

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 560

Introduced by Mello, 5.

Read first time January 23, 2013

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend sections 48-1209, 48-1228,
2 48-1230, and 48-2901, Reissue Revised Statutes of
3 Nebraska, and section 48-1117, Revised Statutes
4 Cumulative Supplement, 2012; to change provisions of the
5 Nebraska Fair Employment Practice Act, the Wage and Hour
6 Act, the Nebraska Wage Payment and Collection Act, and
7 the Employee Classification Act; to provide a penalty; to
8 harmonize provisions; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1117, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 48-1117 The commission shall have the following powers
4 and duties:

5 (1) To receive, investigate, and pass upon charges of
6 unlawful employment practices anywhere in the state;

7 (2) To hold hearings, subpoena witnesses, compel their
8 attendance, administer oaths, and take the testimony of any person
9 under oath and, in connection therewith, to require the production
10 for examination of any books and papers relevant to any allegation of
11 unlawful employment practice pending before the commission. The
12 commission may make rules as to the issuance of subpoenas, subject to
13 the approval by a constitutional majority of the elected members of
14 the Legislature;

15 (3) To cooperate with the federal government and with
16 local agencies to effectuate the purposes of the Nebraska Fair
17 Employment Practice Act, including the sharing of information
18 possessed by the commission on a case that has also been filed with
19 the federal government or local agencies if both the employer and
20 complainant have been notified of the filing;

21 (4) To attempt to eliminate unfair employment practices
22 by means of conference, mediation, conciliation, arbitration, and
23 persuasion;

24 (5) To require that every employer, employment agency,
25 and labor organization subject to the act shall (a) make and keep,

1 for at least five years or longer if required by the commission, such
2 records relevant to the determinations of whether unlawful employment
3 practices have been or are being committed, (b) preserve such records
4 for such periods, and (c) make such reports therefrom, as the
5 commission shall prescribe by regulation or order, after public
6 hearing, as reasonable, necessary, or appropriate for the enforcement
7 of the act or the regulations or orders thereunder. The commission
8 shall, by regulation, require each employer, labor organization, and
9 joint labor-management committee subject to the act which controls an
10 apprenticeship or other training program to maintain such records as
11 are reasonably necessary to carry out the purposes of the act,
12 including, but not limited to, a list of applicants who wish to
13 participate in such program, including the chronological order in
14 which such applications were received, and to furnish to the
15 commission, upon request, a detailed description of the manner in
16 which persons are selected to participate in the apprenticeship or
17 other training program. Any employer, employment agency, labor
18 organization, or joint labor-management committee which believes that
19 the application to it of any regulation or order issued under this
20 section would result in undue hardship may either apply to the
21 commission for an exemption from the application of such regulation
22 or order or bring a civil action in the district court for the
23 district where such records are kept. If the commission or the court,
24 as the case may be, finds that the application of the regulation or
25 order to the employer, employment agency, or labor organization in

1 question would impose an undue hardship, the commission or the court,
2 as the case may be, may grant appropriate relief;

3 (6) To report, not less than once every two years, to the
4 Clerk of the Legislature and the Governor, on the hearings it has
5 conducted and the decisions it has rendered, the other work performed
6 by it to carry out the purposes of the act, and to make
7 recommendations for such further legislation concerning abuses and
8 discrimination because of race, color, religion, sex, disability,
9 marital status, or national origin, as may be desirable. The report
10 submitted to the Clerk of the Legislature shall be submitted
11 electronically. Each member of the Legislature shall receive an
12 electronic copy of the report required by this subdivision by making
13 a request for it to the chairperson of the commission; and

14 (7) To adopt and promulgate rules and regulations
15 necessary to carry out the duties prescribed in the act.

16 Sec. 2. Section 48-1209, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 48-1209 Sections 48-1201 to 48-1209 and section 3 of this
19 act shall be known and may be cited as the Wage and Hour Act.

20 Sec. 3. It shall be unlawful to discriminate or retaliate
21 against an individual who (1) has opposed any practice made unlawful
22 by the Wage and Hour Act or (2) has made a charge, testified,
23 assisted, or participated in any manner in an investigation,
24 proceeding, or hearing under the act.

25 Sec. 4. Section 48-1228, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 48-1228 Sections 48-1228 to 48-1232 and sections 6 and 7
3 of this act shall be known and may be cited as the Nebraska Wage
4 Payment and Collection Act.

5 Sec. 5. Section 48-1230, Reissue Revised Statutes of
6 Nebraska, is amended to read:

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

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

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

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

5 (b) Whenever a political subdivision separates an
6 employee from the payroll, the unpaid wages shall become due within
7 two weeks of the next regularly scheduled meeting of the governing
8 body of the political subdivision if such employee is separated from
9 the payroll at least one week prior to such meeting, or if an
10 employee of a political subdivision is separated from the payroll
11 less than one week prior to the next regularly scheduled meeting of
12 the governing body of the political subdivision, the unpaid wages
13 shall be due within two weeks of the following regularly scheduled
14 meeting of the governing body of the political subdivision.

15 Sec. 6. It shall be unlawful for an employer to
16 discriminate or retaliate against an employee who (1) has opposed any
17 practice made unlawful by the Nebraska Wage Payment and Collection
18 Act or (2) has made a charge, testified, assisted, or participated in
19 any manner in an investigation, proceeding, or hearing under the act.

20 Sec. 7. (1) The Commissioner of Labor shall have the
21 authority to subpoena records and witnesses related to the
22 enforcement of the Nebraska Wage Payment and Collection Act. The
23 commissioner or his or her agent may inspect all related records and
24 gather testimony on any matter relative to the enforcement of the
25 act.

1 (2) A violation of the act is a Class IV misdemeanor.

2 (3) The county attorney for the county in which any
3 violation of the Nebraska Wage Payment and Collection Act occurs
4 shall prosecute the same in the district court in the county where
5 the offense occurred.

6 Sec. 8. Section 48-2901, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 48-2901 Sections 48-2901 to 48-2912 and section 9 of this
9 act shall be known and may be cited as the Employee Classification
10 Act.

11 Sec. 9. It shall be unlawful to discriminate or retaliate
12 against an individual who (1) has opposed any practice made unlawful
13 by the Employee Classification Act or (2) has made a charge,
14 testified, assisted, or participated in any manner in an
15 investigation, proceeding, or hearing under the act.

16 Sec. 10. Original sections 48-1209, 48-1228, 48-1230, and
17 48-2901, Reissue Revised Statutes of Nebraska, and section 48-1117,
18 Revised Statutes Cumulative Supplement, 2012, are repealed.