State of Oregon
Employment Department

Testimony before the Senate Workforce Committee
SB 243

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Introduction

The Oregon Employment Department (OED) supports SB 243 which makes two changes to how OED collects overpaid unemployment insurance (UI) benefits. To stay in conformity with federal law and avoid potential financial sanctions against the OED and Oregon employers, Oregon is required to use an interstate agreement to offset certain unemployment insurance (UI) debts with other states. The Employment Department believes it currently has the authority to do this, but this bill makes that authority explicit. The other change addressed by this bill is to extend the time frame OED has for recovering certain overpayments, from three years to five years.

Offset of Overpayments

One of the methods OED uses to recover overpaid UI benefits is the Interstate Reciprocal Overpayment Recovery Arrangement (IRORA). IRORA permits a state to offset UI benefits, (withhold benefits otherwise payable to the individual) when an overpayment exists in another state. The passage of the Middle Class Tax Relief and Job Creation Act in 2012 requires OED to request offset of overpaid UI benefits, including in situations where the individual was not at fault for causing the overpayment. OED uses the IRORA to meet this federal requirement. Although OED believes current statutes authorize this, there is arguably some statutory ambiguity.

SB 243 explicitly authorizes OED to use interstate recovery agreements for UI overpayments that were not caused by the claimant as required by federal law.

Period to Recover Certain Overpayments

There are different statutory classifications of overpaid UI benefits, based on whether the person who received the overpayment caused the overpayment to happen. There are differences in how the different categories of overpayments can be collected and how long OED is required to pursue recovering them for the UI Trust Fund.

Currently, OED is required to cancel an overpayment debt that is the fault of the claimant after three years when the amount owed is no more than the state's maximum weekly benefit amount or if it is determined to be uncollectible, and if no payment has been made within the last three months. Overpayments that were not caused by the claimant can be pursued for up to five years. This means some overpayments caused by claimants get written off within three years, but overpayments not caused by claimants take longer, five years, to write off.

SB 243 extends the time period from three to five years for OED to recover certain overpayments that were caused by the claimant. This will align the recovery period for overpayments that are claimant caused and non-claimant caused to five-years.

Effect of SB 243

Failure to make the change to ORS 657.315 could mean Oregon law is more susceptible to a legal challenge resulting in Oregon being found to be inconsistent with federal law. This could result in the loss of all federal administrative funding for the unemployment insurance program as well as Oregon employers no longer receiving a credit against their Federal Unemployment Tax Act (FUTA) obligations. The loss of FUTA credits could result in Oregon employers paying an additional estimated $500 million in payroll taxes annually.

Increasing the time period to recover certain overpayments that were caused by the claimant will result in increased overpayment recoveries. In the first year, OED would see an increase of approximately $45,000 and approximately $75,000 in following years. Most of that will be returned to the UI Trust Fund, helping maintain lower UI tax rates for Oregon businesses, with the remainder being returned to employers that directly reimburse UI benefits paid.

Recommendation

The OED recommends passage of SB 243 so that Oregon law will be consistent with federal law and will not face a loss of federal administrative funding for the unemployment insurance program and Oregon employers will not pay increased payroll taxes.

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