

FACT SHEET



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Allow DOLI to investigate non-payment of wages

LIS Bill Summary: Authorizes the Commissioner of Labor and Industry, if he acquires information during an investigation of a complaint of an employer's failure or refusal to pay wages that creates a reasonable belief that other employees of the same employer may not have been paid wages, to investigate whether the employer has failed or refused to make a required payment of wages to other employees. The measure also provides that if the Commissioner finds in the course of such investigation that the employer has committed a violation, the Commissioner may institute proceedings on behalf of any employee against his employer. In such proceedings, the Commissioner is not required to have obtained a written complaint of the violation or the written and signed consent of any employee.

Problem: Under current law, if an employer is cheating 100 workers, but only one files a complaint, the Department of Labor and Industry (DOLI) can only investigate that one worker's complaint.

Policy solution: Under the Payment of Wages Act, DOLI should have the ability to review all the payroll records if there is good reason to believe that multiple workers are being underpaid.

Benefits: This is good and efficient government. Investigating on behalf of all workers:

- **Produces efficient government enforcement** – When a DOLI investigator is looking into a complaint and has reason to believe that others are also being underpaid, it makes sense and is an efficient use of resources to allow the investigator to investigate for others.
- **Ensures that more workers get their legally owed wages.** – If an employer is underpaying one worker,

it is reasonably likely that other workers, especially those in similar job categories, are also being underpaid.

- **Creates a stronger deterrent against wage theft** – If an employer routinely underpays workers and only must pay back wage when one or two individuals file complaints, non-payment of wages can become a “good” business model for an employer. To create meaningful deterrence against wage theft, widespread non-payment should have significant consequences.
- **Levels the playing field for responsible businesses** – Good businesses are placed at a competitive disadvantage when their competitors don't pay their workers their legally-owed wages. Making sure that all workers are paid legally will help level the playing field.

Federal wage law allows investigations. The Fair Labor Standards Act, the federal law that regulates minimum wage, overtime and child labor, allows federal wage investigators to investigate and recover for all workers when complaints from individuals are pursued. Other Virginia laws allow investigators to investigate for all workers

- The **Virginia Employment Commission** can investigate on behalf of all workers.
- DOLI can investigate on behalf of all workers under the **Virginia Occupational Safety and Health Act (VOSH)**.
- The **Workers Compensation Commission** can investigate on behalf of all workers.