

**2020-2021
THE BUREAU OF FIELD ENFORCEMENT
FISCAL YEAR REPORT**

CALIFORNIA LABOR COMMISSIONER'S OFFICE

DEPARTMENT OF INDUSTRIAL RELATIONS



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 its 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) is a division of the California Department of Industrial Relations. It 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 BOFE, which investigates complaints and takes enforcement actions to ensure that employees are neither required nor permitted to work under unlawful conditions. Some of the actions taken by BOFE investigators include: the enforcement of minimum wage and overtime requirements, child labor laws, and employers' workers' compensation insurance requirement; audits of payroll records; collection of unpaid wages such as prevailing wages on public works jobs; issuance of citations for violations of any applicable Labor Code sections; confiscation of illegally manufactured garments; and injunctive relief to prevent further violations of the law.

BOFE focuses on major underground economy industries in California with the most rampant labor law violations, including agriculture, garment, construction, car wash, and restaurants. In the past few years, the Bureau has increased its focus on industries where wage theft has been particularly challenging to combat, such as janitorial work, residential care homes, and warehousing. The pandemic continued to affect the performance of BOFE and its ability to conduct onsite inspections and in-person interviews. BOFE had to refocus its efforts on compliance with health and safety issues, keeping the public safe, and ensuring employers were abiding by their obligations under the various paid sick leave statutes.

Strategic Enforcement Plan

In the past eleven years, BOFE 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 the strategic targeting of law-breaking employers. 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 in order to uncover and understand the nature of violations in the workplace. Deputy Labor Commissioners interview witnesses 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 increased BOFE's civil citation authority for 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.

In addition, the Labor Commissioner's Office partners with other state agencies, community groups, industry associations, and other law enforcement agencies to enhance the 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 violate 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, BOFE has performed fewer inspections overall than in prior years, but continues to find more wages owed to workers in California than at any time in BOFE's history.

The Labor Commissioner's Office 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 BOFE 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 to 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 the fiscal year 2020-2021, BOFE conducted 492 inspections and issued citations for 589 violations.¹ The largest single source of violations and citations was once again employers' failure to carry workers' compensation insurance resulting in 139 citations issued for this violation. The second highest number of citations was for failure to issue an itemized wage statement resulting in 95 violations issued for this violation.

¹ The *total* number of inspections and citations and all statistics throughout this report comprises the performance of all BOFE programs, including the Labor Enforcement Task Force.

The following tables illustrate BOFE’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 the fiscal year 2020-2021 due to settlement or for other reasons. In the fiscal year 2020-2021, 339 violations were reduced or dismissed for a total reduction of \$27,899,303 in wages and penalties. These reduced or dismissed citations may have been assessed in prior fiscal years.

Table 1. Bureau Assessed Report (Including Public Works) FY 2020-2021, Results by Industry

Industry	# of Inspections	# of Penalty Violations	Penalties Assessed	Wages Assessed
Other	183	218	\$6,769,438.84	\$25,677,308.84
Agriculture	16	33	\$329,700.00	\$639,528.91
Auto Repair	12	17	\$166,205.47	\$90,984.59
Car Wash	10	21	\$183,650.00	\$341,832.85
Construction	23	19	\$599,550.00	\$1,842,768.64
Garment	13	28	\$331,980.00	\$3,871,932.92
Hotel	7	9	\$111,900.00	\$82,697.34
Janitorial	8	8	\$31,650.00	\$833,633.38
Nail Salon	23	19	\$63,600.00	
Res Care	5	6	\$40,770.02	\$3,032,341.95
Restaurant	123	148	\$2,986,617.48	\$8,140,535.25
Retail	59	62	\$561,850.00	\$1,416,180.08
Security Guard	8	1	\$27,000.00	
Warehouse	2			
Grand Total	492	589	\$12,203,911.81	\$45,969,744.75
Public Works	1,964	516 ^a	\$12,598,321.60 ^b	\$10,979,508.51
TOTALS	2,456	1,105	\$24,802,233.41	\$56,949,253.26

^a 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 1,964 audits conducted, with 516 civil wage and penalty assessments (CWPA) issued (rather than the number of citations/violations). These measurements are included here to provide a full picture of the Division’s performance.

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

Table 2. BOFE (Including Public Works) FY 2020-2021 Amounts Collected by Industry

Employer Industry	Wages Collected^a	Penalties Collected	Interest Collected	Total Collected
Other	\$4,370,780.45	\$1,668,209.90	\$92,608.15	\$6,131,598.50
Agriculture	\$163,168.71	\$81,575.66	\$4,856.49	\$249,600.86
Auto Repair	\$42,641.74	\$306,756.64	\$63,249.74	\$412,648.12
Car Wash	\$59,922.62	\$201,424.97	\$93,705.38	\$355,052.97
Construction	\$371,013.36	\$122,649.43	\$20,073.51	\$513,736.30
Garment	\$57,517.47	\$65,651.29	\$4,158.43	\$127,327.19
Hotel	\$77,861.05	\$132,400.00	\$11,084.12	\$221,345.17
Janitorial	\$39,185.23	\$116,231.36	\$11,433.68	\$166,850.27
Nail Salon	\$217,250.00	\$77,954.56	\$762.77	\$295,967.33
Res Care	\$315,842.43	\$39,524.85	\$1,758.47	\$357,125.75
Restaurant	\$4,508,244.24	\$958,018.12	\$78,173.85	\$5,544,436.21
Retail	\$408,706.78	\$181,126.40	\$23,732.07	\$613,565.25
Security Guard		\$4,400.00		\$4,400.00
BOFE Total	\$10,632,134.08	\$3,955,923.18	\$405,596.66	\$14,993,653.92^b
Public Works Total	\$9,228,127.24	\$4,792,107.30^c		\$14,020,234.54
Grand Total Collected				\$29,013,888.46^d

^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 2020-2021 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 BOFE.

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

^d Penalties and wages collected in fiscal year 2020-2021 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 BOFE.

Table 3. BOFE (including Public Works) FY 2020-2021, Results by Violation Category

Violation Category	# of Penalty Violation	Penalties Assessed	Wages Assessed
Workers' Compensation	139	\$1,907,383.67	
Child Labor	33	\$63,500.00	
Itemized Statement (L.C. 226)	95	\$5,159,380.00	\$5,044,787.00
Minimum Wage	65	\$643,750.00	\$7,803,412.55
Split Shift	18	\$82,600.00	\$116,687.84
Liquidated Damages			\$9,927,221.12
Overtime	63	\$437,400.00	\$5,533,479.56
Garment	6	\$6,000.00	
Garment Registration	8	\$69,200.00	
Janitorial Registration	3	\$23,900.00	
Car Wash Registration	9	\$79,600.00	
Unlicensed Construction Contractor	3	\$9,200.00	
Rest and Meal Period	56	\$500,650.00	\$3,281,563.32
Paid Sick Leave (LC 246)			\$137,158.71
Paid Sick Leave (LC 248.1)			\$2,250.00
Paid Sick Leave Poster Requirement	64	\$6,400.00	
Misclassification	7	\$650,000.00	
Unlicensed Farm Labor Contractor	4	\$30,500.00	
Violation of Payment of Wages Provision (L.C. 204)	15	\$2,530,248.14	
Reimbursable Business Expenses			\$1,180.00
Violation of Reporting Time	1	\$4,200.00	\$18,063.72
Contract Wages Above Minimum Wage			\$2,173,548.76
Waiting Time Penalties			\$11,930,392.17
Total	589	\$12,203,911.81	\$45,969,744.75
Public Work Totals	516^a	\$12,598,321.60^b	\$10,979,508.51
GRAND TOTALS	1,105	\$24,802,233.41	\$56,949,253.26

^a 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 1,964 audits conducted, with 516 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.

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

Table 4. BOFE (including Public Works) FY 2020-2021, Amounted Collected by Violation Category

Violation Category	Wages Collected	Penalties Collected	Interest Collected	Total Collected
Workers' Compensation		\$2,259,312.36	\$240,838.52	\$2,500,150.88
Child Labor		\$67,500.00	\$710.80	\$68,210.80
Itemized Statement	\$542,008.01	\$1,082,206.89	\$88,578.58	\$1,712,793.48
Contract Rate	\$91,378.83			\$91,378.83
Minimum Wage	\$2,007,624.93	\$131,551.69	\$2,734.28	\$2,141,910.90
Split Shift	\$149,003.18	\$14,750.00	\$232.05	\$163,985.23
Liquidated Damage	\$2,915,633.26	\$0.00	\$0.00	\$2,915,633.26
Overtime	\$2,283,213.77	\$86,300.52	\$19,184.45	\$2,388,698.74
Garment		\$15,143.26	\$630.61	\$15,773.87
Garment Registration		\$600.00	\$77.34	\$677.34
Car Wash Registration		\$119,810.94	\$48,627.98	\$168,438.92
Unlicensed Construction Contractor		\$37,518.74	\$47.02	\$37,565.76
Rest and Meal Period	\$1,829,217.44	\$102,913.26	\$3,266.00	\$1,935,396.70
Misclassification		\$1,100.00		\$1,100.00
Violation of Janitorial Registration		\$2,647.36		\$2,647.36
Tips	\$5,721.56			\$5,721.56
Reimbursable Business Expenses	\$3,670.20			\$3,670.20
Farm Labor Contractor Registration		\$14,300.00		\$14,300.00
Violation of Payment of Wage		\$14,768.16		\$14,768.16
Sick Leave Poster Requirement	\$3,362.16	\$5,500.00		\$8,862.16
Waiting Time Penalties	\$801,300.74		\$669.03	\$801,969.77
BOFE Total	\$10,632,134.08	\$3,955,923.18	\$405,596.66	\$14,993,653.92
Public Works Total	\$9,228,127.24	\$4,792,107.30 ^a		\$14,020,234.54
Grand Total				\$29,013,888.46^b

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

^b Penalties and wages collected in fiscal year 2020-2021 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 BOFE.

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 Bureau 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 Bureau 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 the Bureau staff, which resulted in the assessment of wages due to workers (shown in the statistics above), includes:

June 2021

- Riverside-based warehouse, La Minda De Oro, Inc. and six other businesses were cited \$1.4 million for wage theft violations affecting 28 workers.

April 2021

- Santa Ana-based Perfect Point Corp. dba South Coast Gymnastics. was cited \$1.3 million for wage theft violations affecting 107 workers.

March 2021

- Van Nuys- based G & D Investments Inc., dba Baja Fresh and seven other legal entities were cited \$375,806 for multiple wage theft and labor law violations affecting 188 workers.

March 2021

- Los Angeles-based Green Messengers Inc. was cited \$6.4 million for wage theft violations affecting 718 workers.

February 2021

- Long Beach-based construction company, Fullerton Pacific Interiors Inc., was cited \$1,964,679 for wage theft violations affecting 472 workers.

February 2021

- San Diego-based wholesale bakery, Baked in the Sun, Inc., cited \$1.3 million for multiple wage theft and labor law violations affecting 189 workers.

Strategic Enforcement Outcomes

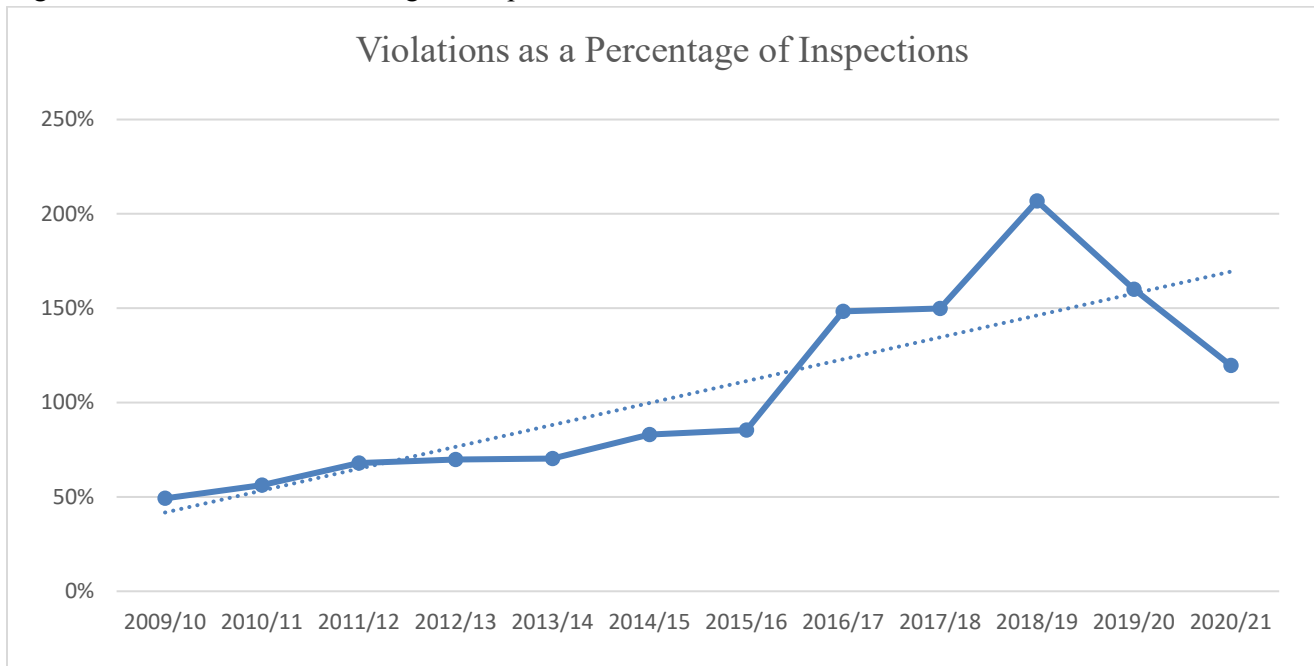
The Bureau’s Strategic Enforcement approach has proven effective in proactively targeting egregious violators in low-wage industries. This approach involves aggressive outreach and media efforts with the goal of identifying leads that would otherwise not be uncovered and deterring bad actors throughout California as we amplify the payment of unpaid wages.

The Bureau has entered into strategic partnerships with key stakeholders, including community organizations, associations, and industry representatives. The Bureau has successful partnerships in the agriculture, car wash, construction, garment, janitorial, restaurant, and warehouse industries. Through these partnerships, the Bureau has been able to take on cases of far greater magnitude and consequently increased its impact in the respective industries.

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 violations assessing more wages owed to workers than at any other time in the history of BOFE per inspections. In fiscal year 2014-2015, 83%; in 2015-2016, 85%; 2016-2017, 148%; 2017-2018, 150%; 2018-2019, 207%; 2019-2020, 160%; and in 2020-2021, 120% (see Figure 1).²

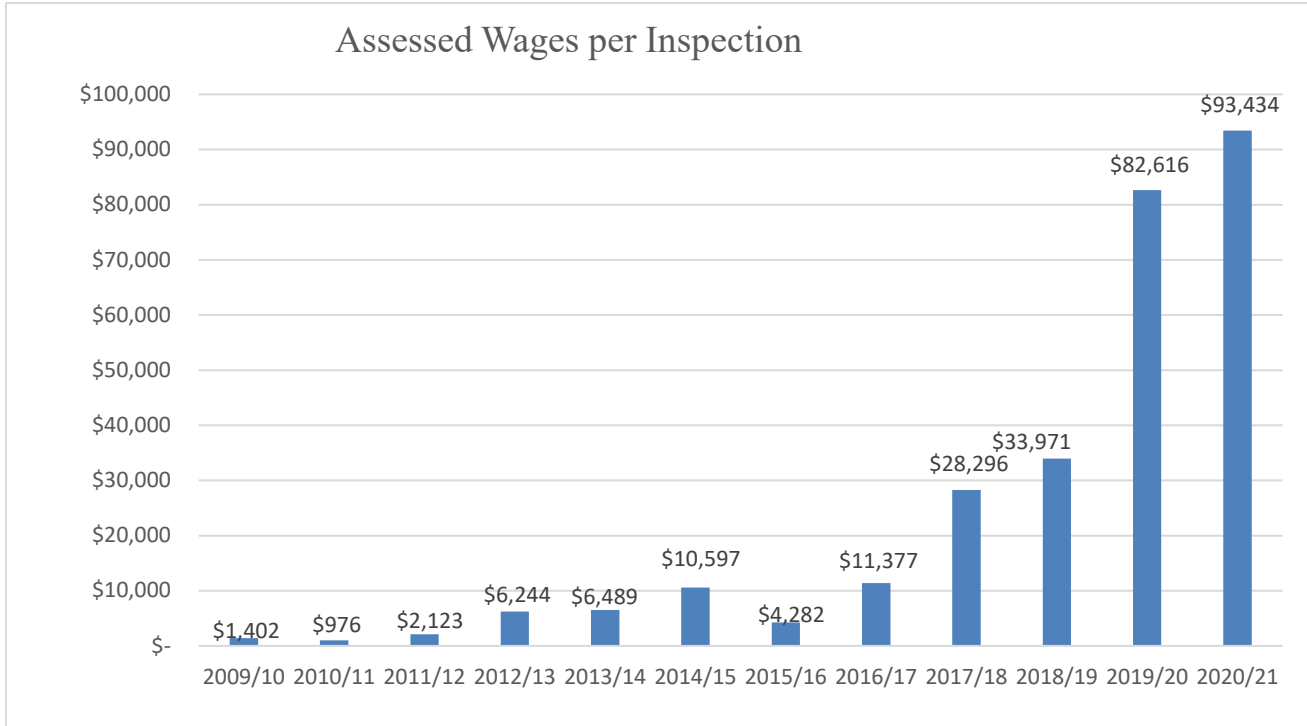
Figure 1. Violations as a Percentage of Inspections



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.

Although there were fewer inspections, due to challenges caused by the pandemic, in 2020-2021 than in 2019-2020, the assessed wages per inspection increased steadily and dramatically. In 2010, the total was \$1,402; in 2016-2017, \$11,377; 2017-2018, \$28,296; 2018-2019, \$33,971; 2019-2020 \$82,616; and in 2020-2021 \$93,434 (see Figure 2).³

Figure 2. Assessed Wages per Inspection



Unlawfully Uninsured Employers Enforcement Program

As previously mentioned, the lack of workers’ compensation insurance remains the violation most often identified in the Bureau’s investigations. As a result of the passage of Senate Bill 869 (Chapter 662) in 2008, 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 unlawfully uninsured. In fiscal year 2021-2021, BOFE issued citations for 26 violations, assessed \$298,100 in penalties, and \$350,383 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.

³ 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.

Car Washing and Polishing Businesses

On January 1, 2007, BOFE 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 to better identify wage-audit issues and uncover wage theft, while 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 the fiscal year 2020-2021, BOFE conducted 10 inspections, and issued 21 citations for this violation, which led to assessments of \$183,650 for violations of various labor laws, including nonregistration and penalties. Additionally, BOFE assessed \$341,833 in wages. The results of car washing and polishing establishments’ inspections, including re-inspections, in these statistics, are shown in Table 5.

Table 5. Car Washing and Polishing Businesses FY 2020-2021 Results by Citation Category*

Citation Category	# of Violations	Penalties Assessed	Wages Assessed
Workers’ Compensation	3	\$22,500.00	
Child Labor	1	\$500.00	
Car Wash Registration	9	\$79,600.00	
Itemized Statement	1	\$47,750.00	\$96,900.00
Rest and Meal Period	2	\$9,750.00	\$30,118.00
Minimum Wages	1	\$15,300.00	\$73,496.45
Split Shift	1	\$1,000.00	\$1,939.00
Liquidated Damages			\$94,070.91
Waiting Time Penalties			\$11,421.90
Overtime Wages	1	\$7,050.00	\$33,886.59
Paid Sick Leave Poster Requirement	2	\$200.00	
TOTAL	21	\$183,650.00	\$341,832.85

* 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 2020-2021 Activities

Cases Opened	1,964
Cases Closed	1,400
Civil Wage and Penalty Assessments (CWPA) Issued	516
Settlements	453

Table 7. Public Works, FY 2020-2021 Assessed and Collected Report

	Assessed	Collected
Prevailing Wages	\$10,627,949.68	\$8,916,453.01
Training Funds	\$351,558.83	\$311,674.23
Total Wages	\$10,979,508.51	\$9,228,127.24^a
Penalties per Labor Code sections 1775/1813/1776	\$9,088,353.35	\$2,816,468.81
Penalties per Labor Code section 1777.7	\$3,509,968.25	\$1,975,638.49
Total Penalties	\$12,598,321.60	\$4,792,107.30^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 the fiscal year 2020-2021, the Labor Commissioner signed orders of debarment for one construction company and individual. 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

Despite the ongoing challenges caused by the pandemic, the Division’s Judgment Enforcement Unit continued to recover significant amounts owed to workers and the state pursuant to Bureau citations and wage judgments. The Judgment Enforcement Unit’s work contributed to the collection of \$13,068,238.06 in citations and unpaid wages in the 2020-2021 fiscal year.

While the Bureau has started the process of filing its own judgments and liens, the Judgment Enforcement Unit continued to assist in various judgment enforcement activities. These activities include: investigating, serving and enforcing stop-work orders against businesses that fail to pay wage judgments; issuing levies 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 train and support BOFE deputies in asset investigation and other matters related to effective enforcement of claims against business debtors.

In the fiscal year 2020-2021, the Judgment Enforcement Unit filed 427 liens, including nine mechanic's liens. In addition, the unit issued 684 levies on bank accounts and other funds controlled by businesses that failed to pay final judgments. In the fiscal year 2020-2021, the unit maintained over 108 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 BOFE's enforcement efforts in the fiscal year 2020-2021. The unit continued its traditional work of representing the Labor Commissioner's office in Superior Court in defense of penalty citation awards in the writ of administrative mandamus challenges, prosecution of public works Civil Wage and Penalty Assessments (CWPAs) in administrative hearings, enforcement of investigative subpoenas, conducting investigative depositions, obtaining tolling agreements, negotiating settlement agreements, and advising BOFE in the application of the law to its field investigation planning. The unit also assumed responsibility for the 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 BOFE to assess minimum wages and liquidated damages through citations.⁴ Some examples of the unit's work in 2020-2021 include:

Administrative Enforcement Proceedings

- **Attic Pros:** BOFE Legal obtained a \$1.4 million settlement with a local attic cleaning and insulation business, affecting over 240 mostly non-English-speaking vulnerable workers. Investigators found that the business misclassified workers as independent contractors and paid them a flat daily rate with no overtime, despite requiring work days as long as fourteen hours. In addition, the business discouraged meal and rest breaks, failed to give workers wage statements and/or keep accurate payroll records. BOFE attorneys presented evidence at a multiday hearing over several months, resulting in the hearing officer upholding the citations for \$2,769,780. The Labor Commissioner leveraged the settlement by filing a fraudulent transfer action with regard to several properties the business owner sought to place in a trust. The employer has made the initial \$476,000 payment, representing minimum wages and overtime, and will make additional installment payments for distribution to current and former workers.
- **Centinela Car Wash, Inc. (DBA Playa Vista Car Wash):** BOFE Legal assisted BOFE deputies in an investigation of the Culver City-based Centinela Car Wash Inc. In March of 2019, BOFE issued citations for wage assessments and penalties totaling \$2.36 million. The citations are the largest issued against a car wash business by the Labor Commissioner's Office. After repeated delays by Appellants, BOFE Legal is currently defending the citations in an administrative appeal hearing, which began in August 2021.
- **Garcia's Pallets:** BOFE cited the pallet company, with approximately 50 workers, for various violations including workers compensation coverage, overtime, meal period, minimum wage, wage statement violations, and waiting time penalties. The employer appealed the citation, and a citation appeal hearing was held wherein BOFE Legal prevailed on the merits. BOFE Legal then entered into a settlement agreement with the employer for an initial payment of \$491,124.30, which was distributed immediately to

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.

workers and a payment plan (secured by a deed of trust) for the \$500,000 in workers compensation penalties.

- **Foster Farms Chicken:** In August of 2020, the County Health Department ordered the company to close its operations for cleaning due to a COVID-19 outbreak at the Livingston's Plant. By January of 2021, 12 workers (eight from the Livingston plant and four from the Fresno plant) died from exposure to the virus. In light of these developments, BOFE investigators began an investigation with the assistance of BOFE Legal. BOFE Legal obtained an inspection warrant for the company's Livingston operations. After reviewing documents obtained by the inspection warrant, BOFE investigators were able to confirm the employer's compliance with California Paid Sick leave and Supplemental Covid-19 Paid Sick Leave payments for the workers directly employed by Foster Farms. BOFE cited three temporary staffing agencies, including joint employer Foster Farms, for nearly \$3.8 million for Supplemental Covid-19 Paid Sick Leave violations in April of 2022. The investigation is ongoing for compliance issues related to Labor Contractors who provide additional workers to Foster Farms.
- **Genwa Inc. and J.B.K. Wilshire Corp.:** BOFE legal obtained a \$675,000 settlement for workers at two Korean barbecue restaurants. BOFE investigators discovered that the restaurants failed to pay workers for split shifts, meal periods, minimum wage, overtime, and issuing inaccurate wage statements. A settlement agreement was reached and will be paid by the employer in an installment plan.
- **Klassic Castle Carwash:** A BOFE citation was issued and after a citation appeal hearing was held the Hearing Officer upheld the BOFE citations for minimum wage, rest period, wage statement violations, and waiting time penalties in the amount of \$215,141.19.
- **Fullerton Pacific Interiors:** A BOFE citation was issued and after a citation appeal hearing was held the Hearing Officer affirmed the BOFE citations for wages and penalties for \$1,964,679.30 against a construction industry employer.
- **California Suites Hotel:** BOFE Legal assisted BOFE deputies in defending a citation award for \$140,380.41 for minimum wages, overtime wages, liquidated damages and waiting time penalties for 40 workers. The Hearing Officer affirmed a \$60,850 penalty assessment for violations of itemized wage statement provisions.
- **Z&Y Restaurant:** Following the issuance of citations for minimum wage, overtime and wage statement violations, and the filing of a civil lawsuit seeking purloined tips, the Labor Commissioner reached a settlement agreement with the corporate defendant and its owners/officers. The settlement agreement provides for the recovery of minimum wages, overtime wages, liquidated damages, appropriated tips, penalties for failure to timely pay all wages due upon separation of employment, amounts due for wage statement and paid sick leave violations, interest on wages owed, and civil penalties. Under the terms of this settlement agreement, the defendants began paying monthly installment payments, which will total over \$1.6 million for the 22 workers who were the victims of wage and tip theft, recovering an average of nearly \$70,000 per worker. These payments are secured by a lien on properties owned by defendants, and in the event of a default, provisions in the settlement agreement will enable the Labor Commissioner to recover an additional \$400,000. The settlement agreement also established fair and transparent tip pooling distribution protocols going forward and provided for Labor Commissioner staff to provide workers' rights

training sessions to the restaurant's non-exempt workers during paid worktime, and management duties training sessions to the restaurant's managers and supervisors.

Superior Court Litigation

- **DLSE v. Save Mart Supermarkets, Santa Barbara Superior Court Case No. 21CV03151**: This lawsuit seeks \$7.9 million for violations of paid sick leave, waiting-time penalties, and civil penalties. Save Mart had an unlawful one-day waiting period before workers could receive a paid sick day. The waiting period violated paid sick leave under Labor Code section 246.5, which affected over 900 workers. The employer removed the case to federal court, which DLSE successfully moved for remand to state court. The case is currently in litigation.
- **Vista Santa Rosa v. DLSE, Riverside Superior Court Case No. PSC 1806608**: DLSE asserts that final wages were not paid to farmworkers at the time that they were discharged at the end of the grow cycle. This is the first agricultural waiting-time-penalties case brought in superior court. DLSE seeks \$650,000 in waiting-time penalties for 1,730 violations. The case is currently in litigation.
- **Lilia Garcia-Brower v. Alco Harvesting, Santa Barbara Superior Court Case No. 21CV02855**: In July 2021, the Labor Commissioner filed an enforcement action against Alco Harvesting, a farm labor contractor. Alco did not provide proper paid sick leave and COVID-19 supplemental paid sick leave. As a result, many H-2A field workers living in company housing got COVID. The Labor Commissioner is also working collaboratively with the California Rural Legal Assistance, who brought a PAGA complaint alleging Alco did not pay its H-2A workers for time spent on company buses between company housing and the fields where they worked. Both complaints, along with a second PAGA claim regarding meal and rest violations, seek damages and penalties potentially totaling over \$40 million. The case is currently in litigation.
- **Lilia Garcia-Brower v. Uber, Alameda Superior Court, Case No. RG20070281; Lilia Garcia-Brower v. Lyft, Alameda County Superior Court Case No. RG20070283**: In August 2020, the Labor Commissioner filed two enforcement actions against Uber and Lyft alleging the misclassification of hundreds of thousands of drivers as independent contractors. These cases are coordinated with a similar case brought by the California Attorney General and numerous PAGA actions. The Labor Commissioner seeks billions of dollars in unpaid wages and penalties, while also advancing the legislature's clear mandate in AB5 and the Supreme Court's ruling in Dynamex that workers doing a company's usual course of business are entitled to the basic protections of the Labor Code. The cases also implicate the cutting edge legal issues of Proposition 22's effect, and the government's power to enforce the Labor Code despite arbitration agreements between companies and workers. These cases have been coordinated with cases brought by the Attorney General and numerous private PAGA cases and class actions. The case is currently in litigation.
- **Lilia Garcia-Brower v. Mobile Wash Inc., Los Angeles County Superior Court Case No. 20STCV24800**: In July 2020, the Labor Commissioner's Office filed a lawsuit against a gig-economy car wash company in Southern California for misclassifying workers as independent contractors. Mobile Wash, Inc. misclassified at least 500 workers, harming both workers and law-abiding businesses in the car washing industry. Through this misclassification, Mobile Wash has evaded its obligations under California

law, including minimum wage, overtime, rest periods, reimbursements for equipment and miles driven by car washers, paid sick leave, and accurate itemized wage statements. The case is currently in litigation.

- **Lilia Garcia-Brower v. Calcrete Construction, Inc. and Calcrete, Inc., Los Angeles County Superior Court Case No. BC667644**: In July 2017, the Labor Commissioner's Office filed a lawsuit against a construction company for failing to pay its workers overtime, paid sick leave, waiting time penalties, and failing to provide accurate wage statements. The total damages in this case are over \$3 million. This case is currently in litigation.

Other Partnerships

Labor Enforcement Task Force (LETf)

The LETf, under the direction of the Department of Industrial Relations, 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). 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 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. 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 at:

https://www.dir.ca.gov/letf/LETf_Legislative_Reports.html

Transfers to the General Fund

In the fiscal year 2020-2021, the Labor Commissioner's office deposited \$7,068,441.61 in fines, penalties, and wages collected to the General Fund.



Respectfully submitted,
Lilia García-Brower
Labor Commissioner