

Wage complaints are overwhelming state investigators

by Tim Healy
Times business reporter

A state agency has been inundated by complaints about possible wage-and-hour-law violations following publicity about Nordstrom's back-pay problems, but most of the complaints will never be investigated.

Records show that wage-and-hour violations by Washington businesses are widespread and that the Nordstrom case is not isolated. Still, the Department of Labor and Industries says it is so understaffed it routinely turns away cases its investigators think may be valid claims.

The additional calls after the Nordstrom publicity came on top of an already large number of cases involving back-wage claims at businesses ranging from one of Seattle's most prominent law firms to trucking companies operating statewide.

The department last year re-

solved 8,751 cases in which employees claimed back wages were owed. In all, about \$4.4 million in back wages was paid to employees by companies because of Labor and Industries investigations.

But perhaps more startling is the number of cases that the department didn't investigate.

Mike Pelligrini, who oversees 17 investigators statewide looking into possible wage-and-hour violations, estimated that in the last three months of 1989 alone, the department took no action toward pursuing collection of about \$2.5 million in back wages claimed by some 7,000 workers. In that period, the department collected \$1.4 million owed to about 6,000 workers.

Labor and Industries oversees enforcement of state laws governing minimum wages, overtime payments, farm-labor wages, child

Please see **WAGES** on A 8

Complaints piling up

WAGES

continued from Page 1

labor, prevailing wages on government contracts, and family leave.

Most of the cases investigated by the department involve individuals' claims that they didn't receive wages they earned. For example, workers might contact the state if they worked for an employer that went bankrupt before paying wages. Or, employees may claim they put in overtime but weren't paid at time-and-a-half the regular rate.

Pelligrini said his department received about 230 calls a day from workers statewide asking about their own pay problems in the two weeks following the department's Feb. 15 announcement about Nordstrom. The department normally gets about 150 calls a day.

'I can tell you that the increase in inquiries didn't prompt an increase in investigations. We're already pushed to the limit.'

Mike Pelligrini

Oversees 17 Investigators

Labor and Industries settled another major case last year involving the J.R. Hayes & Sons trucking company in Issaquah. The state alleged that the company routinely ordered drivers to come to work a half hour early to warm up their trucks before clocking in.

State investigator Inez Levin found that J.R. Hayes owed employees more than \$500,000 in back pay. In a letter to J.R. Hayes in 1988, Levin offered to settle the case for \$288,000.

Eighteen months later, the

involve unpaid overtime or allegations that a worker wasn't paid the federal minimum wage, which will increase from \$3.35 an hour to \$3.80 an hour on April 1.

"If someone comes to us and says they were due \$10 an hour but only received \$5, we can't help," said Wilbur Olson, regional director of the wage and hour division of the U.S. Department of Labor in Seattle. "That's something for the state to handle."

Olson said his department enforces overtime provisions regardless of the wage. Under both federal and state law, overtime must be paid at time-and-a-half the regular wage rate.

In the year from Oct. 1, 1988, to Sept. 30, 1989, Olson's section investigated 1,100 cases and collected \$4.7 million in wages owed to workers in the Seattle district, which covers Washington except for the Vancouver, Wash., area, Alaska and parts of Idaho.

In the Nordstrom case, the state determined after a three-month investigation that the company regularly failed to pay employees for such work as attending store meetings, carrying merchandise between stores or to customers, or writing thank-you notes to customers.

The department's investigation found Nordstrom violated wage-and-hour laws by not paying workers for some duties performed off the clock, or on their own time.

"I can tell you that the increase in inquiries didn't prompt an increase in investigations," said Pelligrini. "We're already pushed to the limit. We can only handle a finite number of cases."

One of the cases Labor and Industries investigated last year involved the Seattle law firm of Perkins Coie.

The state collected about \$64,000 in back wages from Perkins Coie to be paid to current and former legal assistants.

Pelligrini said Perkins Coie contended the legal assistants were professionals and not subject to the state's wage-and-hour laws.

Employees not covered by the state's wage-and-hour laws include professionals and supervisors who meet certain standards established by the federal government, teachers, firefighters, some maritime workers, some salespeople and domestics such as live-in maids and butlers.

Pelligrini said it was clear in the Perkins Coie case that legal assistants did not have the autonomy in their work required by the law to be classified as professionals.

Perkins Coie officials declined to comment on the case.

and company settled for \$140,000, the biggest payment ever to employees in a back-wage case pursued by the state. The company agreed to change its practices and pay back wages to 50 employees.

Judy Leu, office manager for J.R. Hayes, said her company was following the standard practice of all companies in the industry by requiring employees to warm up trucks before clocking in.

"As soon as we found out it was against the law, we changed our practices. We weren't aware of the law prior to that," Leu said.

Department officials say ignorance of wage-and-hour laws, on the part of both employers and employees, plays a part in many violations.

Mark McDermott, Pelligrini's boss at Labor and Industries, said he believed the influx of calls after the Nordstrom publicity could be an indication that more workers would file claims if they were aware of the laws.

Many callers never file claims for back wages, department officials say. But if past practice holds true, of the claims that are filed, more than half will be permanently shelved without any inquiry.

Some of those not investigated by the state will be turned over to the U.S. Department of Labor. The federal agency doesn't investigate wage claims unless the claims

Pelligrini speculates that the Nordstrom case may end up as the biggest ever investigated in state history, both in terms of the number of employees involved and the amount of back wages owed.

The department did not attempt to fix a value on what Nordstrom owes in back wages because an exhaustive examination of the company would have taken time and resources that the department couldn't afford to expend, according to McDermott.

Nordstrom set up a \$15 million fund to pay back wages to employees around the country but so far has not offered settlements to employees in Washington. State officials say they haven't decided whether Nordstrom's back-pay offer would satisfy the state's requirement that Nordstrom settle back-pay claims.

Calling the \$15 million fund inadequate, the United Food & Commercial Workers, which represents about 1,800 Nordstrom sales clerks and office workers in six King and Pierce county stores, has filed a class-action lawsuit on behalf of all past and present Nordstrom employees seeking an unspecified amount of back wages.

McDermott said his department may go to court and ask a judge to appoint a special investigator to determine the amount of back wages owed by Nordstrom.

The department is taking a similar approach to a case in which it alleges that 41 trucking companies doing business in Washington have not properly paid their workers for all work performed.

Pelligrini estimates that the companies may owe \$2 million to more than 1,000 workers.

The case is now in federal district court in Seattle. Paul

Triesch, an assistant attorney general who litigates wage claims for the state, said the trucking firms have argued that they aren't subject to state laws that require overtime to be paid. But, he said, the state Supreme Court ruled last year that trucking companies are subject to the state's overtime laws in the absence of federal laws.

Among the options that the state hopes a federal judge will consider is appointing a special investigator — to be paid by the trucking companies — who will collect, evaluate and coordinate payment of back wages owed.

McDermott said the department rarely seeks penalties to go along

with back wages owed because the law requires that employers be proven to be "willful" violators. He said that's difficult to prove.

A bill that would have provided for a system of penalties and interest charges on unpaid wages passed the state House of Representatives 96-0 but died without a vote in the Senate Economic Development and Labor Committee.

Legislators promoting the bill say it was killed in the Senate because of pressure from business lobbyists and Republican senators.

"The business interests that I heard from thought the bill was a reasonable approach to the problem," said state Sen. Eleanor Lee,

R-Burien, chairwoman of the Senate Economic Development and Labor Committee, "but they wanted one of their bills to pass in the House. Tit-for-tat — I heard it described that way."

Cliff Finch, a lobbyist for the Association of Washington Business, said his group opposed the bill, in part, because business-sponsored bills in the House were killed without much consideration.

"That was one of a number of factors," he said. "We didn't feel that the (Department of Labor and Industries) made much of an effort to push the bill. We also had problems with some of the specific language."