

A-Engrossed
Senate Bill 702

Ordered by the Senate May 1
Including Senate Amendments dated May 1

Sponsored by Senator MORRISETTE, Representative DEMBROW

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.

Amends definition of "home care worker" to include individual whose compensation is funded in whole or part by Department of Human Services, area agency or other public agency and to limit definition of "home care worker" to individuals registered with Home Care Commission.

Requires area agencies and other public agencies to report certain information regarding home care workers to Department of Human Services. Requires department to keep and maintain information until June 30, 2013.

Requires department, area agencies and public agencies to report certain information regarding home care workers for purpose of registry maintained by Home Care Commission.

Prohibits department from reducing amount of funds available to persons with disabilities in event that cost of home care services increases as result of wage or benefit increase for home care workers secured by collective bargaining agreement.

A BILL FOR AN ACT

1
2 Relating to home care workers; creating new provisions; and amending ORS 410.600, 410.606, 410.612
3 and 656.039.

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

5 **SECTION 1.** ORS 410.600 is amended to read:

6 410.600. As used in ORS 410.600 to 410.625:

7 (1) "Activities of daily living" includes but is not limited to the following:

8 (a) Bathing and personal hygiene;

9 (b) Dressing and grooming;

10 (c) Eating;

11 (d) Mobility;

12 (e) Bowel and bladder management; and

13 (f) Cognition.

14 (2) "Area agency" has the meaning given that term in ORS 410.040.

15 (3) "Commission" means the Home Care Commission established and operated pursuant to section 11, Article XV of the Oregon Constitution, and ORS 410.600 to 410.625.

17 (4) "Elderly person" has the meaning given that term in ORS 410.040.

18 (5) "Home care services" means assistance with activities of daily living and self-management
19 provided by a home care worker in the home of an elderly person or person with a disability.

20 (6) "Home care worker" means a person:

21 (a) Who is hired directly by an elderly person or person with a disability [*who*] **or by a parent**
22 **or guardian of an elderly person or person with a disability;**

23 (b) **Who** receives moneys from the Department of Human Services for [*that purpose*] **the pur-**

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 **pose of providing care to the elderly person or person with a disability;**

2 [(b)] (c) Whose compensation is [paid] **funded** in whole or in part by the department, an area
3 agency or other public agency [*that receives moneys from the department for that purpose; and*];

4 [(c)] (d) Who provides either hourly or live-in home care services[.]; **and**

5 **(e) Who is registered with the Home Care Commission.**

6 (7) "Person with a disability" [*has the meaning given that term in ORS 410.040*] **means a person**
7 **with a developmental disability or mental illness, a person who is mentally retarded or**
8 **medically fragile or a person who receives personal or intensive in-home care services from**
9 **the department, area agency or other public agency.**

10 (8) "Self-management" includes but is not limited to the following activities, other than activities
11 of daily living, required by an individual to continue living independently in the individual's own
12 home:

13 (a) Medication and oxygen management;

14 (b) Transportation;

15 (c) Meal preparation;

16 (d) Shopping; and

17 (e) Client focused general household work.

18 **SECTION 2.** ORS 410.606 is amended to read:

19 410.606. (1) The Department of Human Services, an area agency or other public agency shall
20 provide to an individual seeking a home care worker the names of qualified individuals, in the ap-
21 propriate geographic area, who have been placed on the registry maintained by the Home Care
22 Commission.

23 **(2) To facilitate the development and maintenance of the registry maintained by the**
24 **commission, area agencies and other public agencies shall report to the department:**

25 **(a) The name and address of any home care worker that provides home care services**
26 **whose compensation is funded in whole or in part with state funds; and**

27 **(b) The name of the program under which the home care worker provides the services.**

28 **(3) If necessary to report the information required by subsection (2) of this section, area**
29 **agencies and other public agencies shall obtain the required information from any private**
30 **or public agency that provides payroll services for home care workers.**

31 **(4) The department shall keep and maintain the names and addresses that the depart-**
32 **ment receives under subsection (2) of this section in a database for the purpose of registering**
33 **home care workers in the registry maintained by the commission.**

34 **SECTION 3.** ORS 410.606, as amended by section 2 of this 2009 Act, is amended to read:

35 410.606. (1) The Department of Human Services, an area agency or other public agency shall
36 provide to an individual seeking a home care worker the names of qualified individuals, in the ap-
37 propriate geographic area, who have been placed on the registry maintained by the Home Care
38 Commission.

39 [(2) *To facilitate the development and maintenance of the registry maintained by the commission,*
40 *area agencies and other public agencies shall report to the department:*]

41 [(a) *The name and address of any home care worker that provides home care services whose com-*
42 *penetration is funded in whole or in part with state funds; and*]

43 [(b) *The name of the program under which the home care worker provides the services.*]

44 [(3) *If necessary to report the information required by subsection (2) of this section, area agencies*
45 *and other public agencies shall obtain the required information from any private or public agency that*

1 *provides payroll services for home care workers.]*

2 *[(4) The department shall keep and maintain the names and addresses that the department receives*
3 *under subsection (2) of this section in a database for the purpose of registering home care workers in*
4 *the registry maintained by the commission.]*

5 **(2) To facilitate the development and maintenance of the registry maintained by the**
6 **commission, the department, area agency or other public agency shall report to the com-**
7 **mission:**

8 **(a) The name and address of any home care worker that provides home care services**
9 **whose compensation is funded in whole or in part with state funds; and**

10 **(b) The name of the program under which the home care worker provides the services.**

11 **(3) If necessary to report the information required by subsection (2) of this section, the**
12 **department, area agency and other public agency shall obtain the required information from**
13 **any private or public agency that provides payroll services for home care workers.**

14 **SECTION 4.** ORS 410.612 is amended to read:

15 410.612. (1) For purposes of collective bargaining under ORS 243.650 to 243.782, the Home Care
16 Commission is the employer of record for home care workers.

17 (2) Notwithstanding subsection (1) of this section, home care workers may not be considered for
18 any purposes to be an employee of the State of Oregon, an area agency or other public agency.

19 (3) The Oregon Department of Administrative Services shall represent the commission in col-
20 lective bargaining negotiations with the certified or recognized exclusive representatives of all ap-
21 propriate bargaining units of home care workers. The department is authorized to agree to terms
22 and conditions of collective bargaining agreements on behalf of the commission and the Department
23 of Human Services.

24 **(4) In the event that the cost of home care services increases as a result of a wage or**
25 **benefit increase for home care workers secured by a collective bargaining agreement reached**
26 **under this section or ORS 243.650 to 243.782, the Department of Human Services may not**
27 **reduce the amount of funds available to persons with disabilities to purchase home care**
28 **services and other services and products related to health and human service programs to**
29 **offset the increased cost of home care services.**

30 **SECTION 5.** ORS 656.039 is amended to read:

31 656.039. (1) An employer of one or more persons defined as nonsubject workers or not defined
32 as subject workers may elect to make them subject workers. If the employer is or becomes a
33 carrier-insured employer, the election shall be made by filing written notice thereof with the insurer
34 with a copy to the Director of the Department of Consumer and Business Services. The effective
35 date of coverage is governed by ORS 656.419 (3). If the employer is or becomes a self-insured em-
36 ployer, the election shall be made by filing written notice thereof with the director, the effective
37 date of coverage to be the date specified in the notice.

38 (2) Any election under subsection (1) of this section may be canceled by written notice thereof
39 to the insurer or, in the case of a self-insured employer, by notice thereof to the director. The can-
40 cellation is effective at 12 midnight ending the day the notice is received by the insurer or the di-
41 rector, unless a later date is specified in the notice. The insurer shall, within 10 days after receipt
42 of a notice of cancellation under this section, send a copy of the notice to the director.

43 (3) When necessary the insurer or the director shall fix assumed minimum or maximum wages
44 for persons made subject workers under this section.

45 (4) Notwithstanding any other provision of this section, a person or employer not subject to this

1 chapter who elects to become covered may apply to a guaranty contract insurer for coverage. An
2 insurer other than the State Accident Insurance Fund Corporation may provide such coverage.
3 However, the State Accident Insurance Fund Corporation shall accept any written notice filed and
4 provide coverage as provided in this section if all subject workers of the employers will be insured
5 with the State Accident Insurance Fund Corporation and the coverage of those subject workers is
6 not considered by the State Accident Insurance Fund Corporation to be a risk properly assignable
7 to the assigned risk pool.

8 (5)(a) The Home Care Commission created by ORS 410.602 shall elect coverage on behalf of cli-
9 ents of the Department of Human Services who employ home care workers to make home care
10 workers subject workers if the home care worker is [*paid*] **funded** by the state on behalf of the
11 client.

12 (b) As used in this subsection, “home care worker” has the meaning given that term in ORS
13 410.600.

14 **SECTION 6.** ORS 656.039, as amended by section 8, chapter 241, Oregon Laws 2007, is amended
15 to read:

16 656.039. (1) An employer of one or more persons defined as nonsubject workers or not defined
17 as subject workers may elect to make them subject workers. If the employer is or becomes a
18 carrier-insured employer, the election shall be made by filing written notice thereof with the insurer
19 with a copy to the Director of the Department of Consumer and Business Services. The effective
20 date of coverage is governed by ORS 656.419 (3). If the employer is or becomes a self-insured em-
21 ployer, the election shall be made by filing written notice thereof with the director, the effective
22 date of coverage to be the date specified in the notice.

23 (2) Any election under subsection (1) of this section may be canceled by written notice thereof
24 to the insurer or, in the case of a self-insured employer, by notice thereof to the director. The can-
25 cellation is effective at 12 midnight ending the day the notice is received by the insurer or the di-
26 rector, unless a later date is specified in the notice. The insurer shall, within 10 days after receipt
27 of a notice of cancellation under this section, send a copy of the notice to the director.

28 (3) When necessary the insurer or the director shall fix assumed minimum or maximum wages
29 for persons made subject workers under this section.

30 (4) Notwithstanding any other provision of this section, a person or employer not subject to this
31 chapter who elects to become covered may apply to an insurer for coverage. An insurer other than
32 the State Accident Insurance Fund Corporation may provide such coverage. However, the State
33 Accident Insurance Fund Corporation shall accept any written notice filed and provide coverage as
34 provided in this section if all subject workers of the employers will be insured with the State Acci-
35 dent Insurance Fund Corporation and the coverage of those subject workers is not considered by
36 the State Accident Insurance Fund Corporation to be a risk properly assignable to the assigned risk
37 pool.

38 (5)(a) The Home Care Commission created by ORS 410.602 shall elect coverage on behalf of cli-
39 ents of the Department of Human Services who employ home care workers to make home care
40 workers subject workers if the home care worker is [*paid*] **funded** by the state on behalf of the
41 client.

42 (b) As used in this subsection, “home care worker” has the meaning given that term in ORS
43 410.600.

44 **SECTION 7. (1) The amendments to ORS 410.600, 410.606 and 656.039 by sections 1, 2, 5**
45 **and 6 of this 2009 Act become operative on July 1, 2010.**

1 **(2) Notwithstanding subsection (1) of this section, the Home Care Commission, the De-**
2 **partment of Human Services and the Oregon Department of Administrative Services may**
3 **take any action necessary, including the commencement of collective bargaining with home**
4 **care workers, before the operative date specified in subsection (1) of this section to enable**
5 **the commission, the Department of Human Services and the Oregon Department of Admin-**
6 **istrative Services to exercise, on and after the operative date specified in subsection (1) of**
7 **this section, all the duties, functions and powers conferred on the commission, the Depart-**
8 **ment of Human Services and the Oregon Department of Administrative Services by the**
9 **amendments to ORS 410.600, 410.606 and 656.039 by sections 1, 2, 5 and 6 of this 2009 Act.**

10 **SECTION 8. (1) The amendments to ORS 410.606 by section 3 of this 2009 Act become**
11 **operative on July 1, 2013.**

12 **(2) Notwithstanding subsection (1) of this section, the Home Care Commission and the**
13 **Department of Human Services may take any action necessary before the operative date**
14 **specified in subsection (1) of this section to enable the commission and the department to**
15 **exercise, on and after the operative date specified in subsection (1) of this section, all the**
16 **duties, functions and powers conferred on the commission and the department by the**
17 **amendments to ORS 410.606 by section 3 of this 2009 Act.**

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