



NCLA MAINTAINS ITS OPPOSITION TO WAGE THEFT PROPOSAL

Labor groups have lined up to push legislation again this year to respond to what they say is a vast problem for Colorado's employees, wage theft or a failure by employers to pay wages. As introduced, the legislation, [Senate Bill 14-005](#) by Senator Jessie Ulibarri (D-Commerce City) and Representative Jonathan Singer (D-Longmont) created untenable thresholds and requirements upon employers to address a problem the Department of Labor proves is minimal.

A similar bill was killed by the business community during the 2013 legislative session but it was made clear by sponsors that the bill would be back in 2014.

Under current law, employers face civil penalties if they fail to to compensate employees for work performance. To recover wages and penalties from an employer, an employee must submit a written demand to the employer. Today, employers are subject to a penalty payable to the employee, of 125% of wages under \$7,500 and 50% of wages over \$7,500 owed for each day of nonpayment. Should proof of an employer's willful nonpayment be provided, the employer incurs an additional 50 percent penalty.

As introduced the bill, among other things, created a process whereby an employer's failure to respond to a citation within 14 days created a rebuttable presumption of willful intent and made the employer subject to increased penalties, payable to the employee. While the bill included an appeals process to be conducted by a hearings officer, an employer's failure to obey a subpoena issued by a hearing officer became a new misdemeanor offense punishable by a \$200 fine, imprisonment in a county jail for up to 60 days, or both.

Soon after the start of the legislative session, the bill was heard by the Senate Finance Committee. The bill was amended to appease some in the business lobby but not all were convinced the changes alleviated the unnecessary burdens imposed in the bill, including the NCLA.

As amended, the bill now outlines a series of required notices the division must send in writing, response deadlines for those notices and an appeals process. However, the misdemeanor offense, the issuance of a citation creating the rebuttable presumption of willful intent and the increased penalties were left untouched. Additionally, while other obligations upon the employer were untouched, including the obligation to maintain employee wage records for 3 years, an employer may have any action by the employee dismissed if the employer reimburses its employee for the full amount claimed.

NCLA considered the various amendments brought forth by the sponsor and some in the business lobby at its board meeting last week. It was decided on a unanimous vote to maintain our opposition to SB 5 as the process is unnecessary and burdensome to the employer.