



699372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2014	.	
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The Committee on Judiciary (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 32 - 74
and insert:

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

(a) Legal services organization process.—The county may partner with a local legal services organization for the purpose of establishing a local process through which claims of wage



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12 theft shall be addressed by the legal services organization. The
13 county may partner with a legal services organization located in
14 that county or in an adjoining county.

15 1. An individual who has experienced wage theft may contact
16 the legal services organization for assistance in recovering
17 wages. The legal services organization shall determine whether
18 the individual has a bona fide claim for unpaid wages.

19 2. The legal services organization shall notify the
20 employer and provide the employer with an opportunity to resolve
21 the matter of unpaid wages in the manner deemed most appropriate
22 to each claim. The notification may occur by telephone, written
23 correspondence, or any other means deemed appropriate by the
24 legal services organization.

25 3. The legal services organization shall work with the
26 employee and employer to resolve the issue informally but
27 expeditiously. The informal resolution may include obtaining
28 attorney fees and costs from the employer.

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

32 5. The county shall establish a reporting mechanism through
33 which the county receives regular reports regarding the legal
34 services organization's work on cases of wage theft. The county
35 may require periodic reports.

36 (b) Administrative process.—The county may establish an
37 administrative process that gives the parties involved the
38 opportunity to negotiate a resolution with regard to the wages
39 in question.

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



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

44 b. Service of the complaint and written notice on the
45 respondent employer alleged to have committed a wage theft
46 violation, which sets forth the allegations made in the
47 complaint and the rights and obligations of the parties. Such
48 rights and obligations shall include the right of the respondent
49 to file an answer to the complaint and the rights of both
50 parties to a conciliation process and to a hearing on the matter
51 before a county hearing officer. The hearing officer must have
52 either a legal background or specialized training in the subject
53 matter. The final determination of a hearing officer is subject
54 to appeal to a court of competent jurisdiction.

55 2. The system established must encourage the parties to
56 conciliate the charges and resolve the matter. A hearing officer
57 may not be appointed unless the matter is not resolved using the
58 process established in this paragraph.

59 3. If a preponderance of the evidence demonstrates a wage
60 theft violation, the hearing officer shall order the employer to
61 pay wage theft restitution to the affected employee along with
62 liquidated damages and any administrative costs.

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

68 5. Any wage recovery system established pursuant to this
69 paragraph must provide that an employee who is not timely paid



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70 wages, final compensation, or wage supplements by his or her
71 employer as required is entitled to recover through a claim
72 filed in a process or program established under this paragraph
73 in the employee's county of employment or in a civil action, but
74 not both.

75 6. The county shall establish a reporting mechanism through
76 which the county receives regular reports regarding cases of
77 wage theft. The county may require periodic reports.

78 7.a. Upon a finding of wage theft, the employer shall be
79 liable for the actual back wages due and owing and may be liable
80 for administrative costs in an amount not to exceed \$1,500. If
81 the employer is found to have acted in good faith or if the
82 hearing officer has reason to believe that the act or omission
83 was not intentional or was not wage theft, the administrative
84 costs against the employer may be waived. In addition,
85 liquidated damages shall be awarded to the employee but are
86 limited to twice the amount a respondent employer is found to
87 have unlawfully failed to pay the complainant employee.

88 b. In addition to the actual back wages due and liquidated
89 damages, an employer found to have committed a second violation
90 shall be fined \$1,000 and an employer found to have committed a
91 third and subsequent violation shall be fined \$2,000. An
92 employer who commits a second or subsequent violation may be
93 liable for administrative costs in an amount not to exceed
94 \$2,500.

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



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

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

105
106 ===== T I T L E A M E N D M E N T =====

107 And the title is amended as follows:

108 Delete lines 3 - 7

109 and insert:

110 creating s. 448.111, F.S.; defining terms; requiring a
111 county that decides to create a local solution to wage
112 theft to adopt one of two processes and specifying the
113 requirements of those processes; providing an