

Enrolled
House Bill 3655

Sponsored by COMMITTEE ON BUSINESS AND LABOR

CHAPTER

AN ACT

Relating to payment of unemployment insurance benefit extensions; creating new provisions; amending ORS 657.321 and section 10, chapter 115, Oregon Laws 2009, and sections 8 and 9, chapter 857, Oregon Laws 2009; and declaring an emergency.

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

SECTION 1. Section 8, chapter 857, Oregon Laws 2009, is amended to read:

Sec. 8. (1) As used in this section:

(a) "Emergency benefit period" means a period beginning [*October 4, 2009, and ending on January 2, 2010*] **the first week, as defined in ORS 657.010 (15), that begins at least 14 days after the effective date of this 2010 Act and ending on the date that the Director of the Employment Department stops payments of Oregon emergency benefits under section 9, chapter 857, Oregon Laws 2009.**

(b) "Oregon emergency benefits" means unemployment benefits totally financed by the state and payable under ORS chapter 657 to individuals described in subsection (2) of this section during [*an*] **the** emergency benefit period.

(c) "Regular benefits" has the meaning given that term in ORS 657.321.

(2) During [*an*] **the** emergency benefit period, an individual may receive Oregon emergency benefits in an amount equal to the weekly benefit amount of the individual's most recent regular unemployment benefit claim subject to the provisions of ORS chapter 657 if:

(a) The individual has exhausted regular benefits under ORS chapter 657;

(b) The individual is not eligible for any other unemployment benefits, including benefits provided under any federal law extending benefits beyond those provided for as regular benefits;

(c) The individual's benefit year expired on or after May 1, 2007; and

(d) The individual otherwise continues to meet the eligibility requirements for regular benefits under ORS chapter 657.

(3) The maximum Oregon emergency benefits an individual may receive under this section is [*50 percent*] **23 percent** of the individual's most recent regular Oregon unemployment benefit claim.

(4) The Employment Department may not charge an employer's account for benefits paid to an unemployed individual under this section. However, nothing in this section may be construed to relieve the state, reimbursing political subdivisions, reimbursing nonprofit employers or reimbursing Indian tribes from paying into the Unemployment Compensation Trust Fund an amount equal to the Oregon emergency benefits paid to an unemployed individual under this section.

[*5*] *The provisions of this section apply only for weeks beginning October 4, 2009, and ending January 2, 2010.*

SECTION 2. Section 9, chapter 857, Oregon Laws 2009, is amended to read:

Sec. 9. Notwithstanding section 8 [of this 2009 Act], **chapter 857, Oregon Laws 2009**, the Director of the Employment Department [may immediately] **shall** stop payments of Oregon emergency benefits when [the director determines that] the total amount of payments made pursuant to section 8 [of this 2009 Act], **chapter 857, Oregon Laws 2009**, would exceed [30] **\$19** million if paid for the succeeding calendar week.

SECTION 3. ORS 657.321, as applicable until May 30, 2010, is amended to read:
657.321. As used in ORS 657.321 to 657.329 unless the context requires otherwise:

(1) "Eligibility period" of an individual means:

(a) The period consisting of[.]

[(a)] the weeks in the individual's benefit year that begin in an extended benefit period and, **if the benefit year ends within the extended benefit period**, any subsequent weeks that begin in the extended benefit period; or

[(b) Any week that begins:]

[(A) After the date the individual exhausts all rights to Emergency Unemployment Compensation; and]

[(B) During an extended benefit period that began on or before the date described in subparagraph (A) of this paragraph, provided the individual received extended benefits for one or more weeks of unemployment during the period from February 22, 2009, through December 26, 2009.]

(b) A period provided for by rule of the Employment Department under section 6 of this 2010 Act.

(2) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) Has received prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in the current benefit year that includes such week (provided that an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages or employment that were not considered in the original monetary determination in the current benefit year, the individual may subsequently be determined to be entitled to added regular benefits); or

(b)(A) The individual's benefit year having expired prior to such week, has no, or insufficient, wages and employment to establish a new benefit year that would include such week;

(B) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(C) Has not received and is not seeking, or the appropriate agency has finally determined that the individual is not entitled to receive, unemployment benefits under the unemployment compensation law of Canada.

(3)(a) "Extended benefit period" means a period that:

(A) Begins with the third week after a week for which there is a state "on" indicator; and

(B) Ends with the third week after the first week for which there is a state "off" indicator or the 13th consecutive week of such period, whichever occurs later.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period that was in effect with respect to this state.

(c) There is a state "on" indicator for any week for which the Director of the Employment Department determines, in accordance with regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks[, the rate of insured unemployment (not seasonally adjusted)]:

(A) **The rate of insured unemployment (not seasonally adjusted)** equaled or exceeded five percent and equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years;

(B) **The rate of insured unemployment (not seasonally adjusted)** equaled or exceeded six percent; or

(C) With respect to benefits for weeks of unemployment beginning after March 6, 1993:

(i) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week [*equals or exceeds*] **equaled or exceeded** 6.5 percent; and

(ii) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in sub-subparagraph (i) of this subparagraph, [*equals or exceeds*] **equaled or exceeded** 110 percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(d) There is a state “off” indicator for any week for which the director determines, in accordance with regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, none of the options specified in subsection (3)(c) of this section results in an “on” indicator.

(4) “Extended benefits” means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in the individual’s eligibility period.

(5) “High unemployment period” means any period during which an extended benefit period would be in effect if subsection (3)(c)(C)(i) of this section were applied by substituting “eight percent” for “6.5 percent.”

(6) “Rate of insured unemployment,” for the purpose of subsection (3)(c) and (d) of this section, means the percentage derived by dividing:

(a) The average weekly number of regular continued weeks of unemployment claimed by individuals in this state with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters before the end of such 13-week period.

(7) “Regular benefits” means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(8) “State law” means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code.

SECTION 4. ORS 657.321 is amended to read:

657.321. As used in ORS 657.321 to 657.329 unless the context requires otherwise:

(1) “Eligibility period” of an individual means:

(a) The period consisting of the weeks in the individual’s benefit year that begin in an extended benefit period and, if the benefit year ends within the extended benefit period, any subsequent weeks that begin in the extended benefit period; **or**

(b) **A period provided for by rule of the Employment Department under section 6 of this 2010 Act.**

(2) “Exhaustee” means an individual who, with respect to any week of unemployment in the individual’s eligibility period:

(a) Has received prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents’ allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in the current benefit year that includes such week (provided that an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages or employment that were not considered in the original monetary determination in the current benefit year, the individual may subsequently be determined to be entitled to added regular benefits); or

(b)(A) The individual's benefit year having expired prior to such week, has no, or insufficient, wages and employment to establish a new benefit year that would include such week;

(B) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(C) Has not received and is not seeking, or the appropriate agency has finally determined that the individual is not entitled to receive, unemployment benefits under the unemployment compensation law of Canada.

(3)(a) "Extended benefit period" means a period that:

(A) Begins with the third week after a week for which there is a state "on" indicator; and

(B) Ends with the third week after the first week for which there is a state "off" indicator or the 13th consecutive week of such period, whichever occurs later.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period that was in effect with respect to this state.

(c) There is a state "on" indicator for any week for which the Director of the Employment Department determines, in accordance with regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks[, *the rate of insured unemployment (not seasonally adjusted)*]:

(A) **The rate of insured unemployment (not seasonally adjusted)** equaled or exceeded five percent and equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years;

(B) **The rate of insured unemployment (not seasonally adjusted)** equaled or exceeded six percent; or

(C) With respect to benefits for weeks of unemployment beginning after March 6, 1993:

(i) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week [*equals or exceeds*] **equaled or exceeded** 6.5 percent; and

(ii) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in sub-subparagraph (i) of this subparagraph, [*equals or exceeds*] **equaled or exceeded** 110 percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(d) There is a state "off" indicator for any week for which the director determines, in accordance with regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, none of the options specified in subsection (3)(c) of this section results in an "on" indicator.

(4) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in the individual's eligibility period.

(5) "High unemployment period" means any period during which an extended benefit period would be in effect if subsection (3)(c)(C)(i) of this section were applied by substituting "eight percent" for "6.5 percent."

(6) "Rate of insured unemployment," for the purpose of subsection (3)(c) and (d) of this section, means the percentage derived by dividing:

(a) The average weekly number of regular continued weeks of unemployment claimed by individuals in this state with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters before the end of such 13-week period.

(7) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(8) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code.

SECTION 5. Section 6 of this 2010 Act is added to and made a part of ORS chapter 657.

SECTION 6. For purposes of ORS 657.321 to 657.329, the Employment Department may adopt rules providing for an eligibility period that begins in an extended benefit period after an individual's benefit year has ended if federal law provides for funding that is greater than 50 percent of extended benefits.

SECTION 7. Section 10, chapter 115, Oregon Laws 2009, is amended to read:

Sec. 10. (1) The amendments to ORS 657.176 and 657.265 by sections 3 and 4, **chapter 115, Oregon Laws 2009**, [of this 2009 Act] apply to claims for benefits filed on or after [the effective date of this 2009 Act] **May 21, 2009**.

[(2) The amendments to ORS 657.321 by section 5 of this 2009 Act apply to weeks, as defined in ORS 657.010 (15), beginning on or after February 22, 2009, and ending on or before December 26, 2009.]

[(3)] (2) The amendments to ORS 657.321 by [section 6 of this 2009 Act] **section 3 of this 2010 Act** apply to weeks, as defined in ORS 657.010 (15), beginning [on or after December 27, 2009,] **at least seven days after the effective date of this 2010 Act** and ending on or before May 29, 2010.

[(4)] (3) The amendments to ORS 657.321 by [section 7 of this 2009 Act] **section 4 of this 2010 Act** apply to weeks, as defined in ORS 657.010 (15), beginning on or after May 30, 2010.

SECTION 8. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 4, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 19, 2010

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President of Senate

Received by Governor:

.....M.,....., 2010

Approved:

.....M.,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2010

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Secretary of State