

By Senator Bradley

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1                   A bill to be entitled  
2           An act relating to wage theft; amending s. 34.01,  
3           F.S.; granting county courts original jurisdiction  
4           over specified collection actions; creating s.  
5           448.115, F.S.; defining the term "wage theft";  
6           providing circumstances under which an employer  
7           commits wage theft; providing specific notice  
8           requirements; requiring a claim to be filed within a  
9           specified time; requiring an employer to pay or  
10          resolve the matter within a specified time; providing  
11          that a claim is governed by the Florida Small Claims  
12          Rules; providing procedural requirements; requiring  
13          the claimant to prove wage theft by a preponderance of  
14          the evidence; limiting damages to actual compensation  
15          owed; prohibiting attorney fees or other damage  
16          awards; authorizing the Attorney General to seek  
17          injunctive relief against an employer accused of wage  
18          theft; authorizing the Attorney General to seek money  
19          damages, up to a specified amount, in addition to  
20          injunctive relief under certain circumstances;  
21          authorizing a county, municipality, or political  
22          subdivision to establish an administrative process to  
23          facilitate the collection of money owed to an  
24          employee; requiring such process to include an  
25          opportunity for negotiation between parties;  
26          authorizing a county, municipality, or political  
27          subdivision to include in the process payment of  
28          certain fees and assistance with certain applications;  
29          prohibiting adjudication; prohibiting any law,

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30 ordinance, or rule regarding unpaid compensation  
 31 claims other than as authorized for the administrative  
 32 process; grandfathering local ordinances that govern  
 33 wage theft and that were enacted before a specified  
 34 date; providing an exception; creating s. 448.116,  
 35 F.S.; providing definitions; prohibiting a political  
 36 subdivision from adopting or enforcing certain rules  
 37 and ordinances and voiding such rules and ordinances;  
 38 providing that this section does not limit the  
 39 authority of a political subdivision to establish  
 40 conditions of employment for certain persons or to  
 41 establish a certain process or forum; providing that  
 42 this section does not prohibit a certain tribal  
 43 government from establishing conditions of employment  
 44 for certain persons; providing an effective date.

45  
 46 Be It Enacted by the Legislature of the State of Florida:

47  
 48 Section 1. Subsection (1) of section 34.01, Florida  
 49 Statutes, is amended to read:

50 34.01 Jurisdiction of county court.—

51 (1) County courts ~~shall~~ have original jurisdiction:

52 (a) In all misdemeanor cases not cognizable by the circuit  
 53 courts;

54 (b) Of all violations of municipal and county ordinances;

55 (c) Of all actions at law in which the matter in  
 56 controversy does not exceed the sum of \$15,000, exclusive of  
 57 interest, costs, and attorney's fees, except those within the  
 58 exclusive jurisdiction of the circuit courts; ~~and~~

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59 (d) Of disputes occurring in the homeowners' associations  
60 as described in s. 720.311(2)(a), which shall be concurrent with  
61 jurisdiction of the circuit courts; and

62 (e) Of actions for the collection of compensation under s.  
63 448.115, notwithstanding the amount in controversy prescribed in  
64 paragraph (c).

65 Section 2. Section 448.115, Florida Statutes, is created to  
66 read:

67 448.115 Civil claim for wage theft; notice; civil penalty;  
68 preemption.-

69 (1) As used in this section, the term "wage theft" means an  
70 illegal or improper underpayment or nonpayment of an individual  
71 employee's wages, salaries, commissions, or other similar forms  
72 of compensation, within a reasonable time from the date on which  
73 the employee performs the work that is to be compensated.

74 (2) An employer commits wage theft if the employer fails to  
75 pay a portion of wages, salaries, commissions, or other similar  
76 forms of compensation due to an employee for the agreed upon  
77 work within a reasonable time from the date on which the  
78 employee performs the work, according to the already applicable  
79 rate and the pay schedule of the employer which are established  
80 by policy or practice. In the absence of an established pay  
81 schedule, 2 weeks after the date on which the employee performs  
82 the work shall be deemed a reasonable time.

83 (3) (a) An employee may bring a claim for wage theft against  
84 an employer. However, before bringing a claim for wage theft  
85 against an employer, an employee must notify the employer in  
86 writing of his or her intent to initiate a claim. The notice  
87 must identify the amount that the employee alleges he or she is

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88 owed, the actual or estimated work dates and hours for which  
89 compensation is sought, and the total amount of compensation  
90 unpaid through the date of the notice.

91 (b) A claim under this section must be filed within 1 year  
92 of the last date that the allegedly unpaid work is performed by  
93 the employee.

94 (c) The employer shall pay the total amount of unpaid  
95 compensation or otherwise resolve the matter to the satisfaction  
96 of the employee within 15 days after the date of service of the  
97 notice.

98 (4) (a) A county court has original jurisdiction, as  
99 provided under s. 34.01, over a claim for wage theft. A claim  
100 for wage theft has venue in the county where the employee  
101 performs the work. A claim for wage theft does not include a  
102 right to a jury trial and is governed by the Florida Small  
103 Claims Rules.

104 (b) The claimant must prove wage theft by a preponderance  
105 of the evidence. A prevailing claimant is entitled to damages,  
106 limited to the actual compensation due and owing. A court may  
107 not award economic damages other than those expressly authorized  
108 in this section. A court may not award noneconomic or punitive  
109 damages or attorney fees or costs to a prevailing claimant on a  
110 claim under this section, notwithstanding s. 448.08.

111 (5) The Attorney General may bring a civil action against  
112 an employer for wage theft. The Attorney General may seek  
113 injunctive relief. For any employer found to have willfully  
114 engaged in wage theft, the Attorney General may also seek to  
115 impose a civil penalty not to exceed \$1,000 per violation,  
116 payable to the state. The clerk of court shall remit the penalty

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117 collected under this subsection to the Department of Revenue for  
118 deposit into the General Revenue Fund.

119 (6) (a) A county, municipality, or political subdivision may  
120 establish an administrative, nonjudicial process under which an  
121 assertion of unpaid compensation may be submitted by, or on  
122 behalf of, an employee to assist in the collection of  
123 compensation owed to the employee. Any such process, at a  
124 minimum, must afford the parties involved an opportunity to  
125 negotiate a resolution regarding the compensation in question.  
126 The county, municipality, or political subdivision may, as part  
127 of the process, pay the filing fee under s. 34.041 on behalf of  
128 the employee or assist the employee in completing an application  
129 for a determination of civil indigent status under s. 57.082.  
130 The process may not adjudicate a compensation dispute between an  
131 employee and an employer nor award damages to the employee.

132 (b) A county, municipality, or political subdivision may  
133 not adopt or maintain in effect any law, ordinance, or rule that  
134 creates requirements or regulations for the purpose of  
135 addressing unpaid compensation claims other than to establish  
136 the administrative, nonjudicial process provided for in this  
137 subsection.

138 (c) Notwithstanding paragraph (b), any local ordinance  
139 governing wage theft enacted before January 1, 2011, is not  
140 preempted by this section. Such local ordinance may not apply to  
141 an employer whose annual gross volume of sales or business  
142 transacted is more than \$500,000, exclusive of sales tax  
143 collected or excise taxes paid.

144 Section 3. Section 448.116, Florida Statutes, is created to  
145 read:

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146 448.116 State retention of powers.-

147 (1) As used in this section, the term:

148 (a) "Condition of employment" means those terms that form  
149 the basis of the relationship between an employer and a  
150 prospective or actual employee, including, but not limited to,  
151 preemployment screening, job classification, job  
152 responsibilities, hours of work, wages, payment of wages, leave,  
153 and employee benefits such as retirement and insurance.

154 (b) "Employee" means an individual employed in this state  
155 by an employer.

156 (c) "Employer" means a person engaging in any activity,  
157 enterprise, or business in this state employing at least one  
158 employee.

159 (d) "Political subdivision" means a county, municipality,  
160 department, commission, district, board, or other public body,  
161 whether corporate or otherwise, created by or under state law.

162 (2) Except as otherwise provided in subsection (3) or in s.  
163 218.077, a political subdivision may not adopt or enforce a rule  
164 or ordinance that governs a condition of employment or  
165 establishes a process or forum for the resolution of disputes  
166 involving a condition of employment, the regulation of such  
167 matters being expressly preempted to the state. Any such  
168 existing rule or ordinance is void.

169 (3) This section does not limit the authority of a  
170 political subdivision to establish conditions of employment for  
171 the employees of the political subdivision or to establish any  
172 process or forum for the resolution of disputes within that  
173 employment relationship.

174 (4) This section does not prohibit a federally authorized

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175 and recognized tribal government from establishing conditions of  
176 employment for persons employed within any territory over which  
177 the tribe has jurisdiction.

178 Section 4. This act shall take effect upon becoming a law.