

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Industries & Professional
2 Activities Subcommittee

3 Representative Eskamani offered the following:

4

5 **Amendment (with directory and title amendments)**

6 Between lines 35 and 36, insert:

7 (6) (a) Any person aggrieved by a violation of this section
8 may bring a civil action to recover back wages and damages and
9 attorney fees in a court of competent jurisdiction against an
10 employer violating this section or a party violating subsection
11 (5). However, before ~~prior to~~ bringing any claim ~~for unpaid~~
12 ~~minimum wages~~ pursuant to this section, the person aggrieved
13 shall notify the employer alleged to have violated this section,
14 in writing, of an intent to initiate such an action. The notice
15 must identify the minimum wage to which the person aggrieved
16 claims entitlement, the actual or estimated work dates and hours

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17 for which payment is sought, and the total amount of alleged
18 unpaid wages through the date of the notice.

19 (b) The employer shall have 15 calendar days after receipt
20 of the notice to pay the total amount of unpaid wages or
21 otherwise resolve the claim to the satisfaction of the person
22 aggrieved. The statute of limitations for bringing an action
23 pursuant to this section shall be tolled during this 15-day
24 period. If the employer fails to pay the total amount of unpaid
25 wages or otherwise resolve the claim to the satisfaction of the
26 person aggrieved, then the person aggrieved may bring a claim
27 for unpaid minimum wages and damages and attorney fees, the
28 terms of which must be consistent with the contents of the
29 notice.

30 (c)1. Upon prevailing in an action brought pursuant to
31 this section, aggrieved persons shall recover the full amount of
32 any unpaid back wages unlawfully withheld plus ~~the same amount~~
33 ~~as liquidated~~ damages and shall be awarded reasonable attorney
34 ~~attorney's~~ fees and costs. A court may award additional economic
35 or punitive damages ~~As provided under the federal Fair Labor~~
36 ~~Standards Act, pursuant to s. 11 of the Portal-to-Portal Act of~~
37 ~~1947, 29 U.S.C. s. 260, if the employer proves by a~~
38 ~~preponderance of the evidence that the act or omission giving~~
39 ~~rise to such action was in good faith and that the employer had~~
40 ~~reasonable grounds for believing that his or her act or omission~~
41 ~~was not a violation of s. 24, Art. X of the State Constitution,~~

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42 ~~the court may, in its sound discretion, award no liquidated~~
43 ~~damages or award any amount thereof not to exceed an amount~~
44 ~~equal to the amount of unpaid minimum wages. The court shall not~~
45 ~~award any economic damages on a claim for unpaid minimum wages~~
46 ~~not expressly authorized in this section.~~

47 2. Upon prevailing in an action brought pursuant to this
48 section, aggrieved persons shall also be entitled to such legal
49 or equitable relief as may be appropriate to remedy the
50 violation, including, without limitation, reinstatement in
51 employment and injunctive relief. ~~However, any entitlement to~~
52 ~~legal or equitable relief in an action brought under s. 24, Art.~~
53 ~~X of the State Constitution shall not include punitive damages.~~

54 ~~(d) Any civil action brought under s. 24, Art. X of the~~
55 ~~State Constitution and this section shall be subject to s.~~
56 ~~768.79.~~

57 (7) The Attorney General or a state attorney may bring a
58 civil action to enforce this section. The Attorney General or
59 state attorney may seek injunctive relief. In addition to
60 injunctive relief, or ~~in lieu thereof~~, for any employer or other
61 person found to have willfully violated this section, the
62 Attorney General or state attorney may seek to impose a fine of
63 \$1,000 per violation, payable to the state.

64 -----
65
66 **D I R E C T O R Y A M E N D M E N T**

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67 Remove lines 11-12 and insert:

68 **Section 1. Subsections (3), (6), and (7) of section**
69 **448.110, Florida Statutes, are amended to read:**

70
71 -----

72 **T I T L E A M E N D M E N T**

73 Remove line 7 and insert:

74 manner; authorizing a person to bring an action for
75 back wages and damages and attorney fees; authorizing
76 a court to award economic or punitive damages;
77 removing a good faith defense; removing the
78 requirement that all civil actions have an offer of
79 judgment and demand for judgment; authorizing a state
80 attorney, in addition to the Attorney General, to
81 bring a civil action; providing an effective date.