



241760

LEGISLATIVE ACTION

Senate

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House

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Senators Soto and Diaz de la Portilla moved the following:

1           **Senate Amendment to Substitute Amendment (275158) (with**  
2 **title amendment)**

3  
4           Delete lines 6 - 73

5 and insert:

6           Section 1. Section 448.111, Florida Statutes, is created to  
7 read:

8           448.111 Local regulation of wage theft.-

9           (1) DEFINITIONS.-As used in this section, the term:

10           (a) "Legal services organization" means an organization  
11 that provides free or low-cost legal services to qualified



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12 persons and meets the minimum standards established by The  
13 Florida Bar for providing such services, including a legal  
14 practice clinic operated by an accredited Florida law school.

15 (b) "Wage theft" means an illegal or improper underpayment  
16 or nonpayment of an individual employee's wage, salary,  
17 commission, or other similar form of compensation within a  
18 reasonable time after the date on which the employee performed  
19 the work to be compensated. A wage theft occurs when an employer  
20 fails to pay a portion of the wages, salary, commissions, or  
21 other similar forms of compensation due to an employee within a  
22 reasonable time after the date on which the employee performed  
23 the work, according to the current applicable rate and the pay  
24 schedule of the employer established by policy or practice.

25 (2) LOCAL ORDINANCES.—Upon the determination by a county  
26 that a local solution to wage theft is necessary, the county  
27 shall adopt a local ordinance that includes one of the following  
28 processes:

29 (a) Legal services organization process.—The county may  
30 partner with a local legal services organization for the purpose  
31 of establishing a local process through which claims of wage  
32 theft shall be addressed by the legal services organization. The  
33 county may partner with a legal services organization located in  
34 that county or in an adjoining county.

35 1. An individual who has experienced wage theft may contact  
36 the legal services organization for assistance in recovering  
37 wages. The legal services organization shall determine whether  
38 the individual has a bona fide claim for unpaid wages.

39 2. The legal services organization shall notify the  
40 employer and provide the employer with an opportunity to resolve



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41 the matter of unpaid wages in the manner deemed most appropriate  
42 to each claim. The notification may occur by telephone, written  
43 correspondence, or any other means deemed appropriate by the  
44 legal services organization.

45 3. The legal services organization shall work with the  
46 employee and employer to resolve the issue informally but  
47 expeditiously. The informal resolution may include obtaining  
48 attorney fees and costs from the employer.

49 4. The legal services organization shall file court actions  
50 as appropriate and refer unresolved claims to local pro bono or  
51 other counsel for resolution.

52 5. The county shall establish a reporting mechanism through  
53 which the county receives regular reports regarding the legal  
54 services organization's work on cases of wage theft. The county  
55 may require periodic reports.

56 (b) Administrative process.—The county may establish an  
57 administrative process that gives the parties involved the  
58 opportunity to negotiate a resolution with regard to the wages  
59 in question.

60 1. The county shall establish a system that provides for:

61 a. A complaint process by which a complaint, which must  
62 allege a wage theft violation, may be submitted to the county by  
63 or on behalf of an aggrieved employee; and

64 b. Service of the complaint and written notice on the  
65 respondent employer alleged to have committed a wage theft  
66 violation, which sets forth the allegations made in the  
67 complaint and the rights and obligations of the parties. Such  
68 rights and obligations shall include the right of the respondent  
69 to file an answer to the complaint and the rights of both



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70 parties to a conciliation process and to a hearing on the matter  
71 before a county hearing officer. The hearing officer must have  
72 either a legal background or specialized training in the subject  
73 matter. The final determination of a hearing officer is subject  
74 to appeal to a court of competent jurisdiction.

75 2. The system established must encourage the parties to  
76 conciliate the charges and resolve the matter. A hearing officer  
77 may not be appointed unless the matter is not resolved using the  
78 process established in this paragraph.

79 3. If a preponderance of the evidence demonstrates a wage  
80 theft violation, the hearing officer shall order the employer to  
81 pay wage theft restitution to the affected employee along with  
82 liquidated damages and any administrative costs.

83 4. The regulation of wage theft through local ordinance  
84 shall be limited to requiring that employers pay their employees  
85 for work performed at the agreed upon rate of pay plus any  
86 penalties as set forth herein and establishing a fair procedure  
87 and program to review and enforce wage agreements.

88 5. Any wage recovery system established pursuant to this  
89 paragraph must provide that an employee who is not timely paid  
90 wages, final compensation, or wage supplements by his or her  
91 employer as required is entitled to recover through a claim  
92 filed in a process or program established under this paragraph  
93 in the employee's county of employment or in a civil action, but  
94 not both.

95 6. The county shall establish a reporting mechanism through  
96 which the county receives regular reports regarding cases of  
97 wage theft. The county may require periodic reports.

98 7.a. Upon a finding of wage theft, the employer shall be



99 liable for the actual back wages due and owing and may be liable  
100 for administrative costs in an amount not to exceed \$1,500. If  
101 the employer is found to have acted in good faith or if the  
102 hearing officer has reason to believe that the act or omission  
103 was not intentional or was not wage theft, the administrative  
104 costs against the employer may be waived. In addition,  
105 liquidated damages shall be awarded to the employee but are  
106 limited to twice the amount a respondent employer is found to  
107 have unlawfully failed to pay the complainant employee.

108 b. In addition to the actual back wages due and liquidated  
109 damages, an employer found to have committed a second violation  
110 shall be fined \$1,000 and an employer found to have committed a  
111 third and subsequent violation shall be fined \$2,000. An  
112 employer who commits a second or subsequent violation may be  
113 liable for administrative costs in an amount not to exceed  
114 \$2,500.

115 8. Any claim brought under this paragraph is subject to a  
116 statute of limitations of 1 year from the last date upon which  
117 wages were due to the employee for the wage theft incident that  
118 is the subject of the wage theft claim.

119 (3) FUNDING.—The county may dedicate county funds to assist  
120 the legal services organization process or the administrative  
121 process under subsection (2) in addressing claims of wage theft.

122 (4) CURRENT ORDINANCES.—A local ordinance governing wage  
123 theft which was enacted on or before January 1, 2014, is not  
124 preempted by this section.

125  
126 ===== T I T L E A M E N D M E N T =====

127 And the title is amended as follows:



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128       Delete lines 81 - 89  
129 and insert:  
130       An act relating to local regulation of wage theft;  
131       creating s. 448.111, F.S.; defining terms; requiring a  
132       county that decides to create a local solution to wage  
133       theft to adopt one of two processes and specifying the  
134       requirements of those processes; providing an  
135       exception for an ordinance enacted by a specified  
136       date;