

2022 Legislative Summary

September 2022



Executive Summary

Oregon's short 2022 Legislative Session adjourned sine die on Friday, March 4. The 2022 legislative session lasted 31 days – adjourning three days earlier than the constitutional deadline, Monday, March 7. During the course of this session, the Legislative Assembly introduced 275 measures and passed 127. The Employment Department's experts reviewed each measure, ultimately identifying 109 bills relevant to the agency's interests (40 passed).

In 2020 and 2021, the Employment Department faced unprecedented challenges because of the COVID-19 pandemic. During the 2021 Legislature Session Oregon's Legislature took action to support Oregonians and passed legislation that directly impacts department programs. While there were some equally impactful changes in 2022, most did not directly relate to the Employment Department. The Employment Department's effort to support the legislative body in 2022 was more consultative than in 2021.

In 2022, the Legislature passed one key bill that affected the department. This bill, Senate Bill (SB) 1515, revised the definition of a "benefit year" for the Paid Leave Oregon (formerly Paid Family and Medical Leave Insurance) program. The department's input was key in many conversations about other pieces of legislation, such as but not limited to, essential worker pay (House Bill (HB) 4001), overtime pay for agricultural workers and tax credits for their employers (HB 4002), and employment records for potential workers' compensation claims (SB 1585).

Our Legislative Affairs Team would like to offer our sincere appreciation for the work of the Employment Department's entire legislative team, including subject matter experts and executives from across the agency who provided their knowledge and time over the course of the session. We also want to give a special thanks to the 2022 Budget Team and Legislative Coordination Team. Their expertise, dedication, and contributions cannot be overstated.

The Employment Department continues working with the Legislature year round. The agency maintains communication with legislators, provides education and outreach, implements legislation, and coordinates with internal divisions to identify policy issues to bring forward in the next legislative session. If you have any questions, or are interested in learning more about the department's legislative process, please contact our Legislative Affairs Team at OED_Legislative_Affairs@Employ.Oregon.Gov.

The Employment Department's Legislative Affairs Team, Budget Team, and Legislative Coordination Team provided the expertise to review, coordinate, and analyze the agency's response to legislative measures, activities, and requests.

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Section I: Legislation Tracked and Passed

In 1999, the Legislative Assembly adopted Oregon Revised Statute (ORS) 171.022. Under this statute, legislative measures take effect on January 1 of the year after the measure is passed, or on the prescribed effective date. Unless otherwise noted, the effective date of each measure is Jan. 1, 2023. Common alternative effective dates prescribed by the Legislative Assembly include inserting an emergency clause, which ensures the measure is effective upon passage, or directing that the measure go into effect on the 91st day following the adjournment of the Legislative Session. For the 2022 session, Friday, June 3, 2022 is the 91st day after adjournment.

House Measures

[House Bill 4002](#): Overtime Pay for Agricultural Workers and Tax Credits for their Employers

Chapter 115

Effective date **June 3, 2022**

HB 4002 made two substantive changes to existing tax and labor laws to:

- 1) Limit, on a semi-annual descending scale through 2027, the number of hours an employer may permit, require, or suffer an agricultural worker to work in excess of 40 hours without paying the worker one and one-half times the worker's regular rate of pay; and
- 2) Establish a program for certain types of agricultural employers to receive a tax credit, depending on the amount of overtime hours worked by and wages paid to certain types of agricultural workers, to be administered by the Department of Revenue (DOR).

Since the Bureau of Labor and Industries (BOLI) is the state agency for holding employers accountable for failing to adhere to labor and employment laws, BOLI will administer any wage claims arising from agricultural employers failing to pay overtime wages.

The Employment Department provides services in our WorkSource Oregon Offices to employers who are looking for workers and workers who are seeking work. Supporting the agricultural community is a focus of our work, and, to some extent, our staff monitor and report on workplace compliance with state and federal labor laws. The Employment Department provides services in our WorkSource Oregon Offices to employers who are looking for workers and workers who are seeking work. Supporting the agricultural community is a focus of our work, and, to some extent, our outreach workers educate employers about state and federal labor laws and inform workers about their workplace rights. This includes handling apparent violations reported by workers through the agency's complaint system. As a result, the department will update complaint processes and provide additional training to staff to fully understand changes and provide guidance to employers and to agricultural workers.

Additionally, HB 4002 requires the Employment Department, in consultation with BOLI, the Department of Agriculture, and DOR to submit a report about the impact of the legislation every six years, starting in 2026. As required in the final version of the bill, the department will provide analysis and reporting on employment, hours worked, and wage information for agriculture workers working for employers subject to unemployment insurance (UI) law under ORS chapter 657. Because this reporting requirement is for analysis, which, to some extent, the department already performs and is based on information that we already have access to, HB 4002 only creates a minimal impact for the Employment Department that can

be absorbed using our existing resources.

As HB 4002 was being developed, some ideas were considered that would have created a much more substantial impact for the Employment Department. The proposals would have required the department to:

- Certify tax credits for employers on behalf of DOR;
- Administer a relief payment program for agricultural workers who perform overtime work; and
- Generate detailed analysis and reporting about the impacts of overtime work, based on the outcome of the legislation.

The department explained that establishing any new data gathering systems, or benefit or tax credit programs, would pose a high risk to the department's existing efforts to modernize our information technology system and implement the Paid Leave Oregon program.

While the Employment Department is not directly involved with the implementation of HB 4002, the department is committed to supporting our other state agencies, BOLI and DOR, on the effective administration of the new laws. Bill proponents argued that not providing overtime pay to agricultural workers is discriminatory because it disproportionately impacts communities of color. The department recognizes that Oregon's agricultural employers may have benefited from historically established labor and employment exclusions, which in turn, contributed support to Oregon's economy overall. The department supports any effort to make current labor and employment law consistent with current equity and human rights initiatives and perspectives in Oregon and across the country.

House Bill 4003: Nurse Internship Licensing

Chapter 38

Effective date March 23, 2022

HB 4003 creates professional requirements for nursing interns in the State of Oregon and requires the Oregon State Board of Nursing to:

- 1) Issue nurse internship licenses;
- 2) Refuse to issue an internship license to an applicant; or
- 3) Revoke, suspend, censure or reprimand, or place on probation, a licensee on certain grounds.

Additionally, HB 4003 requires the Health Care Workforce Committee to study, identify, and describe the challenges in addressing staffing shortages in the nursing field and report back to the legislature no later than Nov. 15, 2022.

While decisionally independent from the Employment Department, the Office of Administrative Hearings (OAH), for which the Employment Department provides administrative support, currently holds contested case hearings for the Oregon State Board of Nursing. The department does not anticipate that HB 4003 will result in a large number of contested case hearing referrals to the OAH and therefore believes that the OAH will be able to absorb referrals of this kind without the need for any additional positions.

The Oregon Health Policy Board's Health Care Workforce Committee routinely asks the Employment Department's Workforce and Economic Research Division for related labor market information. Since the department already contributes to similar reporting, such as the Health Care Workforce Needs Assessment, we believe that HB 4003 only creates a minimal impact for the department that can be

absorbed using our existing resources.

House Bill 4157: One-Time Assistance Payment Program

Chapter 32

Effective date March 17, 2022

HB 4157 established a one-time payment program, administered by the Department of Revenue, to address the negative economic impacts of the COVID-19 public health emergency. Although the original idea for the bill was to create a program to provide payments for essential workers, the legislative vehicle for that idea, HB 4001, did not move forward and the Legislature instead opted to establish a program for low-income households. As a result, HB 4157 established that DOR would provide payments of \$600 to Oregon households that received an Earned Income Tax Credit on their 2020 tax filing by DOR no later than July 31, 2022.

The American Rescue Plan Act Coronavirus State Fiscal Recovery Fund provided \$147 million in funding for the program. While HB 4157 did not create any impact for the Employment Department, the department, along with other key state agencies, participated in early conversations about the potential essential worker pay concept. They also provided input that ultimately helped to shape the One-Time Assistance Payment Program.

House Bill 5202: Budget Appropriation Bill

Chapter 110

Effective date April 4, 2022

HB 5202 includes a long list of funding appropriations and expenditure limitations to a large number of state agencies. Although the majority of these funding adjustments have no direct bearing on the Employment Department or the administration of our programs, HB 5202 included a \$5.1 million spending limitation for the department to provide services to adult and dislocated workers.

Passage of HB 5202 ensured the department had the necessary authority from the Oregon State Legislature to fund a grant to expand employment and training services in Southern Oregon. The department will use this funding to provide services through the Workforce Investment and Opportunity Act Title IB adult and dislocated workers in coordination with Rogue Workforce Partnership, the Local Workforce Development Board in Southern Oregon.

Senate Measures

Senate Bill 1514: Labor Law Hiring or Retention Bonus Exclusion

Chapter 23

Effective date March 7, 2022

At the time legislators introduced SB 1514, it would have required the director of the Employment Department to conduct a study of the financial stability of the Unemployment Compensation Trust Fund and report it to the interim committees of the Legislative Assembly relating to employment. It was acknowledged as a placeholder during session, however. Legislators subsequently amended SB 1514 to exclude considering hiring or retention bonuses as compensation for employees under state labor and employment laws. As those state labor and employment laws are the purview of the Bureau of Labor and Industries, SB 1514 did not ultimately create any impact for the Employment Department.

Senate Bill 1515: Paid Leave Oregon Benefit Year Definition Change

Chapter 24

Effective date Jan. 1, 2023

SB 1515 modified two statutes under the chapter concerning the Paid Leave Oregon program (formerly Paid Family and Medical Leave Insurance), Oregon Revised Statutes chapter 657B, to:

- 1) Define the “benefit year” of a Paid Leave Oregon claim as “a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which family leave, medical leave or safe leave commences”; and
- 2) Remove the option for employers to establish alternative benefit years, including on a calendar year and non-calendar years, for Paid Leave Oregon claims their employees file.

The Employment Department sought this change, after consultation with the Paid Leave Oregon Advisory Committee, to reduce confusion among employees and employers to create a single benefit year across all employers and employees, regardless of how many employers an employee may have at any given time.

Because a single benefit year definition was required for Paid Leave Oregon, the definition chosen was one that matches the definition in the unemployment insurance program and also not inconsistent with the leave year options employers have under the Oregon Family Leave Act.

The passage of SB 1515 did not create any revenue or fiscal impact for the Employment Department.

Senate Bill 1545: Future Ready Oregon

Chapter 28

Effective date March 17, 2022

SB 1545 is the Governor’s comprehensive workforce development package of \$200 million in investments, which will give Oregonians the education, training, and resources they need to get into better-paying jobs. The package includes funding for a variety of grant programs that the Higher

Education Coordinating Commission (HECC), BOLI, and the Youth Development Division (YDD) of the Department of Education will administer. SB 1545 will enable said grant programs to provide workforce development and training, via apprenticeship programs, in the career areas of technology, health care, and manufacturing — with a targeted focus on priority populations.

A key function of the Employment Department is to support workforce development. One way the department contributes to this endeavor is by partnering with other state and local agencies, such as HECC and the Department of Human Services (DHS), to facilitate training opportunities. In addition to the focus on workforce development in SB 1545, the Employment Department supports the intent of the bill to enhance assistance for priority populations. This aligns with the department’s core values and mission. Key provisions of the package that relate to the department:

- As a government entity, the department — along with local workforce boards, community-based organizations, labor organizations, community colleges, and other governmental entities — may qualify for Workforce Ready Grants. The department believes it could use this funding to provide “wraparound workforce development” services to priority populations, hire staff, and fund organizational investments. These investments could include the purchase of equipment, technology or other training-related supplies.
- The establishment of the Prosperity 10,000 program in HECC, which local workforce development boards would administer via grant funding. The program will provide workforce development services and wraparound supports to program participants. It appears the department may be eligible for funding through this program as a “workforce service provider.”
- The requirement for DHS to incorporate the Prosperity 10,000 program into the statewide plan for the Supplemental Nutrition Assistance Program (SNAP) Training and Employment Program (aka the “STEP program”) and to seek federal reimbursement for a percentage of program costs and other eligible activities. While this change does not directly impact the Employment Department, it would impact DHS, with whom the department has a contract to provide STEP services to SNAP recipients.
- Establishes a “Workforce Benefits Navigator” pilot program to connect individuals to workforce programs. A “comprehensive one-stop center,” contracted through the local workforce boards, would employ these navigators. Their work is similar to what existing department staff do in these centers, so this may create some redundancy of services.

Three other possible direct impacts to the department created by SB 1545 could include:

- 1) Increased customer traffic for the department’s 39 WorkSource Oregon (WSO) centers. The traffic would result from workforce partners referring customers who would not otherwise use WorkSource centers for job-placement assistance;
- 2) Department staff may need additional training to help identify priority populations, assess their needs, and coordinate with local service providers. Staff would direct customers to these service providers to access programs funded under the bill; and
- 3) Since the department’s “customer registration” computer application and labor-exchange system, iMatchSkills, captures demographic data of workforce participants, any expanded use of the system to support Future Ready Oregon may result in the need for updates to help identify priority populations. While some organizations use other systems to support customers, if DHS or other entities continue to use iMatchskills as a management information system for tracking program activity and outcomes for the Prosperity 10,000 Program, SB 1545 could increase some workload and administrative costs related to system enhancements.

Since the impact to the department is contingent upon program changes and policy decisions, HECC, DHS, and other impacted entities, the fiscal impact of SB 1545 is indeterminate at this time. However, the department believes it can absorb any costs by using existing resources or by reimbursements through the application and funding of said grant opportunities.

Senate Bill 1560: Update to “Noncitizen” Terminology

Chapter 97

Effective date Jan. 1, 2023

SB 1560 amended an outdated term in state law by replacing the word, “alien,” with “noncitizen.” SB 1560 also included a change to statewide administrative rule procedures to enable state agencies to change terms or phrases in rules to conform with a change prescribed by law without a prior notice or hearing.

Specifically, SB 1560 amends the term in two statutes administered by the Employment Department under the Oregon Revised Statutes (ORS). The statutes relate to the administration of unemployment insurance (UI) benefits, ORS chapter 657. SB 1560 also enabled the department to modify an administrative rule related to UI benefits, making them potentially payable to noncitizens without having to go through the full rulemaking process. These changes created no fiscal impact for the department.

While SB 1560 changes terminology under state law, it did not change any terms as they may relate to reporting requirements under federal law. Since the department is required by federal law to report information that may include references to the term “alien,” the department continues to use this terminology in federal reports where required to do so.

In addition to updating the outdated terminology in Oregon law, as the Employment Department understands, the intent behind the bill was to more accurately reflect the status of potentially displaced human beings who are not currently considered United States citizens. This change aligns with the department’s core values and mission.

Senate Bill 1585: Data Sharing to Support Workers’ Compensation Program

Chapter 106

Effective date March 23, 2022

SB 1585 requires the Oregon Health Authority (OHA), the Department of Consumer and Business Services (DCBS), and the Employment Department (Department) to enter into an interagency agreement to share information related to deaths potentially resulting from exposure to the Coronavirus Disease 19 (COVID-19) in the workplace.

The bill enabled DCBS’ Office of Ombudsman for Injured Workers to perform outreach about the Workers’ Compensation death benefits potentially available to beneficiaries of deceased workers based on a report of a decedent from the OHA. The office would compare the report with existing COVID-19 workplace outbreak information and employment data administered by the Employment Department.

There was no conflict with state or federal law for the Employment Department to share information with DCBS for this purpose, as specified under the proposed interagency agreement. Ultimately, the measure only created a minimal fiscal impact for the Employment Department because we could use our existing resources to establish said agreement with other agencies to share information.

Section III: Other Legislation (Not Passed During 2022 Legislative Session)

House Measures

[House Bill 4001](#): Essential Worker Pay

A variety of democratic legislators from both the Senate and House, including the Speaker of the House, Tina Kotek, developed a legislative concept to provide one-time payments to essential workers who worked during the COVID 19 pandemic. As initially proposed, the Department of Administrative Services (DAS) would contract with a third-party agency to create a program for distributing one-time payments to eligible essential workers.

Prior to introducing the bill, legislators shared preliminary language with the Employment Department. The bill would have required the department to share information to help identify workers impacted by the pandemic. The department provided feedback that without an external funding source, sharing data could have posed a conformity risk with federal law because the department is limited in using federal funding for non-unemployment insurance program purposes.

At the beginning of session, a scaled-back version of the concept, (HB 4001, was introduced. It would have required DAS to study how best to implement the bill. After the introduction, legislators referred HB 4001 to the House Business and Labor Committee and was in committee upon adjournment. Ultimately, the legislative body opted to pursue an alternative vehicle, HB 4157, to support Oregonians who were similarly impacted during the pandemic.

[House Bill 4104](#): Prosperity 10,000

HB 4104 was the Prosperity 10,000 bill. It would have provided \$50 million to DHS to distribute funding to local workforce development boards. The goal of the bill was to provide career coaching, occupational training, and job-placement services for at least 10,000 low-income job seekers most impacted by COVID-19 pandemic. Additionally, HB 4104 would have appropriated monies to the Bureau of Labor and Industries for the purpose of funding grant programs to increase diverse participation in apprenticeship programs.

After its introduction, legislators referred HB 4104 to the House Economic Recovery and Prosperity Committee and was in committee upon adjournment. Ultimately, legislators introduced elements of HB 4104 as part of an amendment, and it was adopted into, part of the Governor's Future Ready Oregon legislation, SB 1545.

Senate Measures

Senate Bill 1562: Sign Language Interpreters

SB 1562 would have created a State Board of Sign Language Interpreters within the Health Licensing Office (HLO), and it would have established a formal licensing process for sign language interpreters. As part of the licensing process, SB 1562 would have provided the board with the authority to grant or deny the license application, to sanction a licensee, and to impose civil penalties for violations of its rules — which would have been appealable as a contested case. While decisionally independent from the Employment Department, the Office of Administrative Hearings (OAH) is administratively supported by the department and currently holds contested case hearings for the HLO.

After introduction, the Senate Labor and Business Committee held a public hearing and work session on the subject of SB 1562. The committee provided a do pass recommendation, with a referral to the Full Joint Ways and Means Committee. The bill remained there upon adjournment. Had legislators passed SB 1566 as introduced, the OAH estimated the department could have absorbed the impact by using existing resources.

Senate Bill 1566: Increase to Legislator Compensation

SB 1566 would have established an annual salary for members of Oregon’s Legislative Assembly. It would have equaled the average annual wage for all covered employment in Oregon during the prior calendar year, as published by the Employment Department. The department’s Workforce and Economic Research Division annually produces and publishes the average annual wage for all covered employment.

After introduction, the Senate Rules Committee held a public hearing and work session on the subject of SB 1566. The committee adopted an amendment to the bill and provided a do pass recommendation with a referral to the Full Joint Ways and Means Committee, where the bill remained upon adjournment. Had SB 1566 been passed as amended, it would not have impacted the Employment Department because the department already creates and readily provides this information for the public.

Senate Bill 1569: Voluntary Report of Racial and Ethnicity Data on State Tax Returns

SB 1569 would have established a requirement for the DOR to permit personal income taxpayers to voluntarily report their self-identified race and ethnicity identifiers. The bill included strict confidentiality prohibitions restricting access of the data to authorized parties and limiting use of the data for permissible purposes.

After introduction, the Senate Finance and Revenue Committee held a public hearing and work session on the subject of SB 1569. The committee adopted an amendment to the bill, provided a do pass recommendation with a referral to the Full Joint Ways and Means Committee, where the bill remained upon adjournment. SB 1569 did not include any direct connection to the Employment Department and the shared support and services offered by the department and DOR via the Combined Quarterly Payroll Reporting system. However, had it been passed into law, it would have established a similar option for information gathering as the department’s new, modernized system, Frances.

The Oregon Employment Department (OED) is an equal opportunity agency.

<https://employment.oregon.gov>

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To get help, please call 503-947-1444. TTY users call 711. You can also send an email to communications@employ.oregon.gov.

