

Enrolled
House Bill 2249

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Employment Department)

CHAPTER

AN ACT

Relating to hearing on assessment of civil penalty by Director of Employment Department for violation concerning transfer or acquisition of trade or business; amending ORS 657.683 and 657.875.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 657.683 is amended to read:

657.683. (1) An application for hearing under ORS **657.480**, 657.679, 657.681 [and] or 657.682 shall be in writing and shall state that [such] a determination or assessment of the Director of the Employment Department or authorized representative is unjust or incorrect and that the employing unit requests a hearing. The application shall set forth the objections of the employing unit to the determination or assessment and the amount of contributions, if any, [which] **that** the applicant admits to be due to the Employment Department. An application for a hearing to review an assessment made under ORS 657.681 (4) that was accompanied by a demand for a bond or deposit [shall not be] **is not** valid unless the bond or deposit is filed with the application in a form acceptable to the director or authorized representative.

(2) If a valid application for hearing is filed within the time provided by ORS **657.480**, 657.679, 657.681 [and] or 657.682, an administrative law judge shall review the determination or assessment and if requested by the employing unit shall grant a hearing unless a hearing has previously been afforded the employing unit on the same grounds as set forth in the application. The administrative law judge shall give notice of the time and place of the hearing to the director or authorized representative and shall also give notice to the employing unit by mail directed to the last-known address of the employing unit of record with the director.

(3) Hearings under ORS **657.480**, 657.679, 657.681 [and] or 657.682 shall be conducted in accordance with this chapter. The filing of an application for hearing with respect to a disputed assessment [shall] **does** not affect the right of the director or authorized representative to perfect any liens provided by this chapter.

(4) All testimony at any hearing held under ORS **657.480**, 657.679, 657.681 [and] or 657.682 shall be recorded but need not be transcribed unless a petition for judicial review from the decision of the administrative law judge is filed in the manner and within the time prescribed. At any hearing held as provided in ORS **657.480**, 657.679, 657.681 [and] or 657.682, the determination or assessment of the director or authorized representative shall be prima facie correct and the burden shall be upon the protesting employing unit to prove that it is incorrect. Thereafter the administrative law judge shall enter the findings of fact and decision, either affirming, modifying, or setting aside the determination or assessment of the director or authorized representative and in the case of an as-

assessment, the administrative law judge may increase or decrease the amount of the assessment. The employing unit and the director shall be promptly notified of the decision of the administrative law judge.

(5) A decision of the administrative law judge [*shall become*] **becomes** final on the date of notification or the mailing [*thereof*] **of the decision** to the director and to the employing unit at the last-known address of record with the director unless, within the time specified in ORS 183.480 (2), the administrative law judge on the administrative law judge's own motion reviews the [*same*] **decision** and issues an amended decision in which case the amended decision becomes the final decision.

SECTION 2. ORS 657.875 is amended to read:

657.875. The period within which an interested party may request a hearing or file with the Employment Appeals Board an application for review as provided in ORS 657.266 to 657.269, 657.270, 657.471, **657.480**, 657.485, 657.679, 657.681 and 657.682 may be extended, upon a showing of good cause therefor, a reasonable time under the circumstances of each particular case.

Passed by House February 15, 2007

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Chief Clerk of House
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Speaker of House

Passed by Senate March 27, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State