

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1016**

Introduced by Hansen, M., 26.

Read first time January 15, 2020

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to labor; to amend sections 48-1228 and
- 2 48-1231, Revised Statutes Cumulative Supplement, 2018, and section
- 3 48-1234, Revised Statutes Supplement, 2019; to change the Nebraska
- 4 Wage Payment and Collection Act; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1228, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 48-1228 Sections 48-1228 to 48-1234 and sections 2 and 5 of this act  
4 shall be known and may be cited as the Nebraska Wage Payment and  
5 Collection Act.

6 Sec. 2. An employer shall not retaliate or discriminate against an  
7 employee because the employee:

8 (1) Files a suit or complaint under the Nebraska Wage Payment and  
9 Collection Act; or

10 (2) Testifies, assists, or participates in an investigation,  
11 proceeding, or action concerning a violation of the act.

12 Sec. 3. Section 48-1231, Revised Statutes Cumulative Supplement,  
13 2018, is amended to read:

14 48-1231 (1) An employee having a claim for wages which are not paid  
15 within thirty days of the regular payday designated or agreed upon may  
16 institute suit for such unpaid wages in the proper court. If an employee  
17 establishes a claim and secures judgment on the claim, such employee  
18 shall be entitled to appropriate relief, including reasonable attorney's  
19 fees and costs recover ~~(a) the full amount of the judgment and all costs~~  
20 ~~of such suit and (b) if such employee has employed an attorney in the~~  
21 ~~case, an amount for attorney's fees assessed by the court, which fees~~  
22 ~~shall not be less than twenty-five percent of the unpaid wages.~~ If the  
23 cause is taken to an appellate court and the employee plaintiff recovers  
24 a judgment, the appellate court shall award reasonable attorney's fees to  
25 the employee ~~tax as costs in the action, to be paid to the plaintiff, an~~  
26 ~~additional amount for attorney's fees in such appellate court, which fees~~  
27 ~~shall not be less than twenty-five percent of the unpaid wages.~~ If the  
28 employee fails to recover a judgment in excess of the amount that may  
29 have been tendered within thirty days of the regular payday by an  
30 employer, such employee shall not recover the attorney's fees provided by  
31 this subsection ~~section~~. If the court finds that no reasonable dispute

1 existed as to the fact that wages were owed or as to the amount of such  
2 wages, the court may order the employee to pay the employer's attorney's  
3 fees and costs of the action as assessed by the court.

4 (2) Any employee aggrieved by a violation of section 2 of this act  
5 may bring a suit against his or her employer in the proper court to  
6 recover the damages sustained by reason of such violation. If an employee  
7 prevails in a suit brought pursuant to this subsection, such employee  
8 shall be entitled to appropriate relief, including reasonable attorney's  
9 fees and costs. If the cause is taken to an appellate court and the  
10 employee recovers a judgment, the appellate court shall award reasonable  
11 attorney's fees to the employee.

12 (3) ~~(2)~~ An employer who fails to furnish a wage statement under  
13 subsection (2) of section 48-1230 shall be guilty of an infraction as  
14 defined in section 29-431 and shall be subject to a fine pursuant to  
15 section 29-436.

16 (4) If an employee institutes suit against an employer under  
17 subsection (1) or (2) of this section, any citation that is issued  
18 against such employer under section 48-1234 and that is relevant to the  
19 suit shall be admitted into evidence unless specifically excluded by the  
20 court. If a citation has been contested as described in subsection (3) of  
21 section 48-1234, it shall not be admitted into evidence under this  
22 subsection until after such contest has been resolved.

23 Sec. 4. Section 48-1234, Revised Statutes Supplement, 2019, is  
24 amended to read:

25 48-1234 (1) The Commissioner of Labor shall issue a citation to an  
26 employer when an investigation reveals that the employer may have  
27 violated the Nebraska Wage Payment and Collection Act, other than a  
28 violation of subsection (2) of section 48-1230.

29 (2) When a citation is issued, the commissioner shall notify the  
30 employer of the proposed administrative penalty, if any, by certified  
31 mail or any other manner of delivery by which the United States Postal

1 Service can verify delivery or by any method of service recognized under  
2 Chapter 25, article 5. The administrative penalty shall be not more than  
3 five hundred dollars in the case of a first violation and not more than  
4 five thousand dollars in the case of a second or subsequent violation.

5 (3) The employer has fifteen working days after the date of the  
6 citation or penalty to contest such citation or penalty. Notice of  
7 contest shall be sent to the commissioner who shall provide a hearing in  
8 accordance with the Administrative Procedure Act.

9 (4) Any employer who has an unpaid citation for a violation of the  
10 Nebraska Wage Payment and Collection Act shall be barred from contracting  
11 with the state or any political subdivision until such citation is paid.  
12 If a citation has been contested as described in subsection (3) of this  
13 section, it shall not be considered an unpaid citation under this  
14 subsection until after such contest has been resolved.

15 (5) Citations issued under this section and the names of employers  
16 who have been issued a citation shall be made available to the public  
17 upon request, except that this subsection shall not apply to any  
18 citations that are being contested as described in subsection (3) of this  
19 section.

20 Sec. 5. No later than December 1 of each year, the Department of  
21 Labor shall post information on its web site regarding compliance with  
22 and enforcement of the Nebraska Wage Payment and Collection Act and shall  
23 provide notice to the Legislature that the information was posted. The  
24 information shall include, but not be limited to, (1) the total number of  
25 reports of unpaid wages filed with the department in the prior calendar  
26 year, (2) the total number of reports investigated in the prior calendar  
27 year, (3) the results of all investigations completed in the prior  
28 calendar year, including, but not limited to, the number of cases in  
29 which wages were found to be owed to an employee, the number of cases in  
30 which the employer paid wages owed to the employee during the course of  
31 the investigation, and the number of cases in which it was found that no

1 wages were owed to an employee, (4) the number of citations issued  
2 pursuant to section 48-1234 in the prior calendar year, (5) the total  
3 amount of wages owed to employees according to the citations issued in  
4 the prior calendar year, (6) the number and names of employers with more  
5 than two citations in the previous five years, and (7) the number and  
6 names of employers with at least one unpaid citation from the previous  
7 five years.

8       Sec. 6. Original sections 48-1228 and 48-1231, Revised Statutes  
9 Cumulative Supplement, 2018, and section 48-1234, Revised Statutes  
10 Supplement, 2019, are repealed.