

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 796

By: Johnson (Constance)

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6 AS INTRODUCED

7 An Act relating to labor; amending 40 O.S. 2001,
8 Section 165.7, which relates to wage claims;
9 requiring administrative proceedings to comply with
10 Administrative Procedures Act; allowing Commissioner
11 of Labor to hear complaints and wage claims;
12 modifying language; providing rules for notice and
13 hearings; restricting employer disclosure of certain
14 information; providing certain exceptions; providing
15 for codification; and declaring an emergency.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 40 O.S. 2001, Section 165.7, is
18 amended to read as follows:

19 Section 165.7 A. The Commissioner of Labor shall enforce and
20 administer the provisions of Section 165.1 et seq. of this act and
21 in title. In any case where a civil action may be brought for the
22 collection of a wage claim, the Commissioner of Labor may provide
23 for an administrative proceeding to determine the validity and
24 enforce collection of the wage claim. ~~The~~ Every administrative
proceeding on a complaint or wage claim shall be conducted according
to the Administrative Procedures Act.

1 B. In any case when the Commissioner has received a ~~wage~~
2 complaint pursuant to Section 165.1 et seq. of this title, the
3 Commissioner may seek resolution of the complaint and collection of
4 ~~such~~ any wage claim through administrative proceedings in a manner
5 provided in this section. The Commissioner may join in a single
6 administrative proceeding any number of complaints and wage claims
7 against the same employer. The Commissioner shall serve upon the
8 employer for each wage claim an order of determination directing the
9 employer to pay to the Commissioner the amount of the wage claim and
10 any penalty amounts. Service of a wage claim order shall be made by
11 regular mail to the employer's last-known address. The order of
12 wage claim determination shall include:

13 1. A reference to the particular sections of the statutes or
14 rules involved;

15 2. A short and concise statement of the basis for the amounts
16 determined to be owed to each wage claimant;

17 3. A statement that the employer within twenty (20) days after
18 receipt of the order of determination must pay in full the wage
19 claim and any penalties assessed on appeal to district court; and

20 4. A statement that unless a written request for
21 reconsideration is received by the Commissioner or the order is
22 appealed to district court within the time specified, the order of
23 determination shall become final.

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1 C. Upon failure of the employer to pay the amount specified in
2 the order of wage claim determination or to request reconsideration
3 or appeal to district court, the order of wage claim determination
4 shall become final.

5 D. A hearing shall be held in accordance with the applicable
6 provisions of the Administrative Procedures Act by the Commissioner
7 or the Commissioner's designee. The Commissioner shall adopt rules
8 for ~~such hearing~~ notice and hearings. In any hearing before the
9 Commissioner's designee, the designee is authorized to issue the
10 final order in the case.

11 E. Final administrative orders issued in a ~~wage~~ wage complaint or
12 wage claim proceeding are subject to appeal pursuant to the
13 Administrative Procedures Act.

14 F. When an order under this section becomes final by operation
15 of law or an appeal, and the amount of wages due is not paid within
16 twenty (20) days after the order of wage claim becomes final, the
17 order may be recorded with the county clerk in any county of this
18 state. The clerk shall thereupon record the name of the person
19 incurring the penalty and the amount of the penalty in the county
20 clerk's lien record. The order may be collected as any other money
21 judgment.

22 G. The remedies provided by ~~Sections~~ Section 165.1 ~~through~~
23 ~~165.11~~ et seq. of this title shall be additional to and not in
24 substitution for and in no manner impair other remedies allowed by

1 law. Additionally, one or more individuals who are aggrieved by
2 violation of any provision of Sections 165.1 ~~through 165.11~~ et seq.
3 of this title shall be entitled to bring an action in his or ~~their~~
4 her own name to enforce the provisions of such sections.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 165.5a of Title 40, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Without the written consent of a current or former employee,
9 no employer shall disclose information about the current or former
10 employee which is deemed confidential by state or federal law or
11 relates to wages, benefits, gender or personal identifying or
12 personal contact information, or is personal information relating to
13 such person's relatives or dependents.

14 B. Notwithstanding the provisions of subsection A of this
15 section, an employer may disclose information about a current or
16 former employee's job performance and wages as provided in Section
17 61 of Title 40 of the Oklahoma Statutes and upon request by the
18 Commission for purposes of an administrative hearing provided in
19 Section 1 of this act.

20 C. The provisions of this section shall not apply to:

- 21 1. A court order directing disclosure of specific information;
22 2. Information required for law enforcement investigation and
23 enforcement purposes;

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1 3. Information required in the normal course of business for
2 administration of wage or benefit transactions or licensure;

3 4. Information shared between the employer or its agents
4 directly and the current or former employee; and

5 5. Information disclosed by the employer or its agent for
6 emergency purposes to a law enforcement officer, medical personnel
7 or to the current or former employee's designated emergency contact
8 person.

9 SECTION 3. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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