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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/13/2013	.	
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The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 34.01, Florida Statutes, is amended to read:

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

(a) In all misdemeanor cases not cognizable by the circuit courts. ~~†~~

(b) Of all violations of municipal and county ordinances. ~~†~~

(c) Of all actions at law in which the matter in



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13 controversy does not exceed the sum of \$15,000, exclusive of
14 interest, costs, and attorney's fees, except those within the
15 exclusive jurisdiction of the circuit courts. ~~;~~ and

16 (d) Of disputes occurring in the homeowners' associations
17 as described in s. 720.311(2)(a), which shall be concurrent with
18 jurisdiction of the circuit courts.

19 (e) Of actions for the collection of compensation under s.
20 448.115, notwithstanding the amount in controversy prescribed in
21 paragraph (c).

22 Section 2. Section 448.115, Florida Statutes, is created to
23 read:

24 448.115 Civil action for wage theft; notice; civil penalty;
25 preemption.-

26 (1) (a) As used in this section, the term "wage theft" means
27 an illegal or improper underpayment or nonpayment of an
28 individual employee's wage, salary, commission, or other similar
29 form of compensation within a reasonable time from the date on
30 which the employee performed the work to be compensated.

31 (b) A wage theft occurs when an employer fails to pay a
32 portion of wages, salary, commissions, or other similar form of
33 compensation due to an employee within a reasonable time from
34 the date on which the employee performed the work, according to
35 the already applicable rate and the pay schedule of the employer
36 established by policy or practice. In the absence of an
37 established pay schedule, a reasonable time from the date on
38 which the employee performed the work is 2 weeks.

39 (2) (a) If an employer commits wage theft as defined in
40 paragraph (1) (a), an aggrieved employee may initiate a civil
41 action as provided in this section.



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42 (b) County courts shall have original and exclusive
43 jurisdiction in all actions involving wage theft, as provided in
44 s. 34.01.

45 (c) The action shall:

46 1. Be brought in the county court in the county where the
47 employee performed the work;

48 2. Not include a right to a jury trial; and

49 3. Be governed by the Florida Small Claims Rules.

50 (3) (a) Before bringing an action, the claimant must notify
51 the employer who is alleged to have engaged in wage theft of an
52 intent to initiate a civil action in writing.

53 (b) The notice must identify the amount that the claimant
54 alleges is owed, the actual or estimated work dates and hours
55 for which compensation is sought, and the total amount of
56 compensation unpaid through the date of the notice.

57 (c) The employer has 15 days after the date of service of
58 the notice to pay the total amount of unpaid compensation or
59 otherwise resolve the action to the satisfaction of the
60 claimant.

61 (4) The action must be filed within 1 year after the last
62 date that the alleged unpaid work was performed by the employee.

63 (5) The claimant must prove wage theft by a preponderance
64 of the evidence. A prevailing claimant is entitled to damages
65 limited to the actual compensation due and owing.

66 (a) The court may only award economic damages expressly
67 authorized in this subsection.

68 (b) The court may not award noneconomic or punitive damages
69 or attorney fees or costs to a prevailing claimant,
70 notwithstanding s. 448.08.



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71 (6) The Attorney General may bring a civil action against
72 an employer for wage theft. The Attorney General may seek
73 injunctive relief. In addition to injunctive relief, or in lieu
74 of injunctive relief, for any employer found to have willfully
75 engaged in wage theft, the Attorney General may seek to impose a
76 civil penalty not to exceed \$1,000 per violation, payable to the
77 state. The clerk of court shall remit the penalty collected
78 under this subsection to the Department of Revenue for deposit
79 into the General Revenue Fund.

80 (7) (a) A county, municipality, or political subdivision may
81 establish an administrative, nonjudicial process under which an
82 assertion of unpaid compensation may be submitted by, or on
83 behalf of, an employee in order to assist in the collection of
84 compensation owed to the employee. Any such process, at a
85 minimum, shall afford the parties involved an opportunity to
86 negotiate a resolution regarding the compensation in question.
87 The county, municipality, or political subdivision may, as part
88 of the process, pay the filing fee under s. 34.041 on behalf of
89 the employee or assist the employee in completing an application
90 for a determination of civil indigent status under s. 57.082.
91 The process may not adjudicate a compensation dispute between an
92 employee and an employer nor award damages to the employee.

93 (b) A county, municipality, or political subdivision may
94 not adopt or maintain in effect any law, ordinance, or rule that
95 creates requirements or regulations for the purpose of
96 addressing unpaid compensation claims other than to establish
97 the administrative, nonjudicial process provided for in this
98 subsection.

99 (c) Notwithstanding paragraph (b), a local ordinance



100 governing wage theft enacted before January 1, 2011, is not
101 preempted by this section. However, any local ordinance
102 governing wage theft enacted before January 1, 2011, may not
103 apply to an employer whose annual gross volume of sales or
104 business transacted is more than \$500,000, exclusive of sales
105 tax collected or excise taxes paid.

106 (d) Any other regulation, ordinance, or provision for the
107 recovery of unpaid compensation by a county, municipality, or
108 political subdivision is expressly prohibited and is preempted
109 to the state.

110 Section 3. This act shall take effect upon becoming a law

111
112 ===== T I T L E A M E N D M E N T =====

113 And the title is amended as follows:

114 Delete everything before the enacting clause
115 and insert:

116 A bill to be entitled
117 An act relating to employers and employees; amending
118 s. 34.01, F.S.; providing jurisdiction of county
119 courts over wage theft civil actions; creating s.
120 448.115, F.S.; providing a definition for the term
121 "wage theft"; creating a civil cause of action for
122 wage theft; providing the procedure for filing of a
123 civil action for wage theft; providing jurisdiction;
124 requiring a claimant to notify the employer of the
125 employee's intention to initiate a civil action;
126 allotting the employer a specific time to resolve the
127 action; providing a statute of limitations; requiring
128 a claimant to prove wage theft by a preponderance of



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129 the evidence; prohibiting certain damages; authorizing
130 the Attorney General to bring a civil action for wage
131 theft and seek injunctive relief; providing a civil
132 penalty; authorizing a county, municipality, or
133 political subdivision to establish a process by which
134 a claim may be filed; prohibiting a local government
135 from adopting or maintaining in effect a law,
136 ordinance, or rule for the purpose of addressing
137 unpaid wage claims; prohibiting the preemption of
138 certain local ordinances governing wage theft;
139 providing that any regulation, ordinance, or other
140 provision for recovery of unpaid wages by counties,
141 municipalities, or political subdivisions is
142 prohibited and preempted to the state; providing an
143 effective date.