

# SENATE BILL REPORT

## SHB 1217

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As of March 16, 2023

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

**Committee Activity:** Labor & Commerce: 3/16/23.

### Brief Summary of Bill

- Authorizes the Department of Labor and Industries (L&I) to demand interest on wages owed when a wage complaint is filed on or after October 1, 2024, and prohibits L&I from waiving or reducing any interest on amounts owed unless an employee requests a waiver or reduction.
- Directs L&I to convene a work group to develop strategies on eliminating wage theft and providing relief to workers, including creating a wage recovery fund.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Matt Shepard-Koningsor (786-7627)

**Background:** Various laws, such as the Minimum Wage Act and Wage Payment Act (WPA), establish standards for payment of wages. Wages include compensation due to an employee by reason of employment. It is unlawful for an employer to deprive an employee

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of their wages. An individual owed unpaid wages may file a wage complaint with the Department of Labor & Industries (L&I) under the WPA, and L&I must investigate. Unless the complaint is otherwise resolved, L&I must issue either a citation and notice of assessment or a determination of compliance. Alternatively, an individual may file a private civil action to recover unpaid wages under certain conditions.

When L&I 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. However, L&I may not order the payment of wages and interest that were owed more than three years before the filing date. The WPA has other provisions regarding civil penalties for willful violations, but does not have a provision allowing for collection of interest when a complaint is resolved before the issuance of a citation and notice of assessment.

**Summary of Bill:** The WPA is amended to allow L&I to demand all amounts owed, including interest of 1 percent per month, for all wage complaints filed on or after October 1, 2024. L&I may not waive or reduce any interest on amounts owed unless an employee expressly requests a waiver or reduction of interest.

L&I must convene a work group to develop and recommend strategies, by consensus, for eliminating wage theft and helping workers recover wages and be made whole as quickly and as fully as possible. The work group must identify options to enhance L&I's ability to provide swift relief to workers. Options the work group must explore include, but are not limited to:

- creation of a wage recovery fund or other similar mechanism, the purpose of which is to enable L&I to provide quick relief to victims of wage theft, including before the employer has paid the worker or L&I under an administrative order; and
- procedures and mechanisms used in other states that ensure full and timely recovery for workers that deter future violations.

For each recommendation, the work group must identify and address implementation issues and assess feasibility. The work group must include at least one representative from each of the following:

- L&I;
- a worker advocacy organization;
- a civil legal services organization;
- a statewide business advocacy organization representing both large and small employers;
- a statewide small business advocacy organization; and
- an academic institution with legal scholars specializing in employment law.

The work group must submit a report to the Legislature by September 1, 2024.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill is about accountability and fairness. Some people live paycheck-to-paycheck and not being paid one or two times can be detrimental. Wage theft affects the employee and their family. This bill incentivizes employers to resolve the issue quickly. We want to eliminate wage theft altogether. This is an easy fix to the WPA, giving L&I the authority to assess interest when wage claims are settled. The bill is directly inspired by the work of students at Seattle University School of Law, who represent victims of wage theft. This is a small bill with large impacts on the lives of workers who do not receive the paycheck they are owed. Currently, if a worker files a wage claim with L&I, it must investigate, and if L&I determines the claim has merit, it may issue a citation or encourage the employer to settle the case. In a settlement, the worker will receive the wages owed but not any interest. This bill puts an end to L&I unintentionally brokering interest-free loans at the expense of workers. Nothing in the bill changes an employer's ability to be heard. When a private suit is filed, we seek the wages, interest, and exemplary damages. Allowing L&I to collect interest if there is a settlement makes common sense. Creating a work group is also a good idea.

CON: We are talking about 292 claims out of 4,000,000 paychecks. Of the 4,800 investigations, 1,800 are thrown out as invalid. 1,450 claims are resolved outside of the notice of assessment, which are now being included in the administrative process. This bill is creating a solution for a nonexistent problem.

OTHER: L&I answered questions from the Committee.

**Persons Testifying:** PRO: Representative Lillian Ortiz-Self, Prime Sponsor; James Stafford; David Fernandez Antelo; Cory Elliott, Political Director, NW Carpenters Union; BEAU HAYNES, Washington Wage Claim Project; Andrea Schmitt.

CON: Bob Battles, Association of Washington Business (AWB).

OTHER: Tammy Fellin, Labor & Industries.

**Persons Signed In To Testify But Not Testifying:** No one.