

SB 968 A STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

Action Date: 04/08/25

Action: Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

Vote: 5-0-0-0

Yeas: 5 - Bonham, Hayden, Patterson, Pham, Taylor

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 3/13, 3/25, 4/8

WHAT THE MEASURE DOES:

The measure specifies that when a public employee receives an erroneous overpayment of wages in an amount greater than the employee's entitlement, the public employer may deduct the overpayment from the public employee's wages provided that the deduction is for an overpayment that occurred in the 364 days immediately before the date the public employer provides to the public employee a written statement containing specified information. The measure requires the public employer to provide this written statement at least ten calendar days before making the deduction. Makes conforming amendment by repealing ORS 292.063.

ISSUES DISCUSSED:

- Issues associated with implementation of state payroll system, Workday
- Impact of payroll errors on employees
- Impact of measure on public versus private employers
- Appropriate length for look back period
- Existing law for deduction of overpayment of wages for state employees
- Five percent limitation on deduction

EFFECT OF AMENDMENT:

Replaces the measure.

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.

Senate Bill 968 A specifies that when a public employee receives an erroneous overpayment of wages in an amount greater than the employee's entitlement, the public employer may deduct the overpayment from the public employee's wages provided that the deduction is for an overpayment that occurred in the 364 days immediately before the date the public employer provides to the public employee a written statement containing specified information.