

HOUSE BILL No. 2304

By Committee on Business, Commerce and Labor

2-5

AN ACT concerning the wage payment act; relating to the enforcement thereof; amending K.S.A. 44-324 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 44-324 is hereby amended to read as follows: 44-324. (a) Any proceeding by one or more employees to assert any claim arising under ~~or pursuant to~~ this act may be brought *either as a petition in any court of competent jurisdiction, or as a claim for wages before the secretary pursuant to K.S.A. 44-322a, and amendments thereto.*

(b) ~~Whenever~~ *If a claim for wages is brought before the secretary, and the secretary determines under K.S.A. 44-322a and amendments thereto that an employee the claimant has a valid claim for unpaid wages and determines that the amount of the claim is less than \$10,000, the secretary, upon the written request of the employee, shall take an assignment of the claim in trust for such employee and shall take action appropriate to enforce or defend such claim claimant for collection purposes, if the claimant files a written request with the secretary for assistance to collect the amount found due. The secretary may not solicit or accept any assignment of a wage claim for collection until the agency order has become final and all rights to appeal have been exhausted pursuant to K.S.A. 77-501 et seq. and 77-601 et seq., and amendments thereto. Whenever the secretary determines under K.S.A. 44-322a and amendments thereto that an employee has a valid claim for unpaid wages and determines that the amount of the claim is equal to or greater than \$10,000, the secretary, upon the written request of the employee, may take an assignment of the claim in trust for such employee and if the assessment is taken, shall take action appropriate to enforce or defend such claim.*

(c) With the written consent of the assignor, the secretary may settle or adjust any claim assigned *to the secretary* pursuant to this subsection. ~~Whenever the secretary takes an assignment of a claim in trust for an employee under this section, the secretary shall charge and collect a fee therefor which fee shall be fixed by rules and regulations adopted by the secretary. The fee fixed by rules and regulations shall be in an amount of not more than \$25 per claim assigned under this section. If the secretary determines that the claim is uncollectible, that the claim cannot be col-~~

1 *lected at reasonable cost with the resources available or that the claimant*
2 *is not cooperating in reasonable efforts to settle the claim, the secretary*
3 *shall cease collection efforts and shall assign the claim back to the*
4 *claimant.*

5 ~~(c)~~ (d) *If during the course of collections, the secretary prevails on*
6 ~~behalf of the employee finds it necessary to obtain and enforce a judgment~~
7 *against the employer in the district court, the court shall award a judg-*
8 ~~ment to the agency in an amount equal to the cost of reasonable attorney~~
9 ~~fees for such action to the secretary and shall tax the same against the~~
10 *employer as a cost of the action.*

11 ~~(d)~~ (e) *There is hereby created the wage claims assignment fee en-*
12 *forcement fund. The secretary shall remit all moneys received by the*
13 *secretary for assignment and attorney fees charged and collected under*
14 *this section to the state treasurer at least monthly. Upon receipt of each*
15 *such remittance, the state treasurer shall deposit the entire amount*
16 *thereof in the state treasury. Twenty percent of each such deposit shall*
17 *be credited to the state general fund and the balance shall be credited to*
18 *the wage claims assignment fee enforcement fund. All expenditures from*
19 *the wage claims assignment fee enforcement fund shall be made in ac-*
20 *cordance with appropriation acts upon warrants of the director of ac-*
21 *counts and reports issued pursuant to vouchers approved by the secretary*
22 *or by a person or persons designated by the secretary.*

23 *Sec. 2. K.S.A. 44-324 is hereby repealed.*

24 *Sec. 3. This act shall take effect and be in force from and after its*
25 *publication in the statute book.*

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