

# 2021 LEGISLATIVE SUMMARY REPORT

## LABOR & EMPLOYMENT



This Legislative Summary Report highlights Labor and Employment policy measures that received a public hearing during the 2021 Regular Legislative Session. The report is organized by sub-topics and includes the measure number; the measure status: enacted [ ✓ ] or not enacted [ ✗ ]; and a brief description of the measure.

### Labor and Employment policy sub-topics:

- Collective Bargaining
- Unemployment Insurance, Workers' Compensation, and Leave Laws
- Wages, Hours, Benefits, and Employment Agreements
- Working Conditions and Workplace Safety
- Workforce Development
- Other Legislation

### Collective Bargaining

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| SB 580  | ✓ | Makes class size and caseload limits in Title I schools mandatory subjects of collective bargaining.  |
| SB 670  | ✗ | Would have required TriMet to bargain on matters concerning the mass transit district's apprenticeship or training program.   |
| SB 759  | ✓ | Establishes that the presiding officers of each house of the Legislative Assembly represent the legislative department in collective bargaining negotiations with represented legislative branch employees. |
| HB 2061 | ✗ | Would have removed authority of public employer and labor organization to enter into a fair-share agreement requiring non-union members to make payment to the labor organization in lieu of dues.          |
| HB 3029 | ✗ | Would have directed the Employment Relations Board to develop guidelines and procedures for the use of electronic records and electronic signatures in the card check certification process.                |

### Unemployment Insurance, Workers' Compensation, and Leave Laws

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| SB 172 | ✓ | Allows Oregon Employment Department to recover only part of unemployment insurance overpayments against future weekly benefits and to waive liability when recovery is against equity and good conscience. |
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## Unemployment Insurance, Workers' Compensation, and Leave Laws, cont'd

- SB 489 ✗ Would have removed 14-day limit on retroactive authorization of time loss benefits and required written notice before suspension of payments. Would have limited recovery of overpayments.
- SB 495 ✓ Clarifies that performing services in an instructional capacity does not include work performed as an instructional assistant for purposes of unemployment insurance eligibility.
- SB 496 ✓ Makes certain school workers eligible for unemployment insurance benefits for weeks of unemployment beginning during two successive academic years or terms.
- SB 588 ✓ Removes exemption from Oregon's sick leave laws for employees, other than longshore workers, covered under a collective bargaining agreement and who are employed through a third party, and whose benefits are provided by a joint multiemployer-employee trust or benefit plan.
- SB 801 ✗ Would have established a task force to examine the workers' compensation claims process and identify disparities and any efforts to dissuade injured workers from filing claims.
- SB 802 ✗ Would have established presumption in favor of compensability for essential worker claims that likely resulted from previous COVID-19 infection.
- HB 2039 ✓ Updates workers' compensation statutes regarding record storage, coverage when licensed landscape contractor is hired, and redundant penalty provisions.
- HB 2040 ✓ Authorizes Department of Consumer and Business Services to determine by rule what types of claims information, such as accepted nondisabling claims, must be reported and the method for reporting.
- HB 2231 ✓ Exempts time spent in voluntary service overseas and domestic voluntary service responding to a declared emergency or disaster from the five-year limit on reemployment rights.
- HB 2474 ✓ Modifies provisions of Oregon Family Leave Act during public health emergency. Establishes eligibility after reemployment.
- HB 2609 ✗ Would have provided that individual who was overpaid unemployment insurance benefits through no fault of their own is liable to repay the benefits in addition to being liable to having the amount deducted from future benefits.
- HB 2915 ✓ Extends to Portland firefighters the presumption that death, disability, or impairment caused by heart or lung disease is a compensable occupational disease for purposes of workers' compensation benefits.

## Unemployment Insurance, Workers' Compensation, and Leave Laws, cont'd

- HB 3043 ✓ Authorizes the Department of Revenue to share tax return data with the Oregon Employment Department (OED) until December 31, 2022, or 90 days following the expiration of any federal program like the Pandemic Unemployment Act administered by OED, or until the Governor revokes the authority, whichever occurs first.
- HB 3178 ✓ Temporarily removes condition for being deemed "unemployed" that individual's weekly remuneration for part-time work must be less than individual's weekly unemployment insurance benefit amount.
- HB 3188 ✓ Modifies the definition of a worker, for purposes of workers' compensation insurance laws, to include all persons who are paid for their services other than independent contractors and those statutorily exempted. Increases the threshold for determining when employment is casual and thus not subject to workers' compensation laws from \$500 to \$1,000 and annually adjusts the threshold by the same percentage as the average weekly wage.
- HB 3206 ✓ Allows amounts in the Employment Department Special Fraud Control Fund to pay costs associated with the Lost Wages Assistance Program, which includes reimbursing FEMA for overpayments, and for administrative costs associated with other benefit programs.
- HB 3389 ✓ Modifies requirements regarding the calculation and payment of unemployment insurance taxes to provide employers immediate and longer-term relief and makes adjustments to the long-term solvency and stability of the Unemployment Compensation Trust Fund.
- HB 3398 ✓ Delays implementation requirements for paid family and medical leave program.

## Wages, Hours, Benefits, and Employment Agreements

- SB 13 ✗ Would have voided noncompetition agreements that are not limited to protection of trade secrets, proprietary information, or customers or clients.
- SB 169 ✓ Establishes that nonconforming noncompetition agreements are void rather than voidable, reduces maximum term from 18 to 12 months, and requires agreements to be in writing.
- SB 716 ✓ Amends Oregon's predictive scheduling laws to explicitly include child care needs under the work schedule limitations or changes that an employee may request of a large retail, food service, or hospitality employer.

## Wages, Hours, Benefits, and Employment Agreements, cont'd

- HB 2358 A ✗ Would have required employers to pay agricultural workers overtime wages for hours worked in excess of 55 hours in a workweek in 2022, 48 hours in 2023, and 40 hours in 2024 and thereafter. Would have appropriated \$100 million from the General Fund to help offset impact to employers.
- HB 2818 ✓ Directs Commissioner of the Bureau of Labor and Industries to access the Wage Security Fund to pay up to \$10,000 of the wages due to a claimant when the Commissioner obtains a judgment or issues a final order. Clarifies that employer-paid vaccine incentives and retention bonuses paid until March 1, 2022, are not compensation for the purposes of Oregon's pay equity laws.

## Working Conditions and Workplace Safety

- SB 483 ✓ Creates a rebuttable presumption that prohibited retaliation or discrimination has occurred if an employer bars or discharges an employee or prospective employee from employment or otherwise discriminates against that person within 60 days of an employee or prospective employee engaging in protected activities regarding workplace safety.
- HB 2420 ✓ Extends from 90 days to one year the timeline to file a complaint with the Bureau of Labor and Industries alleging retaliation or discrimination for reporting an unlawful practice or exercising rights relating to safety and health in the workplace.
- HB 2813 ✗ Would have required employers to provide respirators to employees to voluntarily wear while working outdoors when air quality index reached specified level during wildfires. Would have required employees to wear employer-provided respirators when air quality index exceeded specified level.

## Workforce Development

- SB 77 ✓ Replaces the Oregon Volunteers Commission for Voluntary Action and Service with the OregonServes Commission and makes changes to its membership and responsibilities; repeals the Oregon Volunteer and Community Service Act and guidelines for volunteer screening and replaces references to citizen involvement and the Corporation for National and Community Service; modifies the Higher Education Coordinating Commission's responsibilities and requires community colleges that award certificates or degrees in emergency medical services to comply with accreditation requirements.
- SB 623 ✓ Establishes the Committee for Continuous Improvement to coordinate efforts between the State Workforce and Talent Development Board, state agencies involved in workforce development, and local workforce development boards to

## Workforce Development, cont'd

respond to the COVID-19 pandemic and establish an ongoing evaluation framework for the state's public workforce development system.

- HB 2026 ✓ Requires public employers to give preference to Malheur County residents for civil service jobs located in Eastern Oregon Border Economic Development Region.
- HB 2092 ✓ Modifies responsibilities and requirements of Oregon Youth Employment Program, appropriates moneys from the General Fund to the Higher Education Coordinating Commission for grants for the program, allows the program to access federal funds for operations, and consolidates the Oregon Youth Corps and the Oregon Community Stewardship Corps into the Oregon Youth Employment Program.
- HB 2373 ✗ Would have appropriated from the General Fund an undetermined amount to the Bureau of Labor and Industries for the purpose of establishing a firefighter apprenticeship program.
- HB 2820 ✗ Would have established the Prosperity 1,000 Pilot Program to provide career coaching, occupational training, and job placement services for low-income job seekers in areas of concentrated poverty.

## Other Legislation

- HB 2938 ✗ Would have established the Task Force on Age Discrimination to conduct a review of the impacts of age discrimination in the workplace and report its findings and recommendations to the Legislative Assembly.