

## Commentary

# Wages belong to the workers

By Annette Bernhardt

Published: 12:19 a.m., Wednesday, November 24, 2010

With legislators coming back to Albany next week to plug the state's budget hole, there's an unfinished piece of business that -- with one simple vote -- could pump millions of dollars into our local communities without costing the state a dime. A bill to fight wage theft has passed both houses. All that's needed is for the Assembly to vote on the Senate's version and send it to the governor to sign in time for the holidays.

With this one vote, we'd finally have the strong tools to go after the wage theft crisis that is hurting communities across the state. In New York City alone, a study by the National Employment Law Project earlier this year found that 21 percent of low-wage workers are paid less than the minimum wage, 77 percent weren't paid time-and-a-half when they worked overtime, and 69 percent didn't receive any pay at all when they came in early or stayed late after their shift.

We're talking about the jobs that literally make our economy run -- home care and child care workers, dishwashers, food prep workers, construction workers, cashiers, laundry workers, garment workers, security guards and janitors. Hundreds of thousands of them aren't getting even the most basic protections that the rest of us take for granted.

And make no mistake, the problem isn't going away: These types of jobs account for eight out of the top 10 occupations projected to grow the most by 2018.

Wage theft in New York is not incidental, aberrant or rare, committed by a few rogue employers. Over the last two years, the state Department of Labor has brought cases against restaurants in Ithaca, a printer in Albany, horse trainers at the Saratoga Race Course, hotels in Lake George and car washes across the state. Altogether, the agency recovered \$28.8 million in stolen wages for nearly 18,000 New Yorkers in 2009 -- the largest amount ever. That's a valiant effort to be sure, but still not nearly enough to match the scale of the problem.

What would it take to ramp up the fight?

Three critical tools are written into the Wage Theft Prevention Act. First, the bill increases the costs to employers of violating the law, which is probably the most urgent reform that legislators can implement. When we talked to employers in low-wage

industries, we heard over and over the calculus that results in wage theft: If you get caught, you basically just end up paying the wages you would have paid in the first place, so what's to lose?

The bill would force employers to pay three times the unpaid wages, which dramatically ups the ante.

Second, the bill protects workers who come forward to assert their rights, by establishing stiff penalties to punish employers who retaliate against them. That's important because our survey found that when workers made a complaint to their employer or government agency, 42 percent experienced illegal retaliation -- such as being fired or having their wages or hours cut. That is enough to discourage even the most committed worker from filing a wage theft claim.

Third, the bill makes sure that workers are actually able to collect their unpaid wages, by stopping employers from hiding assets and defaulting on judgments. Right now, it's all too common that a worker successfully brings a wage theft claim, only to see the employer declare bankruptcy, leave town, close shop or otherwise evade paying up. If we want workers to come forward, we have to show that we can get them their unpaid wages.

These are common sense solutions that can turn the tables on wage theft, and in the process bring much-needed stimulus to our local economies.

In New York City alone, more than 300,000 workers are robbed of \$18.4 million every week, totaling close to \$1 billion a year. Extrapolate that to the state level, and you get a staggering amount of potential stimulus that's being taken out of the pockets of working families and local businesses, and state coffers.

Even in good times, fighting wage theft is smart policy. In a recession, it's such a no-brainer that for legislators to leave it on the table is the policy equivalent of malpractice. All it takes is one simple vote in the Assembly next week.

*Annette Bernhardt is policy co-director of the National Employment Law Project, and lead author of "Working Without Laws: A Survey of Employment and Labor Law Violations in New York City."*