State of Oregon
Employment Department

Testimony before the Senate Workforce Committee
SB 242

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Introduction

The Oregon Employment Department (OED) supports SB 242 which makes two sets of changes that are required to ensure Oregon law stays consistent with federal law. If the U.S. Department of Labor were to find Oregon out of conformity with federal law, it could result in financial sanctions against both the OED and Oregon employers.

Treasury Offset Program

The first required changes are to the Treasury Offset Program (TOP) which permits states to intercept federal tax refunds to pay off debts owed to the state. Although Oregon has used TOP for many years for some types of debts, such as child support obligations and delinquent income taxes, OED first began using TOP for unemployment insurance (UI) debts after it was authorized by SB 269A (2013). That bill authorized OED to use TOP to recover only overpaid UI benefits that were caused by the person committing fraud.

Until recently, states were not required to participate in TOP. The federal Bipartisan Budget Act of 2013, however, now requires state UI programs to implement TOP to recover all eligible UI debt. This includes overpayments caused by fraud which is already covered under Oregon law and also overpayments caused by a person not accurately reporting their earnings, even if it was not fraudulent, and also delinquent UI tax debts.

SB 242 amends ORS 657.312 to meet these federal requirements by expanding the Department's authority to intercept UI overpayments caused by inaccurate reporting of earnings, even if it is not willful, and to also include delinquent UI tax obligations.

Work Share Program

SB 242 also makes changes to Oregon's Work Share program. Work Share is a program employers can opt to use that helps protect workers, businesses and communities during temporary economic downturns:

- Businesses can deal with the financial challenge by reducing the hours of their employees rather than laying them off;
- Employees whose hours and wages are reduced can receive a portion of their UI benefits; and
- Businesses can retain their trained workforce in the local community.

OED has operated a Work Share program since 1982 and is recognized as a national leader in this program. During the 2013 session, the Oregon Legislature passed SB 192, making technical changes to the work share program that the Department of Labor approved prior to passage. The Department of Labor has since notified OED that additional changes are needed for Oregon to stay consistent with new interpretations of federal law.

SB 242 amends the Work Share program by:

- Treating Work Share benefits the same as regular UI benefits in terms of how it impacts employer UI tax rates and reimbursement obligations. Currently in some circumstances, employers who pay UI taxes and use Work Share are sometimes required to directly reimburse OED for all Work Share benefits paid to their workers. This bill instead uses Work Share benefits, like other UI benefits, to calculate businesses' future UI tax rates.

- Eliminates the current disqualification from benefits for workers who work more hours in a week than the employer's original Work Share plan projected.

- Eliminating the impact on employer UI tax rates when the federal government is funding those benefits. In those circumstances, Work Share benefits do not get factored into businesses' future UI tax rates nor do they impact their reimbursement obligations.

Effect on the Public

Failure to make these changes would mean Oregon law is not consistent with federal law. This could result in the loss of all federal administrative funding for the unemployment insurance program as well as Oregon employers no longer receiving a credit against their Federal Unemployment Tax Act (FUTA) obligations. The loss of FUTA credits could result in Oregon employers paying an additional estimated $500 million in payroll taxes annually.

The legislative changes to the Work Share statutes will not significantly change the program as the conformity changes were already implemented, effective October 1, 2014, pursuant to the Governor's Directive and ORS 657.895.

Effect on OED

Passing the legislation will make the TOP tool available to improve collection of some additional types of benefit overpayments and delinquent UI tax obligations. This is estimated to result in an additional $174,000 being recovered for the UI Trust Fund in the 2015-17 biennium. This will help protect the UI Trust Fund from avoidable increases in employer tax rates. By keeping Oregon consistent with federal law, it will also allow OED to continue receive federal funds that pay for the majority of the administration of Oregon's UI program.

Recommendation

The OED recommends passage of SB 242 so that Oregon law will be consistent with federal law and will not face a loss of all federal administrative funding for the unemployment insurance program and Oregon employers will not pay additional payroll taxes.

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