
2017 SUMMARY OF LEGISLATION



LABOR AND EMPLOYMENT

[Senate Bill 294](#)

Not Enacted

Review of State Contracting Agency Cost Analysis

At the request of: Senate Interim Committee on Workforce

Committees: Senate Workforce

Background and Current Law: Under current Oregon law, certain public agencies must conduct a cost analysis when considering whether to enter into a service contract with an outside vendor. The cost analysis must demonstrate that the cost of doing business with the vendor is lower than that of using internal personnel and resources or that using internal personnel and resources is not feasible.

Bill Summary: Senate Bill 294 would have permitted public employees or their representatives to seek judicial review of a contracting agency's cost analysis. The measure required the contracting agency to halt the procurement process while an analysis was under review. The measure outlined the judicial authority and prohibited courts from awarding costs or attorney's fees. Finally, the measure provided additional steps to the procurement and cost analysis process.

[Senate Bill 299](#)

Effective Date: July 1, 2017

Limits and Application of Sick Time Policies

At the request of: Senate Interim Committee on Workforce

Committees Assigned: Senate Workforce, House Business and Labor

Background and Current Law: In 2015, the Legislative Assembly enacted Senate Bill 454, requiring employers to provide sick time for employees. Employers with 10 or more employees, or at least six employees in Portland, must implement a sick time policy that allows employees to use up to 40 hours of paid sick time per year. Other employers must implement a policy that allows employees to use up to 40 hours of unpaid sick time per year. The method for calculating the number of employees working for an employer is provided by administrative rule.

Bill Summary: Senate Bill 299 excludes certain individuals from the employee count for purposes of determining which sick leave requirements apply. It clarifies that an employer may limit employees to 40 hours of sick time accrual per year, and may adopt a policy limiting employees from accruing more than a total of 80 hours of sick time and from using more than 40 hours in a year. The measure modifies the rate of pay for accrued sick leave by employees paid on a piece-rate or commission basis. It exempts employers with adequate alternate time-off policies from complying with the sick time requirements after the first 40 hours that the employer's policy provides per year.

Oregon Laws 2017: Chapter 520

Notice of Earned Income Tax Credits

Chief Sponsors: Sen. Steiner Hayward

Committees: Senate Workforce, House Business and Labor

Background and Current Law: The Earned Income Tax Credit (EITC) is a federal tax benefit for working people with low to moderate income. Taxpayers eligible for the EITC may claim an Oregon tax credit equal to eight percent of the federal credit or 11 percent of the EITC for taxpayers with a dependent child under the age of three. In 2016, Oregonians submitted 274,000 EITC claims and received \$586 million in credits. The average EITC for Oregon taxpayers was \$2,136. In 2013, the most recent year of available statistics, Oregon's participation in the EITC was 74.4 percent, while the national EITC participation rate was 80 percent.

Bill Summary: Senate Bill 398 requires the Bureau of Labor and Industries (BOLI) and the Oregon Employment Department to increase employee awareness about the availability of earned income tax credits. Specifically, it requires BOLI to provide notice to employees of EITC in any poster regarding the state minimum wage and to collaborate with business representatives to adopt rules requiring employers to provide annual, written notice to employees in the employee's federal W-2 form. The measure also requires the Oregon Employment Department to inform unemployment insurance benefit recipients about the credit.

Oregon Laws 2017: Chapter 333

Changes to Prevailing Wage Rate Policies

Chief Sponsors: Sens. Beyer, Manning, Jr.

Committees: Senate Workforce, House Business and Labor

Background and Current Law: Under Oregon law, the hourly wage for workers of any contractor performing a public works contract must be equal to or greater than the prevailing wage rate. Projects on privately owned roads, highways, buildings, structures, and improvements of any type are subject to prevailing wage law if the project is for construction, reconstruction, major renovation, or painting, and uses private funds and at least \$750,000 in public funds. Also, subject to prevailing wage laws are construction projects in which one or more public agencies will occupy or use at least 25 percent of the project's square footage. To ensure that wages are properly paid, the contractor and every subcontractor on a public works contract must file certified statements with the public contracting agency.

Bill Summary: Senate Bill 416 clarifies and modifies prevailing wage rate law restrictions on dividing projects into multiple contracts; modifies bond requirements for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that a service-disabled veteran owns, and emerging small businesses; provides guidance on when a surety may pay on behalf of a contractor or subcontractor; and makes failure to pay fringe benefits a separate violation from failure to pay the prevailing wage rate.

Oregon Laws 2017: Chapter 334

PERS Calculation of Final Average Salary Over Five Years

Chief Sponsors: Sens. Knopp, Kruse

Committees: Senate Workforce, Joint Ways and Means

Background and Current Law: The Public Employees Retirement System (PERS) enables public employers to provide their employees with retirement benefits. State government, public schools, community colleges, and many local governments participate in PERS, covering approximately 925 employers and about 95 percent of all public employees in Oregon. PERS contains approximately 347,000 members, including 168,000 active, 43,000 inactive, and 136,000 retired employees. Approximately 32 percent of members are currently eligible to retire by age or service.

PERS is a hybrid pension plan that includes a defined benefit plan and a defined contribution plan. Upon retirement, all PERS members receive both a life pension (defined benefit) and the balance of the member's individual account (defined contribution). The calculation of a member's pension benefit varies by type of membership plan. For Tier One and Tier Two PERS members, the amount of pension benefits is the higher total amount calculated between the "money match" and the "full formula" methods. For Oregon Public Service Retirement Plan (OPSRP) members, the amount of benefits is determined by the full formula method. The basic calculation under the full formula method is: (Years of Service) x (Final Average Salary) x (the Factor). The factor varies by membership type.

Under current law, final average salary is calculated as the greater of a member's average annual salary paid by participating public employers in the three calendar years of membership that produce the highest average salary, or one-third of the total salary paid to the member by participating employers in the last 36 months of active membership.

Bill Summary: Senate Bill 559-A would have changed the calculation of final average salary under PERS for purposes of determining member's full formula benefit. For salary paid on and after January 1, 2018, it calculated the greater of a member's average annual salary in five calendar years of the member's highest annual salary, or one-fifth of the member's total salary in the last 60 months of active membership. The measure recalculated employer contribution rates to reflect the amount of savings attributable to the bill and made corrected rates effective July 1, 2017. The measure provided for expedited Supreme Court review of petitions by adversely affected persons.

PERS Individual Account Redirect and \$100,000 Cap on Final Average Salary

Chief Sponsors: Sens. Knopp, Kruse

Committees: Senate Workforce, Joint Ways and Means

Background and Current Law: The Public Employees Retirement System (PERS) is a hybrid pension plan that includes a defined benefit plan and a defined contribution plan. Upon retirement, all PERS members receive both a life pension (defined benefit) and the balance of the member's individual account (defined contribution).

Since 2003, the PERS pension plan has been funded primarily by employer contributions. The calculation of a member's pension benefit varies by type of membership plan. For Tier One and Tier Two PERS members, the amount of pension benefits is the higher total amount calculated between the "money match" and the "full formula" methods. For Oregon Public Service Retirement Plan (OPSRP) members, the amount of benefits is determined by the full formula method.

The basic calculation under the full formula method is: (Years of Service) x (Final Average Salary) x (the Factor). The factor varies by membership type. Under current law, final average salary is calculated as the greater of a member's average annual salary paid by participating public employers in the three calendar years of membership that produce the highest average salary, or one-third of the total salary paid to the member by participating employers in the last 36 months of active membership.

The Individual Account Program (IAP) is funded through a required employee contribution of six percent of members' salaries. Under that program, all active member contributions are placed into members' individual accounts. Earnings and losses are credited annually to IAP accounts, and they are subject to earnings and losses until the member removes the funds. At retirement, a member may receive the amount in their IAP account as a lump-sum payment or in equal installments over a specified number of years.

Bill Summary: Senate Bill 560-A would have made two primary changes to PERS, which would impact both the pension plan and the IAP. First, it would have redirected the required employee contributions from the member's IAP to a new account. The funds in the new account were to be used to offset the employer's costs for member pensions accrued on or after the date of the redirection.

Second, it would have established a \$100,000 cap on the amount of a member's salary for calendar years in 2018 and beyond for purposes of calculating the member's final average salary. Currently, the final average salary for Tier Two and OPSRP members is capped under federal law. The cap is indexed and will be \$270,000 for 2017. There is no cap on salary for purposes of determining the final average salary under Tier One.

[Senate Bill 712](#)

Effective Date: January 1, 2018

PERS Service Credit for Workers' Compensation Disability Payments**At the request of:** Senate Committee on Workforce**Committees:** Senate Workforce, Joint Ways and Means

Background and Current Law: Under current law, Tier One and Tier Two members of the Public Employees Retirement System (PERS) who return to qualifying employment following disability leave for a duty-related injury under the workers' compensation system are eligible for PERS service credit for that period. Oregon Public Service Retirement Plan (OPSRP) members in the same circumstances are not eligible for PERS service credit for that period.

Bill Summary: Senate Bill 712 provides that an OPSRP member who returns to qualifying employment after receiving disability payments for an injury or disease sustained while in actual performance of duty, and not intentionally self-inflicted, receives hours of service credit for vesting purposes and retirement credit for the period of those payments.

Oregon Laws 2017: Chapter 569[Senate Bill 761](#)

Not Enacted

PERS Alternate Death Benefit**At the request of:** Senate Committee on Workforce**Committees:** Senate Workforce

Background and Current Law: The Public Employees Retirement System (PERS) enables public employers to provide their employees with retirement benefits. State government, public schools, community colleges, and many local governments participate in PERS, covering approximately 925 employers and about 95 percent of all public employees in Oregon. PERS has approximately 347,000 members, including 168,000 active, 43,000 inactive, and 136,000 retired employees. Approximately 32 percent of members are currently eligible to retire by age or service. PERS is a hybrid pension plan that includes a defined benefit and a defined contribution. Upon retirement, all PERS members receive both a life pension (defined benefit) and the balance of the member's individual account (defined contribution).

Under current law, the spouse beneficiary of a Tier One or Tier Two PERS member who is eligible to retire but dies before retiring is entitled to receive the money that remains in the member's pension account. Tier One and Tier Two PERS members do not have the option available to a spouse beneficiary of a similarly situated Oregon Public Service Retirement Plan member to receive a monthly pension for the life of the spouse at one-half of the monthly amount that would have been paid to the member.

Bill Summary: SB 761 would have established an alternate death benefit for a surviving spouse beneficiary of a Tier One and Tier Two PERS member who died before retirement. The spouse would have had an option to receive 50 percent of the service retirement allowance otherwise payable to the deceased member.

[Senate Bill 780](#)

Not Enacted

Selection of Independent Medical Examiners

At the request of: Senate Committee on Business and Transportation

Committees: Senate Workforce

Background and Current Law: An independent medical examination (IME) is one of several medical options that an insurer can use to evaluate a workers' compensation claim. In most cases, an IME is conducted after the insurer has made the initial determination about the claim. Insurers, self-insured employers, or the director of the Department of Consumer and Business Services (DCBS) can request an IME. Since 2006, DCBS has implemented a certification process and training requirements for providers that conduct IMEs. While DCBS maintains a list of qualified providers, the insurer has the discretion to select the provider. The insurer pays for the exam, including reimbursement for travel-related expenses.

In 2015, two bills addressed concerns about the neutrality of IME providers and the independence of IME examinations. Neither bill moved forward. The Workers' Compensation Management-Labor Advisory Committee (MLAC) reviewed IME issues in the 2015 and 2016 interim and recommended several improvements to the process, although no statutory change.

Bill Summary: Senate Bill 780 would have required the director of DCBS to select an IME provider randomly from a list of qualified physicians that the director maintained. The measure also authorized the director to adopt rules to implement the process.

[Senate Bill 791](#)

Not Enacted

Public Employment of Retired PERS Members

At the request of: Senate Committee on Workforce

Committees: Senate Workforce

Background and Current Law: Under current law, a retired member of the Public Employees Retirement System (PERS) may resume public employment after retirement for a limited number of hours annually without impacting the member's retirement benefit. Generally, retirement benefits of a Tier One or Tier Two retired member cease if the member works over 1,040 hours for one or more participating public employers in a calendar year. However, there are more than a dozen exceptions to those restrictions. For a retired member under the Oregon Public Service Retirement Plan (OPSRP), retirement benefits cease if the member works more than 600 hours in a calendar year.

Bill Summary: Senate Bill 791 would have eliminated hour restrictions for all retired PERS members and added a six-month waiting period before a public employer may reemploy any retired member.

PERS Police and Fire Classification for Oregon State Hospital Employees

At the request of: Senate Committee on Workforce

Committees: Senate Workforce

Background and Current Law: Public Employees Retirement System (PERS) plans are divided into two classifications: “General Service” and “Police and Fire” (P&F). PERS statutes allow employees classified as P&F to retire at an earlier age and calculate their retirement benefits using a higher benefit factor. For both General Service and P&F, the level of benefits differs depending on the hire date.

Qualified positions for the P&F classification include certain Department of Correction employees, Oregon State Police officers, local government police officers, parole and probation officers, the state and deputy state fire marshal, and persons employed by cities, counties, or districts whose duties involve firefighting.

Bill Summary: Senate Bill 811 would have expanded the positions that qualify for the P&F classification, phasing in categories of Oregon State Hospital employees beginning in 2017, 2019, and 2021. The new P&F level of benefits would have applied to service performed on or after the effective date of the measure.

Predictable Schedules

Chief Sponsors: Sens. Dembrow, Taylor; Reps. Keny-Guyer, Bynum, Holvey, Lininger, Nosse, Parrish

Committees: Senate Workforce, Senate Rules, House Rules

Background and Current Law: During the 2015 legislative session, the Oregon Legislative Assembly's House Committee on Business and Labor heard measures related to predictable work scheduling. Although no measure passed out of committee, a work group was formed, holding meetings throughout the 2016 interim to discuss predictable scheduling.

Bill Summary: Senate Bill 828 requires retail, food service and hospitality employers, who have 500 or more employees worldwide, to provide good faith estimates of employees' work schedules, seven-days advanced written notice of work schedules, predictability pay when schedules change, and extra compensation for hours worked when fewer than 10 hours separates shifts. The measure provides numerous exceptions to requirements for predictability pay. In addition, the measure allows employers to maintain a standby list that includes employees who have agreed to work additional hours, provides criteria for employer use of the standby list, and prescribes penalties for violations of standby list requirements. The measure prohibits employers from interfering with or retaliating against employees for exercising rights in this measure, and provides a private right of action and administrative remedies for violations. The measure repeals the sunset of preemption of local government regulation of work schedules.

Oregon Laws 2017: Chapter 691

PERS Reforms

Chief Sponsors: Sen. Knopp

Committees: Senate Workforce

Background and Current Law: The Public Employees Retirement System (PERS) is a hybrid pension plan that includes a defined benefit plan and a defined contribution plan. Upon retirement, all PERS members receive both a life pension (defined benefit) and the balance of their individual account (defined contribution). Since 2003, employees do not contribute to the pension plan but instead contribute six percent of salary to the Individual Account Program (IAP). Earnings and losses are credited annually to IAP accounts until the member removes the funds. At retirement, a member may receive the IAP as a lump-sum payment or in equal installments over a specified number of years.

Bill Summary: Senate Bill 913 would have required the PERS Board to adopt actuarial equivalency factor tables with greater frequency, established new standards to set the assumed interest rate for calculating member benefits, increased the minimum retirement ages for certain PERS members, redirected employee contributions from the IAP account into newly created individual member contribution accounts used to fund pension accounts, calculated a member's final average salary over five rather than three years, and excluded certain elected officials from PERS membership.

[Senate Bill 999](#)

Not Enacted

Limits on Post-Termination Employer Liability for Wage and Hour Violations**Request of:** Senate Committee on Veterans and Emergency Preparedness**Committees:** Senate Workforce

Background and Current Law: If an employee is fired or employment is terminated by mutual agreement, an employer must pay all earned wages due no later than the end of the first business day after the employee's separation. An employee who resigns with 48-hour notice must be paid on the last working day, but if less notice is provided, the employer has five days (excluding weekends and holidays) or the next payday, whichever comes first, to provide a final paycheck. Employees alleging a violation can make a complaint with the Bureau of Labor and Industries or, for certain violations, file a claim in court.

Bill Summary: Senate Bill 999 would have prohibited the filing of simultaneous or consecutive claims against an employer during employment or upon separation that alleged substantially similar violations of certain wage and hour laws if an employer failed to remedy the alleged violations prior to the employee's separation. The measure also limited an employer's liability for penalties for certain wage and hour violations.

[Senate Bill 1040](#)

Effective Date: June 14, 2017

State Policy to Allow Union Security Agreements**Chief Sponsors:** Sens. Burdick, Roblan, Manning, Jr., Taylor; Reps. Williamson, Lively, Rayfield**Committees:** Senate Workforce, House Business and Labor

Background and Current Law: The National Labor Relations Act (NLRA) allows employers and unions to enter into union security agreements requiring all employees in a bargaining unit to become union members and pay union dues. Employees who object to full union membership may continue as "core" members and pay only that share of dues used directly for representation.

The federal Taft-Hartley Act authorizes states to ban union security agreements. States that have adopted this policy are referred to as "right-to-work" states.

Current Oregon law generally does not preclude an employer from making an agreement with a labor organization to require membership in a union as a condition of employment. In *UAW v. Hardin County*, a recent decision by the Sixth Circuit Court of Appeals, the court recognized the right of local governments to enact ordinances banning union security agreements if the state legislature has given them sufficient home-rule authority.

Bill Summary: Senate Bill 1040 establishes that private-sector labor organizations and employers may enter union security agreements requiring membership in labor organizations as a condition of employment to the full extent allowed by federal law.

Oregon Laws 2017: Chapter 369

Pay Equity

Chief Sponsors: Reps. Lininger, Bynum, Lively, Hack; Sens. Dembrow, Ferrioli, Knopp, Taylor

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Under existing wage and hour statutes, an employer is prohibited from paying an employee at a lower wage rate than that paid to employees of the opposite sex for work of comparable character when the work requires comparable skills unless there is a nondiscriminatory merit or seniority system in place or the difference is based in good faith on factors other than sex. An employee who was paid in violation of the statute has a private right of action to recover unpaid wages for the prior one-year period and an equal amount in damages. Reasonable attorney's fees may be awarded to the prevailing plaintiff.

In addition, it is an unlawful employment practice for an employer to discriminate based on race, color, religion, sex, sexual orientation, national origin, marital status, or age in wages or in terms, conditions, or privileges of employment. An employee or applicant has a private right of action for recovery of back pay for the prior two-year period as well as compensatory and punitive damages and either party may request a jury trial. The prevailing party may be awarded costs and reasonable attorney's fees.

Bill Summary: House Bill 2005 extends pay equity provisions to people in the following protected classes: race, color, religion, sex, sexual orientation, national origin, marital status, disability, age, and veteran status. The measure prohibits an employer from using salary history to screen applicants or to determine compensation, or from acquiring the salary history of an applicant or employee from a current or former employer. The measure does not prohibit an applicant from disclosing salary history when negotiating compensation. The measure expands administrative and judicial remedies for pay equity violations and retaliation for wage inquiry or wage claim to include compensatory and punitive damages and jury trial. Employers may file a pre-trial motion to preclude compensatory and punitive damages if the employer can demonstrate that they have completed a pay equity analysis within the three years preceding the claim, eliminated pay differentials for the plaintiff, and made reasonable substantial progress toward eliminating the wage differentials for the protected class asserted by the plaintiff. The provision allowing a civil action against an employer alleged to have sought the salary history of an applicant becomes operative January 1, 2024. All other provisions become operative January 1, 2019.

Oregon Laws 2017: Chapter 197

[House Bill 2012](#)

Effective Date: August 15, 2017

Eastern Oregon Border Economic Development Region

Chief Sponsors: Reps. Kotek, Bentz

Committees: House Economic Development and Trade, Joint Ways and Means

Background and Current Law: The federal Bureau of Labor Statistics reports that areas of eastern Oregon have had consistently higher rates of unemployment and lower household incomes compared to the rest of the state over the past 10 years. In the most recent winter, these areas had approximately \$100 million in snow damage to storage sheds and processing facilities.

Bill Summary: House Bill 2012 creates the Eastern Oregon Border Economic Development Region in Malheur County, along with the Eastern Oregon Border Development Board to oversee the region. The bill provides \$5 million from the General Fund to supply grants and loans to support economic and workforce development. The measure allows the board to ask for waivers or exemptions from state laws, rules, and regulations not related to state taxes or employment law.

Oregon Laws 2017: Chapter 197

[House Bill 2105](#)

Not Enacted

Creation of Budget Oversight Commission for Department of Corrections

Chief Sponsors: Rep. Gorsek

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: Department of Corrections (DOC) employees can be required to work overtime, due to the nature of the work: corrections facilities are 24/7 operations where order and supervision are maintained over populations that greatly outnumber staff. The American Federation of State, County and Municipal Employees (AFSCME) estimates that DOC personnel across 13 institutions in Oregon worked in excess of 300,000 hours of overtime in 2016, and that 126,302 (or 40 percent) of those hours were mandatory. In addition to obvious budget implications, required overtime can impact the health and safety of employees.

Bill Summary: House Bill 2105 would have created a DOC Budget Oversight Commission to advise the Governor and DOC, and to recommend legislation concerning the management and implementation of DOC's biennial budget, including employee overtime and healthcare expenses.

Apprenticeship Utilization in State Contracts

At the request of: House Interim Committee on Business and Labor

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Apprenticeships are occupational career training that combines on-the-job training experience with classroom instruction. Apprentices usually begin at half the salary of certified “journey” workers. Apprenticeship committees, made up of employee and employer representatives, operate apprenticeship programs. Apprenticeships are typically two to five years long, depending on industry requirements, and are highly competitive, with waiting periods of up to two years. The Apprenticeship and Training Division of the Bureau of Labor and Industries registers apprenticeship programs, works with industry to establish apprenticeship programs, and monitors apprenticeship committee compliance.

Bill Summary: House Bill 2162 requires a contractor, who is awarded a state public improvement contract worth at least \$5 million, and a subcontractor, with a subcontract worth over \$1 million or 25 percent of the contract price, to employ apprentices to perform 10 percent of the work hours that workers in apprenticeable occupations perform on that contract. In 2022, the percentage increases to 12 percent and the contract size threshold drops to \$3 million. Contracts with the Oregon Department of Transportation are exempt, as are emergency procurements. The measure establishes a six-member advisory committee to monitor implementation and compliance and to advise the Legislative Assembly on subsequent changes to improve implementation.

Oregon Laws 2017: Chapter 416

[House Bill 2167](#)

Not Enacted

Workplace Bullying

At the request of: House Interim Committee on Business and Labor

Committees: House Business and Labor

Background and Current Law: Oregon’s workplace safety and health law, known as the Oregon Safe Employment Act, was passed in 1973, three years after the federal Occupational Safety and Health Act was signed into law. The Oregon Occupational Safety and Health Administration division, within the Department of Consumer and Business Services, enforces the workplace safety and health laws that prohibit an employer from constructing or maintaining any place of employment that is unsafe or detrimental to health.

Bill Summary: House Bill 2167 would have amended the definition of an unsafe place to include an abusive work environment that an employer knew or should have known existed and failed to take prompt and appropriate action to correct. The measure provided a private right of action to employees claiming their employer created or maintained an abusive work environment.

[House Bill 2337](#)

Effective Date: January 1, 2018

Workers’ Compensation Benefits for Permanent Total Disability

At the request of: Governor Brown for the Department of Consumer and Business Services

Committees: House Business and Labor, Senate Workforce

Background and Current Law: In the workers’ compensation system, a permanent total disability is the loss of use or function of any portion of the body that permanently prevents the worker from regularly performing work in a suitable occupation. The Department of Consumer and Business Services reports that about 600 people are currently receiving benefits for a permanent total disability, with about 10 new awards made each year. The benefit is two-thirds of the worker’s wage, but capped at Oregon’s average weekly wage (currently about \$974). The minimum benefit is 90 percent of the worker’s weekly wage or \$50, whichever is lower.

Bill Summary: House Bill 2337 increases the permanent total disability maximum benefit to two-thirds of the worker’s wage, capped at 133 percent of Oregon’s average weekly wage (currently about \$1,295). The measure also increases the minimum benefit to one-third of Oregon’s average weekly wage (currently about \$321). The measure applies to injuries occurring on or after the effective date of the measure; however, benefit levels for individuals injured prior will be adjusted subject to the Department of Consumer and Business Services’ Retroactive Program.

Oregon Laws 2017: Chapter 70

[House Bill 2338](#)

Effective Date: January 1, 2018

Workers' Compensation Benefits for Deceased Worker's Beneficiaries

At the request of: Governor Brown for the Department of Consumer and Business Services

Committees: House Business and Labor, Senate Workforce

Background and Current Law: When a worker dies from an on-the-job injury or occupational disease, or while permanently and totally disabled, the surviving spouse, children, and other dependents are entitled to receive benefits. Approximately 310 surviving children and dependents currently receive benefits due to the death of a worker. The benefit structure is complex and difficult to administer, and it can result in different benefit levels for children of the same family, depending on factors such as school enrollment and dependence on surviving spouse.

Bill Summary: House Bill 2338 simplifies the criteria for death benefits, making the system easier to understand and administer, and producing predictable benefit levels for families. The measure allows a child or dependent to receive benefits until the age of 19, and specifies that the benefit level is the same regardless of circumstances. Benefits are paid for up to 48 months when the child is in a postsecondary education or training program through age 26. Benefits of children and dependents received prior to the effective date will be adjusted subject to the Department of Consumer and Business Services' Retroactive Program.

Oregon Laws 2017: Chapter 71

[House Bill 2856-A](#)

Not Enacted

Workplace Rights

At the request of: House Committee on Business and Labor

Committees: House Business and Labor, Joint Ways and Means

Background and Current Law: The Bureau of Labor and Industries (BOLI) is responsible for protecting the rights of workers and citizens to equal, nondiscriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing, and public accommodations. Specifically, BOLI provides staff to help employers better understand employment laws through seminars, handbooks, information posted to its website, and personal responses to employer inquiries. Employees who claim they suffered discrimination or retaliation for filing a wage claim, using protected leave, or participating in a related proceeding can take their employer to court or file a complaint with BOLI.

Bill Summary: House Bill 2856-A would have appropriated money from the Wage Security Fund to establish a grant program to support education and technical assistance to help employees understand their rights in the workplace. The measure allowed for a jury trial and for the court to award compensatory and punitive damages in cases in which an employer retaliated against an employee for filing a claim regarding wages, violations regarding veterans' preference in civil service hiring, and violations of protected leave laws.

[House Bill 3008](#)

Effective Date: January 1, 2018

False Employment Records

Chief Sponsors: Rep. Malstrom

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Wage enforcement is a problem that directly affects employees who are not compensated and indirectly affects employers who abide by all wage and hour laws, putting them at a competitive disadvantage with those who do not. Existing remedies for wage enforcement often depend on the employee being able to provide an accurate timesheet of hours worked as evidence.

Bill Summary: House Bill 3008 provides a private right of action for an employee who is compelled, coerced, or otherwise induced by their employer to create, file, or sign wage and hour documents that the employer knows are false.

Oregon Laws 2017: Chapter 211

[House Bill 3060](#)

Effective Date: October 6, 2017

Preventing Discrimination by State Contractors

Chief Sponsors: Reps. Lininger, Nosse, Sanchez, Alonso Leon, Power

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Employment laws prohibit discrimination and harassment against workers based on their race, gender, ethnicity, religion, sexual orientation, gender identity, or disability. However, Oregon's contracting and procurement statutes do not establish express requirements for workplace policies on sexual harassment, sexual assault, or discrimination.

Bill Summary: House Bill 3060 prohibits state public contracting agencies from entering a contract worth \$150,000 or more unless the contractor certifies in writing that it has a policy and practice to prevent sexual harassment, sexual assault, and discrimination against members of protected classes. An exception is made for the following types of contracts: sole-source procurements, emergency procurements, and special procurements.

Oregon Laws 2017: Chapter 212

[House Bill 3170](#)

Effective Date: January 1, 2018

Collective Bargaining Rights of Public University Faculty

At the request of: House Committee on Business and Labor

Committees: House Business and Labor, Senate Education, Senate Rules

Background and Current Law: The Public Employee Collective Bargaining Act (PECBA) codifies the laws governing employment relations between public employers and employees. Employees not covered under the PECBA who are prohibited from organizing include elected officials, persons appointed to serve on boards or commissions, certain incarcerated persons, or persons who are confidential employees, supervisory employees, or managerial employees.

Bill Summary: House Bill 3170 allows faculty members with an academic focus, who work for a public university or the Oregon Health and Science University, to organize and collectively bargain with their employer.

Oregon Laws 2017: Chapter 553

[House Bill 3279](#)

Effective Date: January 1, 2018

Janitorial and Other Property Services Contractors

Chief Sponsors: Reps. Lininger, Sanchez; Sen. Manning, Jr.

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: Labor contractors generally recruit and supply or employ workers to perform labor for another business. Farm labor contractors and construction labor contractors may not operate without a license issued by Oregon's Bureau of Labor and Industries (BOLI). To obtain a license, an applicant must pass an examination designed to test their ability, knowledge and proficiency to manage the business of a labor contractor; proof of insurance and bonding are also required. Janitorial services are often provided by labor contractors.

Bill Summary: House Bill 3279 adds a new category of labor contractors required to be licensed by BOLI: property services contractors, which include those who provide workers to perform janitorial services. The measure exempts the property services contractor from the bond requirement if they show proof of general liability insurance and have not violated employment laws in the preceding two years. Property services contractors are also required to provide professional training to managers, supervisors and employees to prevent sexual assault, sexual harassment, and discrimination in the workplace and to educate about whistleblower protections. The training is to be provided through or approved by BOLI. The measure requires the licensing examination taken by all labor contractors to test knowledge of applicant's responsibility in preventing sexual assault and sexual harassment.

Oregon Laws 2017: Chapter 676

Overtime Hours in Manufacturing and Food Processing

At the request of: House Committee on Rules

Committees: House Rules, Senate Rules

Background and Current Law: Oregon and federal law requires most employers to pay overtime to eligible employees at one and one-half times the employee's regular pay rate for hours worked exceeding 40 per workweek. Oregon law also provides for payment of daily overtime at government agencies, hospitals, canneries, and manufacturing establishments. Specifically, manufacturing and food processing employees are due overtime for any work performed after 10 hours in any one day, and manufacturing employees can work no more than three hours of overtime in a day.

Prior to December 2016, the Bureau of Labor and Industries (BOLI) advised employers to calculate overtime wages for hours worked on both a daily and weekly basis, and then pay the greater amount of the two. After a close review of the laws, BOLI now advises employers to pay overtime wages for hours worked over the daily maximum and to pay for hours worked over the weekly maximum.

Bill Summary: House Bill 3458 requires overtime wages for manufacturing and food processing workers to be calculated on both a daily and weekly basis, and then the greater of the two amounts must be paid. The measure caps mandatory overtime for these employees at 55 hours per workweek, but it allows employees to consent to work up to 60 hours per workweek. Employers who process perishable products can claim an undue hardship exemption, permitting their employees to work up to 84 hours per workweek for four weeks, and up to 80 hours per workweek for an additional 17 weeks. The employer must notify BOLI of the undue hardship and the employer must receive written consent from each employee before they are requested to work more than 55 hours per workweek.

The measure exempts seafood processors from the weekly cap on mandatory overtime, but they must pay overtime for hours exceeding ten per day and for hours exceeding 40 per week, which can be double overtime in some circumstances. The measure prohibits manufacturing employees from working within 10 hours of their last eight-hour shift.

House Bill 3458 allows an employee to file a complaint with BOLI or a civil action in court when overtime violations are alleged; BOLI may assess a civil penalty on employers who coerce workers to work beyond the mandatory overtime limits. Changes to the calculation of overtime wages are effective immediately, but the weekly caps and remedies become operative January 1, 2018.

Oregon Laws 2017: Chapter 685