

Oregon Employment Department Advisory Council Meeting

DATE: September 30, 2019
TIME: 1:00 p.m. – 3:00 p.m.
LOCATION: Employment Department, Central Office

Council Members	
Barbara Byrd, Council Chair	Present
Kurtis Barker, Council Vice-Chair	Present
Laurie Hoefer, Council Member	Present
Paloma Sparks, Council Member	Present
Employment Department Director: Kay Erickson, Ex Officio Member	Present
Additional Participants and Guests	
Ken Madden, Workforce and Talent Development Board	Present
Anne Mersereau, Workforce and Talent Development Board	Present
Jess Giannettino Villatoro, Oregon AFL-CIO	Present
Russ Benton, Sheet Metal Workers	Present
Todd Nell, Office of Workforce Investments	Present
David Gerstenfeld, Interim Paid Family and Medical Leave Insurance Program Director	Present
Jim Pfarrer, Interim Unemployment Insurance Division Director	Phone
Katie Morrison, Legislative Coordinator and Council Liaison	Present

Action Owner	Action Item List
Katie Morrison	Send out most recent UI trends report.
Katie Morrison	Send out workforce network map.
Katie Morrison	Follow up with WTDB for an update at a future meeting.

Meeting Notes

Welcome and Opening Comments

Kurtis Barker, Council Vice-Chair, called the meeting to order and all attendees introduced themselves.

This meeting was the last for outgoing Chair Barbara Byrd. Kurtis, Kay, and Ken made remarks thanking Barbara for her hard work, perspective, and guidance during her tenure on both the Employment Department Advisory Council and the Workforce Talent and Development Board.

Employment Department Update – Kay Erickson, Employment Department Director

Several organizational changes have taken place recently across the agency including shifts in executive leadership. To accommodate the workload of creating a new program, David Gerstenfeld is stepping into the role as Interim Division Director of the PFMLI program. David played a large advisory role in developing the legislation in the final days of the 2019 session and is well versed in the provisions of the program. David also has a wealth of experience in Unemployment Insurance and previously served as the Administrative Law Judge for the Office of Administrative Hearings. An open recruitment for the position for the long term administration of the program will be posted at a future date.

Jim Pfarrer, previously the Director of Workforce Operations, has stepped into the role of Interim Director of Unemployment Insurance. Jim has over 25 years of experience serving in many different capacities at the agency.

Finally, our Communications Program will now be part of the Workforce and Economic Research Division. This merger is a natural fit as both groups have regular contact with the media and regularly produce publications and outreach materials.

Modernization Update: For the last couple of years the agency has been engaged in the planning phase of modernizing our core systems. We now have a request for proposals out until October 22, at which point we will begin reviewing proposals. We are also hiring new positions to continually support the progression of the Modernization Program.

Paid Family and Medical Leave Insurance Program Updates – David Gerstenfeld, Interim Director PFMLI

David Gerstenfeld will be serving as the Interim Division Director of the Paid Family and Medical Leave Insurance Program. Initial steps for building the program include hiring key staff positions, the first of which is a high level project manager who will begin to coordinate multiple components including the software development needs. Important initial work also includes conducting a more detailed actuarial analysis, policy analysis, and research including collecting information on experiences from other states with similar programs. Initial projects also include assessing the option of third party administration of the program and a risk analysis requested by the legislature.

We are also working to stand up the advisory committee for the program. The committee will provide input on the development, administration, and rulemaking for the program. It will consist of nine members: four representing employees, four representing employers, with one representing employers with fewer than 25 employees, and finally a representative from the Employment Department who will serve as the chair of the committee. About 40 people have expressed interest in participating in the committee. The committee will have a large workload as the program progresses and there will likely be workgroups to deal with specific issues.

We are also exploring the potential for overlap between creating the PFML program and systems and the existing Unemployment Insurance Modernization project. There may be an opportunity to streamline the PFML with systems that are being modernized, but significant work is required to determine to determine if this can, and should, be done.

Communications and outreach will also be a large component of building the program. We will be hiring additional communications staff as well as adding information to the webpage:

<https://www.oregon.gov/EMPLOY/PFML/Pages/default.aspx>.

Q: What is the timeline for an actuarial analysis?

A: We are working to have that completed as fast as possible. We have started working on the procurement process for that analysis.

Q: What is the timeline for the advisory committee?

A: We would like to have the committee established within the next month. We want to ensure that we appoint the right of stakeholders.

Q: What will enforcement look like?

A: It will be a joint coordination between the Bureau of Labor and Industries and the Employment Department.

Q: What options are there for providing feedback without being on the advisory committee?

A: We have set up a listserv that you can sign up for updates on the webpage: <https://www.oregon.gov/EMPLOY/PFML/Pages/default.aspx>. Additionally, you can feel free to send comments or questions to paidfamilyandmedicalleave@oregon.gov.

Unemployment Insurance Program Updates – David Gerstenfeld, Interim Director PFML

Rulemaking Updates

Treasury offset

Senate Bill (SB) 259 was passed into law on April 18, 2013 and created the law Oregon Revised Statute (ORS) 657.312 which provides the Employment Department with the authority to enter into an intergovernmental agreement with the federal government to offset against certain types of liquidated state debt moneys that the federal government owes to the debtor under certain conditions. Using the Treasury Offset Program (TOP), the Bureau of Fiscal Service began offsetting against federal tax refunds

on behalf of the department in 2014 to offset against non-tax payments including, but not limited to, federal vendor payments, to recover monies on behalf of states on January 1, 2019. Although the department currently has the authority to do this under ORS 657.312, the department is proposing to align our authority in rule with the statute.

The purpose of the of the amendment proposed by the department is to include “federal non-tax payments” to the existing type of payment in rule “federal tax payments”, both which may potentially be offset by the federal government to recover monies for liquidated unemployment insurance overpayments and delinquent taxes.

Self-employment assistance

The Employment Department is proposing to update the rule language to align the Self-employment Assistance (SEA) program with existing policies and procedures. While these requirements have been in place for a number of years, we are making these “housekeeping” changes to provide clarity for our customers, staff, and stakeholders.

The proposed updates to the language in the rule include:

- 1) The department took over the responsibility of reviewing and approving applicants for the SEA program from the Oregon’s Small Business Development Center (SBDC) several years ago. While the SBDC still helps SEA participants generate business plans and feasibility studies, the department also approves these.
- 2) A business established by an individual and the individual themselves must be legally able to operate the business under the provisions of the federal government and in the state in which they do business.
- 3) As specified under ORS 657.158(1)(b) and (c), SEA program participants may also be required to perform other types of “Self-employment assistance activities” and provide supporting documentation to demonstrate the completion of those activities to the department within 45 calendar days of the date the individual was approved for the Self-employment Assistance program.

House Bill 2660

The Oregon Employment Department is proposing to amend the rule to define which school employees are impacted by the reasonable assurance requirements in order to qualify for Unemployment Insurance (UI) benefits. The department is performing this action as a result of the passage of House Bill (HB) 2660 in the 2019 Legislative Session. HB 2660 modified Oregon Revised Statute (ORS) 657.221 to enable individuals only working for an educational institution in facilities or janitorial services to be eligible for UI benefits during any break period.

The intent of the proposed amendment to the rule is to clarify how the department will decide which occupations meet the definition for performing services consisting of the operation or maintenance of facilities or janitorial services. These services will only include work considered by the department to be classified in a respective occupation in which the majority of the duties include janitorial or facilities services while working in the industry classified as educational services.

Weekly eligibility rules for leaving the country

The Oregon Employment Department is proposing to amend the rule for the eligibility factors for UI. The current version of the rule requires that individuals who qualify for UI in Oregon but reside in Canada must be authorized to work in the United States in addition to Canada. This is inconsistent with Article IV

of the Agreement Between The Government Of Canada And The Government Of The United States Of America, effective in 1942 and amended in 1951. Although the department adjusted our internal policies and procedures to address this several years ago, the department is seeking to make this change to the rules at this time in order to be consistent with federal law.

The department is removing the requirement that individuals who qualify for UI in Oregon but reside in Canada must be authorized to work in the United States.

UI Trends

The most recent UI trends remain consistent with the previous quarter and the UI Division is continuing in its efforts to make improvements.

Action: Katie will send out the most recent UI trends report.

Workforce and Talent Development Board Presentation – Ken Madden and Anne Mersereau

The 1998 Workforce Investment Act (WIA) established the requirement and funding for what is now the Workforce and Talent Development (WTDB). Currently, the WTDB operates under the Workforce Innovation and Opportunity Act (WIOA). The purpose of the board is to advise, make recommendations, and provide workforce development strategies and plans to the Governor's Office. The membership of the board must be 51% representative of businesses and also includes representatives of agencies, workers, community based organizations, and other community members. The board currently has approximately 39 members.

There are nine regional workforce boards across the state. Federal funding for these boards and for various programs passes through the Office of Workforce Investments at the Higher Education Coordinating Commission where the WTDB staff is housed. The WTDB also sets the strategic planning and direction for regional boards to align to through their local plans.

In its most recent strategic planning effort, the WTDB used a 2-year, one-page planning framework. This was done for several reasons: It aligns better with the budget cycle, it keeps the concepts and ideas of the plan fresh and relevant, and it also helps to keep the board accountable for the plan it has developed. Elements of the plan were highlighted, including, vision, mission, values, and a list of initiatives aligning with its imperatives and objectives.

Much of the work that the WTDB engages in is determined by federal priorities. However, the board has designated a number of taskforces in which they can address specific issues and needs in Oregon. Non-board members with strategic advantage are also participating on the taskforces. Current taskforces include:

1. Licensing – This taskforce is looking at instances when licensing regulations present a barrier for workers and employers. Examples include, a person moving to Oregon from another state, or statutes that prohibit work opportunities, such as the restrictions on work activities, as a result of a DUI conviction.

2. Artificial Intelligence (AI) – There is recognition that increased use of AI will create jobs, however there will also be jobs that are lost as technology changes. This taskforce is chaired by representatives with NVIDIA and Portland Community College with the goals to create educational opportunities including degrees and certificates that prepare students to join this new and evolving workforce.

3. High Wage – High wage, also referred to as true wage, has been previously defined by the board as a wage above the median wage. This taskforce is seeking to update the definition of this term because, in addition to informing the board’s core vision of creating equitable prosperity for all, it has important implications for many policy issues including, education, workforce development, housing, and health of Oregonians.

Action: Follow up with WTDB at a future meeting.

Action: Katie will send out workforce network maps.

Wrap-up and Closing Comments

The next meeting will be held in January before the 2020 legislative session.