

## SB 984 A STAFF MEASURE SUMMARY

### House Committee On Business and Labor

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**Action Date:** 05/31/17

**Action:** Without recommendation as to passage and be referred to Rules.

**Vote:** 8-0-1-0

**Yeas:** 8 - Barreto, Bynum, Doherty, Evans, Fahey, Hack, Heard, Holvey

**Exc:** 1 - Kennemer

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Jan Nordlund, LPRO Analyst

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#### WHAT THE MEASURE DOES:

Requires employers in industry subject to statutes requiring overtime pay for work exceeding maximum statutory hours in any one day to calculate employee's overtime on daily and weekly basis, and to pay greater of two amounts. Defines "week" as any consecutive 168-hour period. Creates private right of action and authorizes court to award costs, disbursements and reasonable attorney fees to prevailing party for violations of overtime requirements in ORS 652.020.

#### ISSUES DISCUSSED:

- Referral to House Committee on Rules without recommendation as to passage

#### EFFECT OF AMENDMENT:

No amendment.

#### BACKGROUND:

The payment of overtime is required by both federal and state laws. The Bureau of Labor and Industries (BOLI) has authority to administer Oregon's wage and hour statutes, including provisions concerning overtime payments.

Oregon law requires most employers to pay overtime to eligible employees at the rate of one and one-half times the employee's regular rate for all hours worked beyond 40 in the work week. (ORS 653.261) Special overtime rules apply to government agencies, hospitals, canneries and manufacturing establishments, providing for payment of overtime on a daily basis. (ORS 652.020; ORS 653.265)

BOLI's Wage and Hour Division provides guidance to employers regarding state overtime laws. In December 2016, BOLI revised its guidance concerning situations where an employee who is entitled to daily overtime has worked more than 40 hours in the workweek and has also exceeded the maximum number of hours on one or more days, thereby earning daily overtime. Prior to December 2016, BOLI's Wage and Hour Laws Handbook for Oregon Employers advised that employers should calculate overtime wages for hours worked on both a daily basis and a weekly basis, and then *pay the greater amount of the two*. BOLI currently advises employers to calculate overtime wages earned for hours worked on both a daily basis and a weekly basis, and then *pay both amounts*. See [http://www.oregon.gov/boli/TA/pages/t\\_faq\\_tamanufacturing.aspx](http://www.oregon.gov/boli/TA/pages/t_faq_tamanufacturing.aspx).

In March 2017, the Multnomah County Circuit Court denied a claim in *Mazahua Reyes, et al. v. Portland Specialty Baking, LLC* that would have required an employer to pay both amounts for overtime in such a situation based on

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current statute.

Senate Bill 984-A requires an employer to calculate the overtime payment on both a daily and weekly basis and to pay the employee the greater of the two amounts. The measure also creates a private right of action and authorizes the court to award costs, disbursements and reasonable attorney fees to a prevailing party for violations of overtime requirements in ORS 652.020.