



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 6 (Substitute S-1 as reported)
Senate Bill 7 (as reported without amendment)
Sponsor: Senator Kevin Hertel (S.B. 6)
Senator Darrin Camilleri (S.B. 7)
Committee: Labor

CONTENT

Senate Bill 6 (S-1) would amend Public Act (PA) 390 of 1978, which regulates the payment of wages and fringe benefits, to do the following:

- Prescribe how to determine whether an individual was an independent contractor, basing the determination on Federal classifications of workers and Federal guidelines for determining economic dependence.
- Prohibit a person from classifying an employee as an independent contractor and prescribe penalties for a violation of this provision.
- Prohibit an employer from withholding wage information from an employee requesting information about similarly situated employees and prescribe penalties for a violation of this provision.
- Prescribe penalties for an employer that did not pay an employee owed wages or fringe benefits with intent to defraud that employee, depending on the amount of unpaid wages and benefits.
- Allow an employee to file a written complaint with the Department of Labor and Economic Opportunity (LEO) for perceived retaliation or discrimination under the Act and require LEO to conceal the employee's identity if possible.
- Allow the Attorney General to initiate a civil action to enforce a LEO order.
- Require an employer to provide an employee with a written explanation of a court-ordered garnishment deduction at least one pay period or 10 business days, whichever was greater, before the wage payment affected by the deduction was made.
- Create the Wages and Fringe Benefits Fund within the Department of Treasury.
- Transfer enforcement of the Act from the Department of Licensing and Regulatory Affairs (LARA) to LEO, in accordance with Executive Reorganization Order 2019-3.

Senate Bill 7 would add sentencing guidelines to the Code of Criminal Procedure for penalties prescribed by Senate Bill 6 (S-1).

MCL 408.471 et al. (S.B. 6)
777.14b (S.B. 7)

BRIEF RATIONALE

Some employers misclassify individuals as independent contractors to avoid paying wages and fringe benefits they might otherwise owe to an individual if classified as an employee. According to testimony before the Senate Committee on Labor, in 2022, LEO found that employers misclassifying individuals had withheld \$2.6 million in earned wages from employees. The bill should be passed to protect employees from having their wages wrongfully withheld.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

Senate Bill 6 (S-1) would have a minimal fiscal impact on LEO. The bill would require LEO to update information in its Wage and Hours Division; however, the bill would not change the current operations of the unit, and so costs would only be incurred one time and would likely be supported by current appropriations.

Senate Bill 7 would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.