DIGEST

HB 665 Original   2016 Regular Session   Smith

Abstract: Increases the administrative penalties for employers who misclassify employers and fail to pay unemployment insurance contributions.

Present law provides that when it is discovered that an employer has not properly classified employees and has failed to pay contributions, that he shall receive a written warning if there is evidence that his failure to properly classify and pay contributions was not knowing or willful.

Proposed law removes the provision for a written warning and the justification of lack of knowledge of the violation and provides that upon a first offense of misclassification, an employer shall pay a penalty of up to $5,000 per employee, plus contributions, interest, and penalties owed.

Present law provides that upon a second offense of misclassification, the administrator shall assess a penalty of up to $250 for each misclassified employee, in addition to the contributions, interest, and penalties owed.

Proposed law changes the penalty for a second offense from up to $250 to up to $10,000 per misclassified employee in addition to the contributions, interest, and penalties owed.

Present law provides that upon a third offense of misclassification, the administrator shall assess a penalty of up to $500 for each misclassified employee, in addition to contributions, interest, and penalties previously owed.

Proposed law changes the penalty for a second offense from up to $500 to up to $25,000 per misclassified employee in addition to the contributions, interest, and penalties owed.

Present law requires that the administrator, in determining the amount of penalties, consider previous violations, the seriousness of the violation, the good faith of the employer, and the size of the business. Proposed law retains present law.

Present law provides that upon a subsequent offense of misclassification, the administrator shall assess a penalty between $100 and $1,000 or imprisonment between 30 and 90 days or both, for each misclassified employee, in addition to contributions, interest, and penalties previously owed.

Proposed law changes the penalty for a subsequent offense from a fine between $100 and $1,000 or imprisonment between 30 and 90 days or both to a fine up to $50,000 and imprisonment of not more than 90 days, per misclassified employee in addition to the contributions, interest, and penalties

owed.

(Amends R.S. 23:1711(G)(1))