

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Steinberg offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

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

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

16 (2) As used in this section, the term "wage theft" means
 17 an underpayment or nonpayment of an individual worker's wages,
 18 salaries, commissions, or other similar compensation agreed upon
 19 by an employer and employee.

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

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

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

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

41 (c) For a third or subsequent violation, an employer shall
42 be subject to a fine of \$2,000 per aggrieved worker, and may be
43 liable for administrative costs in an amount not to exceed
44 \$2,500.

45 (5) Any action brought under this section shall be
46 commenced within 1 year after the last date upon which wages

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47 were due to the employee that is the subject of the wage theft
48 claim.

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

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

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

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

70 (c) It shall be the policy of each county to encourage
71 conciliation of the charges made, and to work with the parties
72 in an attempt to conciliate and resolve the matter. A hearing
73 officer may be appointed only if the matter is not resolved
74 through conciliation in accordance with this paragraph.

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

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

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

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

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

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

99 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.