

# House Bill 2386

Sponsored by Representative NELSON

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits employers to pay new employees federal minimum wage during training period not to exceed one year from date of initial employment.

Provides that employees may be exempt from state collective bargaining laws during training period not to exceed one year from date of initial employment.

## A BILL FOR AN ACT

1  
2 Relating to training period for new employees; creating new provisions; and amending ORS 243.650,  
3 344.750, 411.892, 418.131, 653.025, 653.070 and 663.005.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 653.025 is amended to read:

6 653.025. (1) Except as provided by ORS 652.020 and the rules of the Commissioner of the Bureau  
7 of Labor and Industries issued under ORS 653.030 and 653.261, for each hour of work time that the  
8 employee is gainfully employed, no employer shall employ or agree to employ any employee at wages  
9 computed at a rate lower than:

10 (a) For calendar year 1997, \$5.50

11 (b) For calendar year 1998, \$6.00

12 (c) For calendar years after December 31, 1998, and before January 1, 2003, \$6.50.

13 (d) For calendar year 2003, \$6.90.

14 (e) For calendar years after 2003, a rate adjusted for inflation.

15 **(2) Notwithstanding subsection (1) of this section, during a training period not to exceed**  
16 **one year from the date of initial employment, for each hour of work time that the employee**  
17 **is gainfully employed, an employer may employ or agree to employ an employee at wages**  
18 **computed at a rate not lower than the federal minimum wage rate as established under the**  
19 **Fair Labor Standards Act (29 U.S.C. 201 et seq.), as amended and in effect on December 31,**  
20 **2004.**

21 *[(2)(a)]* **(3)(a)** The Oregon minimum wage shall be adjusted annually for inflation, as provided in  
22 paragraph (b) of this subsection.

23 (b) No later than September 30 of each year, beginning in calendar year 2003, the commissioner  
24 shall calculate an adjustment of the wage amount specified in subsection (1) of this section based  
25 upon the increase (if any) from August of the preceding year to August of the year in which the  
26 calculation is made in the U.S. City Average Consumer Price Index for All Urban Consumers for  
27 All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor  
28 or its successor.

29 (c) The wage amount established under this subsection shall:

30 (A) Be rounded to the nearest five cents; and

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (B) Become effective as the new Oregon minimum wage, replacing the dollar figure specified in  
 2 subsection (1) of this section, on January 1 of the following year.

3 **SECTION 2.** ORS 663.005 is amended to read:

4 663.005. As used in this chapter, unless the context requires otherwise:

5 (1) "Board" means the Employment Relations Board.

6 (2) "Conciliator" means the head of the State Conciliation Service.

7 (3) "Employee" includes any employee, and is not limited to the employees of a particular em-  
 8 ployer unless this chapter explicitly states otherwise, and includes any individual whose work has  
 9 ceased as a consequence of, or in connection with, a current labor dispute and who has not obtained  
 10 any other regular and substantially equivalent employment, but does not include an individual:

11 (a) Employed in agricultural labor as defined in ORS 657.045;

12 (b) Employed by the parent or spouse of the individual;

13 (c) Employed in the domestic service of any family or person at home;

14 (d) Having the status of an independent contractor;

15 (e) Employed as a supervisor;

16 (f) Employed by an employer subject to the Railway Labor Act, as amended (45 U.S.C. 151 to  
 17 163 and 181 to 188);

18 (g) Employed in the building and construction industry;

19 (h) Employed by any other person who is not an employer as defined in subsection (4) of this  
 20 section; [or]

21 **(i) Employed during a training period not to exceed one year from the date of initial  
 22 employment; or**

23 [(i)] **(j)** Employed by an employer subject to the jurisdiction of the National Labor Relations  
 24 Board under its existing jurisdictional standards, pursuant to the Labor Management Relations Act  
 25 of 1947, as amended (29 U.S.C. 141 to 187).

26 (4) "Employer" includes any person acting as an agent of an employer, directly or indirectly,  
 27 but does not include:

28 (a) The United States or any wholly owned government corporation, or any Federal Reserve  
 29 Bank.

30 (b) This state, or any county, city or political subdivision or agency thereof.

31 (c) Any person subject to the Railway Labor Act, as amended (45 U.S.C. 151 to 163 and 181 to  
 32 188).

33 (d) Any labor organization (other than when acting as an employer), or anyone acting in the  
 34 capacity of officer or agent of a labor organization.

35 (e) Any person involved in the building and construction industry.

36 (f) Any person subject to the jurisdiction of the National Labor Relations Board under its ex-  
 37 isting jurisdictional standards, pursuant to the Labor Management Relations Act of 1947, as  
 38 amended (29 U.S.C. 141 to 187).

39 (5) "Labor dispute" includes any controversy concerning terms, tenure or conditions of employ-  
 40 ment or concerning the association or representation of persons in negotiating, fixing, maintaining,  
 41 changing or seeking to arrange terms or conditions of employment, regardless of whether the  
 42 disputants stand in the proximate relation of employer and employee.

43 (6) "Labor organization" means an organization of any kind, or an agency or an employee rep-  
 44 resentation committee or plan, in which employees participate and which exists for the purpose, in  
 45 whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of

1 pay, hours of employment or conditions of work.

2 (7) "Professional employee" means:

3 (a) An employee engaged in work:

4 (A) Predominantly intellectual and varied in character as opposed to routine mental, manual,  
5 mechanical or physical work;

6 (B) Involving the consistent exercise of discretion and judgment in its performance;

7 (C) Of such a character that the output produced or the result accomplished cannot be stand-  
8 ardized in relation to a given period of time;

9 (D) Requiring knowledge of an advanced type in a field of science or learning customarily ac-  
10 quired by a prolonged course of specialized intellectual instruction and study in an institution of  
11 higher learning or a hospital, as distinguished from a general academic education or from an ap-  
12 prenticeship or from training in the performance of routine mental, manual or physical processes;  
13 or

14 (b) An employee who:

15 (A) Has completed the courses of specialized intellectual instruction and study described in  
16 paragraph (a)(D) of this subsection; and

17 (B) Is performing related work under the supervision of a professional person to qualify the  
18 employee to become a professional employee as defined in paragraph (a) of this subsection.

19 (8) "Representative" includes an individual or labor organization.

20 (9) "Supervisor" means any individual, other than a licensed professional or practical nurse,  
21 having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote,  
22 discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust  
23 their grievances, or effectively to recommend such action, if in connection with the foregoing the  
24 exercise of such authority is not of a merely routine or clerical nature, but requires the use of in-  
25 dependent judgment.

26 (10) "Unfair labor practice" means any unfair labor practice listed in ORS 663.120 to 663.165.

27 **SECTION 3.** ORS 243.650 is amended to read:

28 243.650. As used in ORS 243.650 to 243.782, unless the context requires otherwise:

29 (1) "Appropriate bargaining unit" means the unit designated by the Employment Relations Board  
30 or voluntarily recognized by the public employer to be appropriate for collective bargaining. How-  
31 ever, an appropriate bargaining unit cannot include both academically licensed and unlicensed or  
32 nonacademically licensed school employees. Academically licensed units may include but are not  
33 limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and  
34 similar positions. This limitation shall not apply to any bargaining unit certified or recognized prior  
35 to June 6, 1995, or to any school district with fewer than 50 employees.

36 (2) "Board" means the Employment Relations Board.

37 (3) "Certification" means official recognition by the board that a labor organization is the ex-  
38 clusive representative for all of the employees in the appropriate bargaining unit.

39 (4) "Collective bargaining" means the performance of the mutual obligation of a public employer  
40 and the representative of its employees to meet at reasonable times and confer in good faith with  
41 respect to employment relations for the purpose of negotiations concerning mandatory subjects of  
42 bargaining, to meet and confer in good faith in accordance with law with respect to any dispute  
43 concerning the interpretation or application of a collective bargaining agreement, and to execute  
44 written contracts incorporating agreements that have been reached on behalf of the public employer  
45 and the employees in the bargaining unit covered by such negotiations. The obligation to meet and

1 negotiate does not compel either party to agree to a proposal or require the making of a concession.  
 2 Nothing in this subsection shall be construed to prohibit a public employer and a certified or re-  
 3 cognized representative of its employees from discussing or executing written agreements regarding  
 4 matters other than mandatory subjects of bargaining that are not prohibited by law, so long as there  
 5 is mutual agreement of the parties to discuss these matters, which are permissive subjects of bar-  
 6 gaining.

7 (5) "Compulsory arbitration" means the procedure whereby parties involved in a labor dispute  
 8 are required by law to submit their differences to a third party for a final and binding decision.

9 (6) "Confidential employee" means one who assists and acts in a confidential capacity to a per-  
 10 son who formulates, determines and effectuates management policies in the area of collective bar-  
 11 gaining.

12 (7)(a) "Employment relations" includes, but is not limited to, matters concerning direct or indi-  
 13 rect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of  
 14 employment.

15 (b) "Employment relations" does not include subjects determined to be permissive, nonmanda-  
 16 tory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

17 (c) After June 6, 1995, "employment relations" shall not include subjects which the Employment  
 18 Relations Board determines to have a greater impact on management's prerogative than on employee  
 19 wages, hours, or other terms and conditions of employment.

20 (d) "Employment relations" shall not include subjects that have an insubstantial or de minimis  
 21 effect on public employee wages, hours, and other terms and conditions of employment.

22 (e) For school district bargaining, "employment relations" shall expressly exclude class size, the  
 23 school or educational calendar, standards of performance or criteria for evaluation of teachers, the  
 24 school curriculum, reasonable dress, grooming and at-work personal conduct requirements respect-  
 25 ing smoking, gum chewing and similar matters of personal conduct, the standards and procedures  
 26 for student discipline, the time between student classes, the selection, agendas and decisions of 21st  
 27 Century Schools Councils established under ORS 329.704, and any other subject proposed that is  
 28 permissive under paragraphs (b), (c) and (d) of this subsection.

29 (f) For all other employee bargaining except school districts, "employment relations" expressly  
 30 excludes staffing levels and safety issues (except those staffing levels and safety issues which have  
 31 a direct and substantial effect on the on-the-job safety of public employees), scheduling of services  
 32 provided to the public, determination of the minimum qualifications necessary for any position, cri-  
 33 teria for evaluation or performance appraisal, assignment of duties, workload when the effect on  
 34 duties is insubstantial, reasonable dress, grooming, and at-work personal conduct requirements re-  
 35 specting smoking, gum chewing, and similar matters of personal conduct at work, and any other  
 36 subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

37 (8) "Exclusive representative" means the labor organization that, as a result of certification by  
 38 the board or recognition by the employer, has the right to be the collective bargaining agent of all  
 39 employees in an appropriate bargaining unit.

40 (9) "Fact-finding" means identification of the major issues in a particular labor dispute by one  
 41 or more impartial individuals who review the positions of the parties, resolve factual differences and  
 42 make recommendations for settlement of the dispute.

43 (10) "Fair-share agreement" means an agreement between the public employer and the recog-  
 44 nized or certified bargaining representative of public employees whereby employees who are not  
 45 members of the employee organization are required to make an in-lieu-of-dues payment to an em-

1 ployee organization except as provided in ORS 243.666. Upon the filing with the board of a petition  
 2 by 30 percent or more of the employees in an appropriate bargaining unit covered by such union  
 3 security agreement declaring they desire that such agreement be rescinded, the board shall take a  
 4 secret ballot of the employees in such unit and certify the results thereof to the recognized or cer-  
 5 tified bargaining representative and to the public employer. Unless a majority of the votes cast in  
 6 an election favor such union security agreement, the board shall certify deauthorization thereof. A  
 7 petition for deauthorization of a union security agreement must be filed not more than 90 calendar  
 8 days after the collective bargaining agreement is executed. Only one such election shall be con-  
 9 ducted in any appropriate bargaining unit during the term of a collective bargaining agreement be-  
 10 tween a public employer and the recognized or certified bargaining representative.

11 (11) "Final offer" means the proposed contract language and cost summary submitted to the  
 12 mediator within seven days of the declaration of impasse.

13 (12) "Labor dispute" means any controversy concerning employment relations or concerning the  
 14 association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to  
 15 arrange terms or conditions of employment relations, regardless of whether the disputants stand in  
 16 the proximate relation of employer and employee.

17 (13) "Labor organization" means any organization that has as one of its purposes representing  
 18 employees in their employment relations with public employers.

19 (14) "Last best offer package" means the offer exchanged by parties not less than 14 days prior  
 20 to the date scheduled for an interest arbitration hearing.

21 (15) "Legislative body" means the Legislative Assembly, the city council, the county commission  
 22 and any other board or commission empowered to levy taxes.

23 (16) "Managerial employee" means an employee of the State of Oregon who possesses authority  
 24 to formulate and carry out management decisions or who represents management's interest by tak-  
 25 ing or effectively recommending discretionary actions that control or implement employer policy,  
 26 and who has discretion in the performance of these management responsibilities beyond the routine  
 27 discharge of duties. A "managerial employee" need not act in a supervisory capacity in relation to  
 28 other employees. Notwithstanding this subsection, "managerial employee" shall not be construed  
 29 to include faculty members at a community college, college or university.

30 (17) "Mediation" means assistance by an impartial third party in reconciling a labor dispute  
 31 between the public employer and the exclusive representative regarding employment relations.

32 (18) "Payment-in-lieu-of-dues" means an assessment to defray the cost for services by the exclu-  
 33 sive representative in negotiations and contract administration of all persons in an appropriate  
 34 bargaining unit who are not members of the organization serving as exclusive representative of the  
 35 employees. The payment shall be equivalent to regular union dues and assessments, if any, or shall  
 36 be an amount agreed upon by the public employer and the exclusive representative of the employees.

37 (19) "Public employee" means an employee of a public employer **who has completed a training**  
 38 **period not to exceed one year from the date of initial employment**, but does not include elected  
 39 officials, persons appointed to serve on boards or commissions, incarcerated persons working under  
 40 section 41, Article I of the Oregon Constitution, or persons who are confidential employees, super-  
 41 visory employees or managerial employees.

42 (20) "Public employer" means the State of Oregon, and the following political subdivisions:  
 43 Cities, counties, community colleges, school districts, special districts, mass transit districts, metro-  
 44 politan service districts, public service corporations or municipal corporations and public and  
 45 quasi-public corporations.

1 (21) "Public employer representative" includes any individual or individuals specifically desig-  
 2 nated by the public employer to act in its interests in all matters dealing with employee represen-  
 3 tation, collective bargaining and related issues.

4 (22) "Strike" means a public employee's refusal in concerted action with others to report for  
 5 duty, or his or her willful absence from his or her position, or his or her stoppage of work, or his  
 6 or her absence in whole or in part from the full, faithful or proper performance of his or her duties  
 7 of employment, for the purpose of inducing, influencing or coercing a change in the conditions,  
 8 compensation, rights, privileges or obligations of public employment; however, nothing shall limit  
 9 or impair the right of any public employee to lawfully express or communicate a complaint or  
 10 opinion on any matter related to the conditions of employment.

11 (23) "Supervisory employee" means any individual having authority in the interest of the em-  
 12 ployer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline  
 13 other employees, or responsibly to direct them, or to adjust their grievances, or effectively to re-  
 14 commend such action, if in connection therewith, the exercise of such authority is not of a merely  
 15 routine or clerical nature but requires the use of independent judgment. Failure to assert supervi-  
 16 sory status in any Employment Relations Board proceeding or in negotiations for any collective  
 17 bargaining agreement shall not thereafter prevent assertion of supervisory status in any subsequent  
 18 board proceeding or contract negotiation. Notwithstanding the provisions of this subsection, no  
 19 nurse, charge nurse or similar nursing position shall be deemed to be supervisory unless such posi-  
 20 tion has traditionally been classified as supervisory.

21 (24) "Unfair labor practice" means the commission of an act designated an unfair labor practice  
 22 in ORS 243.672.

23 (25) "Voluntary arbitration" means the procedure whereby parties involved in a labor dispute  
 24 mutually agree to submit their differences to a third party for a final and binding decision.

25 **SECTION 4.** ORS 344.750 is amended to read:

26 344.750. In addition to the provisions of ORS 344.745, in each program:

27 (1) The State Apprenticeship and Training Council shall establish by rule appropriate youth  
 28 apprentice or trainee ratios.

29 (2) The employer shall provide workers' compensation coverage for the youth apprentices and  
 30 trainees as required by ORS 656.033.

31 (3) The youth apprentice or trainee shall begin at a wage that is not less than the [state] mini-  
 32 mum wage **established under ORS 653.025.**

33 (4) Youth apprentices and trainees shall be evaluated for wage increases consistent with the  
 34 policies established by the participating local apprenticeship or training committee.

35 (5) Youth apprentices and trainees shall not be employed on projects subject to the federal  
 36 Davis-Bacon Act or on projects subject to ORS 279.348 to 279.363.

37 (6) The youth apprentice's or trainee's combined in-school coursework and related training, as  
 38 well as on-the-job training and other training experiences, shall not exceed 44 hours per week.

39 (7) Employment with the employer shall not exceed 20 hours per week while the student is en-  
 40 rolled in school classes. All or a portion of the on-the-job training shall be used to meet graduation  
 41 requirements.

42 (8) Participating students who fail to regularly attend and make satisfactory progress in in-  
 43 school courses and required related training or who leave high school prior to graduation or com-  
 44 pletion of their high school requirements shall automatically be removed from the youth  
 45 apprenticeship program.

1        **SECTION 5.** ORS 344.750, as amended by section 257, chapter 794, Oregon Laws 2003, is  
 2 amended to read:

3        344.750. In addition to the provisions of ORS 344.745, in each program:

4        (1) The State Apprenticeship and Training Council shall establish by rule appropriate youth  
 5 apprentice or trainee ratios.

6        (2) The employer shall provide workers' compensation coverage for the youth apprentices and  
 7 trainees as required by ORS 656.033.

8        (3) The youth apprentice or trainee shall begin at a wage that is not less than the [state] mini-  
 9 mum wage **established under ORS 653.025**.

10       (4) Youth apprentices and trainees shall be evaluated for wage increases consistent with the  
 11 policies established by the participating local apprenticeship or training committee.

12       (5) Youth apprentices and trainees shall not be employed on projects subject to the federal  
 13 Davis-Bacon Act or on projects subject to ORS 279C.800 to 279C.870, except ORS 279C.820, 279C.825,  
 14 279C.865 and 279C.870.

15       (6) The youth apprentice's or trainee's combined in-school coursework and related training, as  
 16 well as on-the-job training and other training experiences, shall not exceed 44 hours per week.

17       (7) Employment with the employer shall not exceed 20 hours per week while the student is en-  
 18 rolled in school classes. All or a portion of the on-the-job training shall be used to meet graduation  
 19 requirements.

20       (8) Participating students who fail to regularly attend and make satisfactory progress in in-  
 21 school courses and required related training or who leave high school prior to graduation or com-  
 22 pletion of their high school requirements shall automatically be removed from the youth  
 23 apprenticeship program.

24       **SECTION 6.** ORS 411.892 is amended to read:

25       411.892. (1)(a) All employers, including public and private sector employers within the State of  
 26 Oregon, are eligible to participate in the JOBS Plus Program. The Department of Human Services  
 27 or Employment Department, as appropriate, shall adopt by rule a method to disqualify employers  
 28 from participating in the program. No employer is required to participate in the JOBS Plus Program.  
 29 In the event that there are unassigned participants whom no employer desires to utilize, the par-  
 30 ticipants may be assigned to work for a public agency.

31       (b) The maximum number of program participants that any employer is authorized to receive at  
 32 any one time may not exceed 10 percent of the total number of the employer's employees. However,  
 33 each employer may receive one participant. The Director of Human Services or Director of the  
 34 Employment Department, as appropriate, may waive the limit in special circumstances.

35       (c) The Department of Human Services or Employment Department, as appropriate, by rule shall  
 36 establish criteria for excluding employers from participation for failure to abide by program re-  
 37 quirements, showing a pattern of terminating participants prior to the completion of training or  
 38 other demonstrated unwillingness to comply with the stated intent of the program.

39       (2) The Department of Human Services or Employment Department, as appropriate, shall ensure  
 40 that jobs made available to program participants:

41       (a) Do not require work in excess of 40 hours per week;

42       (b) Are in conformity with section 3304(a)(5) of the Federal Unemployment Tax Act;

43       (c) Are not used to displace regular employees or to fill unfilled positions previously established;  
 44 and

45       (d) Do not pay a wage that is substantially less than the wage paid for similar jobs in the local

1 economy with appropriate adjustments for experience and training.

2 (3)(a) Eligibility for the program shall be limited to residents who are:

3 (A) Adults and caretaker relatives who are receiving temporary assistance for needy families  
4 benefits;

5 (B) Adult food stamp program recipients except as described in subsection (5)(b) of this section;

6 (C) Unemployment compensation recipients; and

7 (D) Unemployed noncaretaker parents of children who are receiving temporary assistance for  
8 needy families benefits.

9 (b) In addition to those residents eligible for the program under paragraph (a) of this subsection,  
10 additional residents who are seeking employment may be eligible for the program if there are  
11 legislatively allocated funds available from the savings attributable to the program in the Unem-  
12 ployment Compensation Trust Fund or in the temporary assistance for needy families budget of the  
13 Department of Human Services.

14 (4)(a) Individuals desiring work through the program shall contact the nearest Department of  
15 Human Services office serving the county in which they reside if they are temporary assistance for  
16 needy families program or food stamp program applicants or recipients or noncustodial parents of  
17 individuals receiving temporary assistance for needy families. Unemployment insurance applicants  
18 or recipients or others seeking employment may gain access to the program through their local  
19 Employment Department office.

20 (b) With the assistance of the local JOBS Plus Implementation Councils and the JOBS Plus  
21 Advisory Board, the Department of Human Services shall develop a job inventory of sufficient size  
22 to accommodate all of the participants who desire to work in the program. In consultation with the  
23 participant, the department shall try to match the profile of each participant with the needs of an  
24 employer when assigning a participant to work with the employer.

25 (c) Either the employer or the participant may terminate the assignment by contacting the ap-  
26 propriate Department of Human Services or Employment Department office. In such event, the De-  
27 partment of Human Services or Employment Department shall reassess the needs of the participant  
28 and assign the participant to another JOBS Plus Program placement or another JOBS Program  
29 component and, at the employer's request, provide the employer with another participant.

30 (d)(A) Subject to ORS 657.925 (6)(d), if after four months in a placement, a participant has not  
31 been hired for an unsubsidized position, the employer shall allow the worker to undertake eight  
32 hours of job search per week. Participating employers shall consider such time as hours worked for  
33 the purposes of paying wages.

34 (B) Subject to ORS 657.925 (6)(d), if after six months in a placement, a participant has not been  
35 hired for an unsubsidized position, the placement shall be terminated, and the caseworker shall re-  
36 assess the participant's employment development plan.

37 (e) The Department of Human Services may pay placement and barrier removal payments to  
38 temporary assistance for needy families and food stamp program participants as necessary to enable  
39 participation in the JOBS Plus Program.

40 (f) The Department of Human Services shall accept eligible volunteers into the program prior  
41 to mandating program participation by eligible persons.

42 (5)(a) Assignment of participants to available jobs shall be based on a preference schedule de-  
43 veloped by the Department of Human Services and the Employment Department. Any temporary  
44 assistance for needy families recipient or food stamp recipient may volunteer for the program.

45 (b) The following individuals may not be required to participate in the program:



1 (A) Temporary assistance for needy families and food stamp recipients who are eligible for  
2 Supplemental Security Income benefits or other ongoing state or federal maintenance benefits based  
3 on age or disability.

4 (B) Food stamp applicants or recipients who are employed full-time or are college students eli-  
5 gible for food stamps and enrolled full-time in a community college or an institution of higher edu-  
6 cation, or enrolled half-time in a community college or an institution of higher education and  
7 working at least 20 hours per week.

8 (C) Teenage parents who remain in high school if progressing toward a diploma. Teenage par-  
9 ents not in school are eligible for the JOBS Plus Program.

10 (c) The Department of Human Services shall provide life skills classes and opportunities to  
11 achieve General Educational Development (GED) certificates to appropriate participants in con-  
12 junction with working in the JOBS Plus Program.

13 (d) Temporary assistance for needy families and food stamp benefits shall be suspended at the  
14 end of the calendar month in which an employer makes the first wage payment to a participant who  
15 is a custodial parent in a family that receives temporary assistance for needy families or to any  
16 adult member of a household receiving food stamp benefits. Failure of the participant to cooperate  
17 with the requirements of the JOBS Plus Program may result in the participant's removal, in ac-  
18 cordance with rules adopted by the Department of Human Services, from the JOBS Plus Program  
19 and suspension of the participant's temporary assistance for needy families grant and food stamp  
20 benefits. A temporary assistance for needy families and food stamp benefits recipient who has been  
21 removed from the program for failing to cooperate shall be eligible to reapply to participate in the  
22 program and shall have eligibility for program services determined without regard to the length of  
23 time the person was not participating following removal.

24 (6)(a) Employers shall pay all participating individuals at least the hourly rate of the [*Oregon*]  
25 minimum wage **established under ORS 653.025**.

26 (b) Sick leave, holiday and vacation absences shall conform to the individual employer's rules  
27 for temporary employees.

28 (c) Group health insurance benefits shall be provided by the employer to program participants  
29 if, and to the extent that, state or federal law requires the employer to provide such benefits.

30 (d) All persons participating in the JOBS Plus Program shall be considered to be temporary  
31 employees of the individual employer providing the work and shall be entitled only to benefits re-  
32 quired by state or federal law.

33 (e) Employers shall provide workers' compensation coverage for each JOBS Plus Program par-  
34 ticipant.

35 (7) In the event that the net monthly full-time wage paid to a participant would be less than the  
36 level of income from the temporary assistance for needy families program and the food stamp benefit  
37 amount equivalent that the participant would otherwise receive, the Department of Human Services  
38 shall determine and pay a supplemental payment as necessary to provide the participant with that  
39 level of net income. The department shall determine and pay in advance supplemental payments to  
40 participants on a monthly basis as necessary to ensure equivalent net program wages. Participants  
41 shall be compensated only for time worked.

42 (8) In addition to and not in lieu of the payments provided for under subsections (6) and (7) of  
43 this section, participants shall be entitled to retain the full child support payments collected by the  
44 Department of Justice.

45 (9) Program participants who are eligible for federally and state funded medical assistance at

1 the time they enter the program shall remain eligible as long as they continue to participate in the  
2 program. In conformity with existing state day care program regulations, child day care shall be  
3 provided for all program participants who require it.

4 (10) JOBS Plus Program employers shall:

5 (a) Endeavor to make JOBS Plus Program placements positive learning and training experiences;

6 (b) Maintain health, safety and working conditions at or above levels generally acceptable in the  
7 industry and no less than that of comparable jobs of the employer;

8 (c) Provide on-the-job training to the degree necessary for the participants to perform their du-  
9 ties;

10 (d) Recruit volunteer mentors from among their regular employees to assist the participants in  
11 becoming oriented to work and the workplace; and

12 (e) Sign an agreement to abide by all requirements of the program, including the requirement  
13 that the program not supplant existing jobs. All agreements shall include provisions noting the em-  
14 ployer's responsibility to repay reimbursements in the event the employer violates program rules.  
15 When a professional placement service, professional employment organization or temporary employ-  
16 ment agency is acting as an employer pursuant to subsection (14) of this section, agreements under  
17 this paragraph shall require a three-party agreement between the professional placement service,  
18 professional employment organization or temporary employment agency, the organization where the  
19 participant has been placed to perform services and the State of Oregon. The three-party agreement  
20 shall include provisions requiring that all JOBS Plus reimbursements received by the professional  
21 placement service, professional employment organization or temporary employment agency be cred-  
22 ited to the organization where the participant has been placed to perform services.

23 (11) Program participant wages shall be subject to federal and state income taxes, Social Secu-  
24 rity taxes and unemployment insurance tax or reimbursement as applicable under ORS chapter 657,  
25 which shall be withheld and paid in accordance with state and federal law. Supplemental payments  
26 made pursuant to subsection (7) of this section shall not be subject to state income taxes under ORS  
27 chapter 316 and, to the extent allowed by federal law, shall not be subject to federal income taxes  
28 and Social Security taxes.

29 (12)(a)(A) The Department of Human Services shall reimburse employers for the employers'  
30 share of Social Security, unemployment insurance and workers' compensation premiums paid on be-  
31 half of program participants, other than those who are unemployment insurance claimants, referred  
32 to the employer by the Department of Human Services, as well as the minimum wage earnings paid  
33 by the employer to program participants referred to the employer by the Department of Human  
34 Services.

35 (B) The Employment Department shall reimburse employers \$5 per hour paid by the employer  
36 as earnings to JOBS Plus Program participants, who are unemployment insurance claimants and are  
37 referred to the employer by the Employment Department.

38 (b) If the Department of Human Services or Employment Department finds that an employer has  
39 violated any of the rules of the JOBS Plus Program, the appropriate department:

40 (A) Shall withhold any amounts due to employers under paragraph (a) of this subsection.

41 (B) May seek repayment of any amounts paid to employers under paragraph (a) of this sub-  
42 section.

43 (13) Subject to ORS 657.925 (6)(d), for unemployment insurance claimants participating in the  
44 JOBS Plus Program:

45 (a) If after nine weeks in a placement, a participant has not been hired for an unsubsidized po-

1 sition, the employer shall allow the worker to undertake up to five hours of job search per week.  
2 Participating employers shall consider this time as hours worked for the purposes of paying wages.

3 (b) If after 13 weeks in a placement, a participant has not been hired for an unsubsidized posi-  
4 tion, the employer shall terminate the placement and the Employment Department shall assess the  
5 participant's employment development plan.

6 (14) For purposes of this section, "employer" shall include professional placement services, pro-  
7 fessional employment organizations and temporary employment agencies.

8 **SECTION 7.** ORS 418.131 is amended to read:

9 418.131. (1) A person shall not receive aid for more than a total of 24 months in any period of  
10 84 consecutive months.

11 (2) For purposes of determining the 24-month limitation described in subsection (1) of this sec-  
12 tion, a month in which one parent of a family receiving aid under ORS 418.035 to 418.125 receives  
13 gross earnings in an amount equal to 173 times the hourly minimum wage as provided in ORS  
14 653.025 (1) but in an amount that does not exceed the eligibility requirements for aid under ORS  
15 418.035 to 418.125 shall be counted as two-fifths of a month.

16 (3) The 24-month limitation described in subsection (1) of this section shall not apply to:

17 (a) A month in which a dependent child receiving aid resides with a person other than the  
18 child's natural or adoptive parent;

19 (b) Up to three months within a two-year period for the care of any family members who suffer  
20 serious health conditions as defined in ORS 659A.150; or

21 (c) A household with only one parent in which the basis of eligibility is the incapacity of that  
22 parent or, in a household with two parents, if both parents are incapacitated or one parent is re-  
23 quired in the home to care for the incapacitated parent.

24 (4) A person whose aid is terminated under subsection (1) of this section may become eligible  
25 to receive aid, as determined by the Department of Human Services, in excess of 24 months if:

26 (a) The former recipient is a dependent child in a two-parent household and the primary wage  
27 earner in the household dies;

28 (b) The former recipient is a dependent child and the child resides with a person other than the  
29 parent, parents or legal guardian with whom the child lived at the time the child was receiving aid;  
30 or

31 (c) The former recipient is a parent of a dependent child receiving aid and the department de-  
32 termines that the parent is making diligent efforts in good faith to obtain permanent employment.  
33 The number of families receiving aid under this paragraph in any month may not exceed one percent  
34 of the total number of families receiving aid in that month or 400 families, whichever is greater.

35 (5)(a) The time limitations described in subsection (1) of this section do not apply to any person  
36 who is:

37 (A) Required to participate in the JOBS Program unless the person has been offered the oppor-  
38 tunity to participate in an education, employment or job training program including teen parent  
39 programs as defined by the department.

40 (B) Participating in an employment and training program including any employment search ac-  
41 tivities required by the program.

42 (C) Enrolled at an educational institution under section 1, chapter 212, Oregon Laws 2003.

43 (b) The department shall report to each session of the Legislative Assembly the number of fam-  
44 ilies whose period of time receiving aid has exceeded the time limitations of subsection (1) of this  
45 section because of the exceptions provided under paragraph (a) of this subsection. The report shall

1 include information sufficient to permit the Legislative Assembly to determine if the exceptions  
 2 make a significant contribution to increased self-sufficiency of persons granted an exemption.

3 (6)(a) The Department of Human Services shall monitor the average period of time a person re-  
 4 ceives aid and shall record such information by family size. The department shall monitor the wages  
 5 and benefits received by an individual who becomes employed while receiving aid, including medical  
 6 and child care benefits. The department shall monitor and record the rate at which persons who  
 7 cease receiving aid for employment subsequently apply for and receive aid.

8 (b) The department shall report the results of the monitoring required under paragraph (a) of  
 9 this subsection to the Legislative Assembly not later than the 15th day of each legislative session.

10 **SECTION 8.** ORS 653.070 is amended to read:

11 653.070. (1) As used in this section:

12 (a) “Bona fide professional training program” includes any professional training program ap-  
 13 proved by the Superintendent of Public Instruction pursuant to rules of the State Board of Education  
 14 which provides for part-time employment training which may be scheduled for a part of the workday  
 15 or workweek, for alternating weeks or for other limited periods during the year, supplemented by  
 16 and integrated with a definitely organized plan of instruction designed to teach technical knowledge  
 17 and related information given as a regular part of the student-learner’s course by an accredited  
 18 school, college or university.

19 (b) “Student-learner” means a student who is receiving instruction in an accredited school, col-  
 20 lege or university and who is employed on a part-time basis, pursuant to a bona fide professional  
 21 training program.

22 (2) Notwithstanding ORS 653.025, employers shall pay student-learners at least 75 percent of the  
 23 minimum wage prescribed by ORS 653.025 (1).

24 (3) The number of hours of employment training for a student-learner at subminimum wages,  
 25 when added to the hours of school instruction, shall not exceed eight hours on any day or 40 hours  
 26 in any week.

27 (4) The Commissioner of the Bureau of Labor and Industries may adopt rules prescribing the  
 28 procedures and requirements for application and issuance of special certificates authorizing the  
 29 employment of student-learners at subminimum wages. The rules shall require that the following  
 30 conditions be satisfied before the issuance of such special certificates:

31 (a) The employment of the student-learner at subminimum wages authorized by the special cer-  
 32 tificate must be necessary to prevent curtailment of opportunities for employment.

33 (b) The occupation for which the student-learner is receiving preparatory training must require  
 34 a sufficient degree of skill to necessitate a substantial learning period.

35 (c) The training must not be for the purpose of acquiring manual dexterity and high production  
 36 speed in repetitive operations.

37 (d) The employment of a student-learner must not have the effect of displacing a worker em-  
 38 ployed in the establishment.

39 (e) The employment of the student-learners at subminimum wages must not tend to impair or  
 40 depress the wage rates or working standards established for experienced workers for work of a like  
 41 or comparable character.

42 (f) The occupational needs of the community or industry warrant the training of student-  
 43 learners.

44 (g) There are no serious outstanding violations of the provisions of a student-learner certificate  
 45 previously issued to the employer, or serious violations of any other provisions of law by the em-

1 ployer which provide reasonable grounds to conclude that the terms of the certificate would not be  
2 complied with, if issued.

3 (h) The issuance of such a certificate would not tend to prevent the development of apprentice-  
4 ship under ORS chapter 660 or would not impair established apprenticeship standards in the occu-  
5 pation or industry involved.

6 (i) The number of student-learners to be employed in one establishment must not be more than  
7 a small proportion of its working force.

8 (5) Failure to comply with subsection (2) or (3) of this section shall subject the employer to a  
9 penalty of 75 percent of the minimum wage prescribed by ORS 653.025 (1) for each hour of work  
10 time that the student-learner is gainfully employed. The Commissioner of the Bureau of Labor and  
11 Industries shall have a cause of action against the employer for the recovery of the penalty.

12 **SECTION 9. The amendments to ORS 243.650, 344.750, 411.892, 418.131, 653.025, 653.070 and**  
13 **663.005 by sections 1 to 8 of this 2005 Act apply to persons initially hired on or after the ef-**  
14 **fective date of this 2005 Act.**

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