



# Oregon

Kate Brown, Governor

**Employment Department**

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Date: March 5, 2019

To: Senator Herman E. Baertschiger Jr., Republican Leader

From: David Gerstenfeld, Director, Unemployment Insurance Division,  
Oregon Employment Department

RE: Senate Bill 722

In testimony regarding Senate Bill (SB) 722 and the -5 amendments, there were questions about the time periods involved with the repayment of benefits that becomes necessary once a person receiving the benefits also receives back pay.

The -5 amendments, as drafted, are intended to create as much consistency as possible among all types of people engaging the unemployment insurance (UI) system – whether they are receiving regular state UI benefits, benefits for federal workers under existing federal benefit programs the department administers (Unemployment Compensation for Federal Employees, or UCFE, and Unemployment Compensation for ex-service members, or UCX, programs, for example), or the new program being created in SB 722-5 that would cover federal workers who are not eligible for those other programs because they are being required to work, but not being paid. Existing statutes already apply whenever the department believes someone has an obligation to repay benefits and the same statutes would apply to these federal workers as well. Keeping the processes and timeframes consistent across all these programs increases the equitable treatment of all workers and also makes it significantly easier for the department to administer the programs.

Existing laws require that when the department believes someone was overpaid benefits, we notify them as to how much we think they were overpaid, that they are obligated to repay that amount, and provide them an opportunity to challenge our decision by requesting a hearing. Once we issue our decision to the worker saying they were overpaid, if they do not appeal that decision within 20 days, the decision is considered final and the debt is officially owed (ORS 657.315(3) and 657.269(2)).

The five year repayment period is not the timeframe over which the department sets up repayment terms, rather it is the time limit within which the department can pursue collection. In other words, it does not mean the benefits will be repaid over five years, it does mean that if the department has not been able to collect the debt within five years, it is no longer owed. The five year period is like a statute of limitations on collection activities. In the case of a federal shutdown, the department notifies people up front that any benefits they receive will need to be repaid when they receive back pay. The -5 amendments to SB 722 codifies this, requiring the department to take reasonable steps to notify people of this when they are first filing their claim.

Once back pay has been made, we issue a decision notifying the person of their repayment obligations – that is the same notice that gives them the opportunity to request a hearing if they wish.

We do our best to collect all amounts owed to the department as quickly as possible. If someone has the ability to repay, but is not doing so, the -5 amendments would permit us to use the existing collection tools available to pursue these benefits after someone receives back pay. These tools include garnishments and liens. The department would also continue to offset future benefits if a debt is outstanding, meaning that except when it would be “against equity and good conscience” (under ORS 657.317(2)), if a person has not repaid their benefits after receiving back pay, they would not receive any new benefits until all remaining overpayment is repaid ORS 657.315(1).

The -5 amendments would increase the department’s ability to recoup benefits when someone later receives back pay. The -5 amendments would also prevent the current situation in which the receipt of back pay does not always require repayment of previously paid benefits, and when it does, repayment can only be pursued by offsetting future unemployment benefits. This means the department cannot pursue collection while the person is gainfully employed and most able to repay, but instead we must intercept future benefits when someone is less able to afford repayment.