

SB 279 A STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 05/31/17

Action: Without recommendation as to passage and be referred to Rules.

Vote: 9-0-0-0

Yeas: 9 - Barreto, Bynum, Doherty, Evans, Fahey, Hack, Heard, Holvey, Kennemer

Fiscal: No fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Requires that employee's notice of nonpayment of wages and compensation to employer include statement that payment of unpaid wages and compensation within 12 days of receiving notice limits penalty to amount of employee's unpaid wages or compensation.

ISSUES DISCUSSED:

- History of statute providing for penalty for unpaid wages
- Whether small business owners are aware of penalty cap if they pay within 12 days of written notice
- Whether it is appropriate for employee to notify employer of employer's rights
- Whether accusations of unpaid wages should be publicly available on database
- Not all employers are subject to the penalty cap of 100 percent of unpaid wages
- Penalty wages only imposed willful nonpayment of wages
- Whether notice to employer of penalty cap should be provided if attorney prepares letter on employee's behalf

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under current law, the penalty for willful nonpayment of wages or compensation of an employee whose employment ceases is the amount of the employee's wages or compensation for eight hours per day at the employee's regular hourly rate until the amount is paid, the employee initiates action on the violation, or the penalty has continued for longer than 30 days.

An employee is not required to submit a written notice of nonpayment. However, by submitting a written notice of nonpayment, the employee becomes eligible to receive a penalty exceeding 100 percent of the employee's unpaid wages or compensation if the employer fails to pay the full amount of the employee's unpaid wages or compensation within 12 days of receiving notice. If the employee does not submit a written notice of nonpayment, the penalty may not exceed 100 percent of the employee's unpaid wages or compensation. To satisfy the requirement for written notice, the notice must include the estimated amount of wages or compensation alleged to be owed or an allegation of facts sufficient to estimate the amount owed. The cap of 100 percent of unpaid wages does not apply to employers who had one or more similar violations in the prior year or if one or more employees were terminated on the same days as the employee making the claim. The penalty cap of 30 days was enacted in 1957 and still stands; however, in 2001 the penalty was capped at 100 percent of unpaid wages if the employer paid within 12 days of

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receiving a written notice from the employee.

Senate Bill 279-A establishes an additional requirement for the employee's written notice of nonpayment of wages. The notice must include a statement that if the employer pays the full amount of the employee's unpaid wages or compensation within 12 days after receiving written notice of nonpayment, the penalty may not exceed 100 percent of the employee's unpaid wages or compensation.