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The original instrument was prepared by J. Ashley Mitchell Carter. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

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SB 441 Reengrossed                                  DIGEST                                  2016 Regular Session                                  Carter

Present law provides that upon termination of employment, an employer shall pay the employee the amount due him. If the employer does not comply, then he is liable to the employee for 90 days wages at the employee's daily rate, or for full wages from the date the employee demand for payment is made, whichever is the lesser amount.

Proposed law retains present law but adds that the employer is liable for 90 working days.

Present law provides that when the employer was in good faith but the court finds that there are still wages owed to the employee, the employer will only have to pay the amount of wages in dispute along with interest. However, when the employer was not in good faith, the employer will be liable to the employee for 90 days wages at the employee's daily rate, or for the full wage amount from the date the employee demands the payment is made.

Proposed law retains present law but provides that an employer may assert a good-faith defense to the payment of penalty wages.

Proposed law provides that the employer may assert a good-faith defense and provide a showing of his reasonable belief that the disputed wages were not owed at the time of the employer's written response to the employee's written demand for payment.

Proposed law provides that a good-faith defense is not available to an employer who fails to timely pay any undisputed wages.

Proposed law provides that a showing of a good-faith defense, even if proven, does not relieve the employer of his liability to the employee for attorney fees and costs for a meritorious claim.

Present law provides that reasonable attorney fees shall be awarded to the employee by the court provided the requirements are met. Proposed law provides instead that if the court finds that there is a joint employment relationship, each employer will be liable in solido for any wages, penalties, damages, interest, attorney fees, and costs owed.

Effective August 1, 2016

(Amends R.S. 23:632)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill

1. Removes provisions which deny an employer a good-faith defense if wages are paid in cash or if the employee is improperly classified as an independent contractor.
2. Changes the term "well-founded law suit" to a "meritorious lawsuit" as it relates to the qualifications for attorney fees payable to the employee by the employer.

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Adds back in present law which was repealed concerning employer liability based on having good faith or not.
2. Adds requirement when an employer provides a written response to prove good faith by an employer.
3. Makes technical changes.