

**SB 172 B STAFF MEASURE SUMMARY**

Carrier: Rep. Bynum

**House Committee On Business and Labor****Action Date:** 05/24/21**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 11-0-0-0**Yeas:** 11 - Bonham, Boshart Davis, Breese-Iverson, Bynum, Clem, Evans, Fahey, Grayber, Holvey, Post, Witt**Fiscal:** Fiscal impact issued**Revenue:** Revenue impact issued**Prepared By:** Jan Nordlund, LPRO Analyst**Meeting Dates:** 5/10, 5/19, 5/24**WHAT THE MEASURE DOES:**

Allows Director of Oregon Employment Department to deduct all or part of unemployment insurance (UI) benefit overpayment against future weekly benefits within five years following final decision. Establishes exemption to five-year statute of repose when overpayment was due to willful misrepresentation. Provides that notice of liability for recovery of overpayments must include description of basis for decision and consequences of overpayment. Authorizes Director to waive all or part of outstanding overpayment if Director finds recovery would be against equity and good conscience and clarifies that waiver extinguishes all liability of debtor. Prohibits Director from waiving recovery if overpayment was due to willful misrepresentation. Provisions regarding overpayments apply to benefits determined to have been overpaid before, on, or after the effective date of the Act. Establishes that back pay must be considered as earnings in determination of UI benefits and amount may not be reduced to reflect amount of benefits received during period for which back pay was paid or awarded. Defines "bias crime" and replaces references to crime of intimidation to bias crime to align with Senate Bill 577 (2019). Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Existing authority of agency to take civil action under certain circumstances
- Different treatment if overpayment was due to no fault of benefit recipient, nonfraudulent misrepresentation of facts, or willful misrepresentation of facts
- Potential extent of overpayments given new benefit programs and new agency staff processing claims
- Fiscal impact of retroactive application of provisions

**EFFECT OF AMENDMENT:**

Clarifies that provisions apply to benefits determined to have been overpaid before, on, or after the effective date.

**BACKGROUND:**

An overpayment of unemployment insurance (UI) benefits occurs when an individual receives benefit payments to which they are not entitled. Current law makes recipients of overpayments liable to repay the amount of the overpayment to the Oregon Employment Department (OED). If the Director of OED determines the cause of the overpayment was the false or misleading actions of the recipient, regardless of intent, the recipient must either reimburse the full amount of the overpayment to the UI trust fund or have the amount deducted from future benefits to which the recipient is otherwise entitled. If the Director determines the overpayment was not caused by the recipient, the overpayment must be deducted from future UI benefits to which the recipient is otherwise entitled in this or any other state for any benefit week within five years of the final decision from the Director. The Director may also bring civil action to recover outstanding overpayments.

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The Director must waive recovery if the overpayments are due to a change in law and may waive recovery of overpayments made through no fault of the recipient if the Director finds that recovery would be against equity and good conscience.

Senate Bill 172 B allows the Director, when recovering overpayments against future UI benefits, to recover against all *or part of* future weekly benefits, and also to waive all or part of a recipient's overpayment liability when recovery would be against equity and good conscience. The measure establishes a five-year window for the recovery of overpayments with an exception for willful misrepresentation and requires any notice provided to an overpayment recipient to describe the basis of the Director's decision and the consequences of the overpayment. The measure treats back pay as earnings for purposes of determining UI benefits.