

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Soto offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. (1) (a) The Legislature finds, as a matter of  
6 public policy, that it is necessary to declare that the theft of  
7 wages through the denial of compensation for work completed at  
8 the amount agreed upon by an employer and employee is against  
9 the law and policies of the state.

10 (b) The Legislature further finds that employers,  
11 employees, local communities, the overall business climate, and  
12 the public all benefit from wage theft policies and programs  
13 that ensure that agreed upon or promised rates of pay are  
14 enforced.

15 (2) As used in this section, the term "wage theft" means  
16 an underpayment or nonpayment of an individual worker's wages,

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17 salaries, commissions, or other similar compensation agreed upon  
18 by an employer and employee.

19 (3) (a) A wage theft violation exists when an employer  
20 fails to pay any portion of wages, salaries, commissions, or  
21 other similar form of compensation due to an employee for the  
22 work that those wages were agreed to and which were due, within  
23 a reasonable time after the date on which the employee performed  
24 the work according to the applicable rate and the employer's own  
25 pay schedule established by policy or practice, but in no case  
26 later than 30 days after the date the work was performed.

27 (b) If a pay schedule has not been established, a  
28 reasonable time after the date on which that employee performed  
29 the work shall be 2 weeks.

30 (4) (a) In the event of a finding of wage theft, the  
31 employer shall be liable for the actual back wages due and owing  
32 and may be liable for administrative costs in an amount not to  
33 exceed \$1,500. In addition, liquidated damages shall be awarded  
34 to the employee. Liquidated damages shall be limited to twice  
35 the amount a respondent employer is found to have unlawfully  
36 failed to pay the complainant employee.

37 (b) For a second violation, a fine of \$1,000 shall be  
38 charged against the employer in addition to liquidated damages  
39 and any administrative costs.

40 (c) For a third or subsequent violation, an employer shall  
41 be subject to a fine of \$2,000 per aggrieved worker, and may be  
42 liable for administrative costs in an amount not to exceed  
43 \$2,500.

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44 (5) Any action brought under this section shall be  
45 commenced within 1 year after the last date upon which wages  
46 were due to the employee that is the subject of the wage theft  
47 claim.

48 (6) (a) A county may, by local ordinance, establish an  
49 administrative process to address wage theft. The process shall  
50 afford the parties involved an opportunity to negotiate a  
51 resolution to the wages in question. A county, municipality, or  
52 political subdivision may not adopt or maintain in effect any  
53 ordinance or rule that creates requirements or regulations for  
54 the purpose of addressing wage theft other than to establish the  
55 administrative process provided for in this section.

56 (b) Local ordinances must establish a system that  
57 provides:

58 1. A process by which a complaint can be submitted to the  
59 county by, or on behalf of, an aggrieved employee, in which a  
60 wage theft violation must be alleged.

61 2. Requirements relating to service of the complaint and  
62 written notice on the respondent employer alleged to have  
63 committed a wage theft practice, setting forth the allegations  
64 put forth in the complaint and the rights and obligations of the  
65 parties, which shall include the right of the respondent to file  
66 an answer to the complaint, the right to a conciliation process  
67 between the two parties, and the right to a hearing on the  
68 matter before a county hearing officer.

69 (c) It shall be the policy of each county to encourage  
70 conciliation of the charges made, and to work with the parties  
71 in an attempt to conciliate and resolve the matter. A hearing

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72 officer may be appointed only if the matter is not resolved  
73 through conciliation in accordance with this paragraph.

74 (d) The final determination of a hearing officer is  
75 subject to appeal to a court of competent jurisdiction.

76 (e) If a preponderance of the evidence demonstrates a wage  
77 theft violation has occurred, the hearing officer shall order  
78 the employer to pay wage theft restitution to the affected  
79 employee along with liquidated damages and any administrative  
80 costs.

81 (f) The regulation of wage theft through local ordinance  
82 shall be limited to requiring that employers pay their employees  
83 for work performed at the agreed upon rate of pay and  
84 establishing a fair procedure and program to review and enforce  
85 wage agreements.

86 (g) An employee not timely paid wages, final compensation,  
87 or wage supplements by his or her employer as required by this  
88 section shall be entitled to recover through a claim filed in a  
89 process or program established in the employee's county of  
90 employment, or in a civil action, but not both.

91 (7) If the employer is found to have acted in good faith  
92 or if the employer had reason to believe that the act or  
93 omission was not intentional or was not wage theft, the  
94 administrative costs against the employer may be waived.

95 (8) Any local ordinance adopted and implemented before  
96 this act takes effect shall remain in place until the local  
97 government amends or repeals it.

98 Section 2. This act shall take effect July 1, 2012.

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

                  A bill to be entitled  
An act relating to wage protection for employees;  
providing legislative findings; providing a  
definition; providing when a wage theft violation  
exists; providing employer liability; providing fines;  
providing a statute of limitations; authorizing a  
county to establish an administrative process to  
address wage theft by local ordinance; providing  
requirements; authorizing administrative costs against  
the employer to be waived under certain conditions;  
providing that any prior local ordinance adopted and  
implemented shall remain in place until such time that  
the local government elects to amend or repeal it;  
providing an effective date.