
**Labor & Workplace Standards
Committee**

HB 1474

Brief Description: Strengthening penalty and audit tools for employer violations in unemployment insurance.

Sponsors: Representatives Chopp, Ortiz-Self, Ryu, Wylie, Santos, Fitzgibbon, Berry, Simmons, Sells, Lovick, Goodman, Ormsby, Valdez, Berg, Harris-Talley, Lekanoff, Stonier, Macri, Peterson, Bronoske and Pollet.

Brief Summary of Bill

- Modifies standards for violations of unemployment insurance registration and reporting requirements.
- Provides additional penalties for certain unreported wage discoveries.
- Pauses the period for commencing a collections action during an audit.

Hearing Date: 2/10/21

Staff: Lily Smith (786-7175).

Background:

Registration and reporting.

The Employment Security Department (ESD) administers the state's unemployment benefits program. Employers must register with ESD and file tax reports every quarter. The reports must contain: the name of all employees covered by unemployment insurance, their social security numbers, their wages, and the number of hours worked in the quarter.

Benefit determinations for unreported hours.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

When employers fail to report the number of hours worked, that number is computed based on the amount of remuneration paid and the state minimum hourly wage rate. Claimants may be determined to be eligible for benefits based on computed hours. A claimant may request a redetermination or reconsideration of payable benefits within a year of their initial benefit determination.

Audits.

ESD conducts audits to determine whether employer-reported wages and hours are accurate. Employers may request a voluntary audit of their records and reporting. Voluntary audits may result in payment due, but not penalties for the late payment or assignment of a delinquent tax rate. Voluntary audits may also result in a refund of taxes overpaid.

Penalties and collections.

An employer that knowingly fails to register with ESD is subject to a penalty of the greater of \$1,000 per quarter, or two times the taxes due per quarter, unless the employer can prove it had good cause to believe it was not required to register.

An employer that fails to file a timely report is subject to a \$25 penalty per violation. An employer that files an incomplete report is issued a warning letter for the first violation. For subsequent violations, the penalties range from \$75 to \$250. An employer that knowingly misrepresents the amount of its payroll is liable for up to 10 times the difference between contributions paid and the amount due, and for the audit and collection costs.

An action for collection of employer contributions and penalties owed must be commenced within three years.

Summary of Bill:

An employer is subject to a penalty for failure to register regardless of whether the employer knowingly did so. The penalty may be waived for good cause if the failure was not due to the employer's fault, rather than if the employer can prove it had good cause to believe it was not required to register.

An employer is automatically deemed to have knowingly misrepresented the amount of its payroll when there is a repeat failure to report employees under certain conditions.

An employer is subject to additional penalties for discoveries of unreported wages as follows:

- 40 percent of the unreported wages when a claimant request of redetermination or reconsideration leads to an increase in benefits due to unreported wages; and
- 20 percent of the unreported wages discovered in a nonvoluntary audit.

The period for commencing a collections action is tolled during a nonvoluntary audit.

Appropriation: None.

Fiscal Note: Requested on 02/08/2021.

Effective Date: The bill takes effect on January 2, 2022.