

HB 2556 A STAFF MEASURE SUMMARY**Carrier:** Rep. Nosse**House Committee On Business and Labor****Action Date:** 04/03/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 8-3-0-0**Yeas:** 8 - Grayber, Holvey, Hudson, Nelson, Nosse, Osborne, Owens, Sosa**Nays:** 3 - Boshart Davis, Elmer, Scharf**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Erin Seiler, LPRO Analyst**Meeting Dates:** 2/20, 4/3**WHAT THE MEASURE DOES:**

Permits employer to make deductions from employee's wages for erroneous overpayment of wages when certain conditions are met, provided employee is not subject to collective bargaining agreement: employee voluntarily signs agreement authorizing deductions; deductions are made within six months from date when employee signed agreement; employer waives claims to recover any overpayments in which six months have passed since date employee signed agreement; employee has 14 days to consider agreement authorizing deductions; and employers provide employee a written statement itemizing overpayment amount, purpose of each deduction, and written statement that in no event may total amount of deduction be more than 10 percent of gross pay each pay period. State of Oregon is subject to requirements of measure. Statute of limitation for action alleging violations for erroneous overpayment requirements is tolled until employer provides employee required itemized payroll statement. Act applies to collective bargaining agreements entered into, renewed or extended on or after the effective date of this Act.

ISSUES DISCUSSED:

- Employee should have clear understanding of pay check deductions
- Period of time that employer has to address payroll errors
- Impact of plain language requirement on employers
- Impact on employees when overpayment of wages are deducted

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

ORS 652.610 does not specifically address whether deductions from paychecks to recover overpayments of wages is permitted. A 1997 federal court ruling, *Duncan v. Office Depot*, 973 F. Supp. 1171 (D. Or. 1997), determined that an employer making deductions from paychecks for the purpose of recovering overpayments of wages did constitute an unlawful deduction. Based on this court ruling, the Bureau of Labor and Industries (BOLI) recognizes that such a deduction would be unlawful. However, if a collective bargaining agreement (CBA) allows for deductions from paychecks for an overpayment of wages, then it would not be considered an unlawful deduction.

Although a deduction from a paycheck for overpayment of wages is considered unlawful, an employer would still be able to pursue reimbursement of the overpayment through private action. Currently, statute does not limit the time period for how long an employer has to identify the overpayment and pursue reimbursement.

House Bill 2556 A permits an employer to make deductions from an employee's wages for erroneous overpayment of wages when certain conditions are met, provided an employee is not subject to a collective bargaining agreement. The conditions include an employee voluntarily signing agreement authorizing the

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deductions; deductions are made within six months from date when employee signed agreement; employer waives claims to recover any overpayments in which six months have passed since date employee signed agreement; employee has 14 days to consider agreement authorizing the deductions; and employers provide employee a written statement itemizing overpayment amount, purpose of each deduction, and written statement that in no event may total deduction be more than 10 percent of gross pay each pay period.