

Senate Committee on Labor and Business

March 9, 2023

SB 912 – Overpayments & Penalties**Summary**

SB 912 makes statutory changes to Paid Leave Oregon laws related to overpayments, collection, and potential penalties for equivalent plan employers to enhance and simplify Paid Leave Oregon's services for employers and employees. The Oregon Employment Department (OED) has worked closely with our Advisory Committee on the requests found in this bill.

SB 912 touches on several items within the Paid Leave Oregon program that will support our customers and ensure consistency between Paid Leave Oregon and Unemployment Insurance. Current Paid Leave Oregon laws mirror what used to apply to Unemployment Insurance before SB 172 (2021 Legislation) which gave the Employment Department more authority to waive overpayments in some circumstances, among other changes. Below is a summary of what is proposed within this bill related to Paid Leave Oregon overpayments that occur as a result of a good faith error by the customer, a mistake by OED, or a retroactive denial of previously-approved benefits upon appeal:

- Expands options to allow for waivers that are not due to fraud
- Limits the timeframe for recovery of some overpayments to five years that are not due to fraud
- Expands opportunity for recovery with offset of future benefit payments
- Permits to cancel the debt if not possible to recover
- Prohibits future Paid Leave Oregon benefits from being paid to individuals convicted of willfully making a false statement or misrepresentation until they have repaid the amount due
- Clarifies when an assistance grant overpayment is due and how can be recovered

SB 912 also makes changes for employers who opt to provide an equivalent plan for their employees instead of participating in the state's Paid Leave Oregon program and then fail to offer the same level of benefits or support services originally approved. The bill creates a fine



of \$1,000 for the first violation and \$2,000 for the second and subsequent violations, which will provide incentives for employers that have an approved equivalent plan to follow through with their promise.

Without this bill and the -1 amendment, processes for employers and employees may be more challenging and collection activity would not align with Unemployment Insurance passed during the 2021 Legislative Session in Senate Bill 172. In addition, employers with an approved equivalent plan who do not follow through on their promised equivalent plan would not be charged penalties even though they did not provide their employees at least the same Paid Leave Oregon benefits as under the state plan.

SB 912 and the -1 amendment does not create a fiscal impact for OED. OED is currently implementing the program so we want to build these statutory changes into the program from the start. There is also not an impact to the Paid Leave Oregon Trust Fund for the recovery expansion as Paid Leave Oregon has not been implemented. Since there is no historical data, the Trust Fund assumptions are based off the Unemployment Insurance experience, which aligns with this bill. However, the Paid Leave Oregon Trust Fund may have a minimal impact for the addition of the equivalent plan penalties. It is uncertain how often the department will impose the penalties since including penalties in statute will help ensure employers with equivalent plans follow the statute and penalties would not have to be imposed.

Passage of SB 912 and the -1 amendment will bring the Paid Leave Oregon treatment of overpayments in its program back into alignment with how they are treated in the Unemployment Insurance program, the alignment that was already there when Paid Leave Oregon was created by HB 2005 (2019).

For more information about this testimony, contact [OED Legislative Affairs@employ.oregon.gov](mailto:OED_Legislative_Affairs@employ.oregon.gov).