

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 560**  
Final Reading

Introduced by Mello, 5.

Read first time January 23, 2013

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Wage Payment and Collection Act;  
2 to amend sections 48-1228, 48-1230, and 48-1231, Reissue  
3 Revised Statutes of Nebraska; to provide powers and  
4 duties for the Commissioner of Labor; to provide for  
5 enforcement of the Nebraska Wage Payment and Collection  
6 Act; to change requirements for employers to provide wage  
7 statements as prescribed; to harmonize provisions; and to  
8 repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 48-1228, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-1228 Sections 48-1228 to 48-1232 and sections 2 and 3  
4 of this act shall be known and may be cited as the Nebraska Wage  
5 Payment and Collection Act.

6           Sec. 2. The Commissioner of Labor shall have the  
7 authority to subpoena records and witnesses related to the  
8 enforcement of the Nebraska Wage Payment and Collection Act. The  
9 commissioner or his or her agent may inspect all related records and  
10 gather testimony on any matter relative to the enforcement of the act  
11 when the information sought is relevant to a lawful investigative  
12 purpose and is reasonable in scope.

13           Sec. 3. (1) The Commissioner of Labor shall issue a  
14 citation to an employer when an investigation reveals that the  
15 employer may have violated the Nebraska Wage Payment and Collection  
16 Act, other than a violation of subsection (2) of section 48-1230.

17           (2) When a citation is issued, the commissioner shall  
18 notify the employer of the proposed administrative penalty, if any,  
19 by certified mail or any other manner of delivery by which the United  
20 States Postal Service can verify delivery. The administrative penalty  
21 shall be not more than five hundred dollars in the case of a first  
22 violation and not more than five thousand dollars in the case of a  
23 second or subsequent violation.

24           (3) The employer has fifteen working days after the date  
25 of the citation or penalty to contest such citation or penalty.

1 Notice of contest shall be sent to the commissioner who shall provide  
2 a hearing in accordance with the Administrative Procedure Act.

3           Sec. 4. Section 48-1230, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           48-1230 (1) Except as otherwise provided in this section,  
6 each employer shall pay all wages due its employees on regular days  
7 designated by the employer or agreed upon by the employer and  
8 employee. Thirty days' written notice shall be given to an employee  
9 before regular paydays are altered by an employer. An employer may  
10 deduct, withhold, or divert a portion of an employee's wages only  
11 when the employer is required to or may do so by state or federal law  
12 or by order of a court of competent jurisdiction or the employer has  
13 written agreement with the employee to deduct, withhold, or divert.

14           ~~(2) Within ten working days after a written request is~~  
15 ~~made by an employee, an employer shall furnish such employee with an~~  
16 ~~itemized statement listing the wages earned and the deductions made~~  
17 ~~from the employee's wages under subsection (1) of this section for~~  
18 ~~each pay period that earnings and deductions were made. The statement~~  
19 ~~may be in print or electronic format.~~

20           (2) On each regular payday, the employer shall deliver or  
21 make available to each employee, by mail or electronically, or shall  
22 provide at the employee's normal place of employment during  
23 employment hours for all shifts a wage statement showing, at a  
24 minimum, the identity of the employer, the hours for which the  
25 employee was paid, the wages earned by the employee, and deductions

1 made for the employee. However, the employer need not provide  
2 information on hours worked for employees who are exempt from  
3 overtime under the federal Fair Labor Standards Act of 1938, under 29  
4 C.F.R. part 541, unless the employer has established a policy or  
5 practice of paying to or on behalf of exempt employees overtime, or  
6 bonus or a payment based on hours worked, whereupon the employer  
7 shall send or otherwise provide a statement to the exempt employees  
8 showing the hours the employee worked or the payments made to the  
9 employee by the employer, as applicable.

10 (3) Except as otherwise provided in section 48-1230.01:

11 (a) Whenever an employer, other than a political  
12 subdivision, separates an employee from the payroll, the unpaid wages  
13 shall become due on the next regular payday or within two weeks of  
14 the date of termination, whichever is sooner; and

15 (b) Whenever a political subdivision separates an  
16 employee from the payroll, the unpaid wages shall become due within  
17 two weeks of the next regularly scheduled meeting of the governing  
18 body of the political subdivision if such employee is separated from  
19 the payroll at least one week prior to such meeting, or if an  
20 employee of a political subdivision is separated from the payroll  
21 less than one week prior to the next regularly scheduled meeting of  
22 the governing body of the political subdivision, the unpaid wages  
23 shall be due within two weeks of the following regularly scheduled  
24 meeting of the governing body of the political subdivision.

25 Sec. 5. Section 48-1231, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-1231 (1) An employee having a claim for wages which  
3 are not paid within thirty days of the regular payday designated or  
4 agreed upon may institute suit for such unpaid wages in the proper  
5 court. If an employee establishes a claim and secures judgment on the  
6 claim, such employee shall be entitled to recover (a) the full amount  
7 of the judgment and all costs of such suit and (b) if such employee  
8 has employed an attorney in the case, an amount for attorney's fees  
9 assessed by the court, which fees shall not be less than twenty-five  
10 percent of the unpaid wages. If the cause is taken to an appellate  
11 court and the plaintiff recovers a judgment, the appellate court  
12 shall tax as costs in the action, to be paid to the plaintiff, an  
13 additional amount for attorney's fees in such appellate court, which  
14 fees shall not be less than twenty-five percent of the unpaid wages.  
15 If the employee fails to recover a judgment in excess of the amount  
16 that may have been tendered within thirty days of the regular payday  
17 by an employer, such employee shall not recover the attorney's fees  
18 provided by this section. If the court finds that no reasonable  
19 dispute existed as to the fact that wages were owed or as to the  
20 amount of such wages, the court may order the employee to pay the  
21 employer's attorney's fees and costs of the action as assessed by the  
22 court.

23           (2) An employer who fails to furnish an ~~itemized~~  
24 ~~statement requested by an employee~~ a wage statement under subsection  
25 (2) of section 48-1230 shall be guilty of an infraction as defined in

1 section 29-431 and shall be subject to a fine pursuant to section  
2 29-436.

3                   Sec. 6. Original sections 48-1228, 48-1230, and 48-1231,  
4 Reissue Revised Statutes of Nebraska, are repealed.