



OFFICE OF THE
SECRETARY
2016 APR 19 PM 4: 38

MURIEL BOWSER
MAYOR

APR 19 2016

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed please find for consideration and enactment by the Council of the District of Columbia the "Wage Theft Prevention Revision Amendment Act of 2016".

Last year, the Council of the District of Columbia passed the "Wage Theft Prevention Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157) (referred to here as the "Wage Theft Act") to address the issue of worker protections when an employer does not fully compensate an employee for work performed or for the promised rate agreed upon by an employer and employee. Several provisions of the legislation lacked clarity and contained drafting errors that required correction. Twice the Council passed emergency and temporary legislation to clarify and improve the law.

The proposed legislation incorporates the provisions of two sets of amendment packages. The first set is incorporated under the "Wage Theft Prevention Correction and Clarification Emergency Amendment Act of 2014", effective December 29, 2014 (D.C. Act 20-544, DCR 243) and "Wage Theft Prevention Correction and Clarification Temporary Amendment Act of 2014", effective March 13, 2015 (D.C. Law 21-241, DCR 4511). The temporary legislation expired on October 24, 2015. Substantially identical emergency and temporary legislation was approved by the District Council on October 6, 2015 (B21-434, effective January 30, 2016, and referred to here as the "Clarification and Correction Temporary Amendments").

The second set of amendments is provided under "Wage Theft Prevention Clarification Emergency Amendment Act of 2015", approved February 26, 2015 (D.C. Act 21-8; 62 DCR 2669) and the "Wage Theft Prevention Clarification Temporary Amendment Act of 2015", effective June 4, 2015 (D.C. Law 21-2; 62 DCR 4552) (referred to as the "2015 Amendments"). The legislation was renewed by the District Council with the passage of B21-561, effective January 27, 2015.

The enclosed legislation includes most of the changes in the Clarification and Correction Amendments and all of the changes in the 2015 Amendments.

The legislation makes several legislative changes contained in neither the Clarification and Correction Amendments nor the 2015 Amendments. The bill makes clear that the Office of Administrative Hearings has jurisdiction over all administrative hearings. The bill also includes changes to the Wage Theft Act's recordkeeping provisions consistent with the U.S. Supreme Court's decision in *Patel v. City of Los*



Angeles (135 S. Ct. 2443), which limited the right of government law enforcement officials to access business records. The change contained in the bill was incorporated at the suggestion of the Office of the Attorney General.

The legislation also restores a provision that authorizes the Mayor to take an assignment in trust from an employee who not been paid all wages due and to settle and adjust those claims. A related provision would also expressly provide the Office of Attorney General to bring appropriate legal action to collect these claims.

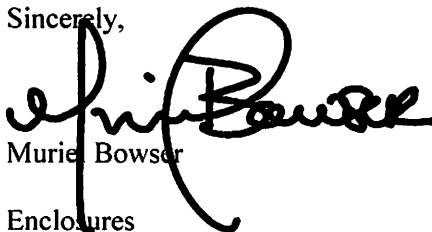
The Wage Theft Act amended the minimum wage law notice requirements to allow an employer to maintain an electronic acknowledgement from an employee as a receipt copy to satisfy recordkeeping purposes. The Wage Theft Act also required employers to keep records for 3 years, or the “prevailing federal standards, whichever is greater.” The 2015 Amendments amended one such provision to require the District government to issue regulations to identify the prevailing federal standard. In order to make the standard consistent, the bill applies the amendment to other recordkeeping provisions of the Wage Theft Act.

The Wage Theft Act also contained two provisions that allowed any prevailing plaintiff to be entitled to attorney’s fees as provided under a matrix established under *Salazar v. District of Columbia*, 123 F. Supp.2d 8 (D.D.C. 2000). The District of Columbia opposes the rates established under the *Salazar* ruling. Over the past 15 years, nearly every except for the D.C. Circuit Court has determined that the U.S. Attorney’s Office Laffey matrix sets the maximum prevailing market rates in the District. The *Salazar* compensation rates are higher, and the District has appealed the Court’s most recent ruling of *Salazar* rates. If the Council approves legislation awarding “*Salazar rates*”, plaintiffs will argue that the District of Columbia has endorsed those rates as the prevailing market rates and result in significantly higher attorney’s awards against District cases where a fee-shifting provision applies. I and the Attorney General strongly recommend that the *Salazar rates* provisions be deleted.

There are inconsistent references in the Wage Theft Act as to whether complaints may be mailed or delivered by some other means. The bill makes appropriate changes to apply uniform language usage.

I urge you to transmit this legislation to the Council for its introduction and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Murie Bowser". The signature is written in a cursive, flowing style with some loops and flourishes.

Murie Bowser

Enclosures


Chairman Phil Mendelson at
the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend An Act To provide for the payment and collection of wages in the District of Columbia, to require administrative hearings to be conducted by the Office of Administrative hearings, permit certain employees may be paid monthly, limit joint and several liability among contractors and subcontractors, and employers and temporary agencies, clarify for whom and for how long certain employment records must be kept, clarify that the government's demand to review records must be subject to review by a neutral decisionmaker, require an employer to provide an itemized wage statement to an employee, amend criminal penalties, provide that the Mayor and respondent must take certain actions within specified periods after a notice is served on an employer, identify who may take action in an administrative proceeding or court to assist an employee who is owed wages, and authorize the Mayor to issue rules; to amend the Minimum Wage Act Revision Act of 1992 to clarify for whom and for how long certain employment records must be kept, clarify that the government's demand to review records must be subject to review by a neutral decisionmaker, provide that attorney's fees are not required to be based on a schedule established in an unrelated court proceeding, limit the number of languages in which notices must be provided to employees, identify the content of notices to be provided to employees and specify how the fact of notice may be established, and require the Mayor to provide a template of various required notices, limit joint and several liability among contractors and subcontractors, and employers and temporary agencies; to amend the Workplace Fraud Amendment Act of 2012 to clarify for how long certain employment records must be kept; to amend the Sick and Safe Leave Act to clarify that employees in the building and construction industry covered by a bona fide collective bargaining agreement shall be exempted from the paid leave requirements of the Act only if the agreement expressly waives those requirements and to clarify for how long certain employment records must be kept; to amend the Living Wage Act to clarify for how long certain employment records must be kept; and to amend the Wage Theft Prevention Amendment Act of 2014 to repeal a provision making that legislation retroactive.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Wage Theft Prevention Revision Amendment Act of 2016"

45 Sec. 2. An Act To provide for the payment and collection of wages in the District of
46 Columbia, approved August 3, 1956 (70 Stat. 976, DC Official Code § 32-1301 *et seq.*), is
47 amended as follows:

48 (a) Section 1 (D.C. Official Code § 32-1301) is amended by adding a new paragraph (6)
49 to read as follows:

50 “(6) “Administrative Law Judge” means an administrative law judge of the
51 Office of Administrative Hearings.”.

52 (b) Section 2 (D.C. Official Code § 32-1302) is amended by striking the phrase “Every
53 employer shall pay all wages earned to his employees at least twice during each calendar month,
54 on regular paydays designated in advance by the employer,” and inserting the phrase “Every
55 employer shall pay all wages earned to his employees on regular paydays designated in advance
56 by the employer and at least twice during each calendar month, except that all bona fide
57 administrative, executive, or professional employees (those employees employed in a bona fide
58 administrative, executive, or professional capacity, as defined in 7 DCMR § 999.1 as it may be
59 amended from time to time) shall be paid at least once per month;” in its place.

60 (c) Section 3 (D.C. Official Code § 32-1303) is amended as follows:

61 (1) Paragraph (5) is amended is amended by striking the phrase “When the
62 employer is a subcontractor alleged to have failed to pay an employee any wages earned, the
63 subcontractor and the general contractor shall be jointly and severally liable to the
64 subcontractor’s employees for violations of this act, the Living Wage Act, and the Sick and Safe
65 Leave Act.” and inserting the phrase “When the employer is a subcontractor found to have failed
66 to pay an employee any wages earned, the subcontractor and the general contractor shall be
67 jointly and severally liable to the subcontractor’s employees for violations of this act, the Living

68 Wage Act, and the Sick and Safe Leave Act, except as otherwise provided in a contract between
69 the contractor and subcontractor in effect on February 26, 2015.” in its place.

70 (2) Paragraph (6) is amended by striking the phrase “When a temporary staffing
71 firm employs an employee who performs work on behalf of or to the benefit of another employer
72 pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing
73 firm and the employer shall be jointly and severally liable for violations of this act, the Living
74 Wage Act, and the Sick and Safe Leave Act to the employee and to the District.” and inserting
75 the phrase “When a temporary staffing firm employs an employee who performs work on behalf
76 of or to the benefit of another employer pursuant to a temporary staffing arrangement or contract
77 for services, both the temporary staffing firm and the employer shall be jointly and severally
78 liable for violations of this act, the Living Wage Act, and the Sick and Safe Leave Act to the
79 employee and to the District, except as otherwise provided in a contract between the temporary
80 staffing firm and the employer in effect on February 26, 2015.” in its place.

81 (d) Section 6 (D.C. Official Code § 32-1306) is amended as follows:

82 (1) Subsection (a)(2) is repealed.

83 (2) A new subsection (d) is added to read as follows:

84 “(d)(1) Every employer subject to any provision of this subchapter or of any regulation or
85 order issued under this subchapter shall make, keep, and preserve, for a period of not less than 3
86 years or whatever the prevailing federal standard is, if identified in regulations issued pursuant to
87 this act, whichever is greater, a record of:

88 “(A) The name, address, and occupation of each employee;

89 “(B) A record of the date of birth of any employee under 19 years of age;

90 “(C) The rate of pay and the amount paid each pay period to each employee;

91 “(D) The precise time worked each day and each workweek by each employee,
92 except for employees who are exempt from the minimum wage and overtime requirements under
93 section 5(a) of the Minimum Wage Revision Act of 1992, effective March 25, 1993 (D.C. Law
94 9-218; D.C. Official Code § 32-1001 *et seq.*); and

95 “(E) Any other records or information as the Mayor shall prescribe by regulation
96 as necessary or appropriate for the enforcement of the provisions of the subchapter or of the
97 regulations issued under this subchapter.

98 “(2)(i) Any records shall be open and made available for inspection or transcription by
99 the Mayor or the Mayor’s authorized representative upon demand by the Mayor at any
100 reasonable time. Every employer shall furnish to the Mayor or to the Mayor’s authorized
101 representative on demand a sworn statement of records and information upon forms prescribed
102 or approved by the Mayor.

103 “(ii) No employer may be found to be in violation of subsection (i) of this paragraph
104 unless the employer had an opportunity to challenge a demand made pursuant to paragraph (i) of
105 this subparagraph and have that challenge decided by a neutral decisionmaker.”.

106 (3) A new subsection (e) is added to read as follows:

107 “(e) Every employer shall furnish to each employee at the time of payment of wages an
108 itemized statement showing the date of the wage payment, gross wages paid, deductions from
109 and additions to wages, net wages paid, hours worked during the pay period, and any other
110 information as the Mayor may prescribe by regulation.”.

111 (e) Section 7(a) (DC Official Code § 32-1307(a)) is amended to read as follows:

112 “(a)(1) Any employer who negligently fails to comply with the provisions of this act or
113 the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall be fined:

114 “(A) For the first offense, an amount per affected employee of not
115 more than \$2,500;

116 “(B) For any subsequent offense, an amount per affected employee of not more
117 than \$5,000.

118 “(2) Any employer who willfully fails to comply with the provisions of this act or the
119 Living Wage Act shall be guilty of a misdemeanor and, up on conviction, shall:

120 “(A) For the first offense, be fined not more than \$5,000, or imprisoned not more
121 than 30 days, or both; or

122 “(B) For any subsequent offense, be fined not more than \$10,000, or imprisoned
123 not more than 90 days, or both.

124 “(3) The fines set forth in paragraphs (1) and (2) of this section shall not be limited by
125 section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11,
126 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).”.

127 (f) Section 8 (D.C. Official Code § 32-1308) is amended as follows:

128 (1) Subsection (a)(1) is amended by striking the phrase “, or any entity a member of
129 which is aggrieved by a violation of this act, the Minimum Wage Revision Act, the Sick and
130 Safe Leave Act, or the Living Wage Act”.

131 (2) Subsection (b) is amended by striking the phrase “, including
132 attorney's fees computed pursuant to the matrix approved in *Salazar v. District of Columbia*, 123
133 F. Supp. 2d 8 (D.D.C. 2000), and updated to account for the current market hourly rates for
134 attorney services. The court shall use the rates in effect at the time the determination is made”.

135 (g) Section 8a (D.C. Official Code § 32-1308.01) is amended as follows:

136 (1) By amending subsection (c) to read as follows:

137 “(c)(1) The Mayor shall issue rules identifying how a complaint may be served, and
138 serve the complaint and a written notice to each respondent upon completion . The written notice
139 shall set forth the damages, penalties and other costs for which the respondent may be liable, the
140 rights and obligations of the parties, and the process for contesting the complaint.

141 (2) The Mayor shall also include an additional notice to employees stating that an
142 investigation is being conducted and providing information to employees on how they may
143 participate in the investigation. Upon service, the respondent shall post this additional notice for
144 a period of at least 30 days.

145 (3) Within 20 days of the date the complaint and written notice are served, the
146 respondent shall:

147 (A) Admit that the allegations in the complaint are true and pay to complainant any unpaid
148 wages or compensation and liquidated damages owed and pay to the Mayor any fine or penalty
149 assessed; or

150 (B) Deny the allegations in the complaint and request that the agency make an initial
151 determination regarding the allegations in the complaint.

152 (4) If a respondent admits the allegations, the Mayor shall issue an administrative
153 order requiring the respondent to pay any unpaid wages, compensation, liquidated damages, and
154 fine or penalty owed and requiring the respondent to cure any violations. The Mayor may also
155 proceed with any audit or subpoena to determine if the rights of employees other than the
156 complainant have also been violated.

157 (5) If a respondent denies the allegations, the respondent must notify the Mayor of
158 that decision and may provide any written supporting evidence within 20 days of the date the
159 complaint is served.

160 (6) If a respondent fails to respond to the allegations within 20 days of the date the
161 complaint is served, the allegations in the complaint shall be deemed admitted and the Mayor
162 shall issue an initial determination requiring the respondent to pay any unpaid wages,
163 compensation, liquidated damages, and fine or penalty owed and requiring the respondent to cure
164 any violations.

165 (7) The Mayor shall issue an initial determination within 60 days of the date the
166 complaint is served. The initial determination shall set forth a brief summary of the evidence
167 considered, the findings of fact, the conclusions of law, and an order detailing the amount owed
168 by the respondent or other relief deemed appropriate, if any. The initial determination shall be
169 provided to both parties and set forth the losing party's right to appeal under this section or to
170 seek other relief available under this chapter.

171 (8) In addition to determining whether the complainant has demonstrated that the
172 employer has violated one or more provisions of this chapter, or the Minimum Wage Revision
173 Act, the Sick and Safe Leave Act, or the Living Wage Act, by applying the presumption required
174 by § 32-1305(b), the Mayor shall make an initial determination of whether the complainant is
175 entitled to additional unpaid earned wages due to other District laws such as the Living Wage
176 Act, the Sick and Safe Leave Act, or the Minimum Wage Revision Act.

177 (9) If the Mayor fails to issue an initial determination within 60 days of the service of
178 a complaint, the complainant shall have a right to request a formal hearing before an
179 administrative law judge.

180 (2) By adding a new subsection (d-1) to read as follows:

181 “(d-1)(1) Whenever the Mayor determines that wages have not been paid, as
182 herein provided, and that such unpaid wages constitute an enforceable claim, the Mayor may,

183 upon the request of the employee, take an assignment in trust for the assigning employee of such
184 wages, and of any claim for liquidated damages, without being bound by any of the technical
185 rules respecting the validity of any such assignments, and the Attorney General may bring any
186 appropriate legal action necessary to collect such claim, and may join in one proceeding or
187 action to collect such claims against the same employer as the Attorney General deems
188 appropriate. Upon any such assignment the Attorney General shall have the power to settle and
189 adjust any such claim or claims on such terms as may be deemed just.

190 “(2) The court in any action brought under this section shall, in addition to any amount
191 awarded to the complainant, allow costs of the action, including costs or fees of any nature, and
192 reasonable attorney’s fees, to be paid by the respondent. The District shall not be required to pay
193 the filing fee or other costs or fees of any nature or to file bond or other security of any nature in
194 connection with any action or proceeding under this section.”.

195 (3) By amending subsection (h)(3) by striking the phrase “, and, unless dissolved by
196 payment, shall as of that date be considered a tax due and owing to the District, which may be
197 enforced through any and all procedures available for tax collection”.

198 (4) By deleting subsection (i).

199 (4) By amending subsection (m)(1) by deleting the phrase “computed pursuant to the
200 matrix approved in *Salazar v. District of Columbia*, 123 F. Supp. 2d 8 (D.D.C. 2000), and
201 updated to account for the current market hourly rates for attorney services. The administrative
202 law judge shall use the rates in effect at the time the determination is made”.

203 (h) A new Section 10b is added to read as follows:

204 “Sec. 10b. Rules.

205 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,
206 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules
207 to implement the provisions of this act.”.

208 Sec. 3. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (DC
209 Law 9-248, DC Official Code § 32-1001 *et seq.*) is amended as follows:

210 (a) Section 9 (DC Official Code § 32-1008) is amended as follows:

211 (1) Subsection (a) is amended by striking the phrase “3 years or whatever the
212 prevailing federal standard is, whichever is greater” and inserting the phrase “3 years or the
213 prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is
214 greater” in its place.

215 (2) Subsection (a)(1)(D) is amended to read as follows:

216 “(D) The precise time worked each day and each workweek by each employee,
217 except for employees who are exempt from the minimum wage and overtime requirements under
218 section 5(a) of this act (D.C. Official Code § 32-1004(a)); and”.

219 (3) Subsection (a)(2) is amended to read as follows:

220 “(2)(i) Any records shall be open and made available for inspection or
221 transcription by the Mayor or the Mayor’s authorized representative upon demand by the Mayor
222 at any reasonable time. Every employer shall furnish to the Mayor or to the Mayor’s authorized
223 representative on demand a sworn statement of records and information upon forms prescribed
224 or approved by the Mayor.

225 “(ii) No employer may be found to be in violation of subsection (i) of this
226 paragraph unless the employer had an opportunity to challenge a demand made pursuant to
227 paragraph (i) of this subparagraph and have that challenge decided by a neutral decisionmaker.”.

228 (4) Subsection (c) is amended by striking the phrase “shall furnish to each
229 employee at the time of hiring a written notice, both in English and in the employee’s primary
230 language, containing the following information;” and inserting the phrase “shall furnish to each
231 employee at the time of hiring a written notice in English in the form made available by the
232 Mayor pursuant to subsection (e). If, pursuant to subsection (e) , the Mayor has made available a
233 translation of the sample template in a second language that is known by the employer to be the
234 employee’s primary language or that the employee requests, the employer also shall furnish
235 written notice to the employee in that second language. The notice shall contain the following
236 information:” in its place.

237 (5) Subsection (d)(1) is amended to read as follows:

238 “(d)(1) Within 90 days of February 26, 2015, or within 90 days of any date on which the
239 information required by this subsection changes, every employer, except in those instances
240 where notice is provided pursuant to section 9a of this act (D.C. Official Code § 32-1008.01),
241 shall furnish each employee with an updated notice containing the information required by
242 subsection (c) and in the form of the sample template made available by the Mayor pursuant to
243 subsection (e). The notice shall be provided in English and if, pursuant to subsection (e), the
244 Mayor has made available a translation of the sample template in a second language that is
245 known by the employer to be the employee’s primary language or that the employee requests, the
246 employer also shall furnish written notice to that employee in that second language. Receipt of
247 an electronic acknowledgement from an information processing system the recipient has
248 designated or uses for the purposes of receiving electronic transmissions or information of the
249 type sent, or a copy of the written notice furnished to an employee, if signed by the employer and
250 employee acknowledging receipt of the notice, shall suffice as proof of compliance.” in its place.

251 (6) Subsection (e) is amended to read as follows:

252 “(e) The Mayor shall make available for employers a sample template of the
253 notice required by subsection (c) of this section within 60 days of February 26, 2015. The
254 Mayor also shall make available for employers a translation of the sample template in any
255 language required for vital documents pursuant to section 4 of the Language Access Act of 2004,
256 effective June 19, 2004 (D.C. Law 15-167, § 4; D.C. Official Code § 2-1933).”.

257 (b) Section 9a (D.C. Official Code § 32-1008.01) is amended as follows:

258 (1) Subsection (a)(1) is amended by striking the phrase “containing the information
259 required by section 9(c)” and inserting the phrase “containing the information required by
260 section 9(c) (D.C. Official Code § 32-1008(c)) and in the form of the sample template made
261 available by the Mayor pursuant to section 9(e) (D.C. Official Code § 32-1008(e)). The notice
262 shall be provided in English and if, pursuant to section 9(e), the Mayor has made available a
263 translation of the sample template in a second language that is known by the employer to be the
264 employee’s primary language or that the employee requests , the employer also shall furnish
265 written notice to that employee in that second language.” in its place.

266 (2) Subsection (b) is amended to read as follows:

267 “(b)(1) When a temporary staffing firm assigns an employee to perform work at, or
268 provide services for another organization, the temporary staffing firm shall furnish the employee
269 a written notice in English, in the form of the sample template made available by the Mayor
270 pursuant to subsection (c) of this section, of:

271 “(A) The specific designated payday for the particular assignment;

272 “(B) The actual rate of pay for the assignment and the benefits, if any to be
273 provided;

274 “(C) The overtime rate of pay the employee will receive or, if applicable, inform
275 the employee that the position is exempt from additional overtime compensation and the basis
276 for the overtime exemption;

277 “(D) The location and name of the client employer and the temporary staffing
278 firm;

279 “(E) The anticipated length of the assignment;

280 “(F) Whether training or safety equipment is required and who is obligated to
281 provide and pay for the equipment;

282 “(G) The legal entity responsible for workers’ compensation, should the employee
283 be injured on the job; and

284 “(H) Information about how to contact the designated enforcement agency for
285 concerns about safety, wage and hour, or discrimination.

286 “(2) If pursuant to subsection (c) of this section, the Mayor has made available a
287 translation of the sample template in a second language that is known by the employer to be the
288 employee’s primary language or that the employee requests, the employer shall also furnish
289 written notice to that employee in the second language.”.

290 (3) Subsection (c) is amended to read as follows:

291 “(c) The Mayor shall make available for temporary staffing firms a sample template
292 of the notice required by subsection (b) of this section within 60 days of February 26, 2015. The
293 Mayor also shall make available for employers a translation of the sample template in any
294 language required for vital documents pursuant to section 4 of the Language Access Act of 2004,
295 effective June 19, 2004 (D.C. Law 15-167, D.C. Official Code § 2-1933).”.

296

297 (c) Section 13 (D.C. Official Code § 32-1012) is amended as follows:

298 (1) Subsection (c) is amended by striking the phrase “When the employer is a
299 subcontractor alleged to have failed to pay an employee any wages earned, the subcontractor and
300 the general contractor shall be jointly and severally liable to the subcontractor’s employees for
301 violations of this act, the Living Wage Act, and the Sick and Safe Leave Act.” and inserting the
302 phrase “ When the employer is a subcontractor found to have failed to pay an employee any
303 wages earned, the subcontractor and the general contractor shall be jointly and severally liable to
304 the subcontractor’s employees for violations of this act, the Living Wage Act, and the Sick and
305 Safe Leave Act, except as otherwise provided in a contract between the contractor and
306 subcontractor in effect on February 26, 2015.” in its place.

307 (2) Subsection (f) is amended by striking the phrase “District.” and inserting the
308 phrase “District, except as otherwise provided in a contract between the temporary staffing firm
309 and the employer in effect on February 26, 2015.”

310 (d) A new section 13b is added to read as follows:

311 “13b. Collection.

312 “ Whenever the Mayor determines that wages have not been paid, as herein provided,
313 and that such unpaid wages constitute an enforceable claim, the Mayor may, upon the request of
314 the employee, take an assignment in trust for the assigning employee of such wages, and of any
315 claim for liquidated damages, without being bound by any of the technical rules respecting the
316 validity of any such assignments, and the Attorney General may bring any appropriate legal
317 action necessary to collect such claim, and may join in one proceeding or action to collect such
318 claims against the same employer as the Attorney General deems appropriate. Upon any such

319 assignment the Attorney General shall have the power to settle and adjust any such claim or
320 claims on such terms as may be deemed just.

321 “(2) The court in any action brought under this section shall, in addition to any amount
322 awarded to the complainant, allow costs of the action, including costs or fees of any nature, and
323 reasonable attorney’s fees, to be paid by the respondent. The District shall not be required to pay
324 the filing fee or other costs or fees of any nature or to file bond or other security of any nature in
325 connection with any action or proceeding under this section.”.

326 (e) Section 10 (DC Official Code § 32-1009) is amended to read as follows:

327 “(3) A new subsection (d) is added to read as follows:

328 “(d) The Mayor shall make copies or summaries of this act publicly available on the
329 District government’s website or some other appropriate method within 60 days of February 26,
330 2015. An employer shall not be liable for failure to post notice if the Mayor has failed to provide
331 to the employer the notice required by this section.”.

332 Sec. 4. Section 212(a) of the Workplace Fraud Amendment Act of 2012, approved April
333 27, 2013 (D.C. Law 19-300, D.C. Official Code 32-1331.12(a)) is amended by striking the
334 phrase “3 years, in or about its place of business,” and inserting the phrase “3 years or the
335 prevailing federal standard, if identified in regulations issued pursuant to this act, whichever is
336 greater, in or about its place of business,”.

337 Sec. 5. The Accrued Sick and Safe Leave Act, effective May 13, 2008 (D.C. Law 17-152,
338 D.C. Official Code § 32-131 *et seq.*) is amended as follows:

339 (a) Section 7(b) is amended by striking the phrase “agreement.” and inserting the phrase
340 “agreement that expressly waives the requirements in clear and unambiguous terms.” in its place.

341 (b) Section 10b(a) is amended by striking the phrase “3 years” and inserting in its place
342 “3 years or the prevailing federal standard, if identified in regulations issued pursuant to this act,
343 whichever is greater.”.

344 Sec. 6. Section 7 of the Living Wage Act, effective June 8, 2006 (D.C. Law 16-118, D.C.
345 Official Code § 2-220.07) is amended to read as follows:

346 “Sec. 7. Records.

347 All recipients and subcontractors shall retain payroll records created and maintained in
348 the regular course of business under District of Columbia law for a period of at least 3 years from
349 the payroll date for employees subject to section 103 of the Living Wage Act of 2006, effective
350 June 8, 2006 (D.C. Law 16-118; § 2-220.03) or the prevailing federal standard, if identified in
351 regulations issued pursuant to this act, whichever is greater.”.

352 Sec. 7. Section 7 of the Wage Theft Prevention Amendment Act of 2014, effective
353 February 26, 2015 (D.C. Law 20-157 20-426; 61 DCR 10157), is repealed.

354 Sec. 8. Fiscal impact statement.

355 The Council adopts the fiscal impact statement in the committee report as the fiscal
356 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
357 approved December 26, 1973 (87 Stat. 9813; D.C. Official Code § 1-206.02(c)(3)).

358 Sec. 9. Effective date.

359 This act shall take effect following approval by the Mayor (or in the event of veto by the
360 Mayor, action by the Council to override the veto), and a 30-day period of Congressional review
361 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
362 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206(c)(1)), and publication in the District of
363 Columbia Register.

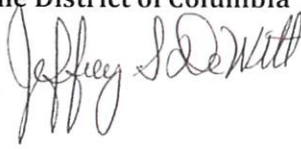
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: October 19, 2015

SUBJECT: Fiscal Impact Statement – “Wage Theft Prevention Correction and Clarification Amendment Act of 2015”

REFERENCE: Draft Bill as provided to the Office of Revenue Analysis on October 9, 2015

Conclusion

Funds are sufficient in the fiscal year 2016 through fiscal year 2019 budget and financial plan to implement the bill.

Background

The District amended¹ its recently enacted wage theft law² to ensure its procedural provisions are clear. This bill makes the amendments permanent, and makes some additional technical amendments.

Financial Plan Impact

Funds are sufficient in the fiscal year 2016 through fiscal year 2019 budget and financial plan to implement the bill. The amendments offered in the bill are technical and do not have a fiscal impact.

¹ Wage Theft Prevention Correction and Clarification Temporary Amendment Act of 2014, effective March 13, 2015 (D.C. Law 20-240; 62 DCR 1332).

² Wage Theft Prevention Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

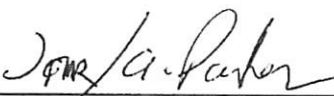
TO: Lolita S. Alston
Director
Office of Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: December 28, 2015

SUBJECT: Legal Sufficiency Review of Draft Bill, the "Wage Theft Prevention Revision
Amendment Act of 2015
(AL-14-563-L)

This is to Certify that this Office has reviewed the above-referenced draft proposed bill and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.



Janet M. Robins