

2023 Legislative Session Summary

August 2023



Executive Summary

The 82nd Oregon Legislative Assembly adjourned sine die on Sunday, June 25, 2023. Oregon's 2023 Legislative Session lasted 160 days – ending on the constitutional deadline, Sine Die. During the course of this session, the Legislative Assembly introduced 2,970 measures and about 650 passed into law. The Employment Department's experts reviewed each measure, ultimately identifying and tracking 555 bills relevant to the agency's interests.

The 2023 Legislative Session was a session like no other for the Department, other state agencies, and all Oregonians. With a new Governor, Tina Kotek (D), new leadership in the Senate with Senate President Rob Wagner (D), 22 new freshmen legislators (21 in the House), the State experienced some adjustment compared to how sessions unfolded in the past. This, however, was also due to a six-week walk-out by Senate Republicans. In the end, Oregon's legislative leaders, both Democrat and Republican, were able to find common ground, return to their respective chambers, and complete the session within the 10 days before Sine Die.

Developed as legislative concepts during the 2021-22 interim, the Department began the session with the introduction of four key measures:

- 1) **House Bill 2290:** A bill to permit greater data sharing with other government agencies;
- 2) **House Bill 3331:** Unemployment Insurance (UI) Work Share program expansion;
- 3) **Senate Bill 912:** Updates to Paid Leave Oregon overpayment recovery and penalty laws; and
- 4) **Senate Bill 913:** Technical fixes for the Paid Leave Oregon program.

By the end of session, the Department achieved success with the passage of House Bill (HB) 3331, Senate Bill (SB) 912, and SB 913. Additionally, the Department's budget bill, SB 5507, passed with bi-partisan support as well as a bill, HB 5049, to appropriate approximately \$5.8 million in General Fund dollars for administrative expenses related to UI and shared services.

Other key measures impactful to Department programs also passed, including a bill to establish some contingency plans relating to the solvency of the Paid Leave Oregon Trust Fund, SB 31; a bill to establish information sharing between the Employment Department and the Department of Revenue to prevent fraud and identity theft, SB 205; a bill to permit more classified school employees to receive Unemployment Insurance benefits during break periods, SB 489; and a bill to better align the Employment Department's administration of the Paid Leave Oregon program with the Bureau of Labor and Industries' administration of Oregon Family Leave Act laws, SB 999.

The Legislative Affairs Team would like to express our appreciation for the collaborative work of the Department's entire legislative team, including subject matter experts, bill analysts, 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 Department's 2023 Budget and Legislative Coordination Teams. Their expertise, dedication, and contributions cannot be overstated.

The Department continues working with the Legislature year round. The agency maintains communication with legislators (including constituent support), 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 legislative work performed by the Department, 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.

Legislative Affairs

David Genz
Rebecca Nance

Budget

Staci Bloomer
Carol Bovett
Bill Chollman
Michael Doughty
Tracy Harrison
Neal Kern
Ayesha Khalid
Pauline Kloft
Katherine Williams

Employment Appeals Board

Janet Lambert
Sarah Serres

Human Resources

Carrie Cruz
Kristen Weiss-Guernsey

Information Technology

Mary Bernert
Ali Rasouli

Modernization

Jeff Hughes
Martin Kraal

Office of Administrative Hearings

Rema Bergin
Jeffrey Rhoades

Paid Family and Medical Leave Insurance

Shannon Ball
Matt DeRosa

Research

Lynn Wallis
Steve Williams

Unemployment Insurance

Justin Freeman
Brian Thaden

Workforce Operations

Gus Johnson
Sytyl Oelke

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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, 2024. 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 2023 session, Sunday, Sept. 24, 2023, is the 91st day after adjournment.

House Measures

House Bill 2283: Public Employee Retirement System (PERS) Modernization Bill

Chapter 404

Effective date Jan. 1, 2024

HB 2283 is the Public Employees Retirement System's (PERS') bill that aims to better clarify existing PERS law, align standards, and improve the process of receiving benefits before the agency upgrades its technology.

After being introduced, HB 2283 was changed to specify that if a public employee takes part in the Work Share Program and receives unemployment insurance (UI) benefits in the future, those Work Share benefits will be considered as part of their salary calculation for PERS.

The Employment Department administers the UI Work Share Program. The program offers a choice for employers and their workers who may face potential layoffs. With Work Share, instead of laying off some employees, an employer reduces the working hours and earnings for a group of workers. These workers then receive partial UI benefits on top of their reduced wages.

Although HB 2283 does not directly impact the Employment Department, the Department will likely have to create an interagency agreement with PERS to share information about the Work Share benefit payments. The Department plans to complete this work using existing resources before the bill becomes effective.

House Bill 3127: Security for State Information Technology Assets

Chapter 256

Effective date Sept. 24, 2023

HB 3127 requires the Department, as well as other state agencies, to prevent employees from downloading specific software that could be risky for the state's security. The ban includes the corporate parent, subsidiary, affiliate or successor entity of the following entities;

- Alibaba Group Holding Limited (a Chinese multinational technology company that specializes in online platforms such as Alibaba Cloud and Alibaba Pay);
- ByteDance Limited (a Chinese internet technology company that owns the TikTok application);

- Huawei Technologies Company Limited (a Chinese multinational technology corporation that owns the HarmonyOS smart-phone operating system);
- Kaspersky Lab (a Russian multinational cybersecurity firm that owns Kaspersky Anti-Virus);
- Tencent Holdings Limited (a Chinese multinational conglomerate that develops online games and the social media application, WeChat);
- ZTE Corporation (a Chinese partially state-owned technology company that owns a network monitoring and security software called Zero Trust Edge); and
- Any other corporate entity designated a covered vendor by the State Chief Information Officer.

Employees at the Employment Department have never had the option to download and use any of these types of software without permission from Department's Information Technology (IT) Section. Areas of the agency did have the option to request and procure software from the entities listed in HB 3127 for acceptable business needs. However, no software owned by any of the above-noted entities is currently in use by Department staff on agency equipment. The Department's IT Section already has a process in place to approve the use of software and is prepared to identify alternatives, where possible, to meet the agency's needs. HB 3127 won't have any impact on the Department because our IT Section already controls and monitors the software that can be installed. Currently, any applications from the entities listed in the bill are blocked on the Department's hardware.

House Bill 3141: Updates to Administrative Procedures Act

Chapter 52

Effective date Jan. 1, 2024

HB 3141 makes changes to Oregon's Administrative Procedures Act (ORS chapter 183) to require:

- 1) The Senate will confirm the appointment of the Chief Administrative Law Judge (ALJ) of the Office of Administrative Hearings (OAH);
- 2) The OAH will now provide staff to the OAH Oversight Committee instead of the Employment Department; and
- 3) The Employment Department will offer human resources services to the OAH Oversight Committee and to help them find candidates for the Chief ALJ position.

Additionally, HB 3141 clarifies the qualifications required for the Chief ALJ position and the process for appointing future Chief ALJs.

These changes won't cause any additional expenses for the Employment Department because they already provide human resources services to the committee and assist with candidate searches for the Chief ALJ appointment.

Similarly, there will be no financial impact on the OAH (or the OAH Oversight Committee) because the bill doesn't affect the appointment of the current Chief ALJ or the support they receive from the OAH.

House Bill 3306: Workforce Development Investment Initiatives

Chapter 343

Effective date Jan. 1, 2024

HB 3306 says that organizations offering paid work experience through funding from the Prosperity 10,000 program must:

- 1) Pay wages that match the local standards for the occupation;
- 2) Develop a training plan that includes said wage standard; and
- 3) Give the training plan to each participant before they start the program.

For organizations providing paid work experience, HB 3306 also requires:

- Treating each participant as an employee according to state wage and hour laws and protecting them from any form of discrimination or retaliation in their employment.
- Following a specific wage progression scale if the entity is offering experience to someone involved in a qualifying workforce program.

Additionally, HB 3306 requires the entities to give each worker who receives paid work experience a training plan that includes:

- 1) Their starting wage when they begin the program and how their wages will progress as they meet certain requirements to reach higher wage levels; and
- 2) A statement confirming that the entry-level training wage they are paid cannot be lower than the federal minimum wage rate or the applicable state minimum wage rate, whichever is greater.

Lastly, HB 3306 sets the standard that each industry consortium recalculates the wage rate standards every two years by using relevant economic and employment information provided by the Department.

The Employment Department's Workforce Operations Division may offer reemployment services to workers who get paid work experience through external entities using the Prosperity 10,000 program. However, this bill will not require any changes to how the Department currently delivers its services. The Department also has the option to receive funding through the Prosperity 10,000 program. If the Department should use the funding to provide paid work experience in the future, it will meet the requirements under HB 3306 without adding any extra workload.

Additionally, the Department's Workforce and Economic Research Division is responsible for providing relevant economic and employment data. Providing this information is part of the division's standard operating procedure and won't create any workload impacts.

House Bill 3331: Unemployment Insurance Work Share Expansion

Chapter 58

Effective date Sept. 24, 2023

The Employment Department developed HB 3331 as a legislative concept between the 2021-22 legislative sessions to expand Oregon's Unemployment Insurance (UI) Work Share program. The Work Share program gives an alternative for employers and workers who may face the prospect of layoffs.

In the Work Share program, employers can choose to reduce the working hours for a group of workers instead of laying off some employees. These eligible workers will then receive partial UI benefits to support their reduced wages.

Under current law, some employees working for participating employers don't qualify for these additional benefits if:

- 1) They haven't been working full time for six months or part time for one year; and
- 2) Their hours were reduced by less than 20 percent or more than 40 percent.

As a result, these workers might face a higher risk of losing their jobs permanently, and the businesses that employ them may be at greater risk of long-term or permanent closure.

HB 3331 allows recently hired employees, whether they work full or part time, and those whose working hours were reduced by at least 10 percent but not more than 50 percent, to receive Work Share benefits. By expanding the program like this, more workers will qualify for UI benefits through the Work Share program. This change will help more employers avoid permanent layoffs and reduce the costs linked to business closures.

House Bill 3443: Bias Crime Definition Changes

Chapter TBD

Effective date Jan. 1, 2024

HB 3443 makes a variety of changes to bias crime laws and the support given to victims of such crimes. Some of the key changes include:

- Landlords cannot end leases or take action against tenants who are victims of bias crimes. These tenants can also leave their lease without facing any penalties;
- Defendants charged with a bias-related crime are not allowed to contact the victim during the judicial process;
- People who report information to the hate crimes hotline will have their identities protected; and
- The Department of Justice's Address Confidentiality Program can now include victims of bias crimes.

Additionally, HB 3443 expands eligibility for protected leave under the Oregon Family Leave Act (OFLA) to include bias crime victims. While this piece of legislation uses specific terminology for how a 'victim' of a crime is defined under Oregon law, the Oregon Employment Department uses the term 'survivor' to empower those who have endured such an event.

Right now, the Department is working to implement the Paid Leave Oregon program. This program provides benefits for family leave, medical leave or safe leave to eligible individuals. Under current Paid Leave Oregon law, safe leave applies to OFLA-covered employees who are survivors, and their minor children or dependents, of crimes related to domestic violence, harassment, sexual assault or stalking. HB 3443 expands the list of related crimes to include bias crimes. As a result, survivors of bias crimes who are covered by OFLA may now be eligible for Paid Leave Oregon benefits.

The Department is not sure about the exact impact of this change for itself and the Paid Leave Oregon

Trust Fund. However, before the new law takes effect, the Department will update its training and reference materials to include information about how people impacted by bias crimes may be eligible for Paid Leave Oregon benefits.

House Bill 5049: Employment Department Funding Appropriation

Chapter 464

Effective date July 27, 2023

HB 5049 provides General Fund dollars for administrative funding of the unemployment insurance (UI) program and shared services. This funding will allow the Employment Department to carry out its mission to support business and promote employment. The Department supports economic stability for Oregonians and communities during times of unemployment through the payment of unemployment benefits.

HB 5049 gives the Department \$5,767,819 from the General Fund to cover operating expenses in the 2023-25 biennium. This one-time General Fund appropriation funds 72 (27.00 FTE) limited-duration positions in the Unemployment Insurance and Shared Services divisions through March 2024. The positions are needed to address the following challenges:

- 1) Resolving fraud investigations and overpayments;
- 2) Ensuring more timely decisions and payments for benefits;
- 3) Providing adequate supervisory support; and
- 4) Making Department information and materials more accessible for non-native English speakers by translating them.

The Department has faced ongoing revenue challenges due to historically low federal reimbursement rates for UI administration during and after the COVID-19 pandemic. A permanent funding increase of the Supplemental Employment Department Administrative Fund (SEDAF) sought in the Governor's Budget received bipartisan, bicameral support, but due to procedural challenges did not pass. HB 5049 provided temporary funding for the positions that permanent increase would have funded. The Department anticipates pursuing this permanent SEDAF rate change in the 2024 Legislative Session.

Senate Measures

Senate Bill 31: Paid Leave Oregon Trust Fund Solvency

Chapter 66

Effective date May 8, 2023

SB 31 gives the Employment Department the authority to take precautions while implementing the Paid Leave Oregon program, in case there isn't enough money to pay the expected benefits, assistance grants, and administrative expenses when the program starts Sept. 3, 2023.

By Aug. 11, 2023, the Director of the Department must check if the Paid Leave Oregon Trust Fund has enough money. If there isn't enough, SB 31 allows delaying the payment of Paid Leave Oregon benefits and assistance grants. The Department will then review the trust fund's financial health every three months until Sept. 3, 2026.

During these reviews, if the Department finds that the trust fund will have enough money to pay benefits, assistance grants, and administrative expenses, they must let employers and employees know at least 30 days before the program goes live.

Currently, the Department believes the Paid Leave Oregon Trust Fund meets the statutory solvency definition of having six months of funding to pay benefits, assistance grants, and administrative expenses, and the Department intends to start the Paid Leave Oregon benefits program on September 3, 2023.

Senate Bill 205: Department of Revenue and Employment Department Fraud Prevention

Chapter 270

Effective date Sept. 24, 2023

SB 205 was developed as a legislative concept during the 2021-22 interim by the Department of Revenue (DOR) in partnership with the Employment Department. The bill allows the agencies to share confidential information to detect identity theft or fraud. SB 205 makes the following changes:

- It lets the DOR share specific details from individual income tax returns, like taxpayer identification numbers, names, addresses, dates of birth, employer names, employer identification numbers, wage amounts, self-employment income details, and other relevant information on a case-by-case basis, as decided by the DOR Director.
- It also allows the exchange of information between the Employment Department and DOR related to Unemployment Insurance (UI) and Paid Leave Oregon that wasn't allowed before.

The Employment Department believes that implementing SB 205 won't affect their modernization efforts. While DOR and the Employment Department will need to create a new interagency agreement to share this information, any additional work needed to exchange information with DOR will be managed using their existing resources. The Employment Department does not anticipate any challenges with implementing SB 205 before the bill becomes effective.

Senate Bill 489: Unemployment Insurance for Classified School Employees

Chapter 180

Effective date Jan. 1, 2024

SB 489 changes the unemployment insurance (UI) law to allow individuals who work for an educational institution in roles other than teaching, research, or principal administration to be eligible for UI benefits during a break or recess period.

Currently, many of these individuals are not allowed to receive UI benefits during breaks or recess periods if their employer assures them they will have a job when the break is over. When these workers apply for UI benefits, the Department needs to investigate if they have this assurance from their employer (this investigation is called adjudication).

With SB 489, these workers will be able to get UI benefits during a break or recess period regardless of whether their employer has provided them with reasonable assurance to return to work. The only condition is that they meet all other UI eligibility requirements each week they apply for benefits. Also, SB 489 removes the need for the Department to investigate whether these workers have reasonable assurance. This change may reduce the waiting time for them to receive UI benefits (assuming they meet other UI eligibility requirements).

Senate Bill 606: Modernizing State Agency Grant Funding and Contracting Procedures

Chapter TBD

Effective date Sept. 24, 2023

SB 606 forms a 15-member group called the Task Force on Modernizing Grant Funding and Contracting. Its job is to examine how the state's grant-giving and public procurement practices affect the wages of employees who work for nonprofit organizations. The task force has to submit a report about this to a committee of the Legislative Assembly by Sept. 15, 2024. The Department of Administrative Services will provide staff support for the task force, and the task force will cease to exist on Dec. 31, 2024.

Originally, the bill included a part that would have created a Nonprofit Workforce Retention Fund. This fund would have given grants to certain nonprofits, through the Employment Department, to increase pay and reduce employee turnover. However, after further consideration, this provision was removed, and the focus of the bill shifted to creating the task force. Although the Employment Department may be asked to help the task force, SB 606 doesn't directly impact the Department.

Senate Bill 692: State Agency Workplace Discrimination and Harassment Investigations

Chapter 160

Effective date Jan. 1, 2024

SB 692 sets up rules for state agencies to use an information system maintained by the Oregon Department of Administrative Services (DAS). This system will track state agencies' internal investigations of complaints of workplace discrimination and harassment involving their employees. DAS

will make sure this system can track investigations statewide and allow state agencies to share relevant information with DAS.

Additionally, SB 692 requires DAS to create a formal training program for state agency personnel who conduct internal investigations for workplace discrimination and harassment complaints. The training will ensure that the investigative processes across state agencies are consistent. It will also offer specialized training in different important areas and prepare agency staff to conduct internal investigations.

The Employment Department, as a state agency, will need to use the information system, and our Human Resource staff will be required to take part in the trainings DAS offers. The agency will use existing resources to perform any extra work due to SB 692.

Senate Bill 912: Paid Leave Oregon Overpayments and Penalties

Chapter 120

Effective date Sept. 24, 2023

The Employment Department developed SB 912 during the 2021-22 period between legislative sessions. This bill is related to overpayments and penalties for its Paid Leave Oregon program.

At the time the Paid Leave Oregon program was created in 2019, the rules for recovering overpaid benefits were mostly similar to the ones used for unemployment insurance (UI) benefits. But in 2021, a new bill (SB 172) changed the requirements for overpaid UI benefits. It reduced the time to collect some overpayments and gave the Department more authority to waive certain types of overpayments. The Employment Department wanted to make similar changes in SB 912 to align the administration of overpayments and collection of overpaid benefits for both programs.

SB 912 makes changes to Paid Leave Oregon law relating to:

- 1) Overpayment of Paid Leave Oregon benefits, and how to collect or waive those overpaid benefits;
- 2) Collecting repayments from employers for employer-assistance grants and contributions from self-employed individuals and tribal governments;
- 3) Potential penalties for employers who offer equivalent plans but don't provide the same level of support as plans under Paid Leave Oregon; and,
- 4) Allows the Department to waive, reduce, or compromise Paid Leave Oregon debts of \$10 or less.

SB 912 creates a minimal financial impact to the Paid Leave Oregon Trust Fund because of projected penalties for employers who don't offer equivalent plans. Except for this impact, SB 912 won't affect the Department's operational budget.

Senate Bill 913: Paid Leave Oregon Technical Fixes

Chapter 292

Effective date Sept. 24, 2023 (though respective sections of the bill are effective based on their applicability)

SB 913 was created by the Employment Department during the 2021-22 period between legislative sessions to fix technical issues in the Paid Leave Oregon program. These fixes are needed to make the program run more smoothly.

While SB 913 includes several technical corrections or housekeeping changes, some key fixes include:

- Allowing the sharing of information with authorized people or other state agencies based on agreements;
- Clarifying administrative procedures for handling appeals with the Office of Administrative Hearings (OAH);
- Excluding judges, members of the Legislative Assembly, and public office holders from being considered employees for Paid Leave Oregon contributions and benefits;
- Removing the requirement that paid sick time, vacation leave, or any other paid leave can only be up to 100% of the eligible employee's average weekly wage, in addition to the Paid Leave Oregon benefits received;
- Specifying that wages for Paid Leave Oregon don't include employer contributions paid on behalf of the employee;
- Aligning place of performance (localization, or which state wages are used in for determining employer tax responsibility and worker benefit eligibility) with Unemployment Insurance (UI) and other states with Paid Leave programs; and
- Changing the maximum wage amount for contributions to align with the social security index annually starting Jan. 1, 2024, instead of the consumer price index.

The change to align the maximum wage amount with the social security index each year will increase the revenue for the Paid Leave Oregon Trust Fund. Aside from this change, SB 913 won't have any financial impact on the Department's operational budget. Additionally, while some of the proposed changes relate to administrative procedures in the handling of appeals through the OAH, SB 913 won't create any extra impact for the OAH.

Senate Bill 999: Paid Leave Oregon and Oregon Family Leave Act (OFLA) Alignment

Chapter 203

Effective date June 7, 2023

When the Paid Leave Oregon program, formerly known as the Paid Family and Medical Leave Insurance program, was created through HB 2005 in 2019, it was understood that updates would be needed in the future to better align Oregon's leave laws.

With support from both labor and business interest groups and bi-partisan legislative support, SB 999 better aligns the Oregon Family Leave Act (OFLA) with Paid Leave Oregon in the following ways:

- 1) Requires both the Bureau of Labor and Industries (BOLI) and the Employment Department

determine, by rule, what factors to consider when determining whether a significant personal bond resembles a familial relationship;

- 2) Requires the rules be consistent between the two agencies for both programs, and permits the agencies to use a single form for customers to certify their eligibility for both programs based on their familial relationship; and
- 3) Requires that employers must offer returning employees an equivalent position at the nearest job site within 50 miles of their previous position, if their position has been filled.

SB 999 will also require:

- 1) Employees qualifying for Paid Leave Oregon benefits must continue to make regular contributions to health insurance premiums. Employers can deduct no more than 10% of the employee's gross wages to pay for disability, life, or other insurance after they return to work.
- 2) Protected OFLA leave, which also qualifies as FMLA leave or leave under Paid Leave Oregon, must be taken concurrently, not in addition to each other
- 3) The one-year period for computing the amount of leave available under OFLA will be tied to the Paid Leave Oregon period starting July 1, 2024; and
- 4) Changes to the "family member definition" in OFLA law and the factors that BOLI considers in determining whether a significant personal bond resembles a family relationship will take effect Sept. 3, 2023, the anticipated start date for Paid Leave Oregon benefits.

SB 999 is the first step to align OFLA and Paid Leave Oregon. The Department expects further measures to align the programs in future legislative sessions. The Department supports this effort and looks forward to continuing participation in those conversations.

Although SB 999 makes other changes to both Paid Leave and OFLA, only the requirement for the Employment Department to define the factors of familial affinity through administrative rules and to develop the form directly affects the Employment Department. The Department can manage this work using existing resources and can complete it before the change in law takes effect.

Senate Bill 1052: Updates to Involuntary Servitude and Human Trafficking Law

Chapter 217

Effective date Jan. 1, 2024

SB 1052 makes changes to the laws related to the crimes of involuntary servitude and human trafficking. It expands the definition of involuntary servitude to include more ways that people can be forced to work against their will. These additional ways include things like: being trapped in debt; not getting proper medical care; being controlled by access to drugs; and being deceived or tricked. The bill also increases the penalties when the person is a minor, gives an affirmative defense for certain illegal actions taken if the person was subject to human trafficking, and allows people affected by human trafficking to file civil claims for up to 10 years after the crime.

SB 1052 also requires the Department of Justice (DOJ) to give training every year to certain state employees who are most likely to meet survivors of potential human trafficking. Other employees may also receive this training to support the work of the agency.

The bill allows state agencies to decide which employees should take the training. The Employment Department is one of the agencies whose employees must get this training. DOJ will create a virtual one-hour training session that the agency's approximately 1,135 employees will take when they do their regular yearly policy renewal trainings. The Employment Department staff, along with colleagues from other agencies, are ready to do our part to prevent the crimes of involuntary servitude and human trafficking in Oregon and to support the healing process for survivors of these crimes.

Senate Bill 5507: Employment Department Budget Bill

Chapter 379

Effective date July 18, 2023

SB 5507 gives the Oregon Employment Department the money it needs to carry out its mission to support business and promote employment. The Employment Department helps Oregonians and communities during times of unemployment by paying unemployment benefits and helping people find jobs. It helps businesses by recruiting and referring qualified applicants to jobs and providing resources to a diverse group of job seekers. The Department provides important information about the workforce and the economy to help with decision-making. It also offers accessible paid family and medical leave insurance benefits to help Oregon employers and workers maintain a good quality of life, economic stability, and peace of mind.

SB 5507 also gives budget authority for the independent Office of Administrative Hearings. This office helps resolve disputes between citizens and businesses with most state agencies. The Employment Department provides administrative support to the Office of Administrative Hearings.

For the 2023-25 period, SB 5507 gives the Employment Department a budget of \$3,282,664,840 and 1,937 positions (1,919.16FTE), and the Office of Administrative Hearings a budget of \$38,238,696 and 121 positions (112.80 FTE). The Office of Administrative Hearings gets its funding entirely from Other Funds revenue, which means it charges fees to cover its services.

The Employment Department gets money from different sources to run its programs and services. The main sources are Federal Funds and Other Funds. During 2021-23, the agency also received a loan from the General Fund to set up the Paid Family and Medical Leave Insurance program which we are in the process of paying back. Repayment of the loan will be complete by the close of the 2021-23 financial period, which closes no later than December 31, 2023. The Department has access to modernization funds provided to the state by the federal government under the Social Security Act, which will be used to update the Department's old business and technology systems. Penalties and interest, due to delinquent UI tax payments, collected by the Department (Employment Department Special Administrative Fund) will also be used to support general agency activities.

For the 2023-25 biennium, unemployment insurance (UI) taxes collected by the Department continue to be one of the largest sources of revenue for the agency. The U.S. Treasury holds this money for Oregon, and the Department uses it to pay unemployment benefits to people who are eligible. SB 5507 allows the agency to spend as much money as needed for these payments. The bill also allows non-limited spending for benefits related to the Trade Adjustment Assistance Program and UI benefits paid to federal employees and reimbursed by the federal government.

An additional source of revenue for the agency in the upcoming biennium will be the collection of contributions for our newest program, Paid Leave Oregon. These funds are kept in the Paid Leave Oregon Trust Fund and will be used to pay benefits to eligible people when the program goes live (3rd quarter 2023). The Department began collecting the contributions for the program at the end of the 2021-23 biennium (1st quarter 2023) and will continue through the 2023-25 biennium and beyond. SB 5507 allows the agency to spend as much as needed from Other Funds for these payments.

Section II: Other Legislation (Not Passed During 2023 Legislative Session)

House Measures

House Bill 2008: Debt Collection Protections

Had HB 2008 been passed into law, it would have increased collection protections for individuals owing debts in the State of Oregon. Over the course of session, several amendments were introduced which also would have created impacts for the Department and other state agencies but none were ultimately adopted. The introduced version would have increased protections in the following ways:

- 1) The value and types of personal property exempt from judgment execution;
- 2) The amount of money exempt from wage and bank garnishment; and
- 3) The value of homesteads exempt from judgement execution and how long proceeds from the sale of a homestead may be withheld from execution.

With regard to garnishments, HB 2008 would have increased the maximum amount of money exempted from:

- Bank garnishments from \$7,500 to \$15,000; and
- Wage garnishments on a weekly basis from \$254 to \$1,000, and amounts proportionate to subsequent weekly increments of time.

Additionally, for individuals owing debts, HB 2008 would also have established that the minimum amounts of money which:

- Must remain in their bank account after a bank garnishment cannot be less than \$12,000; and
- They must be able to retain in disposable earnings after a wage garnishment cannot be less than 85% of their take-home wages (increased from 75%).

State agencies in Oregon responsible for the recovery of public debts, such as the Employment Department, would be subject to the provisions of HB 2008. The Department currently has three major categories of debt:

- 1) Delinquent unemployment insurance (UI) and taxes;
- 2) Delinquent Paid Leave Oregon contributions;
- 3) Outstanding UI benefit overpayments; and
- 4) Occasional administrative accounts receivable.

While these are the only types of debt that currently exist for the Department, the Department also anticipates that employers will be delinquent in paying equivalent plan contributions due after the equivalent plan is withdrawn or terminated, and overpaid assistance grants; and that claimants will receive overpaid Paid Leave Oregon benefit payments.

Had HB 2008 been passed as introduced, or been amended to increase any of the above-noted provisions compared to how they operate under current law, it would have reduced the amount of money the Employment Department is able to recover. This reduction would also have impacted the Department's administrative revenue because amounts recovered from debts with interest and penalties. The Department uses these funds to serve Oregon workers and businesses. Any reduction to this funding will

impact the Department's ability to maintain current customer service levels and to prevent, discover, and collect overpaid benefits.

After a Public Hearing and Work Session were held about HB 2008 in the House Committee on Business and Labor, the bill was referred to the House Committee on Rules without recommendation as to passage. After an additional Public Hearing was held, HB 2008 was still assigned to this committee upon adjournment.

House Bill 2204: Youth Employment Tax Credit Program

If HB 2204 had been passed into law, it would have created an income or corporate excise tax credit for business entities in Oregon who employ eligible youths participating in the Higher Education Coordinating Commission (HECC)'s Oregon Youth Employment Program. Additionally, HB 2204 would have required the Employment Department to provide written certification of eligibility for these employers before the employer can claim the credit.

In addition, HB 2204 specified that the tax credit:

- Could not exceed the tax payer's tax liability for the year, but any unused amount may be carried forward to the next two years; and
- Would be a maximum of \$2,500 for employers who employ youths between the ages of 14 and 24 who work at least 200 hours in a part-time or full-time job during the tax year.

HB 2204 would have required the Employment Department and HECC to adopt rules, policies, and procedures for verifying eligibility. It would have also required the Department to provide information to the Department of Revenue (DOR) about all taxpayers who are eligible for this tax credit. Therefore, HB 2204 would have created an impact for the Department. No revenue source or amounts were specified in the introduced version of the bill. Had HB 2204 become law, the Department would have implemented and administered the program similar as to how it administers tax credits for the federal Work Opportunity Tax Credit (WOTC) program but would not have been able to implement or administer the program without an external funding source.

After a Public Hearing and Work Session were held about HB 2204 in the House Committee on Higher Education, the bill was referred to the Joint Committee On Tax Expenditures with a do pass recommendation but was in committee upon adjournment without further public consideration.

House Bill 2290: Employment Department Other Agency Data Sharing

The Employment Department, in consultation with the Department of Revenue (DOR), developed HB 2290 as a legislative concept during the 2021-22 interim to align and expand certain state information disclosure laws to improve efficiency for both the Unemployment Insurance (UI) and Paid Leave Oregon programs. Had HB 2290 been passed into law, the information disclosure laws that would have been amended by the bill include:

- 1) Combined tax reports;
- 2) Self-employed Oregon tax returns;
- 3) Income reports; and
- 4) Withholding records.

Additionally, HB 2290 included a provision to amend the law, which permits county jails in Oregon to report defendant information to the Employment Department, to include the purpose of administering the Paid Leave Oregon program.

One key provision within HB 2290 would have established a change to Oregon's Wage and Tax Statement W-2 form (a form administered by DOR, not the Employment Department). The change would have been to include information about the amounts withheld and contributed by an employer for the purpose of Paid Leave Oregon. The Department believes that including this information as part of an employee's annual wage record would enhance every Oregonian's awareness about their income and withholdings, as well their contributions to the Paid Leave Oregon program.

In addition, the Employment Department is working on two important projects at the same time. One project is setting up the Paid Leave Oregon program, which provides family and medical leave insurance. It's also implementing a new system called Frances, which will be used to administer both Paid Leave Oregon and UI programs. HB 2290 would have improved communication between government agencies in this new system. Passing HB 2290 would have made it easier for people to access services for Paid Leave Oregon and UI, giving them better and consistent customer service.

After a Public Hearing and Work Session were held about HB 2290 in the House Committee on Business and Labor, the bill was referred to the Joint Committee On Ways and Means with a do pass recommendation but was in committee upon adjournment without further public consideration. While HB 2290 did not pass in 2023, the Department anticipates revisiting the conversation about the proposed changes in a future session.

House Bill 3360: Unemployment Insurance Family Member Exclusion

HB 3360 would have excluded the work performed by first cousins of the owners of corporations and limited liability companies from the definition of what is considered employment for the purposes of Unemployment Insurance. Current law permits parents, stepparents, grandparents, spouses, sons-in-law, daughters-in-law, brothers, sisters, children, stepchildren, adopted children, and grandchildren to be excluded from the definition of employment. After introduction, HB 3360 was assigned to the House Committee on Business and Labor, but was still assigned to the committee upon adjournment of session without a Public Hearing or Work Session being held.

Senate Measures

Senate Bill 241: Prioritizing Federal Public Assistance Programs

If SB 241 became a law, it would have required state agencies that give money or help to people in Oregon who don't have regular access to things like shelter, jobs, healthcare, food, and other basics, to do two things:

- 1) Tell those customers about federal programs that offer benefits “similar” or “related” to what the state agency provides; and
- 2) Ask customers to apply for those federal benefits if they are “similar” to what the state agency already gives.

The Employment Department is a state agency and provides services and benefits through our programs to the residents of the state. The Department currently provides assistance or benefits to Oregon residents through many programs including:

- Employment services through Oregon WorkSource centers through the Workforce Operations (WO) division;
- Unemployment benefits through the Unemployment Insurance (UI) program; and
- Paid Leave Oregon benefits through the Paid Leave Oregon program.

Had SB 241 passed into law, the Department believes it would have been required to “fully inform” customers about related federally funded benefit programs. To some extent, the Department already does this but would likely have needed to update telephone and computer information systems. It would have also have been required to train its staff on how to give direct information to ensure customers were screened for barriers and fully informed about “similar” or “related” federally funded programs.

However, it seems that the Department wouldn't need to ask our customers to apply for any federal programs before providing our assistance or benefits. This is because:

- a) The services provided by the WO and UI divisions are already federally funded, and there are no other similar federal programs for those services; and
- b) The Paid Leave Oregon division is not federally funded, and there don't seem to be any similar federally funded services currently available.

After a Public Hearing was held about SB 241 in the Senate Committee on Human Services, the bill remained in committee upon adjournment without further public consideration.

Senate Bill 481: Paid Leave Oregon and Oregon Family Leave Act Alignment

SB 481 would have changed requirements for employees to be eligible to take leave under the Oregon Family Leave Act (OFLA). If SB 481 had passed into law, it would have aligned the definition of “family member” and decreased the amount of time an employee must be employed to qualify for job protections in the OFLA to match Paid Leave Oregon. Additionally, SB 481 would have added bereavement leave as a qualifying reason for an employee to take leave through Paid Leave Oregon.

After introduction, SB 481 was assigned to the Senate Committee on Labor and Business, but was still assigned to the committee upon adjournment of session without a Public Hearing or Work Session being held.

Senate Bill 538A: State Agency Credit Card Processing Fees

Had SB 538A passed, it would have permitted state agencies that accept credit or debit cards as a means for payment to add a fee or surcharge to the transaction. SB 538A would have limited that fee or surcharge to a reasonable amount to offset amounts charged to or withheld from that state agency. The Employment Department is a state agency that accepts credit or debit card payments and would have had the option to adopt the fee or surcharge. The Department, however, was not passing on any additional fee or surcharges to Oregonians who chose to make payments with credit or debit cards, and therefore did not anticipate any impact from the passage of SB 538A.

After two Public Hearings and a Work Session were held about SB 538 in the Senate Committee on Labor and Business, the bill was amended and passed in the Senate Chamber. After passage in the Senate, a Public Hearing and Work Sessions was held in the House Committee on Emergency Management, General Government, and Veterans, SB 538A was referred to the House Chamber for a vote with a do pass recommendation. However, after the bill had a third reading in the House, it was referred to the House Committee on Rules where it remained upon adjournment without further public consideration.

Senate Bill 853A: Prohibition on Commuting Cost Reimbursement for Out-of-State Workers

If SB 853A had passed into law, the bill would have stopped state agencies from reimbursing their workers for travel expenses when they move out of state but still attend in-person meetings within the state. The legislation was introduced due to a Department of Administrative Services (DAS) policy that required state agencies to reimburse employees who live out of state for their commuting costs. After the bill was introduced, however, Governor Tina Kotek decided to end the DAS policy to permit this, and state agencies could no longer reimburse their employees for these costs.

After two Public Hearings and a Work Session were held about SB 853 in the Senate Committee on Labor and Business, the bill was amended and passed in the Senate Chamber. After passage in the Senate, SB 853A was referred to the House Committee on Emergency Management, General Government, and Veterans where it remained upon adjournment without further public consideration.

Senate Bill 881A: Paid Leave Oregon Reporting Requirements for Professional Employer Organizations and their Clients

If SB 881A had passed into law, it would have changed Paid Leave Oregon laws with respect to employers who choose to use a Professional Employer Organization (PEO) (also known as a worker leasing company) to manage their payroll reporting for the Paid Leave Oregon program. SB 881A would have established that:

- 1) The Employment Department shall determine how much employers owe for Paid Leave Oregon contributions if they use a PEO. They'll calculate it based on the number of employees working for each employer that the PEO works with;

- 2) PEOs are not responsible for paying the portion of Paid Leave Oregon contributions an employer must pay on behalf of their client employers, if that client employer employs fewer than 25 employees; and
- 3) PEOs may retroactively amend any combined quarterly payroll reports filed on behalf of client employers on or after Jan. 1, 2023.

Additionally, SB 881A would have required the Department of Revenue (DOR) to provide refunds to PEOs if they overpaid their contributions on behalf of client employers. These refunds could be issued up to three years after the combined quarterly payroll report was filed and amended.

Under current law, workers employed by client employers are considered employees of the PEOs when filing combined quarterly payroll reports and paying Unemployment Insurance (UI) and Paid Leave Oregon contributions based on those employees. SB 881A would have permitted PEOs from having to pay the employer portion of those Paid Leave Oregon contributions on behalf of client employers with less than 25 employees.

If SB 881A were implemented, it would have caused some extra work for the Employment Department. This includes making changes to the modernized information system, Frances, that the agency is currently setting up, creating a manual process to handle quarterly wage reports submitted by PEOs for their clients, and updating administrative rules.

After two Public Hearings and a Work Session were held about SB 881 in the Senate Committee on Labor and Business, the bill was amended and passed in the Senate Chamber. After passage in the Senate, SB 881A was referred to the House Committee on Business and Labor where it remained upon adjournment after a Public Hearing.

Senate Bill 925: Required Disclosures for Job Postings

SB 925 would have made it an unlawful practice for employers or employment agencies in Oregon to advertise job, promotion, or transfer opportunities without disclosing the pay range and employment benefits in the job posting. Additionally, SB 925 would have permitted the Bureau of Labor and Industries (BOLI) to assess a civil penalty against any employers or employment agencies who failed to include the appropriate information in the job posting.

Under current Oregon law, “Employment agency” includes any person undertaking to procure employees or opportunities to work.’ The Employment Department is a state agency that undertakes to “procure employees or opportunities to work” for employers with jobs in Oregon. Therefore, the Department believes it would have been subject to the same criteria for employment agencies under SB 925.

The Department finds employees or shares job opportunities on behalf of employers in two ways:

- 1) Direct referrals; and
- 2) Streamed from outside sources (including listings from national job posting databases, such as the National Labor Exchange [NLx]).

When receiving a direct referral for a job listing from an employer, the Department currently relies on our staff to manually enter this information into our online reemployment service system, iMatchSkills. At

the time our staff manually enter the information in the job listing, they ensure the information included in the listings comply with Federal and State laws and rules. Therefore, SB 925 would not have created any impact for the Department when manually processing referrals.

However, when receiving a job listing streamed from an outside source, the Department currently relies on technology to automatically process the record of the job listing into iMatchSkills. Given the volume of job listings streamed from outside sources, the Department does not have the capacity to review each listing manually. Instead, the Department relies on reports or other verifiable sources of information to determine after the posting has been listed if the listings comply with federal and state laws and rules.

So, without making costly changes to the data exchanges the Department uses to list jobs from outside sources or stopping these listings in iMatchSkills, the Department could have faced civil penalties and the system would have been less effective at showing Oregonians available job opportunities.

After a Public Hearing was held about SB 925 in the Senate Committee on Labor and Business, the bill remained in committee upon adjournment without further public consideration.

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

<https://employment.oregon.gov>

OED provides free help so you can use our services. Some examples are sign language and spoken-language interpreters, written materials in other languages, large print, audio, and other formats.

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

