

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
House Committee On Business and Labor

MEASURE: HB 2386 A
CARRIER: Rep. Holvey

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 03/18/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 02/09, 03/18

Vote:

Yeas: 6 - Barton, Doherty, Evans, Fagan, Holvey, Nosse

Nays: 5 - Barreto, Esquivel, Heard, Kennemer, Weidner

Prepared By: Jan Nordlund, Committee Administrator

WHAT THE MEASURE DOES:

Authorizes Labor Commissioner to issue temporary cease and desist order requiring employer to refrain from unlawful practice when there is reason to believe statutes governing prevailing wage rate, farm and construction labor contractors, wage and hour, and employment conditions have been violated. Authorizes Labor Commissioner to impose civil penalty when employer fails to pay wages on regular payday. Authorizes Labor Commissioner to administratively compel employer to provide bond when employer fails to establish and maintain a regular payday.

ISSUES DISCUSSED:

- Due process available to employer under cease and desist order
- Other actions Bureau of Labor and Industries (BOLI) can take to address employers who repeatedly violate laws
- “Reason to believe” would be standard to issue cease and desist order

EFFECT OF COMMITTEE AMENDMENT:

Specifies that Commissioner’s “reason to believe” may be based on the following factors: employer’s previous violations, receipt of multiple complaints, complaint filed with another agency on issue relevant to the current case, or information from the Interagency Compliance Network. Authorizes Labor Commissioner to impose civil penalty not to exceed \$1,000 when employer fails to pay wages on regular payday as long as failure is not due to circumstance beyond employer’s control. Authorizes Labor Commissioner to administratively compel employer to provide bond when employer fails to establish and maintain a regular payday.

BACKGROUND:

The Bureau of Labor and Industries (BOLI), under the direction of the Labor Commissioner, is responsible, among other things, for protecting the rights of workers and citizens to equal, non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing and public accommodations. It is also responsible for encouraging and enforcing compliance with state laws relating to wages, hours, terms and conditions of employment.

Chapter 651 of the Oregon Revised Statutes (ORS) provides for the general authority of the Labor Commissioner and BOLI. Several individual chapters of the Oregon Revised Statutes establish the specific laws for wages, hours, and terms and conditions of employment as well as the Commissioner’s specific authority to enforce those laws. Chapter 659A (civil rights) provides the Commissioner with authority to issue a temporary cease and desist order for specified alleged unlawful practices.

House Bill 2386-A adds provisions to Chapter 651 that give the Labor Commissioner authority to issue a temporary cease and desist order, requiring an employer to refrain from an alleged unlawful practice related to the prevailing wage rate, wage and hour standards, employment conditions, and farm and construction labor contractors.

Under existing statute, an employer who fails to pay wages within five days of a scheduled payday is subject to providing a bond in an amount that the Labor Commissioner finds necessary to assure timely payment in the future. If the employer does not provide the bond, the Commissioner can begin court action to compel compliance. The court can then enjoin the employer from doing business in the state if the requirement is not met. House Bill 2386-A gives the Commissioner authority, without court action, to administratively compel the employer to provide the bond and to issue a cease and desist order for failure to do so. The Commissioner can seek a court order to enforce compliance. The measure also allows the Commissioner to order a bond when an employer fails to set and keep a regular payday, as opposed to only when wages are paid more than five days late. In addition, the measure authorizes the Commissioner to impose a civil penalty up to \$1,000 when an employer fails to pay wages on the regular payday.