
SUBSTITUTE HOUSE BILL 2510

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, McCoy, Condotta, McMorris and Chase; by request of Employment Security Department)

READ FIRST TIME 02/04/04.

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, then for the calendar year in which the
4 commissioner makes the determination under this subsection, the
5 commissioner shall assign to the employer, and to any business found to
6 be promoting the evasion of such provisions, the ~~((tax))~~ contribution
7 rate determined for that calendar year under RCW 50.29.025, including
8 the solvency surcharge, if any, for rate class 20 or rate class 40, as
9 applicable, ~~((for five consecutive calendar quarters, beginning with~~
10 ~~the calendar quarter in which the intent to evade such provision is~~
11 ~~found))~~ plus two percent.

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

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

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

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

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

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