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HOUSE BILL 2510

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Conway, McCoy, Condotta, McMorris and Chase; by request of Employment Security Department

Read first time 01/15/2004. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to tax delinquency assessments for successor  
2 employers; and amending RCW 50.12.220.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 50.12.220 and 2003 2nd sp.s. c 4 s 22 are each amended  
5 to read as follows:

6 (1)(a) If an employer fails to file in a timely and complete manner  
7 a report required by RCW 50.12.070, or the rules adopted pursuant  
8 thereto, the employer shall be subject to a penalty to be determined by  
9 the commissioner, but not to exceed two hundred fifty dollars or ten  
10 percent of the quarterly contributions for each such offense, whichever  
11 is less.

12 (b) If an employer knowingly misrepresents to the employment  
13 security department the amount of his or her payroll upon which  
14 contributions under this title are based, the employer shall be liable  
15 to the state for up to ten times the amount of the difference in  
16 contributions paid, if any, and the amount the employer should have  
17 paid and for the reasonable expenses of auditing his or her books and  
18 collecting such sums. Such liability may be enforced in the name of  
19 the department.

1 (c) If any part of a delinquency for which an assessment is made  
2 under this title is due to an intent to evade the successorship  
3 provisions of RCW 50.29.062, the commissioner shall assign to the  
4 employer, and to any business found to be promoting the evasion of such  
5 provisions, the tax ~~((rate determined under RCW 50.29.025 for rate  
6 class 20 or rate class 40, as applicable, for five consecutive calendar  
7 quarters, beginning with the calendar quarter in which the intent to  
8 evade such provision is found))~~ of 8.1 percent total tax for the  
9 calendar year the liability was found.

10 (2) If contributions are not paid on the date on which they are due  
11 and payable as prescribed by the commissioner, there shall be assessed  
12 a penalty of five percent of the amount of the contributions for the  
13 first month or part thereof of delinquency; there shall be assessed a  
14 total penalty of ten percent of the amount of the contributions for the  
15 second month or part thereof of delinquency; and there shall be  
16 assessed a total penalty of twenty percent of the amount of the  
17 contributions for the third month or part thereof of delinquency. No  
18 penalty so added shall be less than ten dollars. These penalties are  
19 in addition to the interest charges assessed under RCW 50.24.040.

20 (3) Penalties shall not accrue on contributions from an estate in  
21 the hands of a receiver, executor, administrator, trustee in  
22 bankruptcy, common law assignee, or other liquidating officer  
23 subsequent to the date when such receiver, executor, administrator,  
24 trustee in bankruptcy, common law assignee, or other liquidating  
25 officer qualifies as such, but contributions accruing with respect to  
26 employment of persons by a receiver, executor, administrator, trustee  
27 in bankruptcy, common law assignee, or other liquidating officer shall  
28 become due and shall be subject to penalties in the same manner as  
29 contributions due from other employers.

30 (4) Where adequate information has been furnished to the department  
31 and the department has failed to act or has advised the employer of no  
32 liability or inability to decide the issue, penalties shall be waived  
33 by the commissioner. Penalties may also be waived for good cause if  
34 the commissioner determines that the failure to timely file reports or  
35 pay contributions was not due to the employer's fault.

36 (5) Any decision to assess a penalty as provided by this section  
37 shall be made by the chief administrative officer of the tax branch or  
38 his or her designee.

1           (6) Nothing in this section shall be construed to deny an employer  
2 the right to appeal the assessment of any penalty. Such appeal shall  
3 be made in the manner provided in RCW 50.32.030.

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