

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	10 - 0 - 0
Yeas:	Barton, Cameron, Edwards C., Esquivel, Holvey, Kennemer, Matthews, Thatcher, Witt, Schaufler
Nays:	0
Exc.:	0
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	2/18, 2/20

WHAT THE MEASURE DOES: Removes exemption from payment of unemployment insurance tax for for-profit organizations that engage the services of musicians, when the musician is operating under a contract that designates themselves responsible for reports and payments.

ISSUES DISCUSSED:

- Application of ORS 657.506
- How most contracts are between the musician's booking agent and the venue, not with the musician
- What is included or not included in a contract
- How often and when ORS 657.506 is enforced
- Application of the independent contractor litmus test

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 657.506 defines the treatment of musicians for the purposes of calculating and paying unemployment insurance (UI) taxes. The statute outlines that an organization that hires the services of a musician is considered as the musician's employer unless a written contract specifies that one or more of the musicians (that sign the contract) are responsible for filing UI tax reports and payments. When such a contract exists, no other statutory exclusions for UI tax purposes need to be applied, such as determination of whether the musician is an independent contractor. If the contract does not exist, it can be construed that the musician is an employee of the organization, making the owner liable for paying UI taxes.

House Bill 2540 repeals the statute, but does not exempt musicians from being subject to UI tax unless they are excluded under ORS chapter 657 (employment law) as independent contractors. The measure also does not change the UI tax treatment related to musicians engaged by non-profit organizations, Native American tribes, and governmental agencies.