

Requested by Representative FAHEY

**PROPOSED AMENDMENTS TO
HOUSE BILL 4087**

1 On page 1 of the printed bill, delete lines 4 through 24 and delete page
2 2 and insert:

3 **SECTION 1.** ORS 653.256 is amended to read:

4 “653.256. (1) In addition to any other penalty provided by law, the Com-
5 missioner of the Bureau of Labor and Industries may assess a civil penalty
6 not to exceed \$1,000 against any person that willfully violates ORS 653.025,
7 653.030, 653.045, 653.050, 653.060, 653.261, 653.265, 653.606, 653.611, 653.616,
8 653.621, 653.626, 653.631 or 653.636 or section 5, chapter 537, Oregon Laws
9 2015, or any rule adopted thereunder.

10 “(2) In addition to any other penalty provided by law, the commissioner
11 may assess a civil penalty not to exceed \$1,000 against any person that in-
12 tentiously violates ORS 653.077 or any rule adopted thereunder.

13 “(3) Civil penalties authorized by this section shall be imposed in the
14 manner provided in ORS 183.745.

15 “(4)(a) All sums collected as penalties under this section shall be first
16 applied toward reimbursement of costs incurred in determining the vio-
17 lations, conducting hearings under this section and addressing and collecting
18 the penalties.

19 “(b) The remainder, if any, of the sums collected as penalties under sub-
20 section (1) of this section shall be paid over by the commissioner [*to the*
21 *Department of State Lands for the benefit of the Common School Fund of this*

1 *state. The department shall issue a receipt for the money to the*
2 *commissioner.] as provided in section 3 of this 2020 Act.*

3 “(c) The remainder, if any, of the sums collected as penalties under sub-
4 section (2) of this section shall be paid over by the commissioner [*to the*
5 *Department of Human Services for the benefit of the Breastfeeding Mother*
6 *Friendly Employer Project. The department shall issue a receipt for the moneys*
7 *to the commissioner.] as follows:*

8 “(A) **Seventy-five percent of the remainder of the sums collected**
9 **shall be paid into the State Treasury and credited to the Bureau of**
10 **Labor and Industries Account under ORS 651.160 for the purpose of**
11 **providing technical assistance to employers; and**

12 “(B) **Twenty-five percent of the remainder of the sums collected**
13 **shall be paid into the State Treasury and credited to the Wage Secu-**
14 **urity Fund under ORS 652.409.**

15 “**SECTION 2.** ORS 653.370 is amended to read:

16 “653.370. (1) In addition to any other penalty provided by law, the Com-
17 missioner of the Bureau of Labor and Industries may impose upon any person
18 who violates ORS 653.305 to 653.370, or any rule adopted by the Bureau of
19 Labor and Industries under ORS 653.305 to 653.370 or 653.400, a civil penalty
20 not to exceed \$1,000 for each violation.

21 “(2) Notwithstanding ORS 183.482, any petition for review of an order
22 imposing a civil penalty under this section must be filed within 30 days fol-
23 lowing the date the order upon which the petition is based is served.

24 “(3) Except as otherwise provided in this section, civil penalties under
25 this section shall be imposed as provided in ORS 183.745.

26 “(4) All sums collected as penalties pursuant to this section shall be first
27 applied toward reimbursement of the costs incurred in determining the vio-
28 lations, conducting hearings under this section and assessing and collecting
29 such penalties. The remainder, if any, of the sums collected as penalties
30 pursuant to this section shall be paid over by the commissioner [*to the De-*

1 *partment of State Lands for the benefit of the Common School Fund of this*
2 *state. The department shall issue a receipt for the money to the*
3 *commissioner.] as provided in section 3 of this 2020 Act.*

4 “(5)(a) Notwithstanding subsection (1) of this section, the commissioner
5 may not impose a civil penalty pursuant to this section upon any person who
6 provides evidence satisfactory to the commissioner that:

7 “(A) The person has paid a civil penalty to the United States Department
8 of Labor for violation of the child labor provisions of the federal Fair Labor
9 Standards Act (29 U.S.C. 201 et seq.); and

10 “(B) The civil penalty involved the same factual circumstances at issue
11 before the commissioner.

12 “(b) Notwithstanding subsection (1) of this section, the commissioner
13 shall refund any civil penalty previously imposed on and collected from any
14 person pursuant to this section if the person provides evidence satisfactory
15 to the commissioner that:

16 “(A) The person has paid a civil penalty to the United States Department
17 of Labor for violation of the child labor provisions of the federal Fair Labor
18 Standards Act (29 U.S.C. 201 et seq.); and

19 “(B) The civil penalty involved the same factual circumstances underlying
20 the commissioner’s imposition of a civil penalty.

21 **“SECTION 3. (1)(a) After all sums collected as penalties under ORS**
22 **653.256 (1) have been applied in accordance with ORS 653.256 (4)(a), the**
23 **remainder, if any, shall be paid over by the Commissioner of the Bu-**
24 **reau of Labor and Industries as follows:**

25 **“(A) Seventy-five percent of the remainder of the sums collected**
26 **shall be paid into the State Treasury and credited to the Bureau of**
27 **Labor and Industries Account under ORS 651.160 for the purpose of**
28 **providing technical assistance to employers.**

29 **“(B) Twenty-five percent of the remainder of the sums collected**
30 **shall be paid into the State Treasury and credited to the Wage Secu-**

1 rity Fund under ORS 652.409.

2 “(b) After all sums collected as penalties under ORS 653.370 have
3 been applied in accordance with ORS 653.370 (4), the remainder, if any,
4 shall be paid over by the commissioner as follows:

5 “(A) Seventy-five percent of the remainder of the sums collected
6 shall be paid into the State Treasury and credited to the Bureau of
7 Labor and Industries Account under ORS 651.160 for the purpose of
8 providing technical assistance to employers.

9 “(B) Twenty-five percent of the remainder of the sums collected
10 shall be paid into the State Treasury and credited to the Wage Secu-
11 rity Fund under ORS 652.409.

12 “(c) The total amounts paid and credited under paragraphs (a) and
13 (b) of this subsection may not exceed \$290,000 per year.

14 “(2) Any amount remaining after the payments have been made
15 under subsection (1) of this section shall be paid to the Department
16 of State Lands for the benefit of the Common School Fund of this
17 state. The department shall issue a receipt to the commissioner for the
18 sums paid under this subsection.”.

19 On page 3, line 1, delete “3” and insert “4”.

20 On page 4, delete lines 7 through 16.

21 In line 19, delete the colon and insert “describes how the moneys credited
22 to the Bureau of Labor and Industries Account under ORS 653.256 and
23 653.370 were spent on providing technical assistance to employers.

24 “**SECTION 6. Section 5 of this 2020 Act is repealed on January 1,
25 2023.**”.

26 Delete lines 20 through 24.

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