

A-Engrossed House Bill 2556

Ordered by the House April 5
Including House Amendments dated April 5

Sponsored by Representative NOSSE; Representative NELSON (Presession filed.)

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.

[Requires that itemized statements provided to employees explain, in plain language, amount and purpose of each deduction.]

Provides requirements for employer deductions for erroneous overpayments of wages for employees who are not subject to collective bargaining agreement. Clarifies that, for employees who are subject to collective bargaining agreement, employer deductions for erroneous overpayments of wages made pursuant to terms of applicable collective bargaining agreement are not prohibited.

Tolls statute of limitations for action alleging violation of requirements for erroneous overpayment deductions until employer provides to employee alleging violation itemized statement that meets certain requirements.

A BILL FOR AN ACT

1
2 Relating to deductions from employee wages; creating new provisions; and amending ORS 292.063,
3 652.610 and 652.615.

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

5 **SECTION 1.** ORS 652.610 is amended to read:

6 652.610. (1)(a) All persons, firms, partnerships, associations, cooperative associations, corpo-
7 rations, municipal corporations, the state and its political subdivisions, except the federal govern-
8 ment and its agencies, employing, in this state, during any calendar month one or more persons,
9 shall provide the employee on regular paydays and at other times payment of wages, salary or
10 commission is made, with an itemized statement as described in paragraph (b) of this subsection.

11 (b) The statement required under this subsection must be a written statement, sufficiently
12 itemized to show:

13 (A) The date of the payment;

14 (B) The dates of work covered by the payment;

15 (C) The name of the employee;

16 (D) The name and business registry number or business identification number;

17 (E) The address and telephone number of the employer;

18 (F) The rate or rates of pay;

19 (G) Whether the employee is paid by the hour, shift, day or week or on a salary, piece or com-
20 mission basis;

21 (H) Gross wages;

22 (I) Net wages;

23 (J) The amount and purpose of each deduction made during the respective period of service that

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.

1 the payment covers;

2 (K) Allowances, if any, claimed as part of minimum wage;

3 (L) Unless the employee is paid on a salary basis and is exempt from overtime compensation as
4 established by local, state or federal law, the regular hourly rate or rates of pay, the overtime rate
5 or rates of pay, the number of regular hours worked and pay for those hours, and the number of
6 overtime hours worked and pay for those hours; and

7 (M) If the employee is paid a piece rate, the applicable piece rate or rates of pay, the number
8 of pieces completed at each piece rate and the total pay for each rate.

9 (c) Notwithstanding paragraph (b) of this subsection, the employer may provide the statement
10 required under this subsection to the employee in electronic form pursuant to ORS 84.001 to 84.061
11 if:

12 (A) The statement contains the information described in paragraph (b) of this section;

13 (B) The employee expressly agrees to receive the statement in electronic form; and

14 (C) The employee has the ability to print or store the statement at the time of receipt.

15 (2)(a) The statement may be attached to or be a part of the check, draft, voucher or other in-
16 strument by which payment is made, or may be delivered separately from the instrument.

17 (b) The statement shall be provided electronically at the time payment is made to all state offi-
18 cers and employees paid electronically under the state payroll system as provided by ORS 292.026.

19 (c) State agencies shall provide access to electronic statements to employees who do not have
20 regular access to computers in their workplace.

21 (d) Notwithstanding paragraph (b) of this subsection, if an officer or employee paid under the
22 state payroll system as provided by ORS 292.026 wants to receive payment of net salary and wages
23 by check or to receive a paper statement of itemized payroll deductions, the officer or employee
24 shall request paper statements or payment by check in accordance with the procedures adopted by
25 rule by the Oregon Department of Administrative Services.

26 (3) An employer may not withhold, deduct or divert any portion of an employee's wages unless:

27 (a) The employer is required to do so by law;

28 (b) The deductions are voluntarily authorized in writing by the employee, are for the employee's
29 benefit and are recorded in the employer's books;

30 (c) The employee has voluntarily signed an authorization for a deduction for any other item,
31 provided that the ultimate recipient of the money withheld is not the employer and that the de-
32 duction is recorded in the employer's books;

33 (d) The deduction is authorized by a collective bargaining agreement to which the employer is
34 a party;

35 (e) The deduction is authorized under ORS 18.736; or

36 (f) The deduction is made from the payment of wages upon termination of employment and is
37 authorized pursuant to a written agreement between the employee and employer for the repayment
38 of a loan made to the employee by the employer, if all of the following conditions are met:

39 (A) The employee has voluntarily signed the agreement;

40 (B) The loan was paid to the employee in cash or other medium permitted by ORS 652.110;

41 (C) The loan was made solely for the employee's benefit and was not used, either directly or
42 indirectly, for any purpose required by the employer or connected with the employee's employment
43 with the employer;

44 (D) The amount of the deduction at termination of employment does not exceed the amount
45 permitted to be garnished under ORS 18.385; and

1 (E) The deduction is recorded in the employer's books.

2 (4) When an employer deducts an amount from an employee's wages as required or authorized
3 by law or agreement, the employer shall pay the amount deducted to the appropriate recipient as
4 required by the law or agreement. The employer shall pay the amount deducted within the time re-
5 quired by the law or the agreement or, if the time for payment is not specified by the law or
6 agreement, within seven days after the date the wages from which the deductions are made are due.
7 Failure to pay the amount as required constitutes an unlawful deduction.

8 (5) This section does not:

9 (a) Prohibit the withholding of amounts authorized in writing by the employee to be contributed
10 by the employee to charitable organizations, including contributions made pursuant to ORS 663.110;

11 (b) Prohibit deductions by checkoff dues to labor organizations or service fees when the de-
12 ductions are not otherwise prohibited by law; [or]

13 (c) Diminish or enlarge the right of any person to assert and enforce a lawful setoff or
14 counterclaim or to attach, take, reach or apply an employee's compensation on due legal
15 process[.];

16 **(d) For employees who are not subject to a collective bargaining agreement, prohibit de-**
17 **ductions made by an employer for an erroneous overpayment of wages in an amount greater**
18 **than the employee's entitlement provided that:**

19 **(A) The deduction is made within six months from the date on which the employee signed**
20 **the voluntary agreement described in subparagraph (E) of this paragraph;**

21 **(B) The employer waives any claim to recover any overpayments for which more than**
22 **six months have passed since the date on which the employee signed the voluntary agree-**
23 **ment described in subparagraph (E) of this paragraph;**

24 **(C) The employer gives the employee at least 14 days to consider whether to enter into**
25 **an agreement authorizing such a deduction;**

26 **(D) The employer provides the following to the employee, at the time of signing the**
27 **agreement:**

28 **(i) A written statement itemizing the overpayment amount and purpose of each de-**
29 **duction; and**

30 **(ii) A written statement that provides that, at the employee's option, in no event may**
31 **the total amount of a deduction exceed 10 percent of the employee's gross pay each pay pe-**
32 **riod; and**

33 **(E) The employee voluntarily signs the agreement authorizing such a deduction; or**

34 **(e) For employees who are subject to a collective bargaining agreement, prohibit de-**
35 **ductions for an erroneous overpayment of wages that are made by an employer pursuant to**
36 **the terms of an applicable collective bargaining agreement concerning employer deductions**
37 **for erroneous overpayments.**

38 **SECTION 2.** ORS 292.063 is amended to read:

39 292.063. (1) **Subject to the requirements under ORS 652.610**, when a state employee receives
40 payment of salary or wages in an amount greater than the employee's entitlement, the amount of
41 overpayment may be deducted from salary or wages earned by the employee.

42 (2) The deduction may be in such form and manner as the Oregon Department of Administrative
43 Services, by rule, may prescribe.

44 **SECTION 3.** ORS 652.615 is amended to read:

45 652.615. (1) There is hereby created a private cause of action for a violation of ORS 652.610

1 [(3)] for actual damages or \$200, whichever is greater. In any such action the court may award to
2 the prevailing party, in addition to costs and disbursements, reasonable attorney fees.

3 **(2) The statute of limitations applicable to an action brought against an employer under**
4 **this section alleging a violation of the requirements under ORS 652.610 (5)(d) for erroneous**
5 **overpayment deductions is tolled until the employer provides to the employee alleging the**
6 **violation an itemized statement that meets the requirements of ORS 652.610 (1).**

7 **SECTION 4. The amendments to ORS 292.063 and 652.610 by sections 1 and 2 of this 2023**
8 **Act apply to collective bargaining agreements entered into, renewed or extended on or after**
9 **the effective date of this 2023 Act.**

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