

Testimony before the House Business and Labor Committee

HB 2440

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Introduction

The Oregon Employment Department (OED) supports House Bill (HB) 2440 which makes two changes regarding eligibility for unemployment insurance (UI) benefits. It lets people receive benefits when they must leave their local area to apply for work and it treats back pay as earnings when looking at whether someone is eligible for UI benefits.

Traveling Out of Local Labor Market

Currently, people who leave their local area for most of a week are not eligible to receive unemployment insurance (UI) benefits. The law makes an exception for people who are looking for work in the place they are visiting. However, the exception does not apply to people who have to leave their local area in order to try to get a job that they will perform locally. For example, if a person lives in Salem and applies for a Salem job, but is required to do a final interview at the business' headquarters in New York, they will not be eligible for benefits for that week.

HB 2440 amends ORS 657.155 to allow people to be eligible for UI benefits when they are required to be outside their local area in order to apply for work they will perform back in their local labor market.

Back Pay

Oregon is one of only a few states nationwide that does not consider back pay as earnings when deciding whether someone can receive UI benefits. This means if someone receives unemployment insurance benefits for a particular week, and later receives their full wages for the same week, they are able to keep both their full earnings and their UI benefits. This issue arose during the 2013 federal government shut down when federally furloughed employees received unemployment benefits, then later received back pay for the same time period. The issue also comes up when people receive unemployment insurance, but later prevail in a claim of wrongful termination.

HB 2440 would treat back pay as earnings. If someone receives back pay for a time period for which they also received UI benefits, the UI benefits would be considered a benefit overpayment. Because the overpayment in these situations would not be the fault of the person who received the benefits, the law provides that the benefits would be recouped only by offsetting future UI benefits the person would otherwise receive.

Effect on the Public

People who are required to leave their local area in order to apply for a job they will perform near their home will no longer lose their eligibility for UI benefits. This will help support workers and their families as they seek work. This situation does not arise frequently. The department estimates this change will apply to about ten people per month.

People who receive their back pay and UI benefits for the same time period will be required to repay the UI benefits, but only out of future UI benefits they would otherwise receive. The department does not have the ability to track how frequently this issue arises. Our experience is that it is relatively rare, but that when it does arise, it can generate significant public discussion.

Recommendation

The OED recommends passage of HB 2440 so that people who have to leave their local area to apply for work can continue receiving unemployment insurance benefits. The second part of the bill ensures that people are not able to retain both their full wages and also unemployment insurance benefits for the same time period.

Attachment

Employment Div. v. Ring, 104 Or App 713 (1990) - court ruling that back pay cannot be considered earnings for purposes of unemployment insurance eligibility.

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