



## DID YOU KNOW...??

### *Amendments to the Illinois Wage Payment & Collection Act*

Without so much as a press release or other fanfare, the Illinois Department of Labor has enacted rather significant changes to the Wage Payment & Collection Act. These changes affect all employers in Illinois, including units of local government and school districts, with the only exception being the State and Federal governments.

Key aspects of the amendments include:

- Employers are required to notify employees, in writing, at the time of hire, of the pay rate. Furthermore, employers cannot change an employee's pay rate without first notifying the employee in advance of the change. The employer notice must be presented in writing to the employee, unless it is "impossible to do so."
- Regardless of an employee's status as exempt or non-exempt, employers must keep records of hours worked. The records must include each employee's name, address, hours worked each day in each week, and the employee's rate of pay, and records must be maintained for a three-year period.
- Employers cannot require an employee to accept a payroll card as payment of wages. Employers who utilize direct deposit or payroll cards must also provide employees a choice of payment by cash or check.
- When a paycheck deduction is to continue over a period of time, written employee consent is only needed once, provided that the consent specifies the collection period and the same deduction amount is collected each time.
- The definition of "final wages" now includes expense reimbursement. Therefore, any expenses incurred by an employee that have not been reimbursed prior to the employee's separation date must be included in the employee's final paycheck. The final paycheck must be paid at the time of separation if possible, but no later than the next regularly scheduled payday.
- "Use it or lose it" vacation policies are banned. While the IDOL has always frowned on forfeiture of accrued vacation, those policies now officially violate the law. This means that vacation policies in which employees lose unused vacation at a certain point must be revised to reflect that vacation stops accruing after an employee's unused days reach a certain level.
- The IDOL has codified its intent to aggressively enforce "agreements" between employers and employees, regardless of whether the terms are set forth in a signed contract. The amended regulations broadly define "agreement" and emphasize that "An agreement may be reached by the parties without the formalities and accompanying legal protections of a contract and may be manifested by words or by any other conduct, such as past practice." This language seems to give the IDOL unprecedented power to deem an employee handbook, policy, or "any other conduct, such as past practice," to be an agreement subject to the requirements of the Statute, despite disclaimers to the contrary.

It is clear that this signals a shift to a more aggressive Illinois Department of Labor. Employers are encouraged to take time and review policies and practices to ensure readiness for when the IDOL comes calling or a wage claim is filed.

For more information about this or other employment matters, contact Jennifer Rodriguez at [jrodriguez@culhanemeadows.com](mailto:jrodriguez@culhanemeadows.com).



Jennifer is the Chair of the Labor & Employment Practice Group at Culhane Meadows, PLLC, and is licensed to practice law in both Illinois and Texas. An experienced labor and employment attorney with a diverse Big Law and corporate background, Jennifer has the unique perspective of having been the client. Therefore, she delivers practical solutions to achieve business goals. Jennifer is a tenacious advocate and has successfully partnered with various municipal, state, and federal administrative agencies to achieve excellent results for her clients.