

HOUSE BILL REPORT

SHB 1217

As Amended by the Senate

Title: An act relating to improving worker recovery in wage complaints by authorizing the collection of interest and studying other options.

Brief Description: Concerning wage complaints.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Ortiz-Self, Fosse, Berry, Reed, Simmons, Gregerson, Ramel, Macri and Pollet).

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/27/23, 2/10/23 [DPS].

Floor Activity:

Passed House: 3/4/23, 53-43.

Senate Amended.

Passed Senate: 4/12/23, 33-16.

Brief Summary of Substitute Bill

- Authorizes the Department of Labor and Industries (Department) to demand interest on wages owed when a wage complaint is filed, and prohibits the Department from waiving or reducing the interest unless the employee requests a waiver or reduction.
- Requires the Department to convene a work group to develop strategies on eliminating wage theft and providing relief to workers, including creating a wage recovery fund.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

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

Signed by 6 members: Representatives Berry, Chair; Fosse, Vice Chair; Bronoske, Doglio, Ormsby and Ortiz-Self.

Minority Report: Without recommendation. Signed by 3 members: Representatives Robertson, Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Connors.

Staff: Trudes Tango (786-7384).

Background:

An individual owed wages may file a wage complaint with the Department of Labor and Industries (Department) under the Wage Payment Act (WPA), and the Department must investigate. Unless the complaint is otherwise resolved, the Department must issue either a citation and notice of assessment or a determination of compliance.

When the Department issues a citation and notice of assessment, it may order the employer to pay the employee all wages owed, including interest of 1 percent per month, calculated from the first date wages were owed. The WPA does not have a provision allowing for the collection of interest when a complaint is resolved before the issuance of a citation and notice of assessment.

Summary of Substitute Bill:

The Wage Payment Act is amended to allow the Department to demand all amounts owed, including interest of 1 percent per month, for all wage complaints filed. The Department may not waive or reduce any interest on any amounts owed unless the employee expressly requests a waiver or reduction of interest.

The Department must convene a work group to develop and recommend strategies for eliminating wage theft and for helping workers recover wages and be made whole as quickly and as fully as possible. The work group must identify options to enhance the Department's ability to provide swift relief to workers. The work group must explore options that include the creation of a wage recovery fund or similar mechanism to provide relief before the employer has paid the worker or the Department. The work group must also explore other procedures used in other states.

The work group must include at least one representative from:

- the Department;
- a worker advocacy organization;
- a civil legal services organization;
- a statewide business advocacy organization representing large and small employers;
- a statewide small business advocacy organization; and
- an academic institution with legal scholars who specialize in employment law.

The work group's recommendations must be made by consensus. The work group must submit a report with its recommendations to the appropriate committees of the Legislature by September 1, 2024.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment does the following:

1. removes the provision allowing the Department of Labor and Industries (Department) to demand all amounts owed, including interest, on wage complaints filed on or after October 1, 2024;
2. provides that for wage complaints filed on or after January 1, 2024, if the Department offers the employer the option to settle a wage complaint without a citation and notice of assessment, any settlement must include interest;
3. removes the provision prohibiting the Department from waiving or reducing interest unless requested by the employee, and instead allows the employee to request a waiver or reduction of interest as part of the settlement; and
4. removes the provision establishing a work group.

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) There are many families who are just one paycheck away from being homeless and who are living paycheck-to-paycheck. It makes a difference in their lives when they do not receive wages owed to them. The bill incentivizes employers to make sure they do not withhold wages. This bill originated from law school students working with clients in the employment law clinic, and they noticed that the Department was not collecting interest on cases that were resolved before a notice of assessment was issued. The majority of cases get resolved before a citation is issued, so there is no interest collected on those. It is equivalent to the workers giving employers an interest-free loan. Allowing for interest in cases that get resolved early will help mitigate the economic harm these workers face when they are victims of wage theft. Over 70 percent of cases are settled before a citation is issued. Employees can still waive or reduce interest and settle their cases. The work group will establish alternative avenues to help workers.

(Opposed) This bill would require charging interest without having a hearing to determine if wages are even owed. It assesses a 12 percent penalty on employers before any determination of wrongdoing has been made. The only way to not have interest imposed is

to go all the way to a hearing. Requiring interest before any citation takes away a useful tool that helps in settlements. The bill presumes wage theft is occurring. The work group is a good idea but the ratio of labor to business representatives is out of balance. Small businesses need to be represented on the work group since they will likely have different payroll issues and different interests than larger employers. There needs to be a balanced approach. The bill does not give the work group enough time to research what other states are doing and to come up with a new structure like a wage recovery fund.

Persons Testifying: (In support) Elizabeth Ford; David Fernandez Antelo; James Stafford; Andrea Schmitt, Columbia Legal Services; and Eric Nusser, Terrell Marshall Law Group Professional Limited Liability Company.

(Opposed) Bob Battles, Association of Washington Business; and Patrick Connor, National Federation of Independent Business.

Persons Signed In To Testify But Not Testifying: None.