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HOUSE BILL 2097

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State of Washington

68th Legislature

2024 Regular Session

By Representatives Berry and Ortiz-Self

Prefiled 01/03/24.

1 AN ACT Relating to assisting workers in recovering wages owed;  
2 amending RCW 49.48.040; adding new sections to chapter 49.48 RCW; and  
3 providing expiration dates.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.48  
6 RCW to read as follows:

7 (1) The department of labor and industries shall convene a work  
8 group to develop and recommend strategies that help workers who are  
9 owed wages recover those wages and be made whole as quickly and as  
10 fully as possible when the workers' employers violate provisions  
11 under this chapter or the minimum wage act.

12 (2) The work group shall identify options to enhance the  
13 department of labor and industries' ability to provide swift relief  
14 to workers. Options the work group must explore include, but are not  
15 limited to:

16 (a) The wage recovery pilot program created in section 2 of this  
17 act or a similar mechanism to a wage recovery fund; and

18 (b) Procedures and mechanisms used in other states that ensure  
19 full and timely recovery for workers and that deter future  
20 violations.

1 (3) (a) Recommendations from the work group must be made by  
2 consensus, if possible. If consensus cannot be reached,  
3 recommendations of the work group must reflect the view of the  
4 majority of the members. Members with dissenting views may include  
5 their recommendations or feedback as a supplement to the report  
6 required by this section.

7 (b) For each recommendation, the work group must identify and  
8 address implementation issues and assess feasibility.

9 (4) The work group must include representatives from the  
10 following:

11 (a) Two representatives from worker advocacy organizations;

12 (b) Two representatives from employer and business advocacy  
13 organizations;

14 (c) One representative from a civil legal aid organization; and

15 (d) One expert in employment and wage and hour law from a  
16 Washington state postsecondary education institution.

17 (5) The department shall provide staff support to the work group  
18 as needed. The work group may consult with additional representatives  
19 from other organizations and experts specializing in the subject  
20 matter, as needed.

21 (6) The work group must submit a report with recommendations to  
22 the appropriate committees of the legislature by December 1, 2028.

23 (7) This section expires December 1, 2029.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.48  
25 RCW to read as follows:

26 (1) (a) The wage recovery fund is created in the custody of the  
27 state treasurer as part of the wage recovery pilot program. The  
28 department of labor and industries shall administer the wage recovery  
29 fund. All receipts from any appropriations or other sources received  
30 by the department for the purpose of the wage recovery fund shall be  
31 deposited into the fund. No appropriation is required to permit  
32 expenditures from the wage recovery fund, but the fund is subject to  
33 allotment procedures under chapter 43.88 RCW.

34 (b) Only the director of labor and industries or the director's  
35 designee may authorize expenditures from the wage recovery fund in  
36 accordance with this section. Expenditures from the wage recovery  
37 fund may be used solely for making disbursements to workers eligible  
38 for wage recovery under this section.

1 (2) A three-year wage recovery pilot program, administered by the  
2 department, is created for the purpose of providing relief to workers  
3 who are owed wages and whose employers have committed wage violations  
4 under chapter 49.46 RCW or this chapter.

5 (3) Applications for wage recovery disbursements must be  
6 submitted to the department according to the department's rules. Wage  
7 recovery disbursements must be approved by the director of labor and  
8 industries prior to any expenditure.

9 (4) The department may disburse wage recovery funds to eligible  
10 workers under the pilot program in accordance with rules adopted  
11 under this section when:

12 (a) The worker was earning an hourly wage rate of not more than  
13 one and one-half times the minimum hourly wage rate required in the  
14 jurisdiction where the worker was employed; and

15 (b) The department has determined that the employer owes the  
16 applicant wages and has committed a violation of a wage payment  
17 requirement under this chapter or a violation under chapter 49.46  
18 RCW.

19 (5) The department shall adopt rules to implement this section.  
20 At a minimum, the rules must include provisions for the following:

21 (a) An application process for eligible workers to apply for wage  
22 recovery disbursements;

23 (b) Procedures for determining how to prioritize applications and  
24 how to prioritize which workers receive disbursements; and

25 (c) Procedures for workers to assign their wage claims or wage  
26 complaints to the department as part of the process for receiving  
27 wage recovery disbursements.

28 (6) This section does not create any right or entitlement. The  
29 state is not liable for any claims made against the wage recovery  
30 fund or wage recovery pilot program.

31 (7) The wage recovery pilot program expires December 31, 2028.

32 (8) This section expires December 31, 2029.

33 **Sec. 3.** RCW 49.48.040 and 1987 c 172 s 1 are each amended to  
34 read as follows:

35 (1) The department of labor and industries may:

36 (a) Upon obtaining information indicating an employer may be  
37 committing a violation under chapters 39.12, 49.46, and 49.48 RCW,  
38 conduct investigations to ensure compliance with chapters 39.12,  
39 49.46, and 49.48 RCW;

1 (b) Order the payment of all wages owed the workers and institute  
2 actions necessary for the collection of the sums determined owed;  
3 (~~and~~)

4 (c) Take assignments of wage claims and prosecute actions for the  
5 collection of wages of persons who are financially unable to employ  
6 counsel when in the judgment of the director of the department the  
7 claims are valid and enforceable in the courts; and

8 (d) When appropriate, disburse funds to workers under the wage  
9 recovery pilot program established in section 2 of this act.

10 (2) The director of the department or any authorized  
11 representative may, for the purpose of carrying out RCW 49.48.040  
12 through 49.48.080: (a) Issue subpoenas to compel the attendance of  
13 witnesses or parties and the production of books, papers, or records;  
14 (b) administer oaths and examine witnesses under oath; (c) take the  
15 verification of proof of instruments of writing; and (d) take  
16 depositions and affidavits. If assignments for wage claims are taken,  
17 court costs shall not be payable by the department for prosecuting  
18 such suits.

19 (3) The director shall have a seal inscribed "Department of Labor  
20 and Industries—State of Washington" and all courts shall take  
21 judicial notice of such seal. Obedience to subpoenas issued by the  
22 director or authorized representative shall be enforced by the courts  
23 in any county.

24 (4) The director or authorized representative shall have free  
25 access to all places and works of labor. Any employer or any agent or  
26 employee of such employer who refuses the director or authorized  
27 representative admission therein, or who, when requested by the  
28 director or authorized representative, (~~wilfully~~) willfully  
29 neglects or refuses to furnish the director or authorized  
30 representative any statistics or information pertaining to his or her  
31 lawful duties, which statistics or information may be in his or her  
32 possession or under the control of the employer or agent, shall be  
33 guilty of a misdemeanor.

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