

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

January 22, 2014  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB14-005 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

- 1 Amend printed bill, page 6, strike lines 10 through 14.
- 2 Renumber succeeding subsection accordingly.
- 3 Page 7, strike line 4 and substitute:  
4 "(4.5) UP TO A MAXIMUM FINE OF SEVEN THOUSAND FIVE HUNDRED  
5 DOLLARS."
- 6 Page 7, strike lines 10 and 11 and substitute:  
7 "AVAILABLE AT THE WORK SITE OR AT THE EMPLOYER'S LOCAL OFFICE  
8 UNDER PARAGRAPH (a) OR (b) OF THIS SUBSECTION (1),"
- 9 Page 7, strike lines 17 and 18 and substitute:  
10 "accordance with subsection (1) of this section, the employee, ~~or~~ his or  
11 her designated agent, ~~shall make~~ OR THE DIVISION MAY SEND a written  
12 demand for the payment. ~~within~~".
- 13 Page 7, strike lines 21 through 27 and substitute:  
14 "(a.5) If the employer disputes the amount of wages or  
15 compensation claimed by an employee under this article and if, within  
16 fourteen days after the ~~employee's~~ WRITTEN demand IS SENT, the  
17 employer makes a legal tender of the amount that the employer in good  
18 faith believes is due, the employer shall not be liable for any penalty  
19 unless, in a legal action, the employee recovers a greater sum than the  
20 amount so tendered.

- 1 (b) If an employee's earned, vested, and determinable wages or  
2 compensation are not mailed to the place of receipt specified in a demand  
3 for payment and postmarked within fourteen days after the receipt of such  
4 demand, the employer shall be liable to the employee for the wages or".
- 5 Page 8, strike lines 1 through 3.
- 6 Page 8, line 13, strike "(c) b" and substitute "(c)".
- 7 Page 8, line 14, strike "(b) (a)" and substitute "(b)".
- 8 Page 8, line 25, strike "(d) (c) (I)" and substitute "(d) (I)".
- 9 Page 8, strike line 27 and substitute:  
10 "of this subsection ~~(3)~~".
- 11 Page 9, strike lines 1 and 2.
- 12 Page 9, line 3, strike "ACTION."
- 13 Page 9, line 6, after "EMPLOYER." add "A PAYMENT UNDER THIS  
14 SUBSECTION (3) SHALL BE MADE IN THE FORM OF A CHECK DRAFT OR  
15 VOUCHER IN THE NAME OF THE EMPLOYEE OR BY DIRECT DEPOSIT  
16 AUTHORIZED UNDER SECTION 8-4-102 (2) IF THE EMPLOYEE HAS NOT  
17 REVOKED THE AUTHORIZATION."
- 18 Page 9, line 12, after "~~(3)~~." insert "~~A payment under this subsection (3)~~  
19 ~~shall be made in the form of a check draft or voucher in the name of the~~  
20 ~~employee.~~".
- 21 Page 9, strike lines 18 through 20 and substitute "WRITTEN DEMAND  
22 UNDER THIS SUBSECTION (3). IF AN EMPLOYER MAKES A LEGAL TENDER OF  
23 THE FULL AMOUNT CLAIMED IN THE ACTION WITHIN FOURTEEN DAYS  
24 AFTER SERVICE OF THE COMPLAINT OR OTHER DOCUMENT COMMENCING  
25 THE ACTION, THE EMPLOYEE SHALL DISMISS THE ACTION."
- 26 Page 9, strike lines 21 through 25.
- 27 Page 10, line 6, strike "THE" and substitute "FOR WAGES AND  
28 COMPENSATION EARNED ON AND AFTER JANUARY 1, 2015, THE".

- 1 Page 10, line 8, after "WAGES" insert "OR COMPENSATION".
- 2 Page 10, strike line 21 and substitute:  
3 "REMEDY UNLESS THE EMPLOYEE HAS ACCEPTED PAYMENT PURSUANT TO  
4 PARAGRAPH (e) OF SUBSECTION (2) OF THIS SECTION."
- 5 Page 12, line 8, strike "VIOLATOR." and substitute "VIOLATOR OR AFTER  
6 TERMINATING THE DIVISION'S ADMINISTRATIVE PROCEDURE PURSUANT TO  
7 SUBSECTION (3) OF THIS SECTION."
- 8 Page 12, strike lines 16 through 18 and substitute:  
9 "CITATION AND NOTICE OF ASSESSMENT."
- 10 Page 13, after line 1 insert:  
11 "(4) EXCEPT FOR AN APPEAL PURSUANT TO SECTION 8-4-111.5 (5)  
12 OR AS STATED IN A CITATION, NOTICE OF ASSESSMENT, OR ORDER FILED  
13 WITH THE COURT PURSUANT TO SECTION 8-4-113 (2), ANY DETERMINATION  
14 MADE BY THE DIVISION PURSUANT TO THIS ARTICLE, OR ANY OFFER OF  
15 PAYMENT BY THE EMPLOYER OF THE WAGES MADE DURING OR IN  
16 CONJUNCTION WITH A PROCEEDING OF THE DIVISION, IS NOT ADMISSIBLE  
17 IN ANY COURT ACTION."
- 18 Renumber succeeding subsections accordingly.
- 19 Page 16, line 14, strike "MAY" and substitute "SHALL".
- 20 Page 17, line 19, strike "AND" and substitute "OR".
- 21 Page 17, strike lines 25 through 27 and substitute:  
22 "HEARING OFFICER'S DECISION MAY APPEAL THAT DECISION TO THE  
23 DISTRICT COURT OF COMPETENT JURISDICTION WITHIN TWENTY-ONE DAYS  
24 AFTER THE DATE OF MAILING OF THE DECISION BY THE DIVISION. THE  
25 APPEAL WILL BE CONDUCTED IN ACCORDANCE WITH SECTIONS (a), (b), (c),  
26 AND (d) OF RULE 411 OF THE COLORADO RULES OF CIVIL COURT  
27 PROCEDURE, OR ANY SUCCESSOR RULE, WITH REFERENCE IN THAT RULE TO  
28 "CIVIL ACTION" AND THE "COUNTY COURT" REPLACED WITH "THE  
29 PROCEEDINGS", "THE HEARING OFFICER", OR OTHER APPROPRIATE  
30 WORDS."
- 31 Page 18, strike line 1.

1 Page 20, strike lines 8 through 16 and substitute:  
2 "SECTION 9. Act subject to petition - effective date.  
3 (1) (a) Except as provided in paragraph (b) of this subsection (1),  
4 sections 2 through 4, 7, and 8 of this act take effect January 1, 2015.  
5 (b) If a referendum petition is filed pursuant to section 1 (3) of  
6 article V of the state constitution against sections 2 through 4, 7, and 8 of  
7 this act or an item, section, or part of those sections within the ninety-day  
8 period after final adjournment of the general assembly, then the item,  
9 section, or part will not take effect unless approved by the people at the  
10 general election to be held in November 2014 and, in such case, will take  
11 effect on January 1, 2015 or on the date of the official declaration of the  
12 vote thereon by the governor, whichever is later.  
13 (2) Sections 1, 5, 6, and 9 of this act take effect at 12:01 a.m. on  
14 the day following the expiration of the ninety-day period after final  
15 adjournment of the general assembly (August 6, 2014, if adjournment  
16 sine die is on May 7, 2014); except that, if a referendum petition is filed  
17 pursuant to section 1 (3) of article V of the state constitution against this  
18 act or an item, section, or part of this act within such period, then the act,  
19 item, section, or part will not take effect unless approved by the people  
20 at the general election to be held in November 2014 and, in such case,  
21 will take effect on the date of the official declaration of the vote thereon  
22 by the governor."

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