

Winning Wage Justice: Round-Up of Recent State and Local Activity to Combat Wage Theft

In January 2011, NELP released “[Winning Wage Justice](#)”, a comprehensive guide compiling 28 leading state and city policies that community groups can implement to fight wage theft. The guide included best practices and model policies along with stories of successful campaigns throughout the country. Momentum keeps growing to fight wage theft. The following round-up describes recent legislative successes at the state and local levels and ongoing efforts to win wage justice for workers.

Recent state-level wage justice victories

California (2011) – California’s [Wage Theft Prevention Act](#) (AB 469), an omnibus bill signed into law in October 2011, requires employers to provide workers at the time of hire with a written disclosure of basic terms of employment, including the rate of pay, the pay day, and the name and address of the employer; requires employers to notify workers in writing when these terms are changed; requires employers to keep paystub records for three years; strengthens misdemeanor criminal penalties for employers who willfully fail to pay wages due within 90 days after a final judgment or order has been entered; allows a worker to recover attorney’s fees to enforce a court judgment for unpaid wages; and strengthens existing wage bond requirements which apply to employers convicted of labor law violations. The California Rural Legal Assistance Foundation (CRLAF) and the State Labor Federation led the effort to enact this law. A related amendment to California Labor Law, [AB 240](#), authorizes the Labor Commissioner to recover liquidated damages equal to unpaid wages owed for an employee who brings a complaint under the state’s administrative process for failure to pay minimum wage (to mirror the liquidated damages an employee can recover in a private lawsuit). And [AB 243](#), signed into law in October 2011, requires farm labor contractors to disclose on workers’ pay stubs the name and address of the legal entity that secured the farm labor contractor’s services. CRLAF sponsored these two bills and led the effort to pass them.

Texas (2011) – An [amendment](#) to the state’s penal code fixes a loophole that previously existed in the criminal “theft of service” law. Before the amendment, an employer could avoid a criminal charge of

theft of services by paying a portion of the wages owed to its workers. The amendment closes this loophole, providing for criminal penalties where employers fail to make “full” payment after receiving services. The Workers’ Defense Project in Austin, Texas led the coalition effort to enact this law.

Washington (2010) – A new law mandates that the State Department of Labor and Industries investigate claims within 60 days of complaint filing (with some provisions to extend the time), ensures that successor employers will be liable for failure to pay wages, creates increased penalties for repeat violations and allows the Department to require wage bonds of businesses that habitually fail to pay the wages owed to their workers. A coalition including CASA Latina, the Washington State Labor Council AFL-CIO, attorneys from Columbia Legal Services and NELP were involved in this effort.

New York (2010) – The Wage Theft Prevention Act increases damages for workers to 100% of unpaid wages owed, in addition to unpaid wages (“double damages”). It also enhances anti-retaliation protections for workers who speak up about wage violations; requires written notice to employees regarding their wages, including their rates of pay, designated pay day, and any allowances (like meal and lodging) an employer claims; and adds tools for the state Department of Labor and for the courts to deter wage abuse, including requiring bonds to ensure that an employer will pay wages in the future. Make the Road New York and other community organizations, labor unions, and small businesses were involved in this effort.

New York (2010) – The Domestic Workers Bill of Rights raises the overtime rate to 1½ times the regular rate of pay for some groups of domestic workers who were previously only entitled to 1½ times the state minimum wage, requires that domestic workers receive one day of rest per week (or if agreed to, overtime for that day’s work), requires that employers provide three paid days off after one year of work for the same employer, and provides protections against racial and sexual harassment. Domestic Workers United spearheaded the six year campaign to pass this law.

Illinois (2010) – Amendments to the Illinois Wage Payment and Collections Act made significant changes to this law including: broadening the term “employer” to include individuals; establishing a new small claims division in the state Department of Labor to oversee and rapidly process claims of \$3,000 or less; increasing criminal penalties, especially for repeat violators; expanding anti-retaliation protections to include workers who complain about their working conditions to community organizations or at public hearings in addition to those who raise complaints with their employer or the state Department of Labor; and providing for attorneys’ fees. The IL Just Pay for All Coalition, a coalition of labor, faith-based and community organizations, led this campaign.

Maryland (2010) – Two amendments to the Maryland Wage Payment and Collection Law strengthen the law by (1) creating a new administrative process by which claims under \$3000 can be filed with the Commissioner of Labor and Industry and (2) expanding the statutory definition of wages to include overtime wages. This second amendment ensures that a worker’s right to treble damages (unpaid wages

owed plus twice the unpaid wages owed as liquidated damages) applies to both regular wage and to overtime wage claims. Public Justice Center in Baltimore, Maryland led this effort.

Recent city- and county-level wage justice victories

San Francisco, CA (2011) – Enacted in September 2011, this [city ordinance](#) amends San Francisco’s minimum wage law to increase fines against employers who retaliate against their workers, establish penalties for employers who do not post proper notices or fail to comply with settlement agreements, allow the city enforcement agency access to inspect an employer’s books and records and interview employees, require the city to resolve worker complaints or initiate enforcement action within one year, and impose penalties for failure to provide written notice of an employer’s name, address and telephone number to employees. The Progressive Workers Alliance, a broad based coalition of worker rights and community organizations, spearheaded the city campaign.

Seattle, WA (2011) – [Amendments](#) to two sections of Seattle’s municipal code (1) clarifies that failure to pay wages owed constitutes theft under the city’s criminal code and (2) provides that the Director of Finance and Administrative Services can refuse to issue or revoke a business license if the applicant/licensee is convicted of wage theft, or has not paid a judgment rendered either by a court or a citation issued by the Department of Labor & Industries within 30 days. CASA Latina, a progressive community organization, led the campaign.

Fayetteville, AR (2010) – In late 2010, the mayor of Fayetteville, Arkansas [issued a proclamation](#) condemning wage theft, and the city passed an [ordinance](#) allowing for the revocation of business licenses for any violation of federal, state or local law, subject to a due process hearing and appeal to the city council. Northwest Arkansas Workers’ Justice Center was involved in this effort and is continuing to work with the city on other initiatives to fight wage theft.

Miami-Dade County, FL (2010) – [This ordinance](#) creates a county-level administrative process for workers to file unpaid wage claims of \$60 or more, and entitles workers to collect three times the wages owed to them (the amount of wages owed plus an additional amount equal to twice their unpaid wages). In its first year, [more than 660 claims](#) were processed under the ordinance, with workers recovering nearly [\\$700,000 in damages](#). The South Florida Wage Theft Taskforce – a coalition of union, immigrant, faith, women’s and legal services organizations – spearheaded this campaign. The Florida Retail Federation attempted, but failed to pass state [legislation](#) that would have preempted Miami-Dade County’s ordinance. The Federation also has a pending lawsuit in state court challenging the ordinance.

Ongoing city and state efforts to pass anti-wage theft policies

Rhode Island –Fuerza Laboral in Central Falls, Rhode Island, is currently leading an effort to strengthen wage enforcement on the state level. Under [H-5762](#), employers violating state labor law by failing to pay workers would have to pay the employee double the wages owed, or triple the wages owed for subsequent offenses that occur within five years of the first offense. Under [H-5763](#), employers would be found guilty of a felony for larceny if they fail to pay wages and fines within 14 days of an order issued by the Department of Labor and Training. Each day of failing to pay wages would constitute a separate offense under this bill.

Connecticut – Connecticut Legal Services, along with local labor organizations, supported [SB 798](#) in the 2011 legislative session which would have made double damages (wages owed plus an additional amount equal to wages owed as liquidated damages) mandatory in civil actions to collect unpaid wages.

Iowa – [Legislation](#) introduced by State Senator Joe Bolkcom in 2011 would require employers to obtain advance written authorization from workers for allowable deductions and to notify employees whose wages are determined on a task, piece, mile or load basis about the method used to calculate wages; raise a rebuttable presumption that failure to keep required payroll records indicates that the employer did not pay the required minimum wage; and enhance protections against retaliation.

New Jersey – The [Wage Protection Act](#), a bill introduced by Assemblywoman Annette Quijano in 2011, would provide procedures for filing a complaint in municipal court for nonpayment of wages, entitle workers to recover double damages for nonpayment of wages (unpaid wages owed plus an equal amount as liquidated damages), create additional monetary penalties for nonpayment of wages, and impose criminal sanctions against employers who retaliate against workers who file complaints. The bill is in part inspired by a recent [report](#) released by the Immigrants' Rights/ International Human Rights Clinic at Seton Hall Law School on wage theft in the day laborer community.

North Carolina – Representative Rick Glazier introduced a [bill](#) in the 2011 legislative session that would increase damages for nonpayment of wages from double to triple the wages owed, require employers to notify their workers at the time of hire the full name, address and telephone number of each employer, and increase penalties for failure to provide such notification.

Palm Beach County, FL – The South Florida Wage Theft Taskforce is working on a county ordinance similar to the one passed in Miami-Dade County in 2010. The County Commission has postponed further hearings on the ordinance until the preemption challenge against the Miami-Dade County ordinance is resolved.

Oregon – The Oregon Coalition to Stop Wage Theft, which includes unions, faith groups and community organizations, supported a number of bills in 2011 to strengthen wage theft protections. These include a bill that would authorize creation of a priority lien on an employer’s property for unpaid wages under certain circumstances in order to enhance the ability of workers to collect unpaid wages, and a bill that would require day labor service agencies to register with the state; provide their workers with a written statement at each pay period itemizing total wages, the basis of calculation of the wages, the amount and purpose of each deduction; provide their workers with a written description of the work to be performed, the exact address of the work site, and any necessary special attire, accessories, tools, and safety equipment at no cost ; and prohibit employers from retaliating against day laborers, among other provisions.

- **In addition to this summary, we encourage you to visit Interfaith Worker Justice and the National Consumer League Wage Theft Project for their excellent tracking of ongoing wage theft campaigns and legislation.**
- **For more information on these anti-wage theft initiatives, and for questions concerning anti-wage theft campaigns in your city or state, please contact any of the following NELP staff: Rebecca Smith (rsmith@nelp.org); Cathy Ruckelshaus (cruckelshaus@nelp.org); Haeyoung Yoon (hyoon@nelp.org); Sarah Leberstein (sleberstein@nelp.org); Tsedeye Gebreselassie (tsedeye@nelp.org); and Eunice Cho (echo@nelp.org).**