

# Senate Bill 461

Sponsored by COMMITTEE ON COMMERCE AND WORKFORCE DEVELOPMENT

## 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 **as introduced**.

Allows eligible workers to receive unemployment insurance benefits while participating in workforce skills enhancement training and on-the-job training.

Adjusts calculations of weekly unemployment benefits.

## A BILL FOR AN ACT

1  
2 Relating to unemployment insurance; creating new provisions; amending ORS 657.010, 657.067 and  
3 657.458; and repealing ORS 657.337 and 657.342.

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

5 **SECTION 1. Sections 2 to 9 of this 2009 Act are added to and made a part of ORS chapter**  
6 **657.**

7 **SECTION 2. As used in sections 2 to 4 of this 2009 Act:**

8 (1) **"Eligible low-wage workers" means individuals who:**

9 (a) **Are unemployed as provided in ORS 657.100;**

10 (b) **Are eligible for benefits under ORS 657.150, unless otherwise disqualified under this**  
11 **chapter; and**

12 (c) **Have been employed at work paying less than 110 percent of the minimum wage es-**  
13 **tablished under ORS 653.025 during their entire base year.**

14 (2) **"Workforce skills enhancement training" means training and education that provides**  
15 **occupation-specific skills required in high-wage and high-demand occupations, as determined**  
16 **by the Director of the Employment Department. The education may include literacy training.**  
17 **"Workforce skills enhancement training" does not include programs of instruction for an**  
18 **individual that are primarily intended to lead to a baccalaureate or higher degree or training**  
19 **intended to prepare individuals for employment in occupations that require a baccalaureate**  
20 **or higher degree, unless approved by the director.**

21 **SECTION 3. (1)(a) Eligible low-wage workers enrolled or participating in workforce skills**  
22 **enhancement training may not be denied unemployment insurance benefits solely because**  
23 **they are attending training.**

24 (b) **Eligible low-wage workers may not be denied unemployment insurance benefits by**  
25 **reason of leaving work to enroll or participate in workforce skills enhancement training if**  
26 **the work left paid less than 110 percent of the minimum wage established under ORS 653.025.**

27 (c) **Eligible low-wage workers who are enrolled or participating in workforce skills en-**  
28 **hancement training may not be denied unemployment insurance benefits for refusing to ac-**  
29 **cept work if the work offered:**

30 (A) **Interferes with the eligible low-wage worker's training schedule; and**

31 (B) **Pays less than 110 percent of the minimum wage established under ORS 653.025.**

**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) Notwithstanding provisions of this chapter relating to availability for work and ac-  
 2           tively seeking work, eligible low-wage workers who are enrolled or participating in workforce  
 3           skills enhancement training and who are otherwise eligible for unemployment insurance  
 4           benefits are not ineligible for benefits or waiting week credit because of attending training.

5           **SECTION 4.** The Director of the Employment Department, in consultation with the De-  
 6           partment of Community Colleges and Workforce Development, shall adopt rules necessary  
 7           for the administration of sections 2 to 4 of this 2009 Act, including, without limitation, pro-  
 8           cedures for approval, periodic review for continued approval, and disapproval of workforce  
 9           skills enhancement training for eligible low-wage workers. The director shall consult with  
 10          the Department of Community Colleges and Workforce Development to ensure that all pro-  
 11          grams for eligible low-wage workers provide appropriate training and education.

12          **SECTION 5.** As used in sections 5 to 8 of this 2009 Act, unless the context requires oth-  
 13          erwise:

14          (1) “Approved training work plan” or “approved plan” means an employer’s training work  
 15          plan that meets the requirements of section 6 of this 2009 Act.

16          (2) “Trainee employee” means:

17           (a) An eligible low-wage worker as defined in section 2 of this 2009 Act; and

18           (b) An individual who is hired by an employer on a full-time basis in an on-the-job  
 19          training work plan.

20          (3) “Training employer” means an employer with a training work plan in effect.

21          (4) “Training work plan” or “plan” means an employer’s voluntary, written plan for the  
 22          training work unemployment benefit program under which one or more employees are hired  
 23          to be trained in specific job skills.

24          **SECTION 6.** (1) An employer wishing to participate in the training work unemployment  
 25          benefit program shall submit a signed, written training work plan for each trainee employee  
 26          to the Director of the Employment Department for approval. The director shall give written  
 27          approval of a training work plan only if:

28           (a) The employee meets the definition of a trainee employee in section 5 of this 2009 Act.

29           (b) The trainee employee is not a former employee, dependent or relative of the employer.

30           (c) The plan states that the training position:

31           (A) Is full time;

32           (B) Is a high-wage or high-demand occupation for the location; and

33           (C) Pays at least minimum wage or 75 percent of the average starting wage for the po-  
 34          sition, whichever is greater.

35           (d) The plan states that the trainee employee:

36           (A) Has not been employed by the training employer longer than one month prior to the  
 37          submission of the training plan; or

38           (B) Will not begin working in the position later than one month after the approval of the  
 39          plan.

40           (e) The plan specifies the position title and type of work the trainee employee will be  
 41          performing and the hourly salary to be paid during the training.

42           (f) The plan states that at the end of the training, the trainee employee’s salary will be  
 43          increased to at least the average wage for the position.

44           (g) The plan is approved in writing by the collective bargaining agent for each collective  
 45          bargaining agreement that covers the trainee employee.

1       (2) The director shall establish the beginning and ending dates of an approved training  
2 work plan.

3       (3) The director shall approve or disapprove the plan within 15 days of receiving it. The  
4 director shall notify the employer of the reasons for disapproving a training work plan within  
5 10 days of disapproval. Determinations of the director are final and are not subject to review  
6 by any court or other administrative body.

7       (4) Disapproval of a plan may be reconsidered upon application of the employer or at the  
8 discretion of the director. Approval of a training work plan may be revoked by the director  
9 when it is established that such approval was based, in whole or in part, upon information  
10 contained in the application that is either false or substantially misleading.

11       **SECTION 7.** (1) Except as provided in subsection (4) of this section, notwithstanding any  
12 other provision of this chapter, for the purposes of sections 5 to 8 of this 2009 Act, an indi-  
13 vidual is unemployed and eligible to receive training work plan benefits with respect to any  
14 week if, in addition to meeting all other eligibility requirements of this chapter, the Director  
15 of the Employment Department finds that, during the week, the individual is employed in an  
16 approved plan that was approved prior to the week and is in effect for the week.

17       (2) Training work plan benefits may not be paid to an eligible low-wage worker for more  
18 than 26 weeks under an approved plan, as originally approved or later modified.

19       (3) The total amount of regular benefits and training work plan benefits paid to an indi-  
20 vidual in a benefit year may not exceed the total for the benefit year as provided in ORS  
21 657.150.

22       (4) An otherwise eligible low-wage worker may not be denied benefits under this section  
23 because of the application of any provision of this chapter relating to availability for work,  
24 actively seeking work or refusal to apply for or accept work from an employer other than  
25 the individual's training employer.

26       **SECTION 8.** (1) An individual who is eligible for training work plan benefits under  
27 sections 5 to 8 of this 2009 Act shall be paid, with respect to any week of unemployment, a  
28 weekly training work plan unemployment insurance benefit amount.

29       (2) The provisions of ORS 657.150 (6) and (7) do not apply to earnings from the training  
30 employer of an individual eligible for payments under sections 5 to 8 of this 2009 Act.

31       (3) Except as otherwise provided by sections 5 to 8 of this 2009 Act, all provisions of this  
32 chapter and the rules of the Director of the Employment Department apply to sections 5 to  
33 8 of this 2009 Act. The director may adopt rules necessary to carry out sections 5 to 8 of this  
34 2009 Act.

35       **SECTION 9.** A base year employer's account may not be charged for training work plan  
36 benefits paid to a trainee employee under sections 5 to 8 of this 2009 Act. However, nothing  
37 in this section may be construed to relieve the state, reimbursing political subdivisions, re-  
38 reimbursing nonprofit employers or reimbursing Indian tribes from paying into the Unem-  
39 ployment Compensation Trust Fund an amount equal to the training work plan benefits paid  
40 to a trainee employee under sections 5 to 8 of this 2009 Act.

41       **SECTION 10.** ORS 657.067 is amended to read:

42       657.067. (1) As used in this chapter, "employment" does not include service performed or par-  
43 ticipation by applicants, recipients, beneficiaries, participants, trainees or volunteers:

44       (a) In a community work and training program, as defined in ORS 411.855.

45       (b) In an unemployment work-relief or work-training program when the program is within the

1 meaning of section 3309(b)(5) of the Federal Unemployment Tax Act, as amended.

2 (c) In the Work Incentive Program, Title IV of the Social Security Act (United States Public  
3 Law 90-248), as amended.

4 (d) In an AmeriCorps service program under the National and Community Service Act of 1990  
5 (42 U.S.C. 12501 et seq.).

6 **(e) In an approved training work plan as described in sections 5 to 8 of this 2009 Act.**

7 (2) The exclusions stated in subsection (1)(b) and (c) of this section do not apply to services  
8 performed by an individual participating in a program that, by federal law or regulation, requires  
9 unemployment insurance coverage to be provided to the individual.

10 **SECTION 11.** ORS 657.458 is amended to read:

11 657.458. As used in [*this chapter*] **ORS 657.430 to 657.463** unless the context requires otherwise:

12 (1) "Adjusted average weekly check amount" means the average weekly check amount in a  
13 calendar year plus one-half of the increase in the maximum weekly benefit amount plus one-half of  
14 the increase in the minimum weekly benefit amount from the week including July 4 immediately  
15 preceding such calendar year to the week including July 4 immediately following such calendar  
16 year. **If either the maximum or minimum benefit amount decreases, that amount will not be  
17 included in the calculation of the adjusted average weekly check amount.**

18 [(2) "*Average monthly employment*" means the total number of persons employed in each month for  
19 12 consecutive months, as reported by employers subject to the tax under this chapter, divided by 12.]

20 [(3)] (2) "Average weekly check amount" means the gross amount of benefit payments, excluding  
21 extended benefits, made during a 12 consecutive month period, divided by the number of such weekly  
22 payments made to all individuals receiving benefits under this chapter during that period. The  
23 number and amount of payments made under section 11, chapter 2, Oregon Laws 1982 (first special  
24 session), shall be excluded from the computation under this subsection.

25 [(4)] (3) "High benefit cost period" means the 12 consecutive month period in the last 10 com-  
26 pleted calendar years in which the benefit cost rate was the highest. The benefit cost rate is de-  
27 termined by dividing the amount of benefits paid attributable to employers subject to the tax, during  
28 any 12 consecutive months within the 10-year period by total wages, as defined in ORS 657.105, re-  
29 ported by all employers subject to the tax for the four consecutive calendar quarters that include  
30 the quarter in which the 12 consecutive month period ended. All benefits paid from the Unemploy-  
31 ment Compensation Trust Fund attributable to employers subject to the tax, including but not lim-  
32 ited to the Oregon share of extended benefits and any special state additional benefits, shall be  
33 included in the amount of benefits under this subsection.

34 **SECTION 12.** ORS 657.010, as amended by section 17, chapter 45, Oregon Laws 2008, is  
35 amended to read:

36 657.010. As used in this chapter, unless the context requires otherwise:

37 (1) **"Average monthly employment" means the total number of persons employed in each  
38 month for 12 consecutive months, as reported by employers subject to the tax under this  
39 chapter, divided by 12.**

40 [(1)] (2) "Base year" means the first four of the last five completed calendar quarters preceding  
41 the benefit year.

42 [(2)] (3) "Benefits" means the money allowances payable to unemployed persons under this  
43 chapter.

44 [(3)] (4) "Benefit year" means a period of 52 consecutive weeks commencing with the first week  
45 with respect to which an individual files an initial valid claim for benefits, and thereafter the 52

1 consecutive weeks period beginning with the first week with respect to which the individual next  
 2 files an initial valid claim after the termination of the individual's last preceding benefit year except  
 3 that the benefit year shall be 53 weeks if the filing of an initial valid claim would result in over-  
 4 lapping any quarter of the base year of a previously filed initial valid claim.

5 [(4)] (5) "Calendar quarter" means the period of three consecutive calendar months ending on  
 6 March 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the  
 7 Director of the Employment Department may, by [regulation] **rule**, prescribe.

8 [(5)] (6) "Contribution" or "contributions" means the taxes[, *as defined in subsection (13) of this*  
 9 *section,*] that are the money payments required by this chapter, or voluntary payments permitted, to  
 10 be made to the Unemployment Compensation Trust Fund.

11 [(6)] (7) [*Educational institution,*] *including an institution of higher education as defined in sub-*  
 12 *section (9) of this section,*] "**Educational institution**" means an institution:

13 (a) In which participants, trainees or students are offered an organized course of study or  
 14 training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities  
 15 from, by or under the guidance of an instructor or teacher;

16 (b) That is accredited, registered, approved, licensed or issued a permit to operate as a school  
 17 by the Department of Education or other government agency, or that offers courses for credit that  
 18 are transferable to an approved, registered or accredited school;

19 (c) In which the course or courses of study or training that it offers may be academic, technical,  
 20 trade or preparation for gainful employment in a recognized occupation; and

21 (d) In which the course or courses of study or training are offered on a regular and continuing  
 22 basis.

23 [(7)] (8) "Employment office" means a free public employment office or branch thereof, operated  
 24 by this state or maintained as a part of a state-controlled system of public employment offices.

25 [(8)] (9) "Hospital" means [*an organization*] **a facility** that has been licensed[, *certified or ap-*  
 26 *proved*] by the Department of Human Services as a hospital.

27 [(9)] (10) "Institution of higher education" means an educational institution that:

28 (a) Admits as regular students only individuals having a certificate of graduation from a high  
 29 school, or the recognized equivalent of such a certificate;

30 (b) Is legally authorized in this state to provide a program of education beyond high school;

31 (c) Provides an educational program for which it awards a bachelor's or higher degree, or pro-  
 32 vides a program that is acceptable for full credit toward such a degree, a program of post-graduate  
 33 or post-doctoral studies, or a program of training to prepare students for gainful employment in a  
 34 recognized occupation; and

35 (d) Is a public or other nonprofit institution.

36 [(10)] (11) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and  
 37 in effect on December 31, 2007.

38 [(11)] (12) "Nonprofit employing unit" means an organization, or group of organizations, de-  
 39 scribed in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under  
 40 section 501(a) of the Internal Revenue Code.

41 [(12)] (13) "State" includes, in addition to the states of the United States of America, the District  
 42 of Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be  
 43 considered a state on and after the day on which the United States Secretary of Labor first approves  
 44 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by  
 45 Public Law 94-566.

1        [(13) "Taxes" means the money payments to the Unemployment Compensation Trust Fund required,  
2        or voluntary payments permitted, by this chapter.]

3        (14) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the  
4        individual meets the wages-paid-for-employment requirements of ORS 657.150.

5        (15) "Week" means any period of seven consecutive calendar days ending at midnight, as the  
6        director may, by [regulation] **rule**, prescribe. The director may by [regulation] **rule** prescribe that a  
7        "week" shall be "in," "within," or "during" the calendar quarter that includes the greater part of  
8        such week.

9        **SECTION 13. ORS 657.337 and 657.342 are repealed.**

10       **SECTION 14. Sections 2 to 9 of this 2009 Act apply only to claims for benefits filed on or  
11       after the operative date of sections 2 to 9 of this 2009 Act.**

12       **SECTION 15. Sections 2 to 9 of this 2009 Act become operative on the first day of the  
13       week, as defined in ORS 657.010 (15), that begins 90 days after the effective date of a federal  
14       law that provides increased funding to states that expand unemployment insurance coverage  
15       to individuals.**

16       **SECTION 16. The Director of the Employment Department shall notify the Legislative  
17       Counsel upon enactment of the federal law described in section 15 of this 2009 Act.**

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