

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 172 - A8

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Limits recovery of non-fraudulent claimant-caused overpayments to the five-year period following the week in which the decision establishing the overpayment became final.

Government Unit(s) Affected:

Employment Department (OED)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:

SB 172 limits recovery of non-fraudulent claimant-caused overpayments to the five-year period following the week in which the decision establishing the overpayment became final. Fraudulent claimant-caused overpayments are excluded from the five-year limitation on recovery. The measure requires the Oregon Employment Department (OED) to notify claimants of their liability for the overpayment, the basis for the decision that benefits were overpaid, and the consequences of the overpayment, including recovery methods and the possibility of waiver. The measure allows the OED to deduct all or any part of an individual’s future weekly benefits and to bring civil actions against individual to recovery benefits. The measure allows waiver of all or part of claimant-caused and non-claimant caused overpayments if collection is against equity and good conscience and allows OED to deduct all or part of an overpayment from an individual’s future weekly benefits. Overpaid benefits that are liable for monetary penalties due to misrepresentation cannot be waived. The measure defines “waive” as the removal of all liability. The measure stipulates that the changes specifies by the measure applies to benefits determined on or after the effective date of the Act. The measure declares an emergency and takes effect on passage.

The -A8 amendment stipulates that the changes specifies by the measure applies to benefits determined *to have been overpaid before, on, or after* the effective date of the Act. This amendment would affect overpayments prior to and after the effective date of the Act.

Unemployment Insurance Trust Fund Impact

OED estimates passage of this measure is likely to reduce overpayment collections beyond the 5-year window by \$89 million in the 2025-2027 biennium and \$27 million in the 2027-2029 biennium. The interest earned impact is estimated at \$2.2 million for the 2025-2027 biennium and \$759,000 for the 2027-2029 biennium. Under current practice, OED only recovers non-claimant caused overpayments through voluntary repayment or by offsetting 100% of future benefits until the debt is repaid. Reducing the deduction percentage to less than the maximum will result in recovery of fewer overpaid benefits. If OED chooses to offset less than 100% of each non-claimant caused overpayment, passage of the measure will create a negative impact to the UI Trust Fund.

Offsetting less than 100% of overpayments that were not caused by the claimant and those that were caused by them but were not due to fraud will result in decreased collections back into the UI Trust Fund. OED anticipates engaging in rulemaking around how to determine how much to offset under particular circumstances. Because the Department does not yet know under what circumstances offsets will be done at less than 100%, nor at what

percentage or how quickly this approach can be implemented into the UI technology systems, the impact on the UI Trust Fund is not currently known.

OED calculates that the -A8 amendment would reduce the UI Trust Fund balance by a projected additional \$1,736,815 because it would apply the shortened time period for collecting claimant caused, but non-fraudulent, overpayments, and the ability to waive this category of overpayments, to ones established before the effective date of the measure. This amount assumes these provisions would only apply to outstanding debts, and not to amounts that have already been collected on past debts. If these provisions are intended to apply to already collected amounts, it would be a significantly larger impact, both on the UI Trust Fund and the cost to implement the changes.

Administrative Impact

OED estimates the administrative impact of this measure to be \$827,278 Other Funds, 10 positions (5.00 FTE) in the 2021-23 biennium. This amount reflects the personal services and related services and supplies for ten limited duration Revenue Agent (RA1) positions to re-examine, identify, and notify the accounts that would become eligible for a waiver under provisions of the measure. In addition, OED anticipates using existing staff and resources to modify the Department's mainframe system. OED anticipates deferring some of the modifications required to implement this measure, including warrants, garnishments and state intercept, until implementation of Modernization of UI benefits. These Modernization efforts have a planned implementation date of spring 2024.