

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 3206**81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

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Measure Description:

Expands permissible uses of amounts in Employment Department Special Fraud Control Fund, including payment of costs associated with federal Lost Wages Assistance program.

Government Unit(s) Affected:

Employment Department (OED)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See analysis.

Analysis:

HB 3206 expands the permissible use the Employment Department Special Fraud Control Fund for costs associated with the Lost Wages Assistance (LWA) program, costs associated with reimbursing FEMA for overpayments, and administration of other agency benefit programs. LWA overpayments reimbursed to FEMA and subsequently collected shall be deposited into the Fraud Control Fund. The Director may waive collection of overpayments if this work is deemed impracticable. The measure has an emergency clause and is effective upon passage.

Federal law requires States to recover assistance awards from claimants who obtained them fraudulently, assistance awards made to those not eligible for unemployment, and assistance awards made in error. The agency cannot use the Unemployment Insurance (UI) Trust Fund to cover any LWA costs. Under current law, the agency does not have the authority to use Fraud Control Funds for purposes beyond the prevention, discovery and collection of unemployment benefit overpayments. Passage of this measure would allow the use of Fraud Control funds for the LWA program and administrative costs for other benefit programs. The primary use is intended to be for LWA benefit overpayments

The fiscal impact of this measure is indeterminate. However, the Employment Department offers the following calculations as a frame of reference: As of February 25, 2021, the amount of currently known LWA overpayments totaled \$20,035,620 affecting 16,471 claimants. This figure does not factor in any subsequent collections or claim waivers that may occur after the date above nor does it consider any future overpayments identified by regular audits. The Employment Department anticipates a significant percentage of those overpayments to be waived under recently enacted federal authority, but federal guidance has not yet been issued on that authority, so the amount likely to be waived is not yet known. Efforts to recoup these funds are currently underway. Although it is a new program and therefore difficult to determine how much will be collected, an estimate can be calculated using the current rate of LWA voluntary collections (2.61%) in addition to the 2020 recovery rate of non-claimant fault overpayments (5.55%). There is no data available to estimate claimant waivers, but their usage is likely to have a large impact on these rates. In sum, applying an 8.16% collections rate to the total overpayments yields potential LWA collections of \$1,634,907, which would reduce total overpayments to \$18,400,713.

Any outstanding overpayments must be reimbursed to FEMA no later than 90 days following the end of the performance period. The agency will request extensions to the performance period as long as FEMA allows and is necessary to continue collections, which are expected to carry into the 2021-23 biennium. Recoupment of

overpayments would increase the Fraud Control Fund balance by a proportionate amount, subject to any collections waived by the Director as authorized by the measure.

Note that the recently passed Continued Assistance Act includes a provision allowing states to apply for a waiver from FEMA to dismiss any LWA overpayments that are non-claimant fault and against equity and good conscience. This waiver will likely resolve a significant portion of remaining LWA overpayments. The Employment Department will apply and if the waiver is granted, the agency would only be required to repay overpayments due to claimant fault that are still outstanding at the end of the program's performance period.

At this time the agency does not expect to use these funds for administration of other benefit programs, so only the reimbursement to FEMA for LWA benefits is factored into this fiscal impact statement. However, the extent to which overpayments are recouped along with FEMA's response to our waiver request will affect the agency's funds available to cover other UI costs.