

2023 Legislative Summary Brief

Labor & Employment



Apprenticeship and On-the-Job Training

Apprentices learn while earning on the job under the standards approved by the Oregon State Apprenticeship and Training Council (OSATC) and under an apprenticeship agreement that OSATC recognizes. There are over 60 approved apprenticeship programs available in Oregon, ranging from traditional skilled trades such as plumbers and electricians to newer occupations such as medical assistants and software developers.

In September 2021, OSATC approved a firefighter apprenticeship standard with the Oregon State Fire Council Joint Apprentice and Training Committee (JATC). Apprentices in the program must complete 4,000 hours of on-the-job training in skills such as Structural Firefighting, Pre-Fire Planning, and Fire Prevention. [House Bill 2294](#) allocates \$5 million to the Bureau of Labor of Industries (BOLI) to expand firefighter apprenticeship pilot projects in Oregon.

Current law requires apprenticeships in public improvement project contracts over \$3 million. A state contracting agency must require (a) that a contractor employ apprentices to perform 12 percent of the work hours that workers in apprenticeable occupations perform, and (b) when a subcontract price exceeds the lesser of \$1 million or 25 percent of the price of the contract, that the subcontractor employ apprentices to perform 12 percent of the work hours that workers in apprenticeable occupations perform. The Oregon Department of Transportation and emergency procurements are exempt from the apprenticeship utilization requirement.

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See the 2023 **Legislative Summary Report** for [Labor & Employment](#), which highlights policy measures that received a public hearing during Oregon's 2023 Regular Legislative Session.

[House Bill 2649](#) expands the apprenticeship utilization requirement and establishes a mechanism to enforce the requirement. The measure expands the requirement to include Oregon Department of Transportation, Higher Education Coordinating Commission (HECC), a public university, and a community college district, and increases the apprenticeship utilization requirement to 15 percent or more in 2027. It requires a Qualifying Agency (QA) to reduce payment to the contractor, and permits a contractor to reduce payment to the subcontractor, when the contractor or subcontractor does not meet the 12 percent or more apprenticeship utilization requirement. It

also requires an entity that receives any state or federal Workforce Innovation and Opportunity Act (WIOA) funds to establish wage standards and training plans for individuals who participate in a program administered by the entity, if, under the program, the entity provides individuals with paid work experience.

[House Bill 3306](#) requires an entity that receives any state or federal WIOA funds to establish wage standards for individuals who participate in a program administered by the entity, if individuals are provided paid work experience. The measure requires that an entity develop and share a training plan with the participant that includes a wage progression schedule and a description of requirements that the individual must meet to progress to higher wage rates. [House Bill 3307](#) provides employment-related anti-discrimination law protections under [ORS chapter 659A](#) (2021) to individuals participating in registered apprenticeship programs or any private sector on-the-job training programs.

Collective Bargaining

The Employment Relations Board (ERB) resolves disputes concerning labor relations and administers the collective bargaining law that covers public employees of the State of Oregon and its cities, counties, school districts, and other local governments. [House Bill 2573](#) requires the ERB to develop procedures that may be used for preparing and signing authorizations designating bargaining representatives, and using an electronic record and an electronic signature. The measure specifies information that must be included on a petition for representation submitted with the electronic signature.

An exclusive representation of a bargaining unit is permitted to charge employees who are not members of the labor organization reasonable fees and costs for representation unrelated to the negotiation of a collective bargaining agreement. Currently, the statute applies to

public safety organizations that represent municipal officers, sheriffs and deputy sheriffs, and police officers commissioned by a university. [House Bill 2864](#) adds employees of the Department of Corrections and Oregon Corrections Enterprises, and parole and probation officers who supervise adult offenders, to the list of employees who may be charged reasonable fees and costs for representation on issues unrelated to negotiation of a collective bargaining agreement.

Construction and Building Codes

The Construction Contractors Board (CCB) comprises nine members investigating and enforcing construction contractor regulations and licensing requirements. Oregon law governs when the CCB may take disciplinary action against a construction contractor licensee or applicant and when the CCB may investigate complaints. [Senate Bill 228](#) expands the CCB's rulemaking authority to accept jurisdiction over complaints in exceptional circumstances. It also expands the circumstances under which the CCB may take disciplinary action against a construction contractor licensee or applicant for violation of Oregon's construction contractor regulations.

A surety bond is a promise by a bonding company to pay all or a portion of a Construction Contractors Board (CCB) final order if a contractor fails to pay the order and works to protect consumers. A surety bond is required for all CCB licensed entities. The type depends on the contractor's endorsement: residential or commercial work, or both. [House Bill 2922](#) increases the surety bond amount required for all CCB-licensed entities by \$5,000.

Retainage is a portion of the agreed-upon contract price deliberately withheld until the work is substantially complete to ensure a contractor will satisfy its obligations under a



construction contract. Retainage held by a public contracting agency must be paid to the contractor as part of the final payment and interest earned on money retained is due to the contractor. Currently, a public or private contracting party is required to place retainage in an interest-bearing escrow account when the contract price exceeds \$500,000. [House Bill 2870 B](#) (*not enacted*) would have changed retainage requirements to allow a contractor to submit surety bonds for all or a portion of the retainage required for public improvement contracts. A contractor on a large commercial structure or public improvement contract must accept a surety bond from subcontractors or suppliers from which the contractor has withheld retainage if the contracting agency has accepted a surety bond in lieu of retainage from the contractor.

Employment Protections

The Legislative Assembly considered several measures that addressed working conditions and employment protections. [Senate Bill 851](#) directs the Bureau of Labor and Industries (BOLI) to prepare a model respectful workplace policy that employers may adopt. BOLI will also create informational material for employers on workplace bullying. [Senate Bill 925](#) (*not enacted*) would have made it an unlawful employment practice for an employer or employment agency to advertise a job or promotion without disclosing the pay range and a general description of the employment benefits for the job in the posting.

Oregon law currently prohibits age discrimination. A person complaining of age discrimination may file a complaint with BOLI or file a court action. [House Bill 2800](#) (*not enacted*) would have clarified the meaning of “because of age” in employment age-based discrimination law. It also would have prohibited an employer from seeking a job applicant's age.

Warehouse distribution centers employ a growing proportion of the workforce and support the delivery of products from online shopping. Data from BOLI and the Occupational Safety and Health Administration indicate that warehouse workers perform dangerous jobs and are injured more often than coal miners, lumberjacks, trash collectors, and police officers. [House Bill 3568](#) (*not enacted*) would have provided warehouse distribution workers with protections from undisclosed work speed quotas and from speed quotas that prevent workers from taking meal and rest breaks.

Leave Laws

Oregon law provides a variety of protections for employees to take time off work for illness and family care. The Oregon Family Leave Act (OFLA) requires employers with 25 or more employees to provide employees with up to 12 weeks of unpaid protected time off for certain conditions, such as illness and childbirth. In 2019, the Legislative Assembly enacted [House Bill 2005](#), known as Paid Leave Oregon. Paid Leave Oregon provides employees with paid time off for certain family, medical, or safety-related conditions. Employees and employers make contributions into the program to sustain it. Employers may also opt out of the program if they offer their employees a plan that is equivalent to Paid Leave Oregon.

[Senate Bill 912](#) makes statutory changes to the Paid Leave Oregon program related to overpayments, collections, and potential penalties for violations of equivalent plan requirements. [Senate Bill 913](#) makes several technical changes to the Paid Leave Oregon program, including modifying procedures for requesting a hearing and disclosures of confidential information. It also changes the fixed maximum wage subject to Paid Leave Oregon contributions to match the U.S. Social Security contribution and benefit base limit.



[Senate Bill 999](#) makes several modifications to both Paid Leave Oregon and OFLA. The measure defined “one-year period” within both programs to determine the amount of leave a person may take within a one-year period within each program. It also redefined “family member” within OFLA and clarified the meaning of “family member by reason of affinity” within each program. The measure also specifies that leave taken under OFLA must be taken concurrently with leave under the federal Family and Medical Leave Act and Paid Leave Oregon.

Unemployment Insurance

The Work Share program was created in 1983 in an effort for businesses to avoid layoffs, retain talent during a temporary decline in business, and continually provide reduced wages plus unemployment benefits to subsidize the reduction in wages. With an approved Work Share plan, the employer reduces the hours of work for a group of workers rather than reducing the number of workers it employs, and partial unemployment insurance (UI) benefits supplement the workers' reduced wages. To be eligible to participate in the Work Share program, an employer must have three or more employees, and employees must: be eligible for UI benefits, have their hours reduced by at least 20 percent and not more than 40 percent, be fully available for work, have worked continuously for six months full-time or one year part-time, and not be seasonal workers.

[House Bill 3331](#) amends eligibility requirements to qualify for Work Share benefits. The measure removes the requirement that an affected employee must have been continuously employed and have worked for the employer for six months on a full-time basis or for one year on a part-time basis to qualify for Work Share benefits. The measure also expands the percentage reduction in hours an employee may work to qualify for Work Share benefits to at least 10 percent and not more than 50 percent.

Wages and Benefits

The prevailing wage rate (PWR) is the hourly wage, including all fringe benefits, that the Commissioner of the Bureau of Labor and Industries (BOLI) determines is paid in the locality to the majority of workers employed in a specified trade or occupation. [Senate Bill 594](#) expands the definition of public works for purposes of paying the PWR to include demolition or removal of hazardous waste from a road, highway, building, structure, or improvement of any type that: a public agency contracts or carries on to serve the public interest; uses \$750,000 or more in public agency funds; occurs with or without public agency funds on property owned by a public university; or occurs on real property owned by a state agency.

[House Bill 2057 A](#) (*not enacted*) would have established joint and several liability between a contractor and subcontractor on a non-PWR project for unpaid wages. Upon request, a subcontractor would have been required to provide the contractor-certified payroll records to determine whether the subcontractor paid workers in full, and if a subcontractor failed to provide records, a contractor would have been able to withhold payment.

[House Bill 4002](#) (2022) established maximum allowable hours and overtime wage requirements for Oregon agricultural workers and a refundable tax credit against personal and corporate income taxes to offset a percentage of the additional cost of overtime wages paid by a crop or animal production business. The measure required the Oregon Department of Agriculture (ODA) and Oregon Business Development Department (OBDD) to make recommendations to the 82nd Legislative Assembly regarding the establishment of a grant, loan, or lending program to which \$10 million will be allocated for providing financial assistance to employers to mitigate the costs of compliance with the overtime compensation



requirements. [House Bill 2058](#) establishes the required program. It directs OBDD to develop and administer a program to provide up to \$40,000 of repayable awards to agricultural employers to mitigate costs associated with compliance with agricultural overtime compensation requirements.

In 2021, the Legislative Assembly passed [House Bill 2818](#), temporarily exempting hiring and retention bonuses from the definition of "compensation" for purposes of the pay equity law ([ORS 652.210 to ORS 652.235](#), 2021). The exemption was extended through September 28, 2022. [House Bill 3205 A](#) (*not enacted*) would have directed BOLI to adopt rules regarding Oregon's pay equity laws, including clarifying the payment of bonuses based on bona fide factors.

Workers' Compensation

Workers' compensation insurance provides medical treatment and lost wages to employees or their dependents when employment-related accidents or illnesses occur. Oregon employers are required to carry workers' compensation insurance or be self-insured. The Workers' Compensation Division is located within the Department of Consumer and Business Services and administers Oregon's workers' compensation system.

[House Bill 3412](#) expands access to medical services within the workers' compensation system by permitting physician assistants to provide compensable medical services and authorize payment of temporary disability benefits under the same rules as nurse practitioners for workers' compensation claims.

Most Oregon employers must allow an injured worker to return to their former positions when they can do so, or to suitable positions when the employee cannot perform their former position but can still perform some other job. An employee may file a complaint with the Bureau of Labor and Industries or bring a civil suit

against their employer, if the employer discriminates against them in hiring or other conditions of employment because the employee exercised their workers' compensation rights. [House Bill 3471](#) makes it an unlawful employment practice for an employer to offer to settle all or part of a worker's claim for workers' compensation conditional upon a worker entering into a no-rehire agreement, or for an employer to negotiate a settlement agreement conditional on a worker agreeing to a no-rehire provision.

Working Conditions and Workplace Safety

The Legislative Assembly enacted two measures to address workplace safety. Federal law requires civil penalties for violations of federal workplace safety or health requirements and that the civil penalties be adjusted based on inflation. Federal law also allows states to operate their own occupational safety and health programs if those programs are as effective as the federal Occupational Safety and Health Administration plan. Oregon has operated its own occupational safety and health program since 1973 when the Oregon Safe Employment Act was enacted.

Oregon law governs when the Director of the Department of Consumer and Business Services (DCBS) may enter and conduct investigations of places of employment. [Senate Bill 592](#) specifies when the Director of DCBS may conduct comprehensive inspections of places of employment. It also requires comprehensive inspections when an accident investigation reveals a violation caused or contributed to a work-related fatality, or when three or more willful or repeated violations occur within a one-year period at a place of employment. The measure also establishes minimum and maximum civil penalties for certain violations and requires the director to adjust civil penalties annually.



It is unlawful for an employer to fire or otherwise discriminate against any employee or prospective employee because the employee exercised their rights under the Oregon Safe Employment Act. [Senate Bill 907](#) also makes it an unlawful employment practice for an employer to fire or discriminate against an employee or prospective employee because they refuse to expose themselves to serious injury or death from a hazardous condition at their place of employment when there are no reasonable alternatives, and the person is acting in good faith.

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