

Regular Session, 2012

HOUSE CONCURRENT RESOLUTION NO. 76

BY REPRESENTATIVE SMITH

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study procedures for the filing of liens for unpaid wages and to make specific recommendations for legislation.

WHEREAS, working families need the assurance of timely pay for work performed to meet basic living expenses for themselves and their children, and all workers should be paid the wages due for all work performed and should be paid in a timely manner. Where wages are not paid, workers must have a way to recover quickly and without great expense; and

WHEREAS, failure to pay wages may occur when workers' hours are decreased, or workers are required to work before clocking in or after clocking out, not paid overtime when overtime is due, or not paid at all. Failure to pay wages is reported across all industries; and

WHEREAS, for many working families living paycheck-to-paycheck, unpaid wages means the difference between hunger and sustenance, and a safe home and homelessness; and

WHEREAS, the state of Louisiana suffers when employers fail to pay payroll taxes associated with the unpaid wages and fail to make contributions to the unemployment insurance and workers' compensation systems, diminishing state and local government revenues. In the New Orleans area alone, the Wage Claim Clinic at the Workplace Justice Project of Loyola College of Law assisted workers with demands of over six hundred thousand dollars in unpaid wages in 2011. These unpaid wages would have yielded approximately fifty thousand dollars in taxes to the state of Louisiana. This represents a fraction of total unpaid wages just in the city of New Orleans. The total unpaid revenues for the entire state is unknown but could be many times this amount; and

WHEREAS, unpaid wages are bad for business because law-abiding businesses and employers must compete with businesses that do not pay their fair share, leaving an unfair

playing field for honest business people. Local business suffers when workers and their families have no money to spend; and

WHEREAS, communities suffer when working families are forced to rely on public assistance or charities to survive or are forced to leave their homes to seek other work because of unpaid wages; and

WHEREAS, most wage and hour disputes brought in Louisiana are resolved through private litigation, where only twenty-five percent of wages are actually collected; and

WHEREAS, the option of filing liens has been available for construction workers, mechanics, and other tradespeople with success over a long period of time; and

WHEREAS, construction liens filed for wages owed by contractors consistently result in a more successful rate of recovery than private litigation; and

WHEREAS, despite statutes governing the treatment of workers' pay dating back to 1920, the current law in Louisiana anticipates litigation but offers no non-litigation remedy for unpaid wages outside of the construction lien; and

WHEREAS, the option of filing a lien for wages would create an alternative to litigation and could reduce the cost of litigation for Louisiana businesses.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study all options, specifically lien rights, and make specific recommendations for legislation to provide an effective remedy for unpaid wages that will be an efficient tool to obtain wrongfully withheld wages without requiring expensive litigation, and that such legislation clearly establish that violations of workplace laws are against the public policy of the state.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the director of the Louisiana State Law Institute and that the Louisiana State Law Institute report its findings and recommendations in the form of specific proposed legislation to the Legislature of Louisiana on or before January 1, 2014.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE