

HOUSE BILL REPORT

2ESHB 1467

As Passed House:
February 7, 2014

Title: An act relating to the collection of unpaid wages.

Brief Description: Addressing the collection of unpaid wages.

Sponsors: House Committee on Labor & Workforce Development (originally sponsored by Representatives Green, Sells, Reykdal, Ormsby, McCoy, Van De Wege, Appleton and Bergquist; by request of Department of Labor & Industries).

Brief History:

Committee Activity:

Labor & Workforce Development: 2/6/13, 2/14/13 [DPS].

Floor Activity:

Passed House: 3/8/13, 98-0.

Floor Activity:

Passed House: 2/7/14, 92-2.

Brief Summary of Second Engrossed Substitute Bill

- Permits the Department to electronically serve a financial institution with a Notice and Order to Withhold and Deliver.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

Minority Report: Do not pass. Signed by 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy and Short.

Staff: Trudes Tango (786-7384).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If an employee files a wage complaint for a violation of a wage payment requirement, the Department of Labor and Industries (Department) must investigate the complaint. A "wage payment requirement" includes the requirements to pay minimum wages, overtime compensation, and final wages, and the requirement to withhold only lawful deductions from wages. The Department must issue either a citation and notice of assessment or a determination of compliance within 60 days of receiving the complaint. The Department may order the employer to pay employees all wages owed, including interest. If the violation was willful, the Department may also order the employer to pay a civil penalty.

If a final order is issued and the employer defaults in paying the wages owed or the civil penalty, the Director of the Department (Director) may file a warrant with the county clerk. The amount of the warrant becomes a lien on the employer's real or personal property.

If the Director has reason to believe a person or entity possesses property belonging to the employer, the Director may also issue to the person or entity a Notice and Order to Withhold and Deliver (NWD). The person or entity has 20 days to respond from the date the NWD is served. If the person or entity possesses any property that may be subject to the Department's claim, it must promptly deliver the property to the Director.

In addition, the Department may recover wages and civil penalties owed in a civil action.

Summary of Second Engrossed Substitute Bill:

The Department may electronically serve a financial institution with a NWD by providing a list of its outstanding warrants, except those for which a payment agreement is in good standing, to the Department of Revenue. Thereafter, the Department of Revenue may include the warrants in a NWD it sends to the financial institution. The financial institution has 30 days to respond.

Both the Department and the Department of Revenue may adopt rules to implement these provisions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Typically, when a valid complaint under the Wage Payment Act is received, it is taken care of informally. In a small universe of cases, a citation is issued, the employer appeals and loses, and money is owed to workers. The Department has an obligation to collect that money for workers, but current law provides insufficient collection tools. For NWDs, the Department contacts banks and explains that the Department has legal access to any money in an employer's account. The bill would allow the Department to do this electronically, as the Department of Revenue and the Department of Social and Health

Services do currently. The other collection tools are taken from the workers' compensation law and would be rarely used, but having a tool available may assist in collection efforts.

(With concerns) There are concerns on the section related to jeopardy assessments. The language is a huge grant of authority with inadequate restrictions. It is unclear what will give the Department a reason to believe an employer will be insolvent. The agricultural industry has experienced problems with the United States Department of Labor's use of hot goods orders, which place the farmer in the position of choosing between paying a fine and risking losing the crop. In an analogous case related to prevailing wages, the Department has put the employer in a difficult spot because things have happened prematurely. To ensure due process, a third party should look at these issues to determine whether wages are due.

(Opposed) None.

Persons Testifying: (In support) Joel Sacks and Elizabeth Smith, Department of Labor and Industries.

(With concerns) Scott Dilly, Washington Farm Bureau; and Gary Smith, Independent Business Association.

Persons Signed In To Testify But Not Testifying: None.