

# House Bill 2783

Sponsored by COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Commissioner of Bureau of Labor and Industries to require employer that is able to pay but has not paid wages to provide bond for a period of time determined by commissioner or cease conducting business until employer has provided bond. Authorizes commissioner to require employer that has not established or maintained regular payday to provide bond or cease conducting business until employer has provided bond.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to wages; amending ORS 652.125, 652.340 and 652.380; and declaring emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 652.125 is amended to read:

5 652.125. (1) If, upon complaint by an employee, and after investigation, it appears to the Com-  
6 missioner of the Bureau of Labor and Industries that an employer [*is failing to pay wages within five*  
7 *days of a payday scheduled by the employer,*] **has failed to establish or maintain a regular payday**  
8 **as required by ORS 652.120**, the commissioner may require the employer to [*give a bond in such*  
9 *amount as*] **provide a bond in an amount that** the commissioner determines necessary, with suffi-  
10 cient surety, to [*assure*] **ensure** timely payment of wages due employees for [*such*] **a** future period  
11 [*as*] **that** the commissioner considers appropriate. In lieu of a bond, the commissioner may accept  
12 a letter of credit from an issuer approved by the commissioner, upon [*such*] terms and conditions  
13 and for [*such*] **an** amount [*as*] **that** the commissioner determines necessary to [*assure*] **ensure** timely  
14 payment of wages for [*such*] **a** future period [*as*] **that** the commissioner determines appropriate.

15 (2) If[,] **an employer fails to provide the required bond** within 10 days after demand for [*such*  
16 *bond, the employer fails to provide the same, the commissioner may commence court action against the*  
17 *employer in the circuit court of appropriate jurisdiction*] **the bond, the commissioner may com-**  
18 **mence an administrative action** to compel the employer to [*furnish such*] **provide the** bond or  
19 cease doing business until the employer has done so. The employer shall have the burden of proving  
20 the amount [*thereof*] **of the required bond** to be excessive.

21 (3) If the [*court*] **commissioner** finds that there is just cause for requiring [*such*] **the** bond and  
22 that the [*same*] **bond** is reasonably necessary or appropriate to secure the prompt payment of the  
23 wages of the employees of [*such*] **the** employer, the [*court shall*] **commissioner shall issue an order**  
24 **subject to challenge or appeal under ORS chapter 183** to enjoin [*such*] **the** employer from doing  
25 business in this state until the requirement is met, or shall make other, and may make further,  
26 **appealable** orders appropriate to compel compliance with the requirement.

27 (4) **If an employer fails to comply with the requirements of this section, the commis-**  
28 **sioner may commence an action in the circuit court of appropriate jurisdiction to enforce**  
29 **the provisions of subsection (3) of this section.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

**SECTION 2.** ORS 652.340 is amended to read:

652.340. (1) If upon investigation by the Commissioner of the Bureau of Labor and Industries, after taking assignments of any wage claims under ORS 652.330, it appears to the commissioner that the employer is representing to employees that the employer is able to pay wages for their services and that the employees are not being paid for their services, the commissioner may require the employer to *[give]* **provide** a bond in *[such sum as]* **an amount that** the commissioner deems reasonable and adequate in the circumstances, with sufficient surety, conditioned that the employer will for a *[definite future period not exceeding six months]* **future period that the commissioner considers appropriate** conduct business and pay employees in accordance with the laws of Oregon.

(2) If **an employer fails to provide the required bond** within 10 days after demand for *[such bond the employer fails to provide the same, the commissioner may commence a suit against the employer in the circuit court of appropriate jurisdiction]* **the bond, the commissioner may commence an administrative action** to compel the employer to *[furnish such]* **provide the** bond or cease doing business until the employer has done so. The employer shall have the burden of proving the amount *[thereof]* **of the required bond** to be excessive.

(3) If the *[court]* **commissioner** finds that there is just cause for requiring *[such]* **the** bond and that the *[same]* **bond** is reasonably necessary or appropriate to secure the prompt payment of the wages of the employees of *[such]* **the** employer and the employer's compliance with ORS 652.310 to 652.414, the *[court]* **commissioner** shall **issue an order subject to challenge or appeal under ORS chapter 183 to** enjoin *[such]* **the** employer from doing business in this state until the requirement is met, or shall make other, and may make further, **appealable** orders appropriate to compel compliance with the requirement.

**(4) If an employer fails to comply with the requirements of this section, the commissioner may commence an action in the circuit court of appropriate jurisdiction to enforce the provisions of this section.**

**SECTION 3.** ORS 652.380 is amended to read:

652.380. (1) The remedies provided by ORS 652.310 to 652.414 shall be additional to and not in substitution for and in no manner impair other remedies and may be enforced simultaneously or consecutively so far as not inconsistent with each other.

(2) No payment or tender after the filing of a criminal complaint or commencement of any proceeding by the Commissioner of the Bureau of Labor and Industries shall affect the liability therein of an employer for expenses, or prevent such employer from being subject to fine or forfeitures, or to the *[giving]* **providing** of bond under ORS 652.340.

**SECTION 4. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.**

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