

Subpoena Power for Auditor's Office on Wage Theft Investigations

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Council Members Flynn, Sawyer, Parady



DENVER
OFFICE OF CITY COUNCIL

Current Law

- Auditor's Office is required to enforce Denver's prevailing wage, minimum wage and civil wage theft ordinances
- Denver law grants the AO access to records necessary to conduct and fulfill these duties
- Current enforcement method for failure to produce records is \$1,000 fine

Problem to Solve

Employers sometimes refuse to produce the information necessary for the auditor to proceed with wage investigations.

- The auditor is Denver's only elected official without subpoena authority
- The lack of sufficient means to obtain records impedes the auditor's office from completing its statutorily required duties in enforcing wage law provisions and can keep workers from getting paid in a timely manner for the wages they earned

What this bill accomplishes

Gives the Auditor's Office subpoena authority to pursue necessary information when it is not otherwise provided when investigating failure to pay prevailing wages, failure to pay minimum wage and wage theft

- The auditor would be limited to subpoena only information relevant to perform statutory duties
- Grants the auditor authority to impose a \$1,000 daily fine for a party's failure to comply with a subpoena
- Provides for a neutral hearing officer to consider an employer's motion to modify or quash a subpoena, or to issue protective orders to safeguard data that is provided

Why subpoena power?

- No-cost, incremental solution to prevent delays
- Guarantees the production of records — not just levy fines and penalties with no guarantee of the outcome
- Encourages cooperation and permits the auditor and the subpoenaed party to agree to a time and scope for producing the requested records
- Provide the subpoenaed party the right to object before a neutral, third-party administrative hearing officer who may modify or quash a subpoena for a variety of reasons

Questions?