

SENATE, No. 131

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 12, 1934

By Mr. RICHARDS

Referred to Committee on Judiciary

AN ACT to establish a wage collection division in the Department of Labor of the State of New Jersey, giving it power to hear and determine controversies pertaining to wages, and to enter judgment, and prescribing its jurisdiction and procedure.

1 BE IT ENACTED by the Senate and General Assembly of the State of New
2 Jersey:

1 1. An "employee" when used in this act shall be any natural person
2 who works for another for hire.

3 An "employer" when used in this act shall be any person, partnership,
4 firm or corporation, employing another for hire.

5 The term "wages" when used in this act shall mean any moneys due
6 an employee from the employer or employers whether to be paid by the hour,
7 day, week, semimonthly, monthly or yearly and shall include commissions,
8 bonus or piece work.

9 The "Commissioner of Labor" when used in this act shall mean the
10 Commissioner of Labor himself or any person or persons in the Department
11 of Labor he may designate in writing for the purposes of this act.

1 2. The Commissioner of Labor is hereby authorized and empowered to
2 investigate any claim for wages due an employee and he may in said investi-
3 gation summon the defendant or defendants, subpoena witnesses, administer
4 oaths, take testimony and shall upon said hearing make a decision or award
5 on his findings where the sum in controversy is, exclusive of costs, not over
6 two hundred dollars (\$200.00).

7 The said decision or award of the Commissioner of Labor shall be a
8 judgment when a certified copy of said decision or award is filed with the
9 court of common pleas in the county where the defendant resides.

10 Said judgment shall be entered in the same manner and have the same
11 effect and be subject to the same proceedings as are judgments rendered in
12 suits duly heard and determined by the courts of competent jurisdiction.

1 3. Any employee may file a written claim for wages against an employer
2 in the wage collection division of the Department of Labor, State of New
3 Jersey, which written claim shall be entered in a book to be called the wage
4 collection docket of the wage collection division of the Department of Labor
5 of New Jersey.

6 Upon the filing of said claim, the Department of Labor, State of New
7 Jersey, shall issue a summons returnable between the hours of nine o'clock
8 in the forenoon and three o'clock in the afternoon, both inclusive, which shall
9 also specify a certain time and place for the appearance of the defendant,
10 not less than five nor more than fifteen days from the date of such process,
11 which summons shall be served at least five days before the time of appear-
12 ance mentioned therein, by reading the same to the defendant and delivering
13 to him a copy thereof if he shall be found and if not found by leaving a copy
14 thereof in his house or upon some other person of his family over the age of
15 fourteen years, such persons being served with said summons and complaint
16 shall be informed of the contents thereof and the person serving said sum-
17 mons shall endorse thereon a return of the time and manner he executed
18 the same, and sign his name thereon. At the time and place specified in the
19 summons, the Commissioner of Labor shall inquire in a summary way into
20 the merits of the employee's claim and defenses of the defendant, if any.

1 4. Process of the wage collection division of the Department of Labor of
2 New Jersey shall run throughout the State of New Jersey. Service of proc-
3 ess shall be made either by a constable or a process server of the Depart-
4 ment of Labor.

1 5. The Commissioner of Labor shall have power to administer oaths,
2 hear testimony and take or cause to be taken depositions of witnesses resid-

ing in or without the State. The summonses, subpoenas, and/or orders to take testimony and for production of documents, emanating from the wage collection division of the Department of Labor, State of New Jersey, shall issue in the name of the Commissioner of Labor, and under the seal of the Department of Labor, State of New Jersey.

6. If the defendant files a setoff against the plaintiff for more than two hundred dollars (\$200.00) and at the trial it shall be proved that the balance exceeding two hundred dollars (\$200.00) is due the defendant then suit shall be dismissed unless the defendant consents to accept judgment for two hundred dollars (\$200.00) and costs in full settlement of this claim, but in no event shall a counter claim for unliquidated damages be set up against plaintiff for wages in the wage collection division of the Department of Labor.

7. From any judgment which may be obtained in the wage collection division of the Department of Labor of New Jersey, except such as shall be given by confession, either party may, upon filing a notice of appeal with the wage collection division of the State of New Jersey, Department of Labor, within twenty days after judgment shall be given, appeal to the court of common pleas of the county, which appeal the said wage collection division of the Department of Labor of New Jersey is hereby directed to grant upon the following and no other terms: One sufficient security, either being a freeholder in the county or a surety company authorized to do business in New Jersey, and in double the amount of such judgment or offset, conditioned that the appellant shall appear and prosecute the said appeal in said court of common pleas, shall stand to and abide the judgment of the said court, and pay such costs as shall be taxed against him if the judgment be affirmed; if the judgment appealed from be in favor of the appellant, and there be no offset in the action against his demand, then no appeal bond shall be required; the appeal shall be taken by a notice in writing, signed by or in behalf of the appellant, briefly describing the judgment and stating that the party appeals therefrom to the court of common pleas. The wage collection division of the Department of Labor shall then prepare a

20 transcript of the record to be filed in said court of common pleas. Either
21 party may bring on the hearing of the appeal at term time or in vacation
22 upon ten days' notice to the other party or his attorney.

1 8. The courts of common pleas shall hear and determine all such ap-
2 peals without a jury in a summary way and give judgment and award execu-
3 tion thereon with costs, either on the affirmance or reversal of the judgment
4 so appealed.

1 9. Upon the trial of any appeal either party may produce any witness
2 not produced or sworn in the court below, or any documentary evidence not
3 offered or admitted in the court below, if otherwise legal and competent,
4 without notice to the opposite party.

1 10. Nothing in this act shall prevent the claimant from instituting suit
2 for his claim in any court of proper jurisdiction or be construed to deny
3 or limit the right of the plaintiff or defendant to a trial by jury. Where
4 either party should demand a trial by jury he shall pay at least two days
5 before the return date or the adjourned date of hearing of his cause, the
6 statutory jury fee to the wage collection division of the Department of
7 Labor and thereupon the wage collection division of the Department of La-
8 bor shall file the entire record, in said cause, in a district court or a jus-
9 tice's court in counties having no district court, for trial by jury of the
10 issues presented by the claimant and defendant. The jury fee so received
11 shall be paid to the district court or justice's court wherein said cause is
12 to be tried by jury with the judge or acting judge of said court presiding
13 and the verdict of said jury with judgment thereon shall be docketed in the
14 common pleas court as are other judgments of the wage collection division
15 of the Department of Labor of New Jersey.

1 11. No filing fee shall be charged by the wage collection division of the
2 Department of Labor, for accepting a wage claim, and no advance fees shall
3 be charged by constables making service of process on wage claims of the
4 wage collection division of the Department of Labor, nor shall any fee be
5 charged by any county clerk for filing of any award or determination of the
6 wage collection division or sheriff for execution and levy but the collection

7 of any wage claim either by execution or otherwise shall carry taxed costs of
8 service, filing, recording fees, executions, et cetera, in accordance with the
9 table of costs as prescribed by justice's courts. The balance of all monies
10 received by way of taxed costs shall be retained by the wage collection di-
11 vision and at the end of each calendar year shall be paid into the State Treas-
12 ury for the use of the State.

1 12. If any part of this act shall be held to be unconstitutional for any
2 reason, it shall not affect the remainder of this act.

1 13. This act shall take effect immediately.

STATEMENT

The purpose of this act is to render more effective the wage collection work of the Department of Labor, which has been done for nine years. The wage collection division has grown since its inception in 1925, until 1931, when it had 2,805 claims filed, in the aggregate sum of \$183,312.00, of which claims \$29,458.00 has actually been collected. No charge was made for this work to the wage claimants or defendants.

No new machinery in way of personnel is required in this act. The salient features of this act are similar to those in the justices' court act, both as to the limit of jurisdiction and procedure. The Department of Labor, by practical-ly universal demand, has been required to aid wage claimants who are unable to obtain practical redress and the full sum of their wage claims because of the costs and delay of other methods of procedure.

Even where other methods operate they are too frequently ineffective against judgment proof employers, against whom the only force is the Compulsory Wage Payment Act administered by the Commissioner of Labor. It is felt much good will follow, and the penalty provision of the latter act will become largely unnecessary, if the civil determination is combined as the function of the same agency, that is, the Department of Labor.