

House Bill 2815

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 **as introduced**.

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

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 **representatives of:**

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

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

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

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

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

13 (f) **The Governor;**

14 (g) **The Construction Contractors Board; and**

15 (h) **Such other agencies as may be designated by the Governor.**

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

17 (a) **Work to establish uniform rules relating to the status of independent contractors;**

18 (b) **Gather and share information relating to persons doing business on a cash basis for**
19 **the purpose of avoiding compliance with laws relating to taxation and employment;**

20 (c) **Gather and share information relating to persons compensated as independent con-**
21 **tractors;**

22 (d) **Study investigative methods for auditing persons who conduct business on a cash**
23 **basis, or who provide compensation to any other person based on the contention that the**
24 **other person is an independent contractor;**

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 (e) Conduct joint audits of persons doing business on a cash basis and of persons who
 2 provide compensation to any other person based on the contention that the other person is
 3 an independent contractor;

4 (f) Identify opportunities and obstacles to improving compliance with the laws relating
 5 to taxation and employment;

6 (g) Create a streamlined compliance process for the laws relating to independent con-
 7 tractor status that is efficient, fair and effective for the public and the regulatory agencies
 8 charged with enforcing those laws; and

9 (h) Engage in public outreach efforts to educate the public generally on the distinctions
 10 between independent contractors and employees, and the laws and regulations governing the
 11 duties relating to classification of persons as independent contractors or employees.

12 (3) Notwithstanding ORS 314.835 or any other law relating to confidentiality of informa-
 13 tion, any agency with a representative in the Interagency Compliance Network may enter
 14 into an agreement with another agency with a representative in the network to provide in-
 15 formation to the other agency. Information provided to an agency under this subsection may
 16 be used by the agency only for the purpose of enforcing compliance of laws that are admin-
 17 istered by the agency.

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

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

23 (a) _____ percent to the Department of Revenue, for the purpose of enforcing the tax
 24 laws by engaging in compliance activities, including audits and investigations, that are re-
 25 lated to persons doing business on a cash basis and to persons who provide compensation to
 26 any other person based on the contention that the other person is an independent contrac-
 27 tor.

28 (b) _____ percent to the Employment Department, for the purpose of enforcing the
 29 unemployment tax laws by engaging in compliance activities, including audits and investi-
 30 gations, that are related to persons doing business on a cash basis and to persons who pro-
 31 vide compensation to any other person based on the contention that the other person is an
 32 independent contractor.

33 (c) _____ percent to the Department of Consumer and Business Services, for the pur-
 34 pose of enforcing the laws related to workers' compensation by engaging in compliance ac-
 35 tivities, including audits and investigations, that are related to persons doing business on a
 36 cash basis and to persons who provide compensation to any other person based on the con-
 37 tention that the other person is an independent contractor.

38 (d) _____ percent to the Bureau of Labor and Industries, for the purpose of enforcing
 39 the laws related to wage and hours, and to prevailing wage rates, by engaging in compliance
 40 activities, including audits and investigations, that are related to persons doing business on
 41 a cash basis and to persons who provide compensation to any other person based on the
 42 contention that the other person is an independent contractor.

43 (e) _____ percent to the Department of Justice to investigate and prosecute criminal
 44 activities discovered by reason of audits, investigations and other compliance activities de-
 45 scribed in this subsection, or that otherwise come to the attention of the department and

1 **that relate to persons doing business on a cash basis or to persons who provide compensation**
 2 **to any other person based on the contention that the other person is an independent con-**
 3 **tractor.**

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

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

7 56.140. (1) **Except as provided in subsection (2) of this section,** the Secretary of State shall
 8 collect a nonrefundable fee of \$50 for each document delivered for filing to the Secretary of State
 9 as part of the secretary's business registry functions described in ORS 56.022.

10 **(2) The Secretary of State shall collect a nonrefundable fee of \$_____ for each annual**
 11 **report delivered for filing to the Secretary of State under ORS 60.787 and 63.787 and for each**
 12 **delivery of articles of incorporation for filing under ORS 60.051 and articles of organization**
 13 **for filing under ORS 63.051.**

14 [(2)] (3) The Secretary of State by rule may establish fees, in addition to those provided for in
 15 [subsection (1)] **subsections (1) and (2)** of this section, for:

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

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

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

23 [(4)] (5) The Secretary of State may waive collection of any fee, charge or interest[,] or portion
 24 of a fee, charge or interest[,] that is collectible by the Secretary of State as part of the secretary's
 25 business registry functions.

26 [(5)] (6) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
 27 lowing services relating to the secretary's business registry functions:

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

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

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

31 (d) Microfilm processing and development services.

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

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

34 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

35 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
 36 penalties and miscellaneous revenues from all sources relating to business registry functions, and
 37 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
 38 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
 39 Treasurer and deposited at least monthly in the Operating Account.

40 (3) **Except for moneys attributable to fees collected under ORS 56.140 (2),** moneys deposited
 41 to the credit of the Operating Account are continuously appropriated **to the Secretary of State** for
 42 the expenses of carrying out the functions and duties of the Secretary of State relating to business
 43 registry, and the functions and duties of the Secretary of State under ORS chapters 79 and 194 and
 44 ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831. **Moneys attributable to fees collected**
 45 **under ORS 56.140 (2) shall be transferred to and deposited in the Interagency Compliance**

1 **Network Account established under section 2 of this 2009 Act and may be used only for the**
2 **purposes specified in section 2 of this 2009 Act.**

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

4 [(a)] the Secretary of State shall determine for that month the number of business registry filings
5 for which the Secretary of State collected the [fee] **fees** described in ORS 56.140 **and shall**
6 **transfer**[: and]

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

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

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