

SHB 1217 - S COMM AMD

By Committee on Labor & Commerce

ADOPTED AS AMENDED 04/12/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 49.48.083 and 2011 c 301 s 16 are each amended to
4 read as follows:

5 (1) If an employee files a wage complaint with the department,
6 the department shall investigate the wage complaint. Unless otherwise
7 resolved, the department shall issue either a citation and notice of
8 assessment or a determination of compliance no later than (~~sixty~~)
9 60 days after the date on which the department received the wage
10 complaint. The department may extend the time period by providing
11 advance written notice to the employee and the employer setting forth
12 good cause for an extension of the time period and specifying the
13 duration of the extension. The department may not investigate any
14 alleged violation of a wage payment requirement that occurred more
15 than three years before the date that the employee filed the wage
16 complaint. The department shall send the citation and notice of
17 assessment or the determination of compliance to both the employer
18 and the employee by service of process or using a method by which the
19 mailing can be tracked or the delivery can be confirmed to their last
20 known addresses.

21 (2) If the department determines that an employer has violated a
22 wage payment requirement and issues to the employer a citation and
23 notice of assessment, the department may order the employer to pay
24 employees all wages owed, including interest of one percent per month
25 on all wages owed, to the employee. The wages and interest owed must
26 be calculated from the first date wages were owed to the employee,
27 except that the department may not order the employer to pay any
28 wages and interest that were owed more than three years before the
29 date the wage complaint was filed with the department.

30 (3) If the department determines that the violation of the wage
31 payment requirement was a willful violation, the department also may

1 order the employer to pay the department a civil penalty as specified
2 in (a) of this subsection.

3 (a) A civil penalty for a willful violation of a wage payment
4 requirement shall be not less than one thousand dollars or an amount
5 equal to ten percent of the total amount of unpaid wages, whichever
6 is greater. The maximum civil penalty for a willful violation of a
7 wage payment requirement shall be twenty thousand dollars.

8 (b) The department may not assess a civil penalty if the employer
9 reasonably relied on: (i) A rule related to any wage payment
10 requirement; (ii) a written order, ruling, approval, opinion, advice,
11 determination, or interpretation of the director; or (iii) an
12 interpretive or administrative policy issued by the department and
13 filed with the office of the code reviser. In accordance with the
14 department's retention schedule obligations under chapter 40.14 RCW,
15 the department shall maintain a complete and accurate record of all
16 written orders, rulings, approvals, opinions, advice, determinations,
17 and interpretations for purposes of determining whether an employer
18 is immune from civil penalties under (b) (ii) of this subsection.

19 (c) The department shall waive any civil penalty assessed against
20 an employer under this section if the employer is not a repeat
21 willful violator, and the director determines that the employer has
22 provided payment to the employee of all wages that the department
23 determined that the employer owed to the employee, including
24 interest, within ten business days of the employer's receipt of the
25 citation and notice of assessment from the department.

26 (d) The department may waive or reduce at any time a civil
27 penalty assessed under this section if the director determines that
28 the employer paid all wages and interest owed to an employee.

29 (e) The department shall deposit civil penalties paid under this
30 section in the supplemental pension fund established under RCW
31 51.44.033.

32 (4) Upon payment by an employer, and acceptance by an employee,
33 of all wages and interest assessed by the department in a citation
34 and notice of assessment issued to the employer, the fact of such
35 payment by the employer, and of such acceptance by the employee,
36 shall: (a) Constitute a full and complete satisfaction by the
37 employer of all specific wage payment requirements addressed in the
38 citation and notice of assessment; and (b) bar the employee from
39 initiating or pursuing any court action or other judicial or
40 administrative proceeding based on the specific wage payment

1 requirements addressed in the citation and notice of assessment. The
2 citation and notice of assessment shall include a notification and
3 summary of the specific requirements of this subsection.

4 (5) The applicable statute of limitations for civil actions is
5 tolled during the department's investigation of an employee's wage
6 complaint against an employer. For the purposes of this subsection,
7 the department's investigation begins on the date the employee files
8 the wage complaint with the department and ends when: (a) The wage
9 complaint is finally determined through a final and binding citation
10 and notice of assessment or determination of compliance; or (b) the
11 department notifies the employer and the employee in writing that the
12 wage complaint has been otherwise resolved or that the employee has
13 elected to terminate the department's administrative action under RCW
14 49.48.085.

15 (6) If the department offers the employer the option to resolve a
16 wage complaint without a citation and notice of assessment, and the
17 employer chooses to accept the offer, any settlement must include
18 interest of one percent per month on all amounts owed. The employee
19 may request a waiver or reduction of interest as part of the
20 settlement process."

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21 On page 1, line 2 of the title, after "options;" strike the
22 remainder of the title and insert "and amending RCW 49.48.083."

EFFECT: (1) Removes proposed language: (a) Allowing the Department of Labor and Industries (L&I) to demand all amounts owed, including interest, on wage complaints filed on or after October 1, 2024; (b) prohibiting L&I from waiving or reducing interest unless an employee expressly requests such a waiver or reduction; and (c) directing L&I to establish a work group to study specified aspects of wage theft.

(2) Provides that if L&I offers the employer the option to resolve a wage complaint without a citation and notice of assessment, and the employer chooses to accept the offer, any settlement must include interest of one percent per month on all amounts owed.

(3) Allows the employee to request a waiver or reduction of interest as part of the settlement process.

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