

HB 2556 -7 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Erin Seiler, LPRO Analyst

Meeting Dates: 2/20, 4/3

WHAT THE MEASURE DOES:

Requires that itemized statements provided to employees include plain language explanation of amount and purpose of each deductions. Permits deductions by employer, including State of Oregon, for overpayment of wages if deduction is made within six months from date on which employee received overpayment, employee has voluntarily signed authorization for deduction, and for employer subject to CBA with more restrictive requirements related to deductions for overpayment of wages then provided by this Act, more restrictive provisions apply.

ISSUES DISCUSSED:

- Employee should have clear understanding of pay check deductions
- Period of time that employer has to address payroll errors
- Impact of plain language requirement on employers
- Impact on employees when overpayment of wages are deducted

EFFECT OF AMENDMENT:

-7 Removes requirement that itemized statements provided to employees include plain language explanation of the amount and purpose of each deductions. Permits employer to make deductions from employee's wages for erroneous overpayment of wages when certain conditions are met, provided the employee is not subject to collective bargaining agreement: employee voluntarily signs agreement authorizing deductions; deductions are made within six months from date when employee signed agreement; employer waives claims to recover any overpayments in which six months has passed since date on which employee signed agreement; employee has 14 days to consider agreement authorizing deduction; employers provides employee written statement itemizing the overpayment amount and purpose of each deduction and written statement that in no event may total amount of the deduction be more than 10 percent of gross pay each pay period. State of Oregon is subject to requirements of measure. Statute of limitation for action alleging violations for erroneous overpayment requirements is tolled until employer provides employee required itemized payroll statement.

BACKGROUND:

ORS 652.610 does not specifically address whether deductions from paychecks to recover overpayments of wages is permitted. A 1997 federal court ruling, *Duncan v. Office Depot*, 973 F. Supp. 1171 (D. Or. 1997), determined that an employer making deductions from paychecks for the purpose of recovering overpayments of wages did constitute an unlawful deduction. Based on this court ruling, the Bureau of Labor and Industries (BOLI) recognizes that such a deduction would be unlawful. However, if a collective bargaining agreement (CBA) allows for deductions from paychecks for an overpayment of wages, then it would not be considered an unlawful deduction.

Although a deduction from a paycheck for overpayment of wages is considered unlawful, an employer would still be able to pursue reimbursement of the overpayment through private action. Currently, statute does not limit the time period for how long an employer has to identify the overpayment and pursue reimbursement.

House Bill 2556 permits deductions by an employer, including the State of Oregon, for an overpayment of wages if the deduction is made within six months from the date on which the employee received the overpayment, the employee has voluntarily signed an authorization for the deduction, and for employer subject to CBA with more

HB 2556 -7 STAFF MEASURE SUMMARY

restrictive requirements related to deductions for overpayment of wages then provided by this Act, more restrictive provisions apply.

ORS 652.610(1) requires an employer to provide an itemized statement to an employee when wages are paid and specifies what information must be included on the itemized statement. The statement must include, among other things, the gross wages, net wages, rate (or rates) of pay, and the amount and purpose of each deduction. Although the statute requires the statement to be in written format, there is no requirement for the statement to have a plain language explanation of the deductions.

HB 2556 Requires that itemized statements provided to employees include a plain language explanation of the amount and purpose of each deductions.