

**2009 Regular Legislative Session**  
**FISCAL ANALYSIS OF PROPOSED LEGISLATION**  
**Prepared by the Oregon Legislative Fiscal Office**

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**MEASURE NUMBER:** HB 2127

**STATUS:** A Engrossed

**SUBJECT:** Allows the Department of Human Services to serve contested case notice by regular mail.

**GOVERNMENT UNIT AFFECTED:** Department of Human Services, Oregon Employment Department

**PREPARED BY:** Kim To

**REVIEWED BY:** John Britton, Michelle Deister

**DATE:** April 2, 2009

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**EXPENDITURES:**  
See Analysis

**2009-2011**

**2011-2013**

**EFFECTIVE DATE:** January 1, 2010

**GOVERNOR'S BUDGET:** This bill is not anticipated by the Governor's recommended budget.

**LOCAL GOVERNMENT MANDATE:** This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**ANALYSIS:** House Bill 2127 permits the Department of Human Services (DHS) to notify, by regular mail, persons affected by actions taken by the agency in a contested case. The bill specifies that the legal presumption that a letter duly directed and mailed was received in the regular course of the mail does not apply in this situation. The bill requires DHS to prescribe by rule a process that will allow a party to request a hearing to determine whether the party received the mailed notice. DHS must inform a party, which claims it did not receive a mailed notice, the right to request a hearing. The bill further prescribes that when DHS issues a contested case notice, this notice becomes a final order by default if:

1. the party fails to request a hearing within the allotted time;
2. DHS or the Office of Administrative Hearings dismisses the hearing because the party withdraws the request for the hearing; or because neither the party nor the party's representative fails to appear at the scheduled hearing.

The Office of Administrative Hearings (OAH) in the Oregon Employment Department reports a minimal fiscal impact on the agency if this bill passes. The OAH already conducts hearings to determine whether DHS claimants filed requests for hearing on time. Usually, the central issue in these hearings is whether the individual received the contested case notice in the first place. In all of these hearings, a letter properly mailed is presumed to be received. The bill removes this presumption as a legal standard. This will likely result in slightly longer hearings but should not increase the actual number of hearings. OAH services are fee based, therefore any increase in expenditure as a result of HB 2127 would be passed on to DHS.

Outside the potential minimal impact of increased OAH fees, passage of this bill will not have an additional fiscal impact on DHS because the provisions of House Bill 2127 serve as current practice for the department. In addition, if this bill does not pass, DHS anticipates incurring significant mailing and production costs for contested case and final order notices because the Department of Justice has advised DHS that in absence of legislation such as House Bill 2127, DHS must serve all contested case and final order notices personally or by registered mail or certified mail.