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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2013	.	
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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; and

48 2. Be governed by the Florida Small Claims Rules.

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

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

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

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

62 (5) The claimant must prove wage theft by a preponderance
63 of the evidence. A prevailing claimant is entitled to damages
64 limited to the actual compensation due and owing. The court may
65 only award economic damages expressly authorized in this
66 subsection, and may not award noneconomic or punitive damages.

67 (6) (a) A county, municipality, or political subdivision may
68 establish an administrative, nonjudicial process under which an
69 assertion of unpaid compensation may be submitted by, or on
70 behalf of, an employee in order to assist in the collection of



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71 compensation owed to the employee. Any such process, at a
72 minimum, shall afford the parties involved an opportunity to
73 negotiate a resolution regarding the compensation in question.
74 The county, municipality, or political subdivision may, as part
75 of the process, assist the employee in completing an application
76 for a determination of civil indigent status under s. 57.082 and
77 may pay the filing fee under s. 34.041 on behalf of the
78 employee, if applicable. The process may not adjudicate a
79 compensation dispute between an employee and an employer nor
80 award damages to the employee.

81 (b) A county, municipality, or political subdivision may
82 not adopt or maintain in effect any law, ordinance, or rule that
83 creates requirements or regulations for the purpose of
84 addressing unpaid compensation claims other than to establish
85 the administrative, nonjudicial process provided for in this
86 subsection.

87 (c) Notwithstanding paragraph (b), a local ordinance
88 governing wage theft enacted before January 1, 2011, is not
89 preempted by this section. However, any local ordinance
90 governing wage theft enacted before January 1, 2011, may not
91 apply to an employer whose annual gross volume of sales or
92 business transacted is more than \$500,000, exclusive of sales
93 tax collected or excise taxes paid.

94 (d) Any other regulation, ordinance, or provision for the
95 recovery of unpaid compensation by a county, municipality, or
96 political subdivision is expressly prohibited and is preempted
97 to the state.

98 Section 3. This act shall take effect upon becoming a law
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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to employers and employees; amending
s. 34.01, F.S.; providing jurisdiction of county
courts over wage theft civil actions; creating s.
448.115, F.S.; providing a definition for the term
"wage theft"; creating a civil cause of action for
wage theft; providing the procedure for filing of a
civil action for wage theft; providing jurisdiction;
requiring a claimant to notify the employer of the
employee's intention to initiate a civil action;
allotting the employer a specific time to resolve the
action; providing a statute of limitations; requiring
a claimant to prove wage theft by a preponderance of
the evidence; prohibiting certain damages; authorizing
a county, municipality, or political subdivision to
establish a process by which a claim may be filed;
prohibiting a local government from adopting or
maintaining in effect a law, ordinance, or rule for
the purpose of addressing unpaid wage claims;
prohibiting the preemption of certain local ordinances
governing wage theft; providing that any regulation,
ordinance, or other provision for recovery of unpaid
wages by counties, municipalities, or political
subdivisions is prohibited and preempted to the state;
providing an effective date.