

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0851.01 Josh Schultz x5486

SENATE BILL 23-231

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Senate Committees
Appropriations

House Committees
Appropriations

HOUSE
3rd Reading Unamended
April 6, 2023

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF THE DIVISION OF LABOR STANDARDS AND**
102 **STATISTICS IN THE DEPARTMENT OF LABOR AND EMPLOYMENT**
103 **TO DISBURSE MONEY IN THE WAGE THEFT ENFORCEMENT FUND**
104 **TO EMPLOYEES AFTER AN EMPLOYER FAILS TO MAKE PAYMENTS**
105 **DETERMINED TO BE OWED TO THE EMPLOYEES, AND, IN**
106 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

HOUSE
2nd Reading Unamended
April 5, 2023

SENATE
3rd Reading Unamended
March 30, 2023

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill amends the wage theft

SENATE
2nd Reading Unamended
March 29, 2023

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

enforcement fund (fund) to allow the division of labor standards and statistics (division) in the department of labor and employment (department) to use money in the fund to pay employees who are owed money from their employers due to obligations and liabilities related to the payment of wages or other compensation. If an employer fails to fulfill the order to pay an employee that results from a wage claim or an investigation within 6 months after the division issues a citation and notice of assessment to the employer or, if the employer requests a hearing, within 6 months after the hearing officer issues a decision, the bill allows the division to pay the employee, from the fund, the amount of money owed by the employer. The bill specifies that after the division pays the employee, the employee cannot recover that payment amount from the employer, the division shall continue to pursue payment from the employer, and any money recovered from the employer by the division will be credited to the fund.

The bill requires the division to promulgate rules specifying procedures for employees to request payments and criteria for the division to make determinations on employee requests.

The bill also continuously appropriates money in the fund to the division for the purpose of making payments to employees and excludes the fund from the limit on cash fund reserves.

For the 2023-24 state fiscal year, the bill appropriates \$12,657 from the fund to the department for use by the executive director's office for personal services.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-4-113, **amend**
3 (3)(a); and **add** (3)(c), (3)(d), and (5) as follows:

4 **8-4-113. Fines pursuant to enforcement - wage theft**
5 **enforcement fund - created - administrative lien and levy of employer**
6 **assets - wage claim payments from the fund - definition - rules.**

7 (3) (a) The division shall transmit all fines collected for the state pursuant
8 to this section or section 8-1-114 (2), 8-1-116 (2), 8-1-117 (2), or 8-1-140
9 (2) to the state treasurer, who shall credit the ~~same~~ MONEY to the wage
10 theft enforcement fund, which fund is created and referred to in this
11 section as the "fund". The money in the fund is ~~subject to annual~~

1 ~~appropriation by the general assembly to the division~~ MAY BE USED BY
2 THE DIVISION TO MAKE PAYMENTS TO EMPLOYEES FOR UNPAID LIABILITIES
3 FOR WAGE LAW VIOLATIONS PURSUANT TO SUBSECTION (5) OF THIS
4 SECTION AND for the DIVISION'S direct and indirect costs associated with
5 implementing this article 4.

6 (c) THE MONEY IN THE FUND IS:

7 (I) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
8 ASSEMBLY TO THE DIVISION FOR THE DIRECT AND INDIRECT COSTS
9 ASSOCIATED WITH IMPLEMENTING THIS ARTICLE 4; AND

10 (II) CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE
11 PURPOSE OF MAKING PAYMENTS TO EMPLOYEES FOR UNPAID LIABILITIES
12 FOR WAGE LAW VIOLATIONS PURSUANT TO SUBSECTION (5) OF THIS
13 SECTION.

14 (d) THE LIMITATIONS SPECIFIED IN SECTION 24-75-402 DO NOT
15 APPLY TO THE FUND.

16 (5) (a) ON AND AFTER APRIL 1, 2024, IF AN EMPLOYER FAILS TO
17 PAY AN EMPLOYEE AN AMOUNT OF WAGES OR COMPENSATION OWED THE
18 EMPLOYEE, AS DETERMINED BY THE DIVISION PURSUANT TO SECTION
19 8-4-111 (2)(c) OR AS DECIDED BY A HEARING OFFICER PURSUANT TO
20 SECTION 8-4-111.5, WITHIN SIX MONTHS AFTER THE DIVISION'S
21 DETERMINATION, THE HEARING OFFICER'S DECISION, OR THE EXPIRATION
22 OF ANY ORDER FROM THE DIVISION, THE HEARING OFFICER, OR A COURT
23 STAYING OR POSTPONING THE EMPLOYER'S PAYMENT OBLIGATION,
24 WHICHEVER IS LATER, THE DIVISION MAY DISBURSE THE AMOUNT OF
25 WAGES OR COMPENSATION DETERMINED TO BE OWED THE EMPLOYEE,
26 SUBJECT TO AVAILABLE RESOURCES IN THE FUND AND THE DIVISION'S
27 PRIORITIZATION, FROM THE FUND TO THE EMPLOYEE.

1 (b) IF THE DIVISION DISBURSES PAYMENT TO AN EMPLOYEE FROM
2 THE FUND PURSUANT TO THIS SUBSECTION (5):

3 (I) THE EMPLOYEE MAY NOT RECOVER THAT PAYMENT AMOUNT
4 FROM THE EMPLOYER;

5 (II) THE DIVISION REPLACES THE EMPLOYEE AS THE CREDITOR OF
6 THE EMPLOYER FOR THE AMOUNT OF THE PAYMENT, THE DIVISION MAY
7 CONTINUE TO PURSUE PAYMENT FROM THE EMPLOYER PURSUANT TO
8 SECTION 8-4-111 AND THIS SECTION, AND ANY MONEY RECOVERED FROM
9 THE EMPLOYER TOWARD THE AMOUNT DISBURSED TO THE EMPLOYEE MUST
10 BE CREDITED TO THE FUND; AND

11 (III) THE DIVISION SHALL, TO THE EXTENT NECESSARY,
12 SUPPLEMENT OR AMEND ANY DOCUMENTS FILED PURSUANT TO AN
13 ADMINISTRATIVE CLAIM OR COURT ACTION REGARDING THE EMPLOYER'S
14 DEBT TO REFLECT ANY CHANGE IN THE AMOUNT AND THE CREDITOR OF
15 THE DEBT RESULTING FROM PAYMENT PURSUANT TO THIS SUBSECTION (5).

16 (c) ON OR BEFORE DECEMBER 29, 2023, THE DIVISION SHALL
17 PROMULGATE RULES SPECIFYING THE PROCEDURES AND CRITERIA FOR
18 EMPLOYEES TO SUBMIT INFORMATION AND REQUEST PAYMENT PURSUANT
19 TO THIS SUBSECTION (5), SPECIFYING THE PROCEDURES AND CRITERIA FOR
20 THE DIVISION TO REVIEW, EVALUATE, AND RESOLVE THE EMPLOYEE
21 PAYMENT REQUESTS, AND AS NECESSARY TO IMPLEMENT THIS SUBSECTION
22 (5).

23 **SECTION 2.** In Colorado Revised Statutes, 24-75-402, **add**
24 (5)(aaa) as follows:

25 **24-75-402. Cash funds - limit on uncommitted reserves -**
26 **reduction in the amount of fees - exclusions - definitions.**

27 (5) Notwithstanding any provision of this section to the contrary, the

1 following cash funds are excluded from the limitations specified in this
2 section:

3 (aaa) THE WAGE THEFT ENFORCEMENT FUND CREATED IN SECTION
4 8-4-113 (3)(a).

5 **SECTION 3. Appropriation.** For the 2023-24 state fiscal year,
6 \$12,657 is appropriated to the department of labor and employment for
7 use by the executive director's office. This appropriation is from the wage
8 theft enforcement fund created in section 8-4-113 (3)(a), C.R.S., and is
9 based on an assumption that the department will require an additional 0.2
10 FTE. To implement this act, the department may use this appropriation
11 for personal services.

12 **SECTION 4. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety.