



Minnesota Association of Townships

Feeling Harassed: Wage Theft

1 **Feeling Harassed: Wage Theft**

2020 Spring Short Courses – Clerks & Treasurers
Steve M. Fenske

2 **A Matter of Trust**

- Lower wage workers, the young, immigrant, disabled, and other disadvantaged workers experienced more difficulty in getting paid for their work
- Employers failed to pay timely; withheld wages; changed wage rates, deductions, and allowances without notice; alleged overpayments or penalties; kept poor records; retaliated against workers for asserting their rights
- Law enforcement options were limited
- Legislators: Everyone is entitled to know what they will earn, what can be deducted, a clear earnings statement, and timely payment.

3 **Adding to the Existing Law Overview of the New Parts**

1. Start of Employment Written Notices & Change Notices

2. Wage Payment & Earnings Statement added Information

3. Record Keeping

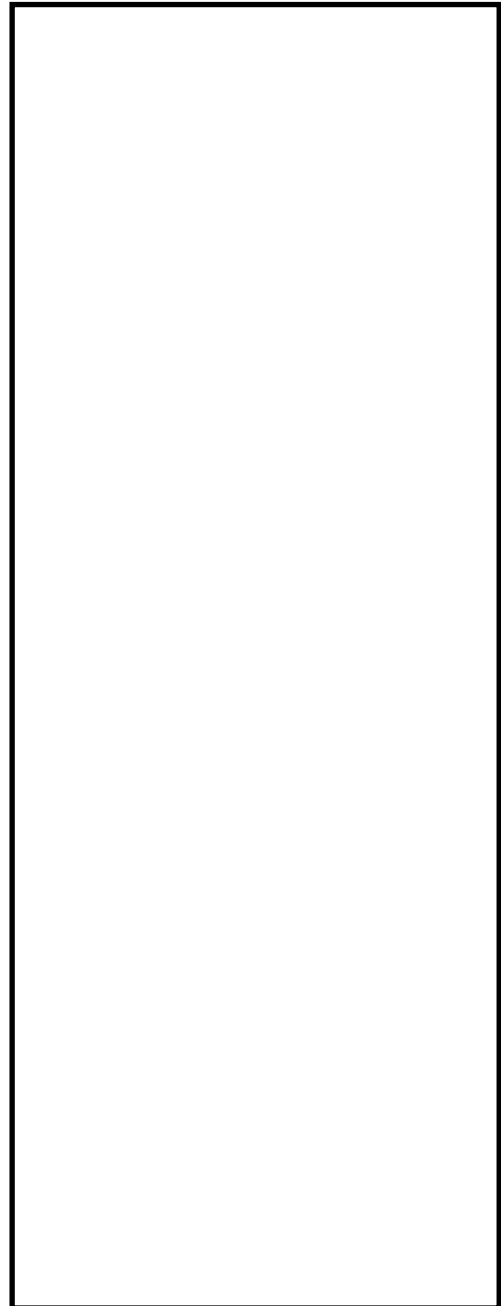
4. No Retaliation

5. Contractors

6. Enforcement

7. Criminal Penalties

*** Bold Items are Township Tasks – Action Items ***



4 **Start of Employment & Change Notices**

- Dept of Labor & Industry Sample Notice (Included in your materials)
 - All New Employees
 - All existing employees with a change of any circumstance subject to the notice
 - Must be Signed by Employee
- Rate of Pay: basis of pay. Hourly; weekly; shift; salary
 - Exempt or non-exempt from FLSA
 - Very unusual to have Salaried employees
- Pay Period: every 15 days; weekly; once per month
- Allowances: meals; lodging;
- Vacation or time-off
- Deductions
- Employer Name, Address, Phone

5 **Wage Payment**

- Pay wages on time, in the amounts pre-arranged
- On the Regular Paydays
- 31 Day Payment Requirement
 - No Meeting needed - May use Payroll Exception in Minn. Stat. 471.38, subd. 2

6 **Who is an Employee?**

- Safe Answer: Everyone except elected officials, volunteers, and contractors
- Reason to question safe answer
- At least for now, these are employees:
 - Election Judges
 - Hourly or Salaries Employees
 - Appointed Clerks and Treasurers
 - Employees not eligible for PERA

7 **Record Keeping**

- Name, addresses, and occupation of every employee
- Rate of pay, and amount paid each pay period
- Hours worked each day and week
- List of employment policies given to the employees
- Copy of the New hire and change notices
- Three-year retention period
 - \$1000 fine for each failure to maintain; \$5000 for repeated failures

8 **Earnings Statements
In Writing**

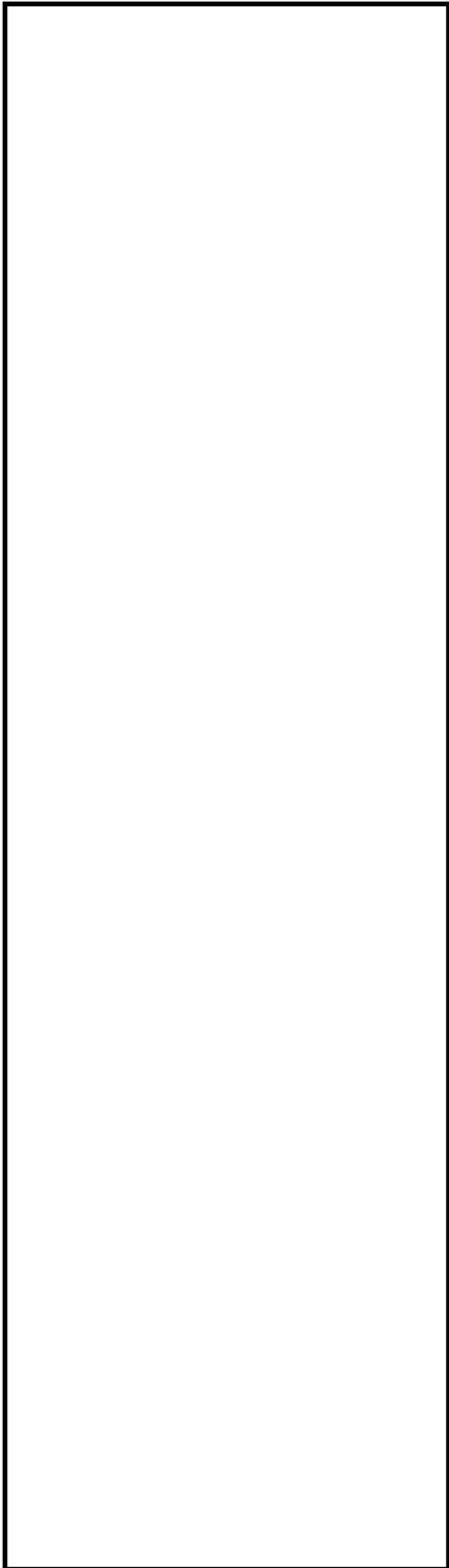
- Employee's Name
- Rate of pay
- Allowances
- Hours worked, unless exempt from ch 177
- Gross pay that pay period
- Deductions
- Net pay after deductions
- Pay period end
- Employer's Name, Address, Phone number

9 **Penalties**

- Employer Civil Penalty: Up to \$5000 against Employer for each violation or repeat
- Crime: Wage theft occurs when the employer, with intent to defraud:
 - (1) fails to pay an employee all wages, at the rate agreed to or required;
 - (2) directly or indirectly causes any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services;
 - (3) directly or indirectly demands or receives from an employee any rebate or refund from the wages owed the employee;
 - (4) Makes or attempts to make it appear in any way that wages paid to an employee were greater than the amount actually paid.

10 **More Penalties**

- Imprisonment for not more than 20 years, payment of a fine of not more than \$100,000 or both if the value of the wages stolen is more than \$35,000.
- Imprisonment for not more than 10 years, payment of a fine of not more than \$20,000 or both if the value of the wages stolen exceeds \$5,000. ■ Imprisonment for not more than five years, payment of a fine of not more than \$10,000 or both if the value of wages stolen is more than \$1,000 but not more than \$5,000.
- Imprisonment for not more than one year, payment of a fine of not more than \$3,000 or both if the value of the property or services stolen is more than \$500 but not more than \$1,000.
- Value of wages stolen may be aggregated over 6 month period



Employee notice

1. Employee:	Address:		
Phone number:	Email address:		
Date employment began:			
2. Legal name of employer:	Main office/principal place of business address:		
Phone number:	Email address:		
Operating name of employer (if different):			
Mailing address (if different):			
3. Employment status (exempt or non-exempt):			
<input type="checkbox"/> Employee is exempt from: <input type="checkbox"/> minimum wage <input type="checkbox"/> overtime <input type="checkbox"/> other provisions of Minnesota Statutes 177			
Legal basis for exemption:			
<input type="checkbox"/> Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)			
4. Rate or rates of pay			
Paid by: Hour <input type="checkbox"/> Shift <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Salary <input type="checkbox"/> Piece <input type="checkbox"/> Commission <input type="checkbox"/> Other method <input type="checkbox"/>			
Overtime is owed after: _____ hours			
Allowances claimed:			
\$ _____ per meal for meal allowance (max = 60% of one hour of adult minimum wage per meal)			
\$ _____ per day for lodging allowance (max = 75% of one hour of adult minimum wage per day) (or fair market value)			
5. Leave benefits available:			
<input type="checkbox"/> Sick leave <input type="checkbox"/> Paid vacation <input type="checkbox"/> Other paid time off			
How benefits are accrued: Number of hours _____ or days _____			
per <input type="checkbox"/> year <input type="checkbox"/> month <input type="checkbox"/> per pay period <input type="checkbox"/> per hours worked			
Terms of use:			
6. Deductions that may be made from employee's pay and amounts:			
7. Number of days in the pay period: _____ Regularly scheduled payday: _____			
Date employee will receive first payment of wages earned: _____			
8. Other information relevant to this position:			
I, the employee, have received a copy of this notice: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Employer signature	Date	Employee signature	Date