

75th OREGON LEGISLATIVE ASSEMBLY - 2009 Regular Session
STAFF MEASURE SUMMARY
Senate Committee on Commerce and Workforce Development

MINORITY REPORT
MEASURE: HB 2201 B
CARRIER: Sen. George

REVENUE: No revenue impact
FISCAL: Fiscal statement issued

Action: Do Pass with Amendments to the A-Engrossed Measure
Signers onto the Minority Report: Sen. George and Sen. Telfer
Prepared By: Jeremy Sarant, Administrator
Meeting Dates: 4/1, 4/6

WHAT THE MINORITY REPORT DOES: Changes effective date of excluding certain corporate officers' eligibility for unemployment insurance coverage to the first day of either the current calendar quarter or preceding calendar quarter. Establishes that an officer or employee of a corporation, member or employee of a limited liability company, or partner in or employee of a limited liability partnership, who is a responsible party, may be personally liable for unpaid unemployment insurance (UI) taxes in case of default by the employer. Defines "responsible party." Establishes that a responsible party other than an employee is personally liable if the party has been convicted of a crime in connection with the employer's default. Establishes that a responsible party who is an employee is personally liable if the party has been convicted of theft in connection with the employer's default.

ISSUES DISCUSSED:

- Numbers of individuals likely found liable for unpaid UI taxes
- Which employees of employer would be found personally liable for unpaid UI taxes
- Legality of holding individuals liable for unpaid UI taxes

EFFECT OF MINORITY AMENDMENT: Requires conviction of theft by an employee, or a crime by a non-employee, in connection with employer's default to trigger personal liability for unpaid UI taxes.

BACKGROUND: Current law provides an unemployment insurance (UI) tax exemption to corporations for work performed by corporate officers who have substantial ownership, serve as directors of the corporation, and are members of the same family. The exemption must be requested. Currently, the effective date of the exemption is the first day of the calendar quarter in which the exemption request was submitted. House Bill 2201 A modifies the effective date to the first day of either the calendar quarter in which the request was submitted or the previous calendar quarter, effectively increasing the time during which a newly formed corporation has to request the exemption.

Under current law, when an employer is in default, the Employment Department may only pursue payment from the employer. House Bill 2201 A, as amended by the minority amendment, establishes potential personal liability for certain officers, employees, members, or partners if they have been convicted of a crime in connection with the employer's default with respect to payment required to be made by the employer to the Unemployment Compensation Trust Fund. More than one person may be held liable, and the Director of the Employment Department has the authority to issue a jeopardy assessment if there is reason to believe that the liable person(s) are insolvent. The Director is also required to issue a notice of assessment by mail to the last known address of record, and assessed amounts may be reviewed in a hearing.

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This summary has not been adopted or officially endorsed by action of the committee.