

SENATE AMENDMENTS TO SENATE BILL 702

By COMMITTEE ON HUMAN SERVICES AND RURAL HEALTH POLICY

May 1

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; and amending ORS 410.600, 410.606, 410.612 and 656.039.”.

3 Delete lines 4 through 31 and delete pages 2 and 3 and insert:

4 “**SECTION 1.** ORS 410.600 is amended to read:

5 “410.600. As used in ORS 410.600 to 410.625:

6 “(1) ‘Activities of daily living’ includes but is not limited to the following:

7 “(a) Bathing and personal hygiene;

8 “(b) Dressing and grooming;

9 “(c) Eating;

10 “(d) Mobility;

11 “(e) Bowel and bladder management; and

12 “(f) Cognition.

13 “(2) ‘Area agency’ has the meaning given that term in ORS 410.040.

14 “(3) ‘Commission’ means the Home Care Commission established and operated pursuant to sec-
15 tion 11, Article XV of the Oregon Constitution, and ORS 410.600 to 410.625.

16 “(4) ‘Elderly person’ has the meaning given that term in ORS 410.040.

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

19 “(6) ‘Home care worker’ means a person:

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

22 “(b) **Who** receives moneys from the Department of Human Services for [*that purpose*] **the pur-**
23 **pose of providing care to the elderly person or person with a disability;**

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

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

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

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

32 “(8) ‘Self-management’ includes but is not limited to the following activities, other than activities
33 of daily living, required by an individual to continue living independently in the individual’s own
34 home:

35 “(a) Medication and oxygen management;

1 “(b) Transportation;

2 “(c) Meal preparation;

3 “(d) Shopping; and

4 “(e) Client focused general household work.

5 “**SECTION 2.** ORS 410.606 is amended to read:

6 “410.606. (1) The Department of Human Services, an area agency or other public agency shall
7 provide to an individual seeking a home care worker the names of qualified individuals, in the ap-
8 propriate geographic area, who have been placed on the registry maintained by the Home Care
9 Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “**SECTION 4.** ORS 410.612 is amended to read:

2 “410.612. (1) For purposes of collective bargaining under ORS 243.650 to 243.782, the Home Care
3 Commission is the employer of record for home care workers.

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

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

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

17 “**SECTION 5.** ORS 656.039 is amended to read:

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

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

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

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

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

44 “(b) As used in this subsection, ‘home care worker’ has the meaning given that term in ORS
45 410.600.

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

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

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

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

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

25 “(5)(a) The Home Care Commission created by ORS 410.602 shall elect coverage on behalf of
26 clients of the Department of Human Services who employ home care workers to make home care
27 workers subject workers if the home care worker is [*paid*] **funded** by the state on behalf of the
28 client.

29 “(b) As used in this subsection, ‘home care worker’ has the meaning given that term in ORS
30 410.600.

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

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

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

44 “(2) **Notwithstanding subsection (1) of this section, the Home Care Commission and the**
45 **Department of Human Services may take any action necessary before the operative date**

1 **specified in subsection (1) of this section to enable the commission and the department to**
2 **exercise, on and after the operative date specified in subsection (1) of this section, all the**
3 **duties, functions and powers conferred on the commission and the department by the**
4 **amendments to ORS 410.606 by section 3 of this 2009 Act.”.**

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