

SENATE BILL REPORT

SB 6710

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 2, 2006

Title: An act relating to personal liability for failure to report on or pay unemployment taxes or contributions in lieu of taxes.

Brief Description: Providing for personal liability for failure to pay unemployment taxes.

Sponsors: Senators Keiser, Kline and Kohl-Welles.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/1/06, 2/2/06 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6710 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.

Signed by Senators Hewitt and Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senator Parlette, Ranking Minority Member.

Staff: Jennifer Strus (786-7316)

Background: Upon the dissolution, termination, or abandonment of a corporation or limited liability company, if there are unpaid unemployment insurance (UI) tax contributions or payments in lieu of contributions, or the reports required to be filed are not filed, the corporate officers or other employees having control over or supervision of the reports or contributions are not personally liable for the unpaid contributions. The unpaid taxes may only be collected from the corporation or company itself.

Summary of Substitute Bill: Upon the termination, dissolution, or abandonment of a corporate or limited liability company business, any officer or other person having control or supervision over the payment of UI tax contributions, or who is responsible for filing reports or paying UI tax contributions or the payments in lieu of contributions, is personally liable for any unpaid taxes and interest and penalties on those taxes if it is proved the officer or other person willfully failed to pay or cause to be paid any taxes due the Employment Security Department.

"Willfully fails to pay or cause to be paid" means the failure was the result of an intentional, conscious and voluntary course of action.

The officer or other person is liable for taxes due during the period he or she had control or supervision over them and is also liable for penalty and interest on those taxes. Officer and other persons are not personally liable when the payment of UI taxes was beyond their control. ESD has discretion to determine the amount of taxes, penalties, and interest due in the event of a hardship to the corporation or officers of the corporation.

Any person issued a notice of assessment is entitled to appeal. ESD may seek payment from an individual only if it has determined that there is no reasonable method by which the unpaid UI taxes can be collected from the business.

Substitute Bill Compared to Original Bill: ESD has discretion to determine the amount of taxes, penalties, and interest due in the event of a hardship to the corporation or officers of the corporation.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Under current law, business owners and partners are held liable for unpaid taxes but corporate officers are protected by the corporate veil. This loophole accounted for 3.9 million in unpaid taxes last year. These unpaid taxes are socialized to other businesses that do pay their UI taxes. This bill will allow ESD to hold those corporate officers responsible for unpaid taxes.

Testimony Against: None.

Testimony Other: ESD should have discretion to consider hardship factors in determining how much taxes, penalty and interest a corporate officer owes.

Who Testified: PRO: Senator Keiser, Prime Sponsor; Annette Copeland, ESD.

OTHER: Carolyn Logue, NFIB.