholders, including community organizations, associations, and industry representatives. The Bureau has successful strategic partnerships in the agriculture, car wash, construction, garment, janitorial, restaurant, and warehouse industries that have helped identify employers that are violating the law and focus field inspections. Through these partnerships, the Bureau has been able to take on cases of far greater magnitude and impact in low-wage industries in California.

The Bureau conducts complex investigations involving client-employer liability, holding every member of the chain responsible for labor violations committed by a contractor, discouraging bad actors, and leveling the playing field for law-abiding, compliant employers.

This approach has been successful in producing high-quality, in-depth investigations that have uncovered more violations per investigation and assessed more wages owed to workers than at any other time in the history of the Division. The shift to strategic enforcement has resulted in steady improvement in that metric over the past eight years. In fiscal year 2014-2015, 83%; in 2015-2016, 85%; 2016-2017, 148%; 2017-2018, 150%; and in 2018-2019, 207% (see Figure 1).²

Figure 1. Violations as a Percentage of Inspections

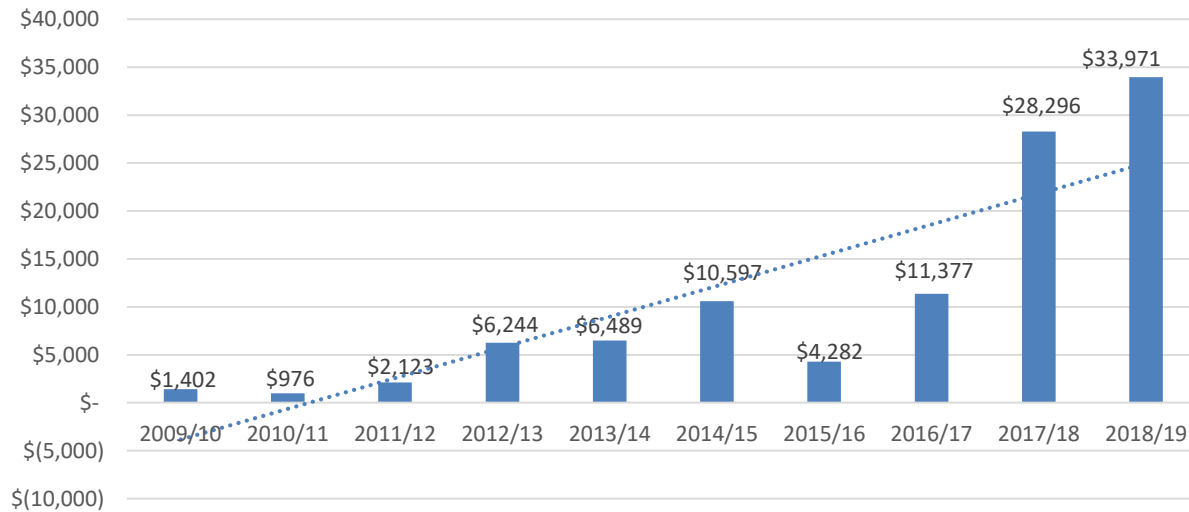


In addition, the assessed wages per inspection have similarly increased steadily and dramatically. In 2010, it was \$1,402; in 2016-2017, \$11,377; 2017-2018, \$28,296; and in 2018-2019, \$33,971 (see Figure 2).³

² Past reports on the effectiveness of the Bureau have included data related to Public Works in this graph. The Public Works unit investigates complaints arising from violations of prevailing wage and apprenticeship laws. For a clearer look at the impacts of strategic field enforcement, Public Works data has been excluded from the graph.

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Figure 2. Assessed Wages per Inspection



Enforcement Program Targets Unlawfully Uninsured Employers

As previously mentioned, the lack of workers' compensation insurance remains the violation most often identified in the Bureau's investigations. In 2008, as a result of the passage of Senate Bill 869 (Chapter 662), the Bureau began a data-sharing partnership with the Employment Development Department (EDD), the Division of Workers' Compensation, and the Workers' Compensation Insurance Rating Bureau to proactively identify employers that might be uninsured unlawfully. In fiscal year 2018-2019, the Bureau issued citations for 111 violations and assessed \$8,156,051 in penalties and \$328,740 in wages arising from these efforts. The process and the results of the Senate Bill 869 enforcement activities are detailed in a separate legislative report.

Car Washing and Polishing Businesses

On January 1, 2007, the Bureau began a concerted enforcement effort to ensure compliance with the registration requirements for car washing and polishing businesses (Labor Code sections 2050-2067 and California Code of Regulations, Title 8, division 1, chapter 6, subchapter 11, sections 13680–13693). Staff continue to receive training so that they can better identify wage-audit issues and acquire effective tools for uncovering wage theft, building on their previous training in the car washing industry, to enable them to go beyond looking only at registration when suspicion arises that other labor laws are being violated. In fiscal year 2018-2019, 98 inspections were conducted, and citations were issued for 225 violations, which led to assessments of \$2,774,404 for violations of various labor laws, including nonregistration and penalties. In addition, the Division assessed \$5,464,978 in wages. The results of inspections of car washing and polishing establishments, including re-inspections, in these statistics, are shown in Table 5.

Table 5. Car Washing and Polishing Businesses FY 2018-2019 Results by Citation Category*

Citation Category	# of Violations	Penalties Assessed	Wages Assessed
Workers' Compensation	52	\$747,104.49	\$0.00
Child Labor	11	\$13,500.00	\$0.00
Nonregistration	77	\$647,100.00	\$0.00
Itemized Statement	30	\$802,000.00	\$489,600.00
Meal Period	8	\$69,200.00	\$250,570.85
Minimum Wage	10	\$236,150.00	\$1,483,649.32
Waiting Time Penalties	7	\$0.00	\$286,669.64
Liquidated Damages	10	\$0.00	\$1,900,511.19
Overtime	8	\$94,100.00	\$382,044.45
Reimbursable Business Expenses	0	\$0.00	\$0.00
Reporting Time	4	\$4,700.00	\$5,499.17
Rest Period	5	\$110,950.00	\$601,464.21
Split Shift	3	\$49,600.00	\$64,969.34
TOTAL	225	\$2,774,404.49	\$5,464,978.17

* The statistics reported here are included in the overall results of the Bureau summarized earlier in this report.

Units within the Labor Commissioner's Bureau of Field Enforcement

Public Works

The Bureau's Public Works Unit investigates complaints arising from violations of the state's prevailing wage and apprenticeship laws and conducts audits on behalf of workers for back wages owed. As a result of SB 1038, on July 1, 2012, the Bureau began enforcing Labor Code section 1777.5, which was previously enforced by the Division of Apprenticeship Standards. Labor Code section 1777.7 assessments are issued by Bureau investigators for up to \$300 per calendar day when contractors violate apprenticeship law, pursuant to Labor Code section 1777.5.

Table 6. Public Works, FY 2018-2019 Activities

Cases Opened	1,791
Cases Closed	1,360
Civil Wage and Penalty Assessments (CWPA) Issued	863
Settlements	487

Table 7. Public Works, FY 2018-2019 Assessed and Collected Report

	Assessed	Collected
Prevailing Wages	\$17,911,923.19	\$9,994,052.01
Training Funds	\$627,063.53	\$292,034.27
Total Wages	\$18,538,986.72	\$10,286,086.28^a
Penalties per Labor Code sections 1775/1813/1776	\$20,918,308.25	\$4,162,436.34
Penalties per Labor Code section 1777.7	\$6,533,836.90	\$2,894,454.62
Total Penalties	\$27,452,145.15	\$7,056,890.96^b

^a Wages recovered may include monies found due in earlier reporting periods.

^b Penalties collected may include monies found due in earlier reporting periods.

In fiscal year 2018-2019, the Labor Commissioner signed orders of debarment for eight construction companies and individuals. The maximum statutory debarment period is three years, rendering individuals and legal entities ineligible to bid on or be awarded public works contracts or to perform work on a public works project as a subcontractor or an employee. The debarment orders can be accessed at: <http://www.dir.ca.gov/dlse/debar.html>.

Judgment Enforcement Unit

The Division's Judgment Enforcement Unit has continued to increase monies recovered for Bureau citations and unpaid wages unlawfully withheld from workers. The Division's Judgment Enforcement Unit substantially increased the amount of money collected for BOFE citations and unpaid wage judgments, recovering a total of \$13,682,104.56 in fiscal year 2018-2019.

The Judgment Enforcement Unit files judgments for BOFE and engages in various judgment enforcement activities to support other units within the Labor Commissioner's Office. These activities include: investigating, serving and enforcing stop-work orders against businesses that fail to pay wage judgments; issuing levies, liens, and other judgment enforcement documents; seeking suspension of various licenses held by businesses that fail to pay Labor Commissioner judgments; negotiating and arranging payment plans with employers; investigating and gathering evidence to support litigation against businesses that engage in fraudulent transfer of assets and other schemes to evade liability for Labor Commissioner citations and judgments; and helping to train and support BOFE deputies in asset investigation and other matters related to effective enforcement of claims against business debtors.

The Judgment Enforcement Unit processed 756 judgments and 1,579 levies for fiscal year 2018-2019. In addition, the unit handled 187 in-depth investigations of defendants and assets, including investigations of fraudulent transfers, corporate shell games, and Labor Code section 238 investigations (stop-work orders for businesses' failure to comply with wage judgments).

Legal Unit

The Labor Commissioner's Legal Unit continued and enhanced its support for the Bureau's enforcement efforts in fiscal year 2018-2019. The unit continued its traditional work of representing the Division in Superior Court in defense of penalty citation awards in writ of administrative mandamus challenges, prosecution of public works Civil Wage and Penalty Assessments (CWPAs) in administrative hearings, enforcement of investigative subpoenas, and conducting investigative depositions, obtaining tolling agreements, negotiating settlement agreements, and advising the Bureau in application of the law to its field investigation planning. The unit also assumed responsibility for prosecution of some select citation appeals before hearing officers in cases with complex legal or factual components and cases with large wage restitution amounts associated with the expanded

authority provided by the Legislature for the Bureau to assess minimum wages and liquidated damages through citations.⁴ Some examples of the unit's work in 2018-2019 include:

- **Fargo Trucking Company.** The Legal Unit and the Judgment Enforcement Unit (working with co-counsel the Wage Justice Center) settled a bankruptcy court case involving a Long Beach-area trucking company that had misclassified drivers as independent contractors. The settlement included payment of more than \$4.2 million in wages and penalties to approximately 60 drivers over a period of three years (\$1.2 million of which has been paid thus far). In addition, the court entered a consent decree barring the trucking company and affiliated individuals and companies from classifying truck drivers as independent contractors in the future.
- **Labor Commissioner v. El Nuevo Mariachi Restaurant, Inc.** The Legal Unit, working with BOFE and the Judgment Enforcement Unit, filed a lawsuit seeking to stop an Orange County restaurant from continuing to operate until it paid citations for wage and hour violations totaling more than \$180,000. The restaurant was shut down when the court issued a first-of-its-kind judgment ordering the business to cease operating until it comes into compliance with Labor Code section 238, which requires businesses to pay all outstanding wage judgments or post bonds with the Labor Commissioner to ensure compliance with the laws on wages and hours.
- **Labor Commissioner v. L'Chaim House.** The Legal Unit, working with the Judgment Enforcement Unit and BOFE, settled a civil fraudulent transfer case against a Marin County residential care home for \$450,000. The case arose when the care home's real estate was transferred to a trust during a BOFE investigation, effectively placing it beyond the reach of the Bureau's citations for unpaid wages, penalties, and interest due to 15 workers. The settlement included a lien on the real estate to ensure payment of the full amount owed to the workers and the state.
- **Labor Commissioner v. Great Cleaning Services.** The Legal Unit and the Judgment Enforcement Unit (working with co-counsel, the Wage Justice Center) obtained payment of \$50,000 in a civil fraudulent transfer case brought against an Orange County janitorial company that had evaded the Labor Commissioner for many years through corporate shell games. The matter was resolved after extensive litigation. The amount paid by the employer includes the full wages and penalties due to the janitor, as well as interest for the period during which the employer evaded payment.
- **Labor Commissioner v. Sinbala Corporation.** The Legal Unit and the Judgment Enforcement Unit (working with co-counsel, the Wage Justice Center) recovered \$90,000 for a restaurant worker in a civil court fraudulent transfer case brought against a San Gabriel Valley restaurant and its owners. The civil case was filed because the Labor Commissioner's wage judgment had been rendered ineffectual when the owners of the business transferred it to a relative and dissolved the corporation that had employed the worker.
- **Labor Commissioner v. Allied Airbus.** The Legal Unit and the Judgment Enforcement Unit (working with co-counsel, the Wage Justice Center) settled a civil fraudulent transfer case brought on behalf of five former airport shuttle bus workers, recovering \$85,000 in unpaid wages, penalties, and interest. The Labor Commissioner was forced to file the case after the employer shut down its California operations and transferred all its property to a Florida-based company.
- **Golden Autumn.** The Legal Unit and Judgment Enforcement Unit collaborated with the Department of Fair Employment and Housing to obtain a \$75,000 settlement in a case involving wage theft and allegations of discrimination against a Riverside County residential care home.
- **Burrito Factory, Inc.** The Legal Unit obtained a settlement of \$1,100,000 in wages, penalties, and interest.

⁴ The resulting penalties and/or wages collected are included in the Bureau's statistics, depending on the process used to achieve the end results.

- **Kelley v. Jagjit Singh.** The Legal Unit, working in conjunction with co-counsel, the Wage Justice Center, reached a settlement that recovered \$50,000 in unpaid wages, penalties, and interest after filing a motion to sell the employer's liquor license.
- **Unique Formulation Research, Inc.** The Legal Unit obtained a settlement of \$390,000 in wages, penalties, and interest.
- **Labor Commissioner v. Florinda Yambao.** The Legal Unit assisted BOFE and the local county district attorney's office in recovering over \$240,000 in stolen wages, penalties, and interest for residential care home workers. The money recovered was part of the restitution made by the residential care home owners, who had been criminally prosecuted for crimes including wage theft.
- **Irvine Auto Towing/Yaco Investments.** The Legal Unit, working with the Judgment Enforcement Unit and BOFE, recovered over \$320,000 owed to tow truck drivers who had not been paid all the wages they had earned. The Labor Commissioner's efforts to recover additional monies against the employer in this matter are ongoing.
- **Labor Commissioner v. Soltan's, Inc.** The Legal Unit and BOFE, working together, recovered over \$300,000 from a delicatessen and café. This business was cited by BOFE for failing to pay its employees all the wages they had earned, including minimum wages, overtime wages, and meal and rest break wages. This business also paid the penalties because of its failure to provide accurate itemized wage statements and for failing to have worker's compensation as required by California law.

Other Partnerships

Labor Enforcement Task Force (LETF)

The LETF is a coalition of California state government enforcement agencies that work together and in partnership with local agencies to combat the underground economy. LETF partners include the Employment Development Department (EDD), the Division of Occupational Safety and Health (DOSH), the Contractors State License Board (CSLB), the California Department of Tax and Fee Administration (CDTFA), and the Bureau of Automotive Repair (BAR). The LETF teams target noncompliant employers for inspection using referrals and data-matching techniques. Each agency on its own does not have access to the full range of data and other information that the LETF teams can access through cooperation. The task force also reflects the Labor Commissioner's focus on improved targeting through better data and intelligence gathering and on assessing wages owed. The LETF accomplishes its mission through targeted inspections for minimum wage and overtime violations, workers' compensation insurance coverage, child labor, illegal operations without the required licenses, and a focus on the garment, agriculture, construction, car wash, automotive repair, restaurant, and other industries in which labor law violations are prevalent. This report contains LETF statistics only for the Labor Commissioner's Office; LETF Legislative reports showing enforcement results from other LETF partners can be found here: https://www.dir.ca.gov/letf/LETF_Legislative_Reports.html

Transfers to the General Fund

In fiscal year 2018-2019, the Division deposited \$15,635,453.75 in fines, penalties, and wages collected to the General Fund. This amount includes a transfer of ~\$5.7 million from the Unpaid Wage Fund to the General Fund in accordance with provisional language in the annual Budget Act.

Respectfully submitted,
Lilia García-Brower
Labor Commissioner