

Addressing Wage Theft Through the Fair Labor Standards Act



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Creator:

Tatum, James Edward

Advisor:

Duke, Elizabeth

Duke, Richard

Abstract:

This thesis uses a case study approach in analyzing why the Department of Labor has not been more effective at enforcing the Fair Labor Standards Act (FLSA) to prevent wage theft, and the major impediments to effective enforcement of the Act. To understand the extraordinary resource shortcomings that the department must overcome, I utilize Michael Lipsky's analysis from Street Level

Bureaucrats of the chronic resource deficiencies that often hinder agencies charged with directly serving the public. The insights of John Donahue and Richard Zeckhauser on the potential of collaborative partnerships where enforcement discretion is shared with other public, private nonprofit and private for-profit organizations provide a framework for exploring how to overcome these chronic deficiencies. Finally, using Alexander Hamilton's and Paul Light's standards of an effective federal service pursuing critical work to analyze the Department of Labor's successes and failures, this thesis seeks broader insight into common challenges that federal agencies may encounter while pursuing complex missions over the long term. This study serves as a means to consider ways to address some of the chronic deficiencies of contemporary governance.

The core components that comprise the FLSA are briefly examined, along with the role of the Roosevelt Administration, especially Secretary of Labor Frances Perkins, in getting the law passed through Congress. Key congressional amendments and judicial opinions that helped to develop the law into the set of regulations that exist today are also examined. The use of government reports and documents, transcripts of congressional hearings, and other reports from organizations involved in studying or addressing wage theft help to explore the methods pursued by the Wage and Hour Division to enforce the FLSA. These methods include conciliations, complaint-driven investigations and targeted industry investigations. The primary obstacles that prevent effective FLSA enforcement, including insufficient staff resource and poor information management, are also examined.

To overcome these challenges and resource shortages, the Labor Department must improve its case intake systems, invest in upgraded information technology systems to analyze data and ensure agency investigators have access to subscription databases that will enable them to perform their job more efficiently. However, the single greatest move the department can undertake to improve enforcement efforts and make the most of all other reforms is to increase its efforts to form partnerships with public, private nonprofit, and private for-profit partners. Following the framework of Collaborative Governance advanced by John Donahue and Richard Zeckhauser, these partnerships must empower partner organizations to use their own discretion in monitoring worksites and identifying possible FLSA violations while preserving the independent review by the government to exclusively determine when violations have occurred and when payments of back wages or financial penalties are assessed.

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