



Oregon Bureau of Labor and Industries

Wage and Hour Division

Memo

DATE: November 2, 2011

TO: Legislators and Interested Persons

FROM: Christine Hammond, Administrator
Wage and Hour Division

REGARDING: Proposed Administrative Rule Amendment

The Bureau of Labor and Industries has filed a Notice of Proposed Rulemaking with the Secretary of State proposing to revise OAR 839-001-0560 to clarify how employer penalties are to be computed by BOLI in Wage Security Fund recovery actions.

ORS 652.414, relating to the payment of wage claims from the Wage Security Fund, provides that the Commissioner of the Bureau of Labor and Industries may initiate action to recover from employers or other persons liable for unpaid wages, amounts paid from the Wage Security Fund. In addition, the commissioner is also entitled to recover a penalty of 25 percent of the amount of wages paid from the Wage Security Fund or \$200, whichever amount is greater. Clarification of the rule implementing this statute is needed to establish a consistent penalty calculation methodology by the agency in cases where multiple employees of an employer are paid from the Fund. The proposed rule amendment clarifies that in cases where multiple employees of an employer are paid from the Fund, the penalty of 25 percent amount of wages paid or \$200, whichever is greater, is to be calculated based on the amount paid to each employee from the Wage Security Fund, and not the total aggregated amount paid to the employees of the employer.

Copies of the Notice of Proposed Rulemaking, Statement of Need and Fiscal Impact, and text of the proposed draft rule amendments may be accessed on the bureau's webpage at www.oregon.gov/boli. You may also request copies of these documents by calling me at (971) 673-0837.

The last day for public comment regarding the proposed rule amendments is December 21, 2011.

If you have any questions regarding the proposed rule amendments, please feel free to contact me at the number above or by email at christie.n.hammond@state.or.us.

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