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# MEMORANDUM

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**To:** *Transportation and Economic Development Subcommittee*

**From:** Krista McDowell, Legislative Fiscal Office  
(503) 986-1838

**Date:** June 11, 2013

**Subject:** SB 252 – B3  
Work Session Recommendations

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SB 252 – B3 relates to late filing penalties. The measure is effective on the 91<sup>st</sup> day following adjournment sine die.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, revenue impact statement, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a public hearing and work session in the Committee on Business and Transportation with a recommendation of do pass with amendments. The measure then had a public hearing and work session in the Committee on Business and Labor with a recommendation of do pass with amendment and was then referred to Ways and Means by order of the Speaker.

The measure has a \$162,254 fiscal and .88 FTE impact in the 2013-15 biennium and \$5,612 fiscal impact in the 2015-17 biennium.

## **Measure as Modified**

The measure, as amended, is recommended to be moved to the full Committee on Joint Ways and Means.

**Motion: Move SB 252 – B3 to the full committee with a “do pass” recommendation, as amended.**

## **Assignment of Carriers**

Full: \_\_\_\_\_  
2nd Chamber: \_\_\_\_\_

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: SB 252 - B3**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office*Only Impacts on Original or Engrossed Versions are Considered Official*

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Prepared by: Krista McDowell  
Reviewed by: Michelle Deister  
Date: 6/10/2013

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**Measure Description:**

Increases minimum penalty for late filings of payroll and tax reports by employers to \$100 .

**Government Unit(s) Affected:**

Employment Department

**Summary of Expenditure Impact:**

	<b>2013-15 Biennium</b>	<b>2015-17 Biennium</b>
Other Funds	\$162,254	\$5,612
Federal Funds		
NL Other Funds		
NL Federal Funds		
<b>Total Funds</b>	<b>\$162,254</b>	<b>\$5,612</b>
Positions	1	0
FTE	0.88	0

**Summary of Revenue Impact:**

	<b>2013-15 Biennium</b>	<b>2015-17 Biennium</b>
Other Funds	\$184,920	\$162,850
Federal Funds		
NL Other Funds		
NL Federal Funds		
<b>Total Funds</b>	<b>\$184,920</b>	<b>\$162,850</b>

**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:**

The bill increases the minimum penalty for late filing of payroll and tax reports by employers who report taxable payroll and creates a tiered penalty system for those reporting no taxable payroll.

The current Oregon Employment Department (OED) minimum civil penalty assessed is for late filings by employers with no payroll to report. OED does not generally issue billing notices for amounts owed on these reports if they are less than \$10. The measure will increase this penalty to a tiered system of the following: written warning, \$10, \$25, \$50 and then \$100 for subsequent violations. If an employer files all required reports for three consecutive years, they will revert back to a filing status of an employer with no previous violations.

Taken together, revenue increases for the various tiers in this penalty system are estimated at \$184,920 for 2013-15 and – because of increased compliance due to the imposition of higher penalties -- \$162,850 in 2015-17. The total number of penalties assessed across all tiers is estimated at 10,200 in 2013-15 and to drop by nearly 40% in 2015-17.

Initial implementation of the bill is estimated to require approximately 300 hours of temporary work for information systems programming and updating department materials at a cost of \$12,400. The agency anticipates a need for one limited duration .88 FTE, Compliance Specialist 2 position for 21 months at a cost of \$144,280. This position would address public questions and concerns regarding the change in penalty policy, as well as help process the additional penalty workload.

Enforcing these additional penalties will also result in in a larger number of administrative hearings for assessments that are challenged. The Office of Administrative Hearings (OAH) anticipates approximately five more administrative hearing requests per year. The OED will be billed for these services by OAH at an estimated cost of \$5,612 per biennium.

Calculations are based on an assumed effective date of October 1, 2013.

**77<sup>th</sup> OREGON LEGISLATIVE ASSEMBLY – 2013 Session  
STAFF MEASURE SUMMARY**

**MEASURE:** **HB 252-B3**

**Joint Committee on Ways and Means**

**Carrier – House:** **Rep.**  
**Carrier – Senate:** **Sen.**

**Revenue:** Statement Not Issued

**Fiscal:** Fiscal Impact Statement Issued

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**Action:**

**Vote:**

House

Yea:

Nay:

Exc:

Senate

Yea:

Nay:

Exc:

**Prepared By:** Krista McDowell, Legislative Fiscal Office

**Meeting Date:**

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**WHAT THE MEASURE DOES:** Increases minimum penalty to employers for continued late filing of unemployment insurance quarterly report to \$100 from current penalty of \$85.25 based on formula. Creates tiered penalty for continued late filing of zero payroll quarterly report. Takes effect on 91<sup>st</sup> day following adjournment sine die.

**ISSUES DISCUSSED:**

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**EFFECT OF COMMITTEE AMENDMENT:** The amendment provides limiting expenditures, in the amount of \$162,254 for the biennium beginning July 1, 2013 for the Employment Department.

**BACKGROUND:** The Oregon Employment Department is charged with supporting economic stability for Oregonians and communities during times of unemployment through the payment of unemployment insurance (UI) benefits. To be eligible to receive benefits, an individual must have earned at least \$1,000 in wages in subject employment during the first four of the previous five quarters, as well as total wages of at least 1.5 times that of the highest quarter during the same period. Weekly benefits range from \$122 per week to \$524 per week.

Oregon law requires employers to file quarterly reports listing how many people, if any, they employed and the wage paid to them. The quarterly reports are used to determine whether individuals have enough earnings to be eligible to receive UI benefits and to determine the amount of benefits for qualified individuals.

The Department believes the current penalty for failure to file quarterly reports in a timely manner is an insufficient deterrent to compel compliance, particularly by small employers with few employees or those reporting they had no payroll. After the first occurrence of a late filing, the Department sends a written notice warning that a subsequent late filing could result in a penalty. The Department estimates 4,800 employers repeatedly file their reports late; however, many of those penalties are not pursued because of the cost of collection. Based on a formula, the current minimum penalty is \$85.25; Senate Bill 252-B raises the minimum penalty for continued late filing to a flat minimum of \$100. The penalty for continued late filing of a zero-payroll report is increased from the current \$5 to \$10 for the first violation within three years of a written warning. A violation after the first penalty is penalized at \$25, the second violation is \$50, and third and subsequent violations are \$100.