



As California Governor Gavin Newsom's administration seeks to finalize the [2023-24 Governor's Budget](#), the California Joint Legislative Audit Committee (the Committee) has moved to audit the persistent backlog of wage theft cases at the Division of Labor Standards Enforcement (DLSE or Labor Commissioner's Office). The audit is set to begin on September 1, 2023, absent developments demonstrating to the Committee that an investigation is no longer necessary.

The Process

Pursuant to [California's Wage Theft Prevention Act of 2011](#), the Labor Commissioner's Office is responsible for investigating employee wage theft complaints. The Wage Claim Adjudication (WCA) unit within the Labor Commissioner's Office accepts complaints from individuals for unpaid wages, unpaid vacation or sick leave, missed meal and rest breaks, and other forms of unpaid compensation.

In response to a wage theft complaint, the Labor Commissioner's Office, within 30 days, must notify the parties whether a hearing will be held, and any hearing must be held within 120 days of the filing of a wage complaint. However, due to the high number of claims for unpaid wages submitted to the WCA, the time to process claims from filing to hearing rose to an average of 396 days in 2018.

In response, the 2019-20 Governor's Budget included funding for 63 new positions within the WCA over a four-year phase-in period to reduce the total wait time to under 200 days from receipt to hearing completion. However, although the resources included in the 2019-20 Governor's Budget have assisted the WCA in processing wage claims, wait times increased to over 800 days in 2022.

The Budget

In response to the backlog of wage claims, the DLSE requested in its 2023-24 Budget Proposal 42 positions and \$11.7 million in 2023-24, and \$6.5 million ongoing to decrease statewide wage claim wait times. The Governor's Proposed Budget, released January 10, 2023, adopted these budget items in full, and the Department of Finance is expected to release an updated Governor's Proposed Budget in May 2023 (the May Revisions).

The Audit

On March 22, 2023, the Committee voted to approve the audit of the persistent backlog of wage theft cases [initially requested](#) by California State Senator Steven Glazer on January 19, 2023. In the audit request, Sen. Glazer identified the need for an audit to, in part, assess the claims resolution process and judgment collection, the personnel needs of the WCA, and the processes for evaluating wage claims.

The audit request seeks the California state auditor provision independent and verified information regarding the current state of the Labor Commissioner Office's wage claim unit, the degree to which personnel problems affect claim backlogs, the efficiencies of the Office's policies, and how the office could assist workers following a judgment on their case. Sen. Glazer expressed that this examination would provide guidance for subsequent legislative or budget action to alleviate the wage claim backlog.

In response to the audit request, California's Labor Federation (the Federation) and 11 other unions and union organizations raised objections, including stating that the audit would divert time and attention from an already understaffed agency. The Federation submitted a list of recommendations for the WCA, including relaxed hiring standards and increased pay for WCA employees. At a hearing on March 22, Labor Commissioner Lilia Garcia-Brower testified that the backlogs are caused largely by chronic staffing shortages.

Following testimony, the Committee [voted](#) unanimously to approve the audit request; however, the Committee clarified that the California state auditor shall "not begin the audit until September 1, 2023, noting the Committee may rescind the audit at a subsequent hearing." The Committee has not scheduled its next hearing for 2023.

Takeaway

Although an audit of the WCA has been approved, the Governor's Office has an opportunity to address these concerns through the legislative budgeting process or otherwise demonstrate that an audit is unnecessary. Labor organizations and business groups alike will be monitoring updates to the Governor's Budget in the May Revisions and the other steps the WCA will take in advance of the scheduled audit to reduce wage claim backlogs.

© 2023 Perkins Coie LLP

Authors



[Emily A. Bushaw](#)

Partner

EBushaw@perkinscoie.com [206.359.3069](tel:206.359.3069)

Explore more in

[Labor & Employment](#)

Related insights

Update

[CFPB Finalizes Proposed Open Banking Rule on Personal Financial Data Rights](#)

Update

[FDA Food Import and Export Updates for Industry](#)