

## HB 4087 A -A7 STAFF MEASURE SUMMARY

### Joint Committee On Ways and Means

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**Prepared By:** Michael Graham

**Meeting Dates:** 2/26, 2/27

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#### **WHAT THE MEASURE DOES:**

Directs portion of remainder of sums collected from employers as civil penalties for violations of certain employment laws to be credited to Bureau of Labor and Industries Account to provide technical assistance to employers and portion of remainder of sums collected to be credited to Wage Security Fund. Caps total amounts credited to Bureau of Labor and Industries Account and to Wage Security Fund at \$290,000 per year. Directs any amount remaining that exceeds cap to be paid to Department of State Lands for benefit of Common School Fund. Allows payment from Wage Security Fund to be made to wage claimant for wages earned and unpaid in event that Commissioner of Bureau of Labor and Industries has obtained judgment in action or has issued final order in administrative proceeding for collection of wage claim. Directs Bureau of Labor and Industries to submit to interim committees of Legislative Assembly related to business and labor, by September 15, 2022, report that describes how moneys credited to Bureau of Labor and Industries Account were spent on providing technical assistance to employers. Sunsets provisions on January 1, 2023.

#### **ISSUES DISCUSSED:**

- Fiscal impact of the measure
- Amendment to the measure

#### **EFFECT OF AMENDMENT:**

-A7 The -A7 amendment deletes the provisions that direct a portion of the remainder of the sums collected from employers as civil penalties for violations of certain employment laws to be credited to the Bureau of Labor and Industries Account to provide technical assistance to employers and a portion of the remainder of the sums collected to be credited to the Wage Security Fund. It deletes the provision that caps the total amounts credited to the Bureau of Labor and Industries Account and to the Wage Security Fund at \$290,000 per year. It deletes the provision that directs any amount remaining that exceeds the cap to be paid to the Department of State Lands for the benefit of the Common School Fund. It allows payment from the Wage Security Fund to be made to a wage claimant for wages earned and unpaid in the event that the Commissioner of the Bureau of Labor and Industries has obtained a judgment in action or has issued a final order in an administrative proceeding for collection of the wage claim. It deletes the provision that directs the Bureau of Labor and Industries to submit to interim committees of the Legislative Assembly related to business and labor, by September 15, 2022, a report that describes how moneys credited to the Bureau of Labor and Industries Account were spent on providing technical assistance to employers. It deletes the January 1, 2023 sunset provisions. The measure takes effect January 1, 2021.

#### **BACKGROUND:**

The Oregon Legislature established the Wage Security Fund in 1985, which is administered by the Bureau of Labor and Industries (BOLI). The Fund protects Oregon workers from wage loss by paying the final wages of employees when a business closes without sufficient funds to pay final wages. Employees of a company that closes and does not have sufficient funds to pay their final wages are eligible to file a wage claim with BOLI. Workers can qualify for payments of the amount they earned during the 60 days preceding the closure date of the company or the amount of unpaid wages earned within 60 days of the last day of employment. A maximum of \$10,000 may be paid to an individual worker.

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Money in the Wage Security Fund comes from a diversion of 0.03 of one percent of the state's employment insurance taxes, which are paid by employers in one calendar quarter each biennium. This revenue, which is estimated to be \$5,273,000 in the 2019-21 biennium, is deposited into the Fund to pay final wages to employees whose employers have ceased business operations and defaulted on wages owed. BOLI is also projected to receive approximately \$550,000 in 2019-21 from interest earnings and recovery of payments from defaulting employers.

The measure, with the -A7 amendment, directs the Commissioner of the Bureau of Labor and Industries to pay a wage claimant from the Wage Security Fund for wages earned and unpaid when the Commissioner has obtained a judgment in action or issued a final order in an administrative proceeding against the employer for collection of the wage claim. No more than \$10,000 per claimant may be paid from the Fund. While the measure does not create a new type of wage claim, it expands the pool of eligible wage claimants from the Fund. According to BOLI, between 2014 and 2019, an average of \$100,706 was owed to workers at the point of final order (i.e., after claims had been investigated and verified and employers had the opportunity to appeal the finding or pay the worker). The same data reveal that employers ultimately paid about 20 percent of this amount. An average of \$80,145 per year is left unpaid.

As of December 31, 2019, the Wage Security Fund's balance was \$11,244,336. In 2019, the Legislative Fiscal Office projected the Fund's biennial expenditures to be \$900,000 in the 2019-21 biennium. The Legislative Revenue Office estimates that the measure will decrease the Fund's balance by \$40,000 in the 2019-21 biennium and by \$160,000 in the 2021-23 biennium.