

## BILL ANALYSIS

Senate Research Center

C.S.S.B. 777

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State Affairs

3-23-97

Committee Report (Substituted)

### **DIGEST**

Currently, Texas law prohibits certain deductions by an employer from an employee's wages if such deductions are not specifically authorized by the employee in writing, unless the deductions are for payroll taxes or made as the result of a court order. This bill would authorize an employer to deduct from an employee's wages money that corresponds to proceeds of misappropriation by an employee, wage and salary overpayments, loans, and wage and salary advancements without having to obtain a written authorization for the deduction from the employee.

### **PURPOSE**

As proposed, C.S.S.B. 777 authorizes an employer to deduct from an employee's wages certain expenses to reimburse the employer.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 61.018, Labor Code, to prohibit an employer from withholding or diverting any part of an employee's wages unless the employer, among other options, is authorized to do so for reimbursement under Section 61.0185. Makes conforming changes.

SECTION 2. Amends Chapter 61B, Labor Code, by adding Section 61.0185, as follows:

Sec. 61.0185. WAGE DEDUCTIONS TO REIMBURSE EMPLOYER. (a) Authorizes an employer, notwithstanding Section 42.001(b)(1), Property Code, to withhold from any part of an employee's wages without written authorization from the employee a sum of money equal to the amount necessary to reimburse the employer for misappropriation by the employee in which the employee obtained money from the employer without authorization; the overpayment of wages or another form of pay to the employee regardless of the reason for the overpayment; a loan made by the employer to the employee; a wage advance from the employer to the employee; or the reasonable cost to the employer of any benefit received or obtained by the employee from the employer that the employee failed to authorize the employer in writing to deduct from the employee's wages.

(b) Requires an employer, in order to withhold wages under Subsection (a), to show that a deduction from wages is permitted by providing evidence, including written documentation or, if the deduction is for a misappropriation under Subsection (a)(1), a written acknowledgment from the employee that the employee obtained the money without authorization; audio or video recordings; or testimony given under oath by an eyewitness to the circumstances under which the employee obtained the funds in question.

(c) Requires a deduction from wages to reimburse an employer for a loan or wage advance to be permitted according to the terms of any agreement between the employer and employee regarding repayment of the loan or advance. Requires a loan for which the repayment period exceeds one year to be evidenced by a written repayment agreement signed by the employee or a person legally authorized to sign for the employee.

(d) Authorizes an employer to deduct from an employee's final paycheck the amount of the loan or advance that is unpaid on the employee's separation date unless a written agreement provides otherwise.

(e) Requires an employer making a deduction from wages under this section to provide written notice to the employee of the reason for each deduction. Requires the notice to be delivered to the employee by the scheduled payday for the wages from which the deduction is to be made.

(f) Provides that an employer that makes a deduction from wages that is not in accordance with the requirements of this section or Section 61.018 is subject to an administrative penalty under Section 61.053.

(g) Defines "benefit."

**SECTION 3.** Effective date: September 1, 1997.  
Makes application of this Act prospective.

**SECTION 4.** Emergency clause.

#### **SUMMARY OF COMMITTEE CHANGES**

**SECTION 2.**

Amends Section 61.0185(a), Labor Code, to add proposed text in regard to Section 42.001(b)(1), Property Code. Revises proposed list of reimbursements to delete text referencing theft and embezzlement and to add reimbursement without authorization for certain benefits. Amends Section 61.0185(b), Labor Code, to propose that an employer is required, rather than authorized, to show that a deduction for wages is permitted by providing certain evidence. Revises certain evidence the employer is required to show. Amends Section 61.0185, Labor Code, to add proposed Subsections (e)-(g).

**SECTION 3.**

Deletes proposed Section 61.0186, Labor Code, relating to the implied authorization to deduct for certain benefits. The effective date and application clause, formerly SECTION 4, are now set forth in SECTION 3. The emergency clause is redesignated as SECTION 4, rather than SECTION 5.