

A-Engrossed
House Bill 2815

Ordered by the House April 10
Including House Amendments dated April 10

Sponsored by Representatives HOLVEY, GARRETT, Senator PROZANSKI; Representatives BAILEY, BARKER, BARNHART, BUCKLEY, CLEM, GREENLICK, HARKER, HUNT, KAHL, KOMP, NATHANSON, NOLAN, READ, RILEY, SHIELDS, J SMITH, WITT, Senators BONAMICI, BURDICK, DEVLIN, ROSENBAUM

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.

Establishes Interagency Compliance Network. Prescribes duties of network relating to [*persons doing business on cash basis*] **classification of workers and persons who pay workers in cash** for purpose of avoiding compliance with laws relating to taxation and employment[, *and enforcing compliance with laws relating to independent contractor status*]. Provides that **member** agency [*with representative on committee*] may enter into agreement to provide information to another **member** agency [*with representative on committee*].

Establishes Interagency Compliance Network Account. Provides that moneys in account are continuously appropriated to specified state agencies for purpose of compliance activities, including audits and investigations, that are related to persons [*doing business on cash basis and to persons who provide compensation to other person based on contention that other person is independent contractor*] **who pay workers in cash, misclassify workers and do not comply with laws relating to taxation and employment.**

Increases fee for certain business filings made with Secretary of State. Directs that amounts generated from fee increase be deposited in Interagency Compliance Network Account.

A BILL FOR AN ACT

1
2 Relating to compliance with laws relating to the conduct of business; creating new provisions;
3 amending ORS 56.041 and 56.140; appropriating money; and providing for revenue raising that
4 requires approval by a three-fifths majority.

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

6 **SECTION 1. (1) There is established an Interagency Compliance Network consisting of:**

7 **(a) The Department of Justice;**

8 **(b) The Department of Revenue;**

9 **(c) The Employment Department;**

10 **(d) The Department of Consumer and Business Services;**

11 **(e) The Bureau of Labor and Industries;**

12 **(f) The Construction Contractors Board;**

13 **(g) The State Landscape Contractors Board; and**

14 **(h) Other state agencies that enter into the intergovernmental agreement as described**
15 **in subsection (3) of this section.**

16 **(2) The Interagency Compliance Network established under this section shall:**

17 **(a) Work to establish consistency in agency determinations relating to the classification**
18 **of workers, including but not limited to classification of workers as independent contractors;**

19 **(b) Gather and share information relating to persons who pay workers in cash and who**
20 **do not comply with laws relating to taxation and employment;**

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 (c) Gather and share information relating to the misclassification of workers, including
2 but not limited to misclassification as independent contractors;

3 (d) Develop investigative methods for auditing persons who pay workers in cash, or who
4 misclassify workers, and who do not comply with laws relating to taxation and employment;

5 (e) Conduct joint audits of persons who pay workers in cash, or who misclassify workers,
6 and who do not comply with laws relating to taxation and employment;

7 (f) Identify opportunities for and obstacles to improving compliance with the laws relat-
8 ing to the classification of workers, taxation and employment;

9 (g) Create a coordinated enforcement process for the laws relating to classification of
10 workers that is efficient, fair and effective for the public and the regulatory agencies charged
11 with enforcing laws relating to taxation and employment;

12 (h) Engage in public outreach efforts to educate the public generally on the distinctions
13 between independent contractors and employees and on the laws and regulations governing
14 the duties relating to classification of workers; and

15 (i) Take such other action as the member agencies deem appropriate to improve compli-
16 ance with laws relating to taxation and employment that are administered by the member
17 agencies.

18 (3) The agencies identified in subsection (1)(a) to (g) of this section shall enter into an
19 intergovernmental agreement for the purpose of coordinating the efforts of the agencies
20 under this section. Any other agency of state government, as defined in ORS 174.111, that
21 has an interest in compliance with laws relating to taxation and employment may become a
22 member of the Interagency Compliance Network by entering into the agreement on such
23 terms as may be prescribed by the agencies identified in subsection (1)(a) to (g) of this sec-
24 tion.

25 (4) Notwithstanding ORS 314.835 or any other law relating to confidentiality of informa-
26 tion, any agency that is a member of the Interagency Compliance Network may enter into
27 an agreement with another member agency to provide information to the other agency. In-
28 formation provided to an agency under this subsection may be used by the agency only for
29 the purpose of enforcing compliance of laws that are administered by the agency.

30 **SECTION 2.** (1) The Interagency Compliance Network Account is established in the
31 General Fund of the State Treasury. The account consists of amounts deposited in the ac-
32 count under ORS 56.041.

33 (2) At least once each month, moneys in the Interagency Compliance Network Account
34 shall be distributed as follows:

35 (a) _____ percent to the Department of Revenue, for the purpose of enforcing the tax
36 laws by engaging in compliance activities, including audits and investigations, that are re-
37 lated to persons who pay workers in cash, or who misclassify workers, and who do not
38 comply with laws relating to taxation.

39 (b) _____ percent to the Employment Department, for the purpose of enforcing the
40 unemployment tax laws by engaging in compliance activities, including audits and investi-
41 gations, that are related to persons who pay workers in cash, or who misclassify workers,
42 and who do not comply with laws relating to taxation.

43 (c) _____ percent to the Department of Consumer and Business Services, for the pur-
44 pose of compliance activities, including audits and investigations, that are related to persons
45 who pay workers in cash, or who misclassify workers, and who do not comply with laws re-

1 **lating to employment or taxation.**

2 **(d) _____ percent to the Construction Contractors Board, for the purpose of compliance**
3 **activities, including audits and investigations, that are related to persons who pay workers**
4 **in cash, or misclassify workers, and who do not comply with laws relating to employment**
5 **or taxation.**

6 **(e) _____ percent to the Bureau of Labor and Industries, for the purpose of enforcing**
7 **the laws related to wage and hours, and to prevailing wage rates, by engaging in compliance**
8 **activities, including audits and investigations, that are related to persons who pay workers**
9 **in cash, or who misclassify workers, and who do not comply with laws relating to employ-**
10 **ment.**

11 **(f) _____ percent to the Department of Justice to investigate and prosecute criminal**
12 **activities discovered by reason of audits, investigations and other compliance activities de-**
13 **scribed in this subsection, or that otherwise come to the attention of the department and**
14 **that relate to persons who pay workers in cash, or who misclassify workers, and who do not**
15 **comply with laws relating to employment and taxation.**

16 **(g) _____ percent to the Department of Revenue, for the purpose of distribution to**
17 **members of the Interagency Compliance Network pursuant to the terms of the intergovern-**
18 **mental agreement entered into under section 1 (3) of this 2009 Act.**

19 **(3) All moneys distributed to an agency under subsection (2) of this section are contin-**
20 **uously appropriated to the agency for the purposes specified by subsection (2) of this section.**

21 **SECTION 2a. The member agencies of the Interagency Compliance Network shall prepare**
22 **a report once every two years that details the activities of the network during the two-year**
23 **period. The report shall identify the manner in which the funding provided by section 2 of**
24 **this 2009 Act has been expended, and an estimate of the revenue impact of the network's**
25 **activities. The report shall be provided to the Governor, and to the Legislative Assembly in**
26 **the manner provided by ORS 192.245.**

27 **SECTION 3. ORS 56.140 is amended to read:**

28 **56.140. (1) Except as provided in subsection (2) of this section, the Secretary of State shall**
29 **collect a nonrefundable fee of \$50 for each document delivered for filing to the Secretary of State**
30 **as part of the secretary's business registry functions described in ORS 56.022.**

31 **(2) The Secretary of State shall collect a nonrefundable fee of \$_____ for each of the**
32 **following documents delivered to the Secretary of State for filing:**

33 **(a) Articles of incorporation delivered for filing under ORS 60.051.**

34 **(b) Articles of organization delivered for filing under ORS 63.051.**

35 **(c) Applications for authority to transact business in this state delivered under ORS**
36 **60.707 and 63.707.**

37 **(d) Annual reports delivered for filing under ORS 60.787 and 63.787.**

38 **[(2)] (3) The Secretary of State by rule may establish fees, in addition to those provided for in**
39 **[subsection (1)] subsections (1) and (2) of this section, for:**

40 **(a) Copying any public record maintained by the secretary and relating to the secretary's busi-**
41 **ness registry functions, and for certifying the copy; and**

42 **(b) Certifying to other facts of record, including certificates of existence, relating to the secre-**
43 **tary's business registry functions.**

44 **[(3)] (4) The Secretary of State shall collect [a nonrefundable fee of \$20 each time process that**
45 **is related to the Secretary of State's business registry functions is served on the Secretary of**

1 State [and the process relates to the secretary's business registry functions].

2 [(4)] (5) The Secretary of State may waive collection of any fee, charge or interest[,] or portion
3 of a fee, charge or interest[,] that is collectible by the Secretary of State as part of the secretary's
4 business registry functions.

5 [(5)] (6) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
6 lowing services relating to the secretary's business registry functions:

7 (a) Computer generated lists on electronic data processing media.

8 (b) Terminal access to the files of the office.

9 (c) Microfilm records of the files of the office.

10 (d) Microfilm processing and development services.

11 (e) Copies of the programs and files on paper or electronic data processing media.

12 **SECTION 4.** ORS 56.041 is amended to read:

13 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

14 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
15 penalties and miscellaneous revenues from all sources relating to business registry functions, and
16 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
17 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
18 Treasurer and deposited at least monthly in the Operating Account.

19 (3) **Except for moneys attributable to fees collected under ORS 56.140 (2),** moneys deposited
20 to the credit of the Operating Account are continuously appropriated **to the Secretary of State** for
21 the expenses of carrying out the functions and duties of the Secretary of State relating to business
22 registry, and the functions and duties of the Secretary of State under ORS chapters 79 and 194 and
23 ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831. **Moneys attributable to fees collected**
24 **under ORS 56.140 (2) shall be transferred to and deposited in the Interagency Compliance**
25 **Network Account established under section 2 of this 2009 Act and may be used only for the**
26 **purposes specified in section 2 of this 2009 Act.**

27 (4) At the end of each month,[:]

28 [(a)] the Secretary of State shall determine for that month the number of business registry filings
29 for which the Secretary of State collected the [fee] fees described in ORS 56.140 **and shall**
30 **transfer[; and]**

31 [(b)] an amount equal to \$30 for each business registry filing [described in paragraph (a) of this
32 subsection shall be transferred] to the General Fund, **which amount [and]** shall become available for
33 general governmental expenses.

34 (5) [As of] **Not later than** July 1 of each year, **the Secretary of State shall transfer to the**
35 **General Fund** any unexpended and unobligated balance in the Operating Account **that is attrib-**
36 **utable to the fee collected under ORS 56.140 (1) and** that is in excess of the amount that is
37 necessary to administer the functions and duties of the Secretary of State as described in subsection
38 (3) of this section for two months, as certified by the Secretary of State[, shall be transferred to the
39 General Fund and shall become]. **The moneys transferred under this subsection are** available for
40 general governmental expenses.

41 **SECTION 5.** The amendments to ORS 56.041 and 56.140 by sections 3 and 4 of this 2009
42 Act apply only to documents filed with the Secretary of State on or after the effective date
43 of this 2009 Act.