

HOUSE BILL NO. 4394

April 12, 2023, Introduced by Reps. Hill, Breen, Hood, Farhat, Brabec, Morse, Price, Weiss, Brenda Carter, Tsernoglou, Hope, Andrews, Haadsma and Scott and referred to the Committee on Labor.

A bill to amend 1978 PA 390, entitled

"An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,"

by amending section 11 (MCL 408.481).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) An employee who believes that ~~his or her~~ **the**
2 **employee's** employer has violated this act may file a written

1 complaint with the department ~~within~~ **not later than** 12 months after
2 the alleged violation. A complaint filed under section 13(2) ~~shall~~
3 **must** be filed ~~within~~ **not later than** 30 days after the alleged
4 violation. ~~occurs. Bilingual~~ **The department shall provide bilingual**
5 complaint forms ~~shall be provided by the department~~ in those areas
6 where substantial numbers of ~~non-English speaking~~ **non-English-**
7 **speaking** employees are employed.

8 (2) ~~Within~~ **Not later than** a reasonable **amount of** time after a
9 complaint is filed, the department shall notify the employer, ~~and~~
10 investigate the claim, and ~~shall~~ attempt to informally resolve the
11 dispute.

12 (3) If the department is unable to informally resolve the
13 dispute, the department shall notify the employer and employee
14 ~~within~~ **not later than** 90 days after the complaint is filed. The
15 notification ~~shall~~ **must** include a determination of the merits of
16 the complaint and ~~shall~~ cite the specific violation, if any, wages
17 and fringe benefits due, and specific penalties assessed.

18 (4) The employer or employee may request a review of the
19 department's determination ~~within~~ **not later than** 14 days after ~~the~~
20 **department issues** notification **of its determination.** ~~is issued.~~ If
21 **the department does not receive** a request for a review by ~~either~~
22 the employer or employee ~~is not received by the department~~ within
23 ~~14 days,~~ **that 14-day period,** in the absence of a showing of good
24 cause for a late request, the department's determination is final.

25 (5) For the purpose of an investigation or proceeding under
26 this act, the director of ~~labor~~ **the department** or an ~~authorized~~
27 ~~representative of the director~~ **director's designee** may administer
28 oaths and affirmations, subpoena witnesses, ~~and~~ **and** compel their
29 attendance, take evidence, and require the production of records or

1 other documents ~~which~~**that** the department considers relevant or
2 material to the inquiry.

3 (6) The employee, **the** employer, and the department ~~shall~~**must**
4 be parties to a proceeding before a hearings officer brought
5 ~~pursuant to~~**under** this section.

6 (7) The director shall appoint hearings officers to make
7 determinations in proceedings brought ~~pursuant to~~**under** this
8 section. All proceedings in a hearing ~~shall~~**must** be conducted
9 ~~pursuant to the procedures applicable to the trial of~~**as** contested
10 cases under ~~Act No. 306 of the Public Acts of 1969, as amended,~~
11 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~**the**
12 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**
13 **24.328.** The hearings officer shall affirm, modify, or rescind the
14 order of the department and may assess costs as provided in section
15 18(3).

16 (8) The hearings officer shall issue a determination, which
17 ~~constitutes~~**is** a final disposition of the proceedings, to each
18 party ~~within~~**not later than** 30 days after the conclusion of the
19 hearing. The determination of the hearings officer ~~shall become~~
20 **becomes** the final ~~agency~~**department** order upon receipt by the
21 parties.

22 (9) A party to the proceeding may obtain judicial review ~~of~~
23 ~~the determination of the hearings officer~~**officer's determination**
24 ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended.~~**in**
25 **accordance with the administrative procedures act of 1969, 1969 PA**
26 **306, MCL 24.201 to 24.328.** Venue for an appeal under this act ~~shall~~
27 **is proper** only ~~be~~ in the circuit where the employee is a resident,
28 ~~where~~ the employment occurred, or ~~where~~ the employer has a
29 principal place of business.

1 (10) If requested by an employee who files a complaint against
2 an employer under this section, the department shall, to the extent
3 allowed by law, not disclose to the employer the identity of the
4 employee.