

HB 4004 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Patrick Brennan, LPRO Analyst

Meeting Dates: 2/5, 2/12

WHAT THE MEASURE DOES:

The measure lets BOLI impose a civil penalty for child labor law violations even when one is also paid to the U.S. Department of Labor. It says BOLI need not give a refund for penalties already paid in a federal case.

Detailed Summary: Permits the Bureau of Labor and Industries (BOLI) to impose a civil penalty for violation of child labor laws even when a civil penalty has been paid to the U.S. Department of Labor (USDOL) for a violation of the same facts. Repeals requirement that BOLI refund any assessed civil penalties in cases where civil penalties are paid to USDOL. Applies to violations occurring before, on, or after effective date of measure. Takes effect on the 91st day following adjournment sine die.

FISCAL: Minimal revenue impact on original measure

REVENUE: No revenue impact on original measure

ISSUES DISCUSSED:

- Parallel enforcement authority at state and federal level
- Number of fines levied by federal government for violations in Oregon
- How agencies determine which will take enforcement action
- Maximum fines at state and federal level

EFFECT OF AMENDMENT:

-1 Increases BOLI's maximum authorized civil penalty under ORS 653.370 from \$1,000 per violation to \$10,000 per violation.

FISCAL: Minimal fiscal impact on measure w/the -1 amendment

REVENUE: No revenue impact on measure w/the -1 amendment

BACKGROUND:

Employers are generally subject to both state child labor laws and the federal child labor provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. 212(c), and the FLSA regulations at 29 CFR Part 570. Certain provisions of Oregon state law may be less restrictive than federal law, and employers covered by the FLSA that only follow a less restrictive provision of Oregon state law will be in violation of federal law.

The Bureau of Labor and Industries (BOLI) is prohibited from assessing penalties when a violation of child labor law is found by the United States Department of Labor (USDOL) has also assessed a penalty for a violation similar in fact(s). Currently, if BOLI substantiates a violation of child labor law and assesses civil penalties, the funds must be refunded if the employer pays the USDOL a penalty related to the same factual circumstances. This type of limitation on enforcement is an outlier amongst the laws that both BOLI and USDOL enforce and assess civil penalties a when a violation is substantiated.

House Bill 4004 permits BOLI to impose a civil penalty for violation of child labor laws even when a civil penalty has been paid to USDOL for a violation of the same facts. In addition, the measure repeals the requirement that BOLI refund any civil penalties collected by the agency, if civil penalties are paid to USDOL.