

LEGISLATIVE BILL 220A

Approved by the Governor May 31, 1977

Introduced by Schmit, 23

AN ACT relating to employment; to provide that employers shall regularly pay wages to employees; to provide remedies for nonpayment; and to provide exceptions.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska Wage Payment and Collection Act.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Employer shall mean any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor thereof, employing any person as an employee, except that employer shall not be construed to include the state;

(2) Employee shall mean any individual permitted to work by an employer; and

(3) Wages shall mean compensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis.

Sec. 3. Except as otherwise provided in this section, each employer shall pay all wages due its employees on regular days designated by the employer or agreed upon by the employer and employee. Thirty days' written notice shall be given to an employee before regular pay days are altered by an employer. An employer may deduct, withhold, or divert a portion of an employee's wages only when the employer is required to or may do so by state or federal law or by order of a court of competent jurisdiction or the employer has written agreement with the employee to deduct, withhold, or divert. Whenever an employer separates an employee from the payroll, the unpaid wages shall become due on the next regular pay day or within two weeks of the date of termination, whichever is sooner.

Sec. 4. An employee having a claim for wages which are not paid within thirty days of the regular pay day designated or agreed upon may institute suit for such unpaid wages in the proper court. If an employee shall establish a claim and secure judgment on the claim, such employee shall be entitled to recover (1) the full amount of the judgment and all costs of such suit, and (2) if such employee has employed an attorney in the case, an amount for attorney fees assessed by the court which fees shall not be less than twenty-five per cent of the unpaid wages. If the cause is taken to an appellate court and plaintiff shall recover judgment, the appellate court shall tax as costs in the action, to be paid to the plaintiff, an additional amount for attorney fees in such appellate court which fees shall not be less than twenty-five per cent of the unpaid wages. If the employee shall fail to recover a judgment in excess of the amount that may have been tendered within thirty days of the regular pay day by an employer, then such employee shall not recover the attorney fees provided by this section and shall pay the employer's attorney fees and costs of the action as assessed by the court.

Sec. 5. If an employee shall establish a claim and secure judgment on such claim under section 4 of this act, an amount equal to the judgment shall be recovered from the employer, if ordered by the court, and shall be placed in a fund to be distributed to the common schools of this state.