

A-Engrossed Senate Bill 197

Ordered by the Senate February 23
Including Senate Amendments dated February 23

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Employment Department)

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.

Specifies confidential information that Employment Department is required or allowed to disclose. Describes purposes for which disclosed information may be used. Requires, in some cases, recipient of information to pay costs of disclosing information.

A BILL FOR AN ACT

1
2 Relating to confidentiality of information in Employment Department records; amending ORS
3 657.665; and repealing ORS 657.670.

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

5 **SECTION 1.** ORS 657.665 is amended to read:

6 657.665. (1) [*Information secured from employing units, employees or other individuals pursuant to*
7 *this chapter:*] **Except as provided in subsections (2) to (4) of this section, all information in the**
8 **records of the Employment Department pertaining to the administration of the unemploy-**
9 **ment insurance, employment service and labor market information programs:**

10 (a) [*Shall be*] **Is** confidential and for the exclusive use and information of the Director of the
11 Employment Department [*in the discharge of duties and shall not be open to the public (other than to*
12 *public employees in the performance of their public duties under state or federal laws for the payment*
13 *of unemployment insurance benefits and to public employees in the performance of their public duties*
14 *under the recognized compensation and retirement, relief or welfare laws of this state), except to the*
15 *extent necessary for the presentation of a claim and except as required by the regulations of the United*
16 *States Secretary of Health and Human Services pursuant to section 3304(a) of the Federal Unemploy-*
17 *ment Tax Act, as amended, and except as required by section 303 of the Social Security Act, as*
18 *amended.*] **in administering the unemployment insurance, employment service and labor**
19 **market information programs in Oregon.**

20 (b) [*Shall*] **May** not be used in any court [*in any*] action or **in any** proceeding pending [*therein*]
21 **in the court** unless the director or the state is a party to [*such action or proceedings or the pro-*
22 *ceedings concern*] **the action or proceeding or unless the proceeding concerns** the establishment,
23 enforcement or modification of a support obligation and support services are being provided by the
24 Division of Child Support or the district attorney pursuant to ORS 25.080.

25 (c) **Is exempt from disclosure under ORS 192.410 to 192.505.**

26 (2) **The Employment Department shall disclose information:**

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 [(2)] (a) [*However,*] **To** any claimant or legal representative, at a hearing before an administra-
2 tive law judge, [*shall be supplied with information from such records*] to the extent necessary for the
3 proper presentation of [a] **an unemployment insurance** claim.

4 **(b) Upon request to the United States Secretary of Labor. The Employment Department**
5 **shall disclose the information in a form and containing the information that the United**
6 **States Secretary of Labor may require. The information disclosed is confidential and may**
7 **not be used for any other purpose.**

8 **(c) Pursuant to section 303(a)(7) of the Social Security Act, upon request to any agency**
9 **of the United States charged with the administration of public works or assistance through**
10 **public employment. Under this paragraph, the Employment Department shall disclose the**
11 **name, address, ordinary occupation and employment status of each recipient of unemploy-**
12 **ment insurance benefits and a statement of the recipient's right to further benefits under**
13 **this chapter. The information disclosed is confidential and may not be used for any other**
14 **purpose.**

15 **(d) Pursuant to section 303(c)(1) of the Social Security Act, to the Railroad Retirement**
16 **Board. Under this paragraph, the Employment Department shall disclose unemployment in-**
17 **surance records. The information disclosed is confidential and may not be used for any other**
18 **purpose. The costs of disclosing information under this paragraph shall be paid by the board.**

19 **(e) Pursuant to section 303(d) of the Social Security Act, upon request to officers and**
20 **employees of the United States Department of Agriculture and to officers or employees of**
21 **any state food stamp agency for the purpose of determining an individual's eligibility for or**
22 **the amount of food stamps. The information disclosed is confidential and may not be used**
23 **for any other purpose. The costs of disclosing information under this paragraph shall be paid**
24 **by the United States Department of Agriculture.**

25 **(f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act, to state or local**
26 **child support enforcement agencies enforcing child support obligations under Title IV-D of**
27 **the Social Security Act for the purposes of establishing child support obligations, locating**
28 **individuals owing child support obligations and collecting child support obligations from those**
29 **individuals. The information disclosed is confidential and may not be used for any other**
30 **purpose. The costs of disclosing information under this paragraph shall be paid by the child**
31 **support enforcement agency.**

32 **(g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to agencies partic-**
33 **ipating in the income and eligibility verification system for the purpose of verifying an indi-**
34 **vidual's eligibility for benefits, or the amount of benefits, under unemployment insurance,**
35 **Temporary Assistance for Needy Families, Medicaid, food stamps, Supplemental Security**
36 **Income, child support enforcement or Social Security programs. The information disclosed**
37 **is confidential and may not be used for any other purpose. The costs of disclosing informa-**
38 **tion under this paragraph shall be paid by the requesting agency.**

39 **(h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the**
40 **Federal Unemployment Tax Act, to the United States Department of Health and Human**
41 **Services National Directory of New Hires. The information disclosed is confidential and may**
42 **not be used for any other purpose. The costs of disclosing information under this paragraph**
43 **shall be paid by the United States Department of Health and Human Services.**

44 **(i) Pursuant to section 303(i) of the Social Security Act, to officers and employees of the**
45 **United States Department of Housing and Urban Development and to representatives of a**

1 public housing agency for the purpose of determining an individual's eligibility for benefits,
 2 or the amount of benefits, under a housing assistance program of the United States De-
 3 partment of Housing and Urban Development. The information disclosed is confidential and
 4 may not be used for any other purpose. The costs of disclosing information under this par-
 5 agraph shall be paid by the United States Department of Housing and Urban Development
 6 or the public housing agency.

7 (j) Pursuant to regulations of the United States Secretary of Health and Human Services
 8 issued under section 3304(a)(16)(A) of the Federal Unemployment Tax Act, and except as re-
 9 quired by section 303 of the Social Security Act, to the state, a political subdivision or a
 10 federally recognized Indian tribe that has signed an agreement with the Department of Hu-
 11 man Services to administer Part A of Title IV of the Social Security Act for the purpose of
 12 determining an individual's eligibility for assistance, or the amount of assistance, under a
 13 program funded under Part A of Title IV of the Social Security Act. The information dis-
 14 closed is confidential and may not be used for any other purpose.

15 (k) Upon request, to the United States Attorney's Office. Under this paragraph, the
 16 Employment Department may disclose an individual's employment and wage information in
 17 response to a federal grand jury subpoena or for the purpose of collecting civil and criminal
 18 judgments, including restitution and special assessment fees. The information disclosed is
 19 confidential and may not be used for any other purpose. The costs of disclosing information
 20 under this paragraph shall be paid by the United States Attorney's Office.

21 *[(3) Notwithstanding subsection (1) of this section, information secured from employing units pur-*
 22 *suant to this chapter may be released:]*

23 **(3) The Employment Department may disclose information secured from employing units:**

24 (a) To agencies of this state, federal agencies and local government agencies to the extent nec-
 25 essary to properly carry out governmental planning, performance measurement, program analysis,
 26 socioeconomic analysis and policy analysis functions performed under applicable law. **The informa-**
 27 **tion [provided such agencies shall be] disclosed is confidential and [shall not be released by such]**
 28 **may not be disclosed by the agencies in any manner that would [be identifiable as to] identify in-**
 29 **dividuals, claimants, employees or employing units. [Costs of furnishing information pursuant to this**
 30 **subsection not prepared for the use of the Employment Department shall be borne by the parties re-**
 31 **questing the information; and] If the information disclosed under this paragraph is not prepared**
 32 **for the use of the Employment Department, the costs of disclosing the information shall be**
 33 **paid by the agency requesting the information.**

34 (b) As part of a geographic information system. Points on a map may be used to repre-
 35 sent economic data, including the location, employment size class and industrial classifica-
 36 tion of businesses in Oregon. Information presented as part of a geographic information
 37 system may not give specific details regarding a business's address, actual employment or
 38 proprietary information. If the information disclosed under this paragraph is not prepared
 39 for the use of the Employment Department, the costs of disclosing the information shall be
 40 paid by the party requesting the information.

41 *[(b)] (c) In accordance with ORS 657.673.*

42 **(4) The Employment Department may:**

43 (a) Disclose information to public employees in the performance of their duties under
 44 state or federal laws relating to the payment of unemployment insurance benefits, the pro-
 45 vision of employment services and the provision of labor market information.

1 **(b) At the discretion of the Director of the Employment Department and subject to an**
 2 **interagency agreement, disclose information to public officials in the performance of their**
 3 **official duties administering or enforcing laws within their authority and to the agents or**
 4 **contractors of public officials. The public official shall agree to assume responsibility for**
 5 **misuse of the information by the official's agent or contractor.**

6 **(c) Disclose information pursuant to an informed consent, received from an employer or**
 7 **claimant, to disclose the information.**

8 **(d) Disclose information to partners under the federal Workforce Investment Act of 1998**
 9 **for the purpose of administering state workforce programs under the Act. The information**
 10 **disclosed is confidential and may not be used for any other purpose. The costs of disclosing**
 11 **information under this paragraph shall be paid by the requesting partner.**

12 [(4)] **(e) [Nothing in this section shall prevent the Employment Department from providing] Dis-**
 13 **close the names and addresses of employing units to the Bureau of Labor and Industries for the**
 14 **purpose of disseminating information to employing units. The names and addresses [provided shall**
 15 **be] disclosed are confidential and [shall] may not be used for any other [purposes] purpose. [Costs**
 16 **of furnishing information pursuant to this subsection not prepared for the use of the Employment De-**
 17 **partment shall be borne by the bureau.] If the information disclosed under this paragraph is not**
 18 **prepared for the use of the Employment Department, the costs of disclosing the information**
 19 **shall be paid by the bureau.**

20 [(5)] **(f) [Nothing in this section shall prevent the Employment Department from providing] Dis-**
 21 **close information to the Commissioner of the Bureau of Labor and Industries[,] for the purpose of**
 22 **performing duties under ORS 279C.800 to 279C.870, [the names, addresses and industrial codes of**
 23 **employer units, the number of employees each unit employs during a given time period and the firm**
 24 **number assigned to employer units by the Employment Department. Information so provided shall be**
 25 **confidential and shall not be released by the commissioner in any manner that would identify such**
 26 **employing units except to the extent necessary to carry out the purposes of this subsection and as pro-**
 27 **vided in subsection (1)(b) of this section. Costs of furnishing information pursuant to this subsection**
 28 **not prepared for the use of the Employment Department shall be borne by the bureau.] 658.005 to**
 29 **658.245 or 658.405 to 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may**
 30 **include the names and addresses of employers and employees and payroll data of employers**
 31 **and employees. The information disclosed is confidential and may not be used for any other**
 32 **purpose. If the information disclosed under this paragraph is not prepared for the use of the**
 33 **Employment Department, the costs of disclosing the information shall be paid by the bureau.**

34 [(6)] **(g) [Nothing in this section shall prevent the Employment Department from providing] Dis-**
 35 **close information required under ORS 657.660 (3) and (4) to the Public Employees Retirement System**
 36 **for the purpose of determining the eligibility of members of the retirement system for disability re-**
 37 **irement allowances under ORS chapter 238. The information [provided shall be] disclosed is confi-**
 38 **dential and [shall] may not be used for any other [purposes] purpose. [Costs of furnishing**
 39 **information pursuant to this subsection shall be borne] The costs of disclosing information under**
 40 **this paragraph shall be paid by the Public Employees Retirement System.**

41 [(7)] **(h) [Nothing in this section shall prevent the Employment Department from providing] Dis-**
 42 **close to the Oregon Economic and Community Development Commission information required by the**
 43 **commission in performing its duty under ORS 285A.050 to verify changes in employment levels fol-**
 44 **lowing direct employer participation in Economic and Community Development Department pro-**
 45 **grams or indirect participation through municipalities under ORS 285B.410 to 285B.482 and regional**

1 boards and partnerships under ORS 285B.230 to 285B.269. **The** information [*provided*] **disclosed** to
 2 the commission may include an employer's employment level, total subject wages payroll and whole
 3 hours worked. The information **disclosed is confidential and** may not be used for any other purpose
 4 [*and must be held confidential*]. The commission may not [*release*] **disclose** the information in any
 5 manner that would identify [*the*] **an** employing unit or [*any*] employee except to the extent necessary
 6 to carry out [*its duties*] **the commission's duty** under ORS 285A.050. [*Costs of furnishing informa-*
 7 *tion under this subsection that is not prepared for the use of the Employment Department shall be borne*
 8 *by the commission.*] **If the information disclosed under this paragraph is not prepared for the**
 9 **use of the Employment Department, the costs of disclosing the information shall be paid by**
 10 **the commission.**

11 [(8) Any officer or employee of the Director of the Employment Department, who, except with au-
 12 thority of the director or pursuant to regulations, or as otherwise required by law, shall disclose con-
 13 fidential information under this section, thereafter may be disqualified from holding any appointment
 14 or employment by the director.]

15 [(9) (i) [*Nothing in this section shall prevent the Employment Department from providing*] **Dis-**
 16 **close** information to the Department of Revenue for the purpose of performing its duties under ORS
 17 293.250[,] or **under** the revenue and tax laws of this state. **The** information [*provided*] **disclosed** may
 18 include **the** names and addresses of employers and employees and payroll data of employers and
 19 employees. **The** information [*so provided shall be*] **disclosed is** confidential and [*shall not be released*
 20 *by the Director of*] **may not be disclosed by** the Department of Revenue in any manner that would
 21 identify [*such*] **an** employing unit or employee except to the extent necessary to carry out [*its*] **the**
 22 **department's** duties under ORS 293.250 or in auditing or reviewing any report or return required
 23 or permitted to be filed under the revenue and tax laws administered by the department. [*However,*
 24 *the Director of*] The Department of Revenue [*shall*] **may** not disclose any information received to any
 25 private collection agency or for any other purpose. [*Costs of furnishing information pursuant to this*
 26 *subsection not prepared for the use of the Employment Department shall be borne by the Department*
 27 *of Revenue.*] **If the information disclosed under this paragraph is not prepared for the use of**
 28 **the Employment Department, the costs of disclosing the information shall be paid by the**
 29 **Department of Revenue.**

30 [(10) (j) [*Nothing in this section shall prevent the Employment Department from providing*] **Dis-**
 31 **close** information to the Department of Consumer and Business Services for the purpose of per-
 32 forming its duties under ORS chapters 654 and 656. **The** information [*provided*] **disclosed** may
 33 include [*but is not limited to*] the name, address, number of employees and industrial classification
 34 code of an employer and payroll data of employers and employees. **The** information [*provided shall*
 35 *be*] **disclosed is** confidential and may not be [*released*] **disclosed** by the Department of Consumer
 36 and Business Services in any manner that would identify an employing unit or employee except to
 37 the extent necessary to carry out the department's duties under ORS chapters 654 and 656, including
 38 administrative hearings and court proceedings in which the Department of Consumer and Business
 39 Services is a party. [*Costs of furnishing information pursuant to this subsection that is not prepared*
 40 *for the use of the Employment Department shall be borne by the Department of Consumer and Business*
 41 *Services.*] **If the information disclosed under this paragraph is not prepared for the use of the**
 42 **Employment Department, the costs of disclosing the information shall be paid by the De-**
 43 **partment of Consumer and Business Services.**

44 [(11) (k) [*Nothing in this section shall prevent the Employment Department from providing*] **Dis-**
 45 **close** information to the Construction Contractors Board for the purpose of performing its duties

1 under ORS chapter 701. **The information [provided] disclosed** to the board may include **the** names
 2 and addresses of employers and status of their compliance with this chapter. **If the information**
 3 **disclosed under this paragraph is not prepared for the use of the Employment Department,**
 4 **the costs of disclosing the information shall be paid by the board.**

5 [(12)] **(L)** *[Nothing in this section shall prevent the Employment Department from providing]* **Dis-**
 6 **close** information to the State Fire Marshal to assist the State Fire Marshal in carrying out
 7 duties[, *functions and powers*] under ORS 453.307 to 453.414. **The information [so provided shall be**
 8 *the employer or agent]* **disclosed may include the** name, address, telephone number and [*standard*]
 9 industrial classification **code of an employer.** *[Information so provided shall be confidential and*
 10 *shall not be released]* **The information disclosed is confidential and may not be disclosed** by the
 11 State Fire Marshal in any manner that would identify [*such employing units*] **an employing unit**
 12 except to the extent necessary to carry out duties under ORS 453.307 to 453.414. *[Costs of furnishing*
 13 *information pursuant to this subsection not prepared for the use of the Employment Department shall*
 14 *be borne by the office of the State Fire Marshal.]* **If the information disclosed under this para-**
 15 **graph is not prepared for the use of the Employment Department, the costs of disclosing the**
 16 **information shall be paid by the office of the State Fire Marshal.**

17 [(13)] **(m)** *[Nothing in this section shall prevent the Employment Department from providing]* **Dis-**
 18 **close** information to the Oregon Student Assistance Commission for the [*purposes*] **purpose** of per-
 19 forming the commission's duties under ORS chapter 348 and Title IV of the Higher Education Act
 20 of 1965[, *as amended*]. **The information [provided] disclosed** may include **the** names and addresses
 21 of employers and employees and payroll data of employers and employees. *[Information so provided*
 22 *shall be confidential and shall not be released]* **The information disclosed is confidential and may**
 23 **not be disclosed** by the [*Oregon Student Assistance*] commission in any manner that would identify
 24 [*such*] **an employing unit or employee** except to the extent necessary to carry out **the commission's**
 25 duties under ORS chapter 348 or Title IV of the Higher Education Act of 1965[, *as amended. Costs*
 26 *of furnishing information pursuant to this subsection not prepared for the use of the Employment De-*
 27 *partment shall be borne by the Oregon Student Assistance Commission.]* **If the information disclosed**
 28 **under this paragraph is not prepared for the use of the Employment Department, the costs**
 29 **of disclosing the information shall be paid by the commission.**

30 [(14)] *Any person or officer or employee of an entity to whom information is disclosed or given by*
 31 *the Employment Department pursuant to this section, who divulges or uses such information for any*
 32 *purpose other than that specified in the provision of law or agreement authorizing the use or disclosure,*
 33 *may be disqualified from holding any appointment or employment, or performing any service under*
 34 *contract, with the state agency employing that person or officer.]*

35 [(15)] *Notwithstanding subsection (1) of this section, the industrial classification code assigned to*
 36 *an employing unit may be released to state agencies, federal agencies and local government agencies*
 37 *to the extent necessary to carry out governmental functions performed under applicable law. Except as*
 38 *provided in ORS 190.270, information provided to such agencies is confidential and may not be re-*
 39 *leased by the agencies in any manner that would allow identification of an employing unit. Costs of*
 40 *furnishing information that is not prepared for the use of the Employment Department shall be paid*
 41 *by the party requesting the information under this subsection.]*

42 **(n) Disclose to any person establishment level information secured pursuant to this**
 43 **chapter from federal, state and local government employing units. If the information dis-**
 44 **closed under this paragraph is not prepared for the use of the Employment Department, the**
 45 **costs of disclosing the information shall be paid by the party requesting the information.**

1 **(o) Disclose to any person the industrial classification code assigned to an employing**
2 **unit. If the information disclosed under this paragraph is not prepared for the use of the**
3 **Employment Department, the costs of disclosing the information shall be paid by the party**
4 **requesting the information.**

5 **(5) Any officer appointed by or any employee of the Director of the Employment De-**
6 **partment who discloses confidential information, except with the authority of the director,**
7 **pursuant to rules or as otherwise required by law, may be disqualified from holding any ap-**
8 **pointment or employment with the Employment Department.**

9 **(6) Any person or any officer or employee of an entity to whom information is disclosed**
10 **by the Employment Department under this section who divulges or uses the information for**
11 **any purpose other than that specified in the provision of law or agreement authorizing the**
12 **use or disclosure may be disqualified from performing any service under contract or dis-**
13 **qualified from holding any appointment or employment with the state agency that engaged**
14 **or employed that person, officer or employee. The Employment Department may immediately**
15 **cancel or modify any information sharing agreement with an entity when a person or an of-**
16 **ficer or employee of that entity discloses confidential information, other than as specified in**
17 **law or agreement.**

18 **SECTION 2.** **ORS 657.670 is repealed.**

19