

House Bill 2249

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Adds appropriate citation to statute under which person may apply for hearing on assessment of civil penalty by Director of Employment Department for violation concerning transfer or acquisition of trade or business.

A BILL FOR AN ACT

1
2 Relating to hearing on assessment of civil penalty by Director of Employment Department for vio-
3 lation concerning transfer or acquisition of trade or business; amending ORS 657.683 and
4 657.875.

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

6 **SECTION 1.** ORS 657.683 is amended to read:

7 657.683. (1) An application for hearing under ORS **657.480**, 657.679, 657.681 [*and*] **or** 657.682 shall
8 be in writing and shall state that [*such*] a determination or assessment of the Director of the Em-
9 ployment Department or authorized representative is unjust or incorrect and that the employing unit
10 requests a hearing. The application shall set forth the objections of the employing unit to the de-
11 termination or assessment and the amount of contributions, if any, [*which*] **that** the applicant admits
12 to be due to the Employment Department. An application for a hearing to review an assessment
13 made under ORS 657.681 (4) that was accompanied by a demand for a bond or deposit [*shall not*
14 *be*] **is not** valid unless the bond or deposit is filed with the application in a form acceptable to the
15 director or authorized representative.

16 (2) If a valid application for hearing is filed within the time provided by ORS **657.480**, 657.679,
17 657.681 [*and*] **or** 657.682, an administrative law judge shall review the determination or assessment
18 and if requested by the employing unit shall grant a hearing unless a hearing has previously been
19 afforded the employing unit on the same grounds as set forth in the application. The administrative
20 law judge shall give notice of the time and place of the hearing to the director or authorized rep-
21 resentative and shall also give notice to the employing unit by mail directed to the last-known ad-
22 dress of the employing unit of record with the director.

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

27 (4) All testimony at any hearing held under ORS **657.480**, 657.679, 657.681 [*and*] **or** 657.682 shall
28 be recorded but need not be transcribed unless a petition for judicial review from the decision of
29 the administrative law judge is filed in the manner and within the time prescribed. At any hearing
30 held as provided in ORS **657.480**, 657.679, 657.681 [*and*] **or** 657.682, the determination or assessment

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 of the director or authorized representative shall be prima facie correct and the burden shall be
2 upon the protesting employing unit to prove that it is incorrect. Thereafter the administrative law
3 judge shall enter the findings of fact and decision, either affirming, modifying, or setting aside the
4 determination or assessment of the director or authorized representative and in the case of an as-
5 sessment, the administrative law judge may increase or decrease the amount of the assessment. The
6 employing unit and the director shall be promptly notified of the decision of the administrative law
7 judge.

8 (5) A decision of the administrative law judge [*shall become*] **becomes** final on the date of no-
9 tification or the mailing [*thereof*] **of the decision** to the director and to the employing unit at the
10 last-known address of record with the director unless, within the time specified in ORS 183.480 (2),
11 the administrative law judge on the administrative law judge's own motion reviews the [*same*] **de-**
12 **cision** and issues an amended decision in which case the amended decision becomes the final deci-
13 sion.

14 **SECTION 2.** ORS 657.875 is amended to read:

15 657.875. The period within which an interested party may request a hearing or file with the
16 Employment Appeals Board an application for review as provided in ORS 657.266 to 657.269, 657.270,
17 657.471, **657.480**, 657.485, 657.679, 657.681 and 657.682 may be extended, upon a showing of good
18 cause therefor, a reasonable time under the circumstances of each particular case.
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