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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley Mitchell Carter.

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SB 441 Engrossed

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.

Proposed law deletes present law that 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 provides that the employer may assert a good faith defense and provide a written response showing the reasonable belief that the disputed wages were not owed.

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 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.