

Paving the High Road

Opportunities and Threats Shaping the Future of Iowa's Construction Industry

Appendix B. Policy Recommendations for Wage Payment Collection Law

The Iowa Wage Payment Collection Law, Chapter 91A, governs the way Iowa employees are paid for their work. Several updates to the law are warranted given the poor state of enforcement and widespread wage theft in the state. Enforcement of the law is the purview of the Wage and Child Labor Unit, which is now situated in the Department of Inspections, Appeals & Licensing (DIAL) after previously being under Iowa Workforce Development (IWD) before the Reynolds reorganization.

Employer Requirements

- Place the burden on the employer to prove that their paycheck deductions are legal¹
 - Employers should retain all documentation necessary to prove that documented pay deductions were made legally.
- Increase employee notification requirements¹ (currently these requirements are only for employers who violated wage payment law)
 - Wage amount and payday details, such as per-mile or per-task work calculations
 - Advance notice for changes to payment arrangements
 - Make written employee policies available
 - Keep payroll and employment agreement records for three years (otherwise it can be presumed they did not pay minimum wage)
- Add a requirement for pay stubs to include commission information and per-unit pay information, where applicable¹
 - Under current law, pay stubs must include hours worked, wages earned, and deductions made. Requiring a full breakdown include commissions allows for additional employer accountability.

Penalties and Employee Redress

- Remove intentionality as a factor for determining damages recoverable¹
 - Instead of having to prove that the employer intentionally violated wage payment law, the burden should be on the employer to prove that a violation of wage payment law was a mistake
- Permit civil actions in response to retaliation¹
 - Individuals who have suffered retaliation for defending their rights under the law should be able to seek legal and monetary recourse.
- Require DIAL to assess civil penalties for violations¹
 - Between 2017-2022, IWD assessed \$0 in civil monetary penalties for all wage law violations, despite its own administrative rules allowing for up to \$500 per violation. This practice demonstrates to employers that wage theft is acceptable.
- Increase the amount of recoverable damages
 - Rather than simply paying back the original wages owed, employers who commit wage violations should be required to pay damages of at least twice the violation amount. DIAL should also seek at least double damages when settling claims brought by employees.

- Expand anti-retaliation statement¹
 - Protect those who provide assistance to an employee filing a wage claim or who testify or plan to testify regarding a wage claim.
 - Allow the presumption that firing an employee within 90 days of wage claim activity was retaliatory.
 - Ensure any immigrant worker who brings a wage claim, or is retaliated against for doing so, can be reinstated to their job regardless of work documentation status.

Enforcement

- Set a minimum staffing level for wage investigators
 - The UN International Labour Organization recommends 1 investigator per 10,000 workers. We recommend working toward 1 investigator per 100,000 workers to start (approximately 16 at this time).
- Authorize DIAL to conduct proactive audits
 - The law requires wage investigations only in response to written complaints. IWD has recovered large sums of wages and unpaid taxes by conducting misclassification audits. DIAL should be able to conduct similar audits to check for wage payment violations, especially in industries with high rates of wage theft and employers with prior violations.
- Require DIAL to respond to and enforce every submitted claim
 - In 91A.10, the code states “the commissioner may determine whether wages have not been paid and may constitute an enforceable claim.” This gives DIAL the option to ignore or dismiss any claim they receive.
 - Administrative Rules Chapter 35 lists several “unenforceability” reasons for cases to be dismissed, including if the claimed amount exceeds \$6,500. Iowa law should enumerate allowable unenforceability reasons and set a stricter standard for DIAL to dismiss claims.
- Require more communication before settling claims on behalf of victim
 - The current version of DIAL’s wage claim form requires the claimant to immediately authorize DIAL to settle and collect payment for the claim. This does not give the claimant the ability to seek other options if DIAL will not seek the full amount of the claim or additional damages.

Additional Provisions

- Extend statute of limitations beyond one year
 - The law bars the enforcement agency from accepting any complaints for wages more than one year overdue. This should be extended to at least 3 years, the minimum time required for employers to keep payroll records.
- Require public documentation of employer violations, which can be considered when determining the lowest responsive, responsible bidder for public spending
 - Employers with a history of wage violations should be known to the public. This is pertinent information for prospective employees and should also inform state and local governments’ decisions around bidding.

¹ See the provisions in Senate File 122 as introduced during General Assembly 90.
<https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=sf122>