



979238

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

Senators Soto and Diaz de la Portilla moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

448.111 Local regulation of wage theft.-

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

(a) "Legal services organization" means an organization
that provides free or low-cost legal services to qualified
persons and meets the minimum standards established by The



979238

12 Florida Bar for providing such services, including a legal
13 practice clinic operated by an accredited Florida law school.

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

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

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

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

38 2. The legal services organization shall notify the
39 employer and provide the employer with an opportunity to resolve
40 the matter of unpaid wages in the manner deemed most appropriate



979238

41 to each claim. The notification may occur by telephone, written
42 correspondence, or any other means deemed appropriate by the
43 legal services organization.

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

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

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

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

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

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

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



979238

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

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

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

82 4. 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 plus any
85 penalties as set forth herein and establishing a fair procedure
86 and program to review and enforce wage agreements.

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

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

97 7.a. Upon a finding of wage theft, the employer shall be
98 liable for the actual back wages due and owing and may be liable



979238

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

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

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

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

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

124 Section 2. This act shall take effect upon becoming a law.

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

127 And the title is amended as follows:



979238

128 Delete everything before the enacting clause
129 and insert:

130 A bill to be entitled
131 An act relating to local regulation of wage theft;
132 creating s. 448.111, F.S.; defining terms; requiring a
133 county that decides to create a local solution to wage
134 theft to adopt one of two processes and specifying the
135 requirements of those processes; providing an
136 exception for an ordinance enacted by a specified
137 date; providing an effective date.