



**BILL:** SB 252  
**Committee:** Senate Business and Transportation  
**Date:** February 7, 2013  
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### **Subject:**

SB 252 amends ORS 657.663, increasing to \$100 the minimum penalty for employers that repeatedly fail to timely file required payroll tax reports.

### **Introduction:**

Oregon employers file quarterly reports with the Employment Department showing how many, if any, people they employed and how much they were paid. This information is used to administer the unemployment insurance (UI) benefits and tax programs. The current statutory penalty for businesses that do not file as required does not adequately encourage compliance, creating challenges for administering the UI program.

### **Discussion:**

Employers file quarterly reports with the Employment Department listing how many, if any, people it employed each calendar quarter and the wages it paid them. The Employment Department uses this information to ensure compliance with the UI tax laws, so that businesses who follow the laws are not at a competitive disadvantage with the relatively small number of employers who do not comply with their UI tax obligations.

Importantly, the Department also uses this information to administer the UI benefits program. These reports are used to determine the earnings history of people claiming UI benefits. This impacts whether they have a valid claim for UI benefits and, if so, the amount of benefits to which they may be entitled. When employers do not timely file reports, it makes it difficult for the Department to timely and accurately administer UI benefits.

If an employer does not timely file a report, it can delay UI benefit payments to someone who is eligible for those benefits. It can also result in the person being placed on a different claim, something that can lead to improper payments. Even if a business is reporting that it had no employees during a particular quarter, until the Department receives that information, we do not know whether or not the business had employees. That means Department staff must follow up with the business to find out if it did have any employees.

Currently, businesses who do not timely file these quarterly reports receive a written warning notice. If they are late again within three years of receiving a warning, they are subject to a civil penalty.

- If the business had no employees for that calendar quarter, the penalty is \$5.00. We issue about 1,200 of these penalties per year. There are more employers that could be penalized, but are not, because we do not pursue amounts owed that are less than \$10.

- If the business paid wages to employees during the quarter, the statute has a formula to determine the penalty amount. The minimum penalty is .25% of the taxable wage base for the year. That resulted in a minimum penalty of \$82.50 in 2012 and \$85.25 for 2013.

In 2012, approximately 5,000 employers were assessed penalties of either \$5 or \$82.50. Of those, 52% had previously been assessed a penalty and, before that, had received a written warning. The current penalty structure does not adequately encourage businesses to timely file these payroll reports. This results in additional resources being spent by the Department to get unfiled reports and delays payment of UI benefits in some cases.

SB 252 would retain a written warning for businesses the first time they do not file their reports as required by statute. If they are late again within a three year period, this bill increases the existing minimum civil penalties, of \$5 and \$85.25, to \$100. Retaining the written warning gives the Department an opportunity to remind employers about their filing obligations. For those employers who continue to not fulfill those obligations, this minimum penalty should be more effective at encouraging compliance without being unduly punitive. The long term impact is expected to be more accuracy and fewer delays in paying benefits, as well as fewer resources being required to follow up with employers who do not timely file their tax reports.

### **Summary:**

The law currently provides for a written warning when businesses do not file required tax reports with the Employment Department. Businesses that continue not to file required reports are subject to a penalty. This bill would retain the written warning and modestly increase the minimum penalty, from \$5 and \$85.25, to \$100. This will permit the Employment Department to more accurately and efficiently administer the UI benefits and tax programs, providing a level playing field for employers and minimizing payment delays for people who are eligible to receive UI benefits.