

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB1016

Hearing Date: Monday February 03, 2020
Committee On: Business and Labor
Introducer: Hansen, M.
One Liner: Change the Nebraska Wage Payment and Collection Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 7 Senators Chambers, Crawford, Halloran, Hansen, B., Hansen, M.,
Lathrop, Slama

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Matt Hansen
Michelle Devitt
Schuyler Geery-Zink
Susan Martin

Representing:

District 26 Senator
Heartland Workers Center
Nebraska Appleseed
Nebraska AFL-CIO

Opponents:

Representing:

Neutral:

Bob Hallstrom
Ron Sedlacek

Representing:

National Federation of Independent Business
Nebraska Chamber of Commerce and Industry

Summary of purpose and/or changes:

Bill Summary:

LB 1016 makes changes to the Nebraska Wage Payment and Collection Act.

It adds a requirement to the act that an employer shall not retaliate or discriminate against an employee for filing a suit or participating in an investigation. Currently such actions can be sanctioned by the Nebraska Equal Opportunity Commission under their general statutes but no specific provision stated that it was unlawful to retaliate for filing a claim.

It simplifies the relief available to employees to appropriate relief including reasonable attorney's fees and costs.

It adds a new subsection that any uncontested citation may be submitted as evidence in a civil action against the employer for unpaid wages.

Adds a requirement that any employer who has an unpaid and uncontested citation shall be barred from contracting with the State of Nebraska.

Adds a provision that uncontested citations shall be made available to the public upon request.

Adds a requirement to the Department of Labor that they will post information on its web site information about compliance with and enforcement of the Nebraska Wage Payment and Collections Act.

Explanation of amendments:

AM 2350 substitutes for the bill and contains the provisions of LB 1016 as amended by AM2257; and the provisions of LB 926 as amended by AM2268 and of LB 788.

Section-by-section summary of AM2350:

Section 1: Changes the date of the Nebraska Worker Training Board report from July 1 to December 31. (from LB 788)

Section 2: Assigns sections 3 and 6 of this act to the Nebraska Wage Payment and Collection Act. (from LB 1016 w/ AM2257)

Section 3: Prohibits retaliation or discrimination against an employee who files or participates in a complaint under the Nebraska Wage Payment and Collection Act. (from LB 1016 w/ AM2257)

Section 4: Clarifies language on damages. It allows employees not subject to the Nebraska Fair Employment Practice Act and who has a claim under section 3 may bring suit in court. Allows a citation related to the facts in dispute to be admitted into evidence in a wage collection claim. (from LB 1016 w/ AM2257)

Section 5: Bars any employer with an unpaid citation from contracting with the state. Citations are to be made public upon request. (from LB 1016 w/ AM2257)

Section 6: Requires the Department of Labor to post information and statistics on wage violations on its website. (from LB 1016 w/ AM2257)

Section 7: Changes the fee for contractor registration from \$40 to not to exceed \$40. (from LB 788)

Section 8: Changes the citation process of the Employee Classification Act to mirror the Wage Payment and Collection Act. (from LB 926)

Also includes language clarifying that a citation must be final before a contractor is barred from contracting with the state for having a violation of the Employee Classification Act (AM2268)

Section 9: Sections 2, 3, 4, 5, 6, and 11 become operative on October 1, 2020 (LB 1016 w/ AM2257)

Section 10: Repeals the original sections for LB 926 and LB 788.

Section 11: Repeals the original sections for LB 1016.

Section 12: Outright repeals Sections: 48-209, 48-210, 48-211, 48-440, 48-501.01, 48-503, 48-504, 48-505, 3 48-506, 48-507, 48-508, 48-510, 48-511, 48-512, 48-513, 48-514, 48-515, 4 48-516, 48-517, 48-518, 48-519, 48-520, 48-521, 48-523, and 48-524.

The Service Letter Law Neb. Rev. Stat. 48-209 to 48-211,

The Employment Agency Law Neb. Rev. Stat. 48-501.01 to 48-524, and

Neb. Rev. Stat. 48-440 concerning requirements to notify the Commissioner of Labor before operations are performed near overhead high voltage conductors.

Section 13: Emergency Clause

Summary of individual bills and amendments voted as part of AM2350:

Motion to include AM2257 as part of the committee amendment to LB 1016

Vote results: 7-0-0-0. Voting Aye: Senators Hansen, M; Hansen, B; Chambers; Crawford; Halloran; Lathrop; Slama

AM2257: Changes to the introduced version of LB 1016:

Page 2 line 18: strike the new language and insert:

"recover the full amount of the judgment and all costs of such suit including reasonable attorney's fees"

Page 3 line 4: replaces (2) with: (2) If an employee works for an employer that not subject to the Nebraska Fair Employment Practice Act and such employee is aggrieved by a violation of section 2 of this act, the employee may bring a suit against such employer in the proper court to recover the damages sustained by reason of such violation. If an employee prevails in a suit brought pursuant to this subsection, such employee shall be entitled to recover the full amount of the judgment and all costs of such suit, including reasonable attorney's fees. If the cause is taken to an appellate court and the employee recovers a judgment, the appellate court shall award reasonable attorney's fees to the employee.

Page 3 line 8:

Change "appropriate relief, including reasonable attorney's fees and costs." with "recover the full amount of the judgment and all costs of such suit including reasonable attorney's fees"

Page 3 line 18:

Add after "that" "relates directly to the facts in dispute" and strike "is relevant to the suit"

Page 5 line 4:

Strike: "and names"

Motion to include LB 926 as part of the committee amendment to LB 1016:

Vote results: 7-0-0-0. Voting Aye: Senators Hansen, M; Hansen, B; Chambers; Crawford; Halloran; Lathrop; Slama

Testifiers on LB 926:

Proponents:

Tom Green; Legal Counsel, Business and Labor Committee

John Albin; Nebraska Department of Labor

Felicia Hilton; North Central States Regional Council of Carpenters

Lori Meyers; Nebraska State AFL-CIO

Opponents:

None

Neutral:

None

LB 926 Bill Summary:

LB 926 amends the Employee Classification Act by changing the hearing process to mirror the Wage Payment and Collection Act citation and hearing process. The Nebraska Department of Labor administers and enforces both programs. LB 926 provides the same process for both acts.

LB 926 Section-by-Section:

Section 1: Changes the Employee Classification procedures for violations of the act to mirror the procedures in the Wage Payment and Collection Act.

Section 2: Repeals the original sections.

Motion to include AM2268 to LB 926 as part of the committee amendment:

Vote results: 7-0-0-0. Voting Aye: Senators Hansen, M; Hansen, B; Chambers; Crawford; Halloran; Lathrop; Slama

AM2268 to LB 926:

On page 2, line 21, strike "Any", show as stricken, and insert "A contractor who is assessed an administrative penalty for a violation of the Employee Classification Act shall pay such administrative penalty no later than ten days after the date the penalty becomes final and not subject to further appeal. A"; strike beginning with "citation" in line 21 through "Act" in line 22, show the old matter as stricken, and insert "administrative penalty in violation of this subsection"; and in line 24 strike "citation" and insert "administrative penalty".

This language is in section 8 of AM2350.

Motion to include LB 788 as part of the committee amendment.

Vote results: 7-0-0-0. Voting Aye: Senators Hansen, M; Hansen, B; Chambers; Crawford; Halloran; Lathrop; Slama

Testifiers on LB 788:

Proponents:

Sen. Slama; District 1

John Albin; Nebraska Department of Labor

Susan Martin; Nebraska State AFL-CIO

Opponents:

None

Neutral:

None

Bill Summary of LB 788:

LB 788 changes the due date for the annual Worker Training Board Report from July 1 to December 31. The bill also provides flexibility to the required fee for contractor registration by allowing a fee up to \$40 instead of setting the fee at \$40.

The bill also outright repeals the following statutes:

The Service Letter Law Neb. Rev. Stat. 48-209 to 48-211,

The Employment Agency Law Neb. Rev. Stat. 48-501.01 to 48-524, and

Neb. Rev. Stat. 48-440 concerning requirements to notify the Commissioner of Labor before operations are performed near overhead high voltage conductors.

Section-by-Section Summary of LB 788:

Section 1: Changes the date of the Worker Training Board Report from July 1 to December 31.

Section 2: Changes the fee for contractor registration from \$40 to a fee not to exceed \$40.

Section 3: Repeals the original sections.

Section 4: Outright repeals Sections: 48-209, 48-210, 48-211, 48-440, 48-501.01, 48-503, 48-504, 48-505, 48-506, 48-507, 48-508, 48-510, 48-511, 48-512, 48-513, 48-514, 48-515, 4 48-516, 48-517, 48-518, 48-519, 48-520, 48-521, 48-523, and 48-524.

Section 5: Emergency Clause

Matt Hansen, M., Chairperson