



Amendment to Tennessee Wage Law Gives State Labor Department Exclusive Enforcement Authority

Date: 4.25.2013

An amendment to Tennessee's Wage Regulations Act eliminating private suits for state wage-hour violations and giving the state Department of Labor exclusive power to enforce the law has been signed by Governor Bill Haslam. Previously, aggrieved workers could initiate a civil court proceeding; now, they must bring their complaints to the Department. The amendment, signed on April 23, 2013, also provides for an award of reasonable expenses, including attorneys' fees and disbursements, for claims brought under the Act (TCA Title 50, Chapter 2, Part 1 and Title 50, Chapter 4, Part 1) in certain circumstances. The Act protects wage earners from unfair practices regarding pay.

The bill (SB 1295/HB 1223), as amended by Amendment 1:

...removes language from present law which specifies that the amount of wages agreed upon between employer and employee, or employee representative, in a workshop or factory, constitutes a basis for litigation in civil cases. This amendment instead specifies that the department of labor and workforce development is required to enforce the present law prohibition against any proprietor, foreman, owner or other person to employ, permitting or suffering to work for hire, in, about, or in connection with any workshop or factory any person whatsoever without first informing the employee of the amount of wages to be paid for the labor.

The bill was drafted with an eye on the dramatic increase in lawsuits brought individually and collectively by workers in California claiming overtime compensation for off-the-clock work, such as time spent donning and doffing special gear for work, as well as time spent waiting in line to clock in or out. The Tennessee legislature, attempting to forestall such a glut of litigation in Tennessee, sought to remove the state law statutory right of action for private employees. Thus, the bill places exclusive power in the hands of the Tennessee Department of Labor Workforce Development to enforce such rights on behalf of workers. However, employees still retain the right to sue under federal statute and Tennessee common law.

While some members of the Tennessee legislature expressed concern over what they saw as the loss of a valuable legal option, others argued that workers will be less intimidated over making claims without having to file a lawsuit and navigate the complexities of the judicial system. Furthermore, the process of bringing a complaint will ease the financial burden on the employee, who will not have to hire an attorney, they maintained. With the Department of Labor stepping in, the employees are more likely to be the beneficiaries of a class action, and not the lawyer who represents them, the bill's supporters said.

SB 1295 was passed by the Tennessee Senate on April 10, 2013 by a vote of 27-6. HB 1223 was passed in the Tennessee House of Representatives on April 4, 2013 by a vote of 96-0.

If you have any questions about the new law, please contact James Mulroy, at MulroyJ@jacksonlewis.com, Vandana Peterson, at Vandana.Peterson@jacksonlewis.com, Partner and Associate, respectively, in the Memphis office, or the Jackson Lewis attorney with whom you regularly work.

© 2013, Jackson Lewis LLP. This Update is provided for informational purposes only. It is not intended as legal advice nor does it create an attorney/client relationship between Jackson Lewis LLP and any readers or recipients. Readers should consult counsel of their own choosing to discuss how these matters relate to their individual circumstances. Reproduction in whole or in part is prohibited without the express written consent of Jackson Lewis LLP.

This Update may be considered attorney advertising in some states. Furthermore, prior results do not guarantee a similar outcome.

Jackson Lewis LLP represents management exclusively in workplace law and related litigation. Our attorneys are available to assist employers in their compliance efforts and to represent employers in matters before state and federal courts and administrative agencies. For more information, please contact the attorney(s) listed or the Jackson Lewis attorney with whom you regularly work.

[practices](#)

General Employment Litigation