

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2025

COUNCIL BILL NO. 25-0744
COMMITTEE OF

4 REFERENCE:

5 Finance & Governance

6 **A BILL**

7
8 **For an ordinance amending chapter 58 of the Code reconstituting the minimum**
9 **wage special trust fund as the wage trust fund and in connection therewith**
10 **authorizing additional duties for the auditor.**
11

12 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

13 **Section 1.** That chapter 58, article I, division 1 of the Code shall be amended by adding the
14 language underlined, to read as follows:

15 **Sec. 58-7. – Duties of the auditor; dData collection and reporting.**

16 (a) Support to nonprofit organizations. The auditor shall provide support to non-profit
17 organizations who conduct educational campaigns and outreach efforts to workers and employers
18 regarding duties, obligations, and rights under this article or pursuant to state or federal law, and in
19 connection therewith, is authorized to provide funding to be used exclusively for such purposes.

20 (b) Data collection and reporting. The auditor shall track complaints, investigations, and
21 violations of this article, including penalties assessed, during each calendar year, and by March 31
22 of the following year, beginning in 2023 for Denver minimum wage and 2024 for civil wage theft,
23 issue a written report to city council.

24 **Sec. 58-9. – Wage trust fund.**

25 (a) Dedicated revenues. There is hereby created a wage trust fund for the purpose of
26 receiving and accounting for all revenues, including damages and interest, derived from employers
27 and other persons ordered to locate and pay workers under this article.

28 (b) Permitted uses of revenue in wage trust fund. Revenue received in the wage trust fund
29 shall be held in trust and used exclusively to pay claims submitted by workers which have been
30 verified by the auditor.

31 (c) Submission and verification of claims. Any worker who has performed work on behalf
32 of or for the benefit of an employer or any other person subject to enforcement under this article and
33 who has not been located and paid by that employer or other person may submit a claim for payment
34 of any unlawfully withheld wages along with damages and interest authorized under this article. Such
35 claim shall be paid by the auditor if it is submitted within three (3) years from the date of the order to

pay such worker and the claim can be verified by the auditor, as provided in rules and regulations promulgated under this article. The amount of any payment shall only include the portion of wages unlawfully withheld, along with damages and interest, as verified by the auditor.

(d) *Unclaimed funds.* Any funds not claimed within one (1) year shall be remitted to the general fund on the last working day of the month in which the expiration occurs, except as otherwise required by law. The auditor shall maintain a list of all unclaimed payments made by an employer or other person to the fund, which shall be updated each calendar month and shall be available for inspection at the office of the auditor.

Secs. 58-910—58-12. - Reserved.

Section 2. That chapter 58, article 1, division 2 of the Code shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

Sec. 58-16. - Enforcement; ~~minimum wage special trust fund.~~

(a) *Complaint, investigation, and enforcement.* Complaints, investigations, and enforcement of violations under this division shall be conducted as provided in division 1. Penalties under this division shall be in addition to those provided in division 1.

(b) *Non-cumulative remedy.* Where a violation of this division also constitutes a violation of division 3, the auditor may only assess penalties under either this division or division 3, but not both.

(c) *Payment of withheld wages.*

(1) *Payment owed.* The auditor shall order an employer in violation of this division to pay the aggrieved party any wages unlawfully withheld, including amounts that accrued after the filing of a complaint.

(2) *Duty to locate and pay worker.* Withheld wages shall be due to the worker and payable thirty (30) days after notice of an order to pay wages or a final determination. An employer shall make a good faith attempt to locate and pay the worker prior to the thirty (30) day deadline identified herein. Such attempts to locate and pay the worker shall be documented, and if the worker is not located and paid, the employer shall notify the auditor and provide such documentation, together with the any required payment to the ~~special minimum wage fund~~ wage trust fund identified in division 1, no later than fifteen (15) days after the thirty (30) day deadline identified herein.

~~(3) *Special wage theft fund.*~~

~~a. Any employer or other person who is unable to locate a worker pursuant to subsection (c)(2) shall submit to the auditor, for each worker to whom wages are due, a check payable to that worker or to the City of Denver in a manner that is negotiable by either the worker or~~

1 ~~the city. Any check submitted as payment of a penalty for violation of this article shall be negotiated~~
2 ~~by the city and the proceeds deposited in the auditor's unclaimed wage theft special trust fund.~~

3 ~~b. Any valid, verified claim by a worker for payment from the auditor's unclaimed~~
4 ~~minimum wage special trust fund must be made prior to three (3) years after the date of the most~~
5 ~~recent underpayment of wages by employer to the worker to whom such wages were due. After such~~
6 ~~date, the city shall no longer be liable for payment. The city, as trustee, shall pay such claimant only~~
7 ~~the amount of the check concerning such claimant that is actually negotiated pursuant to this section,~~
8 ~~regardless of any dispute as to any additional amount of wages owed to the claimant. No interest~~
9 ~~shall be paid by city on any funds received or disbursed pursuant to this section.~~

10 ~~c. On the last working day of each calendar month, the amount of any claim for~~
11 ~~which the city is no longer liable pursuant to this section shall be credited to the general fund, except~~
12 ~~as otherwise required by law.~~

13 ~~d. The auditor shall maintain a list of all unclaimed, city negotiated wage theft~~
14 ~~checks received. Such list shall be updated monthly and shall be available for inspection at the office~~
15 ~~of the auditor.~~

16 (d) *Penalties.*

17 (2) *Failure to make a good faith effort to locate and pay worker.* The auditor shall issue a
18 penalty of five thousand dollars (\$5,000.00) for each failure to comply with subsection(b)(2)
19 pursuant an order or final determination, if applicable.

21 **Section 3.** That chapter 58, article 1, division 3 of the Code shall be amended by adding the
22 language underlined to read as follows:

23 **Sec. 58-26. - Enforcement.**

24 (c) *Payment of withheld wages.*

25 (1) *Payment owed.* The auditor shall order an employer or other person in violation of this
26 division to pay the worker any wages unlawfully withheld, including amounts that accrued after the
27 filing of a complaint, and interest on unpaid wages at a rate of twelve (12) percent per annum from
28 the date such wages were first due.

29 (2) *Treble damages.* The auditor may order an employer or other person to pay treble
30 damages in an amount equal to three (3) times the amount of unpaid wages and overtime
31 compensation in connection with such withheld wages owed to a worker.

32 (3) *Duty to locate and pay worker.* Withheld wages shall be due to the worker and payable
33 thirty (30) days after notice of an order to pay wages or a final determination, if applicable. An
34 employer or other person shall make a good faith attempt to locate and pay the worker prior to the

1 thirty (30) day deadline identified herein. Such attempts to locate and pay the worker shall be
2 documented, and if the worker is not located and paid, the employer or other person shall notify the
3 auditor and provide such documentation, together with any required payment to the wage trust fund
4 identified in division 1, no later than fifteen (15) days after the thirty (30) day deadline identified
5 herein.

6 COMMITTEE APPROVAL DATE: May 20, 2027

7 MAYOR-COUNCIL DATE: N/A

8 PASSED BY THE COUNCIL _____

9 _____ - PRESIDENT

10 APPROVED: _____ - MAYOR _____

11 ATTEST: _____ - CLERK AND RECORDER,
12 EX-OFFICIO CLERK OF THE
13 CITY AND COUNTY OF DENVER
14

15 NOTICE PUBLISHED IN THE DAILY JOURNAL _____; _____

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17 PREPARED BY: Anshul Bagga, Assistant City Attorney DATE: June 5, 2025

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19 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
20 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
21 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
22 3.2.6 of the Charter.
23

24 Katie J. McLoughlin, Interim City Attorney

25

26 BY: Anshul Bagga, Assistant City Attorney DATE: 06/05/2025