



LABOR AND EMPLOYMENT

2018 SUMMARY OF LEGISLATION: MEASURE SUMMARIES

The *2018 Summary of Legislation – Labor and Employment* summarizes selected measures related to this policy area that were considered by the 79th Oregon Legislative Assembly, including bills, memorials, and resolutions. This publication will become part of a more comprehensive *2018 Summary of Legislation* that includes all topic area summaries and committee membership lists.

This publication begins with a table highlighting measures that establish task forces or create reporting requirements. The summaries of selected measures follow in three groups—bills, memorials, and resolutions—each listed in numerical order.

Each summary provides information on the chief sponsors, committees assigned, background and current law, description of the measure, and date when the measure, if enacted, becomes effective. Each summary also includes a link to the measure on the [Oregon Legislative Information System \(OLIS\)](#), which provides a more comprehensive staff measure summary, all versions of the measure, amendments, public testimony, a complete measure history, and final vote tallies.

The *2018 Summary of Legislation* focuses on policy measures. Information on revenue measures is available on the [Legislative Revenue Office website](#). Information on the state budget and selected legislation that impacts state agencies is available on the [Legislative Fiscal Office website](#).

The Legislative Policy and Research Office will update this publication with each bill's effective date and assigned chapter in Oregon Laws 2018 when that information becomes available.

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LABOR AND EMPLOYMENT TASK FORCES AND REPORTING REQUIREMENTS

The following bills created task forces and reporting requirements. Additional information is provided in the bill summaries.

Bill Number	Requirement	Deadline
SB 1559	Requires the Bureau of Labor and Industries, Oregon Health Authority, Oregon Department of Transportation, Department of Human Services, and Department of Environmental Quality to compile whistleblower data for a written report to the Governor and the legislature.	January 1, odd-numbered years
SB 1565	Requires DAS to make regular progress reports on implementation of procurement tools pilot programs to Governor and Joint Legislative Committee on Information Management and Technology, plus final evaluation and report.	December 31, 2019
SB 1566	Requires Public Employees Retirement System to report to the Oregon Department of Administrative Services and to the Legislative Fiscal Officer an estimate of how moneys in the School Districts Unfunded Liability Fund account will be distributed in the following biennium.	February 1 of odd-numbered years
SB 1566	Requires PERS to report to the Joint Committee on Ways and Means on the status of the Employer Incentive Fund, SDULF, and the Unfunded Accrued Liability Resolution program.	Each regular session until January 2, 2027
SB 1566	Requires the State Treasurer to report to the Legislative Assembly on the feasibility and prudence of borrowing moneys from the Oregon Short Term Fund for investments that allow supplemental deposits to PERS to reduce the Unfunded Actuarial Liability.	September 30, 2019

[Senate Bill 1531](#)

Not Enacted

Mental Health Sessions for Law Enforcement Officers

Chief Sponsors: Sens. Frederick, Manning Jr.; Rep. Piluso

Committees: Senate Judiciary

Background and Current Law: Current law requires police officers involved in the use of deadly physical force to complete at least one session with a mental health professional within six months. Law enforcement agencies are responsible for the cost of up to two sessions. No other mental health-related requirements are imposed on law enforcement officers, except fitness and background examinations that occur in the normal course of seeking certification and employment.

Bill Summary: Senate Bill 1531 would have added a requirement for law enforcement officers to participate in at least one session with a mental health professional every two years, paid for by law enforcement agencies.

[Senate Bill 1534](#)

Effective Date: January 1, 2019

Home Care Worker and Personal Support Worker Training

At the request of: Senate Interim Committee on Workforce

Committees: Senate Workforce, House Business and Labor

Background and Current Law: Home care workers (HCW) provide services for seniors or adults with physical disabilities. Personal support workers (PSW) provide services to individuals with intellectual or developmental disabilities or individuals experiencing mental illness. There are no licensing or training requirements for HCWs or PSWs. The Oregon Home Care Commission offers an orientation program and free training opportunities to HCWs and PSWs, but is not statutorily mandated to do so. Most training materials are available in English only, and the frequency and geographic location of the classes are limited.

Bill Summary: Senate Bill 1534 directs the Department of Human Services (DHS) to collaborate with the Home Care Commission to establish mandatory minimum training standards for home care workers and personal support workers. It requires DHS to provide training that is accessible statewide, is culturally appropriate, is offered in multiple languages, and considers the needs of each worker type. Additionally, the measure directs the agencies to maximize federal funds to pay for training.

Oregon Laws 2018: Chapter 75

[Senate Bill 1546](#)

Effective Date: June 2, 2018

Use of Service Credits as a Judge to Vest in OPSRP

At the request of: Chief Justice Balmer for Judicial Department

Committees: Senate Workforce, House Business and Labor

Background and Current Law: Judges are automatically enrolled in the Public Employees Retirement System (PERS) on the date they assume office. The retirement plan for judges is distinct from other PERS plans such as Tier One, Tier Two, and the Oregon Public Service Retirement Plan (OPSRP). A judge who was previously Tier One or Tier Two may apply service credits as a judge towards the hours of service required to vest in those pension plans. However, judges who were previously enrolled in OPSRP may not apply service credits as a judge towards the hours of service required to vest in OPSRP.

Bill Summary: Senate Bill 1546 allows judges previously enrolled in OPSRP, but not yet vested, to apply service credit as a judge toward the hours of service required to vest in OPSRP.

Oregon Laws 2018: Chapter 41

[Senate Bill 1559](#)

Effective Date: January 1, 2019

Whistleblower Protection Manual

Chief Sponsors: Sen. Winters

Committees: Senate General Government and Accountability, Senate Rules, House Rules

Background and Current Law: “Whistleblowers” are employees, typically public employees, who report questionable conduct or activity by their employer and, in doing so, put themselves at risk of retaliation by the employer. Such retaliation may take the form of discharge, demotion, or other adverse decision with regard to compensation or employment conditions. Congress initially addressed whistleblower rights and protections for federal employees as part of the Civil Service Reform Act of 1978, and has since strengthened those protections over time. Every state has since enacted statutory whistleblower protections for public employees, including Oregon, and a handful of states have extended protections to private employees.

Bill Summary: Senate Bill 1559 requires the Bureau of Labor and Industries (BOLI) to prepare an online manual of uniform whistleblower standards and procedures. The measure also requires that four state agencies pilot a process for two years that allows whistleblowers to report anonymously: Oregon Health Authority, Oregon Department of Transportation, Department of Human Services, and Department of Environmental Quality. BOLI and the identified agencies are also directed to compile data for a written report to the Governor and the legislature by January 1 of each odd-numbered year.

Oregon Laws 2018: Chapter 83

[Senate Bill 1565](#)

Effective Date: June 2, 2018

Statewide eProcurement

At the request of: Governor Brown

Committees: Senate General Government and Accountability, Joint Ways and Means

Background and Current Law: According to the Department of Administrative Services, procurement accounts for nearly 10 percent of Oregon’s all funds budget and represents \$8 billion in biennial spending. The state has unified procurement rules but lacks a standardized processing and tracking system, so steps vary by agency, are manual, and can be labor intensive. At the same time, the available data is limited, impairing the state’s ability to evaluate, analyze, manage, and leverage spending. Oregon has been moving toward an electronic procurement system since 2014, and 10 state agencies are currently poised to make the transition.

Bill Summary: Senate Bill 1565 directs the development of electronic procurement system rules and requires use by state agencies. Use is permissive for other contracting entities. The measure also pilots two procurement tools for evaluation for one year: a “reverse auction method,” and a requirement to weight contract prices at 30 percent or more of the total weight given to all factors in an agency’s final evaluation of proposals.

Oregon Laws 2018: Chapter 85

Public Employees Retirement System Funding

At the request of: Governor Brown

Committees: Senate Workforce, Joint Ways and Means

Background and Current Law: The retirement benefits paid to members of the Public Employees Retirement System (PERS) are funded by a combination of participating employer contributions and earnings on invested funds. The PERS Board adjusts contribution rates every two years so that, over time, those contributions will be sufficient to fund the projected benefits earned. However, when revenues are insufficient to pay for benefits already accrued, that shortfall is called the Unfunded Actuarial Liability (UAL). At the end of 2016, the UAL was \$19.9 billion. Some employers make a voluntary lump sum payment into a separate side account, attributable solely to that employer making the payment, to prepay for all or part of their projected costs of pension benefits. Not including the \$5.4 billion in employer side accounts at the end of 2016, the PERS liability was estimated to be 75 percent funded at that time (79 percent funded with side accounts).

In 2017, Governor Kate Brown appointed a task force to identify additional funding to reduce the PERS UAL by up to \$5 billion over the next five years. The task force report outlined a series of options and considerations for the Governor's review. Following review, the Governor proposed Senate Bill 1566.

Bill Summary: Senate Bill 1566 relates to employer contribution rates to PERS. It addresses the PERS UAL by establishing the Employer Incentive Fund (EIF), the School Districts Unfunded Liability Fund (SDULF), and the Unfunded Accrued Liability Resolution (UALR) Program.

Senate Bill 1566 appropriates moneys in the EIF to the Public Employees Retirement Board (PERB) to incentivize public employers to make lump sum prepayments of employer contributions. The EIF is capitalized by Senate Bill 1529 (2018) with one-time funding from a portion of corporate tax revenue received by the Department of Revenue, estimated to be \$25 million.

Senate Bill 1566 appropriates moneys in the SDULF to the PERB to apply against the liabilities of public employers that are school districts. The SDULF is capitalized by Senate Bill 1529 (2018) with one-time funding from a portion of corporate tax revenue received by the Department of Revenue, estimated to be \$115 million, and by additional revenue that may become available from excess proceeds from debt collection, capital gains taxes, estate taxes, and interest on unclaimed property.

Senate Bill 1566 creates the UALR Program to assist employers in the development of plans to improve their funded status and to manage changes in employer contribution rates.

Senate Bill 1566 directs the State Treasurer to report to the Legislative Assembly by September 30, 2019, on the feasibility and prudence of borrowing moneys from the Oregon Short Term Fund for investments that allow supplemental deposits to PERS to reduce the UAL. Lastly, the measure provides for an expedited review process by the Oregon Supreme Court to determine whether any provision is unconstitutional.

Oregon Laws 2018: Chapter 105

[House Bill 4012](#)

Effective Date: June 2, 2018

Employment of PERS Retirees as CTE Teachers

At the request of: House Interim Committee on Education

Committees: House Business and Labor, Senate Workforce

Background and Current Law: If a retiree receiving Public Employees Retirement System (PERS) benefits wishes to return to work, their benefit could be affected based on the plan they retired under, who their employer is, and how many hours they work: Tier One and Tier Two retirees may work for a PERS-participating employer up to 1,040 hours in a calendar year without a loss of benefits. To address a labor shortage, the Legislative Assembly passed House Bill 3058 in 2015, to allow Tier One and Tier Two retirees to work an unlimited number of hours as career and technical education teachers (CTE) without any loss of retirement benefits. The exemption expires June 30, 2018.

Bill Summary: House Bill 4012 extends the sunset to June 30, 2023, allowing Tier One and Tier Two PERS retirees to work as CTE teachers without a loss of retirement benefits.

Oregon Laws 2018: Chapter 48

[House Bill 4046](#)

Effective Date: April 3, 2018

PERS and Outside Compensation to Higher Education Employees

Chief Sponsors: Reps. Whisnant, Reardon, Gomberg, Buehler; Sens. Hansell, Roblan

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Oregon law allows public university and community college employees to earn income from other private or public sources, including compensation from consulting, appearances, speeches, and intellectual property. State law specifies when compensation is considered official compensation in accordance with state ethics laws.

Bill Summary: House Bill 4046 provides that outside compensation received by an employee of a public university, Oregon Health and Science University, or a community college is not included in the employee's salary for purposes of the Public Employees Retirement System (PERS) unless it is paid to the employee by the employing institution. The measure applies to compensation paid on or after the bill's effective date.

Oregon Laws 2018: Chapter 54

[House Bill 4093-A](#)

Not Enacted

Amateur Athletes

At the request of: House Interim Committee on Judiciary

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Current Oregon statute provides an exemption from workers' compensation insurance requirements for individuals who have been declared amateur athletes under the rules of the U.S. or Canadian Olympic Committees, provided they receive no remuneration other than room, board, rent, housing, lodging, or other reasonable incidental subsistence allowance. No other class of amateur athletes is exempt under Oregon law. Class action lawsuits commenced in Alberta and Ontario, Canada, allege that players in the Canadian Hockey League, including those who play for the Portland Winterhawks, are employees and subject to employment laws.

Bill Summary: House Bill 4093-A would have exempted amateur athletes from workers' compensation insurance coverage, unemployment insurance, minimum wage, and other employment-related provisions when actively training or conditioning for or participating in amateur sports activities, events, or competitions. It would have required each amateur sports organization to annually report to the Department of Consumer and Business Services the contact information for the regional, national, and international authority that has certified the organization as an amateur sports organization, as well as a roster listing each team, league, club, and association that is affiliated with the organization and that participates in amateur sports activities in Oregon.

[House Bill 4113](#)

Not Enacted

Collective Bargaining on Class Size

Chief Sponsors: Reps. Clem, Doherty

Committees: House Business and Labor, Senate Education

Background and Current Law: Under the Public Employee Collective Bargaining Act, both the public employer and the labor organization are required to collectively bargain in good faith with respect to "employment relations," which are defined as including matters such as direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures, and other conditions of employment. Subjects included within "employment relations" are also called mandatory subjects of bargaining, meaning that the bargaining representative and the employer must negotiate on those subjects. Other subjects may be bargained if there is mutual agreement to discuss these permissive subjects of bargaining.

Since passage of Senate Bill 750 (1995), class size has been a permissive subject of bargaining. From 1989 until Senate Bill 750 went into effect, class size was a mandatory subject of bargaining. Prior to 1989, class size was a permissive subject of bargaining.

Bill Summary: House Bill 4113 would have included class size as a mandatory subject of school district collective bargaining.

[House Bill 4154-B](#)

Not Enacted

Contractor’s Liability for Wages Not Paid by Subcontractor

Chief Sponsors: Rep. Fahey

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

Background and Current Law: In 2017, the Bureau of Labor and Industries received approximately 1,200 employee wage claims, of which a disproportionately large share involved the construction industry. Contractors licensed by the Construction Contractors Board must maintain a bond which can be accessed by employees with a claim of unpaid wages. In addition, a construction contract with a government agency must require the contractor to maintain a payment bond, and a contract subject to prevailing wage rate laws requires the contractor and subcontractors to also maintain a \$30,000 bond.

Bill Summary: House Bill 4154-B would have required general contractors to cover unpaid wages, benefit payments, and other contributions due to employees of subcontractors if the general contractor had not paid the subcontractor in full and there was a valid wage claim. The measure would have required contractors to pay the Bureau of Labor and Industries the amount due to the subcontractor’s employees under a final order; the general contractor would then withhold payment to the subcontractor.

[House Bill 4159](#)

Effective Date: April 13, 2018

PERS Individual Account Program

At the request of: Rep. Williamson

Committees: House Business and Labor, Joint Ways and Means

Background and Current Law: The Public Employees Retirement System (PERS) provides each member with an individual account program (IAP) benefit as well as a traditional pension benefit. Six percent of a member’s salary is placed in their IAP; some employees make the contribution while others have their employer pick up the contribution. Until 2018, all moneys in the IAP were pooled and invested in the Oregon Public Employees Retirement Fund. The Oregon Investment Council decided in 2017 to reduce the risk exposure of members as they aged by investing each member’s IAP in a target-date fund based on the member’s year of birth. The investment changes began January 1, 2018.

Bill Summary: House Bill 4159 directs the Public Employees Retirement Board to adopt rules that allow members to choose how their IAP is invested among available options. A member may make an investment change once per calendar year, and the change becomes effective at the start of the next calendar year.

Oregon Laws 2018: Chapter 118