

B-Engrossed
House Bill 3698

Ordered by the House February 22
Including House Amendments dated February 15 and February 22

Sponsored by COMMITTEE ON REVENUE

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.

Establishes Building Opportunities for Oregon Small Business Today Account (BOOST Account). Authorizes Oregon Business Development Department to make loans or award grants to small businesses from BOOST Account.

Directs Department of Revenue to expand enforcement of tax compliance by employers.

Creates Tax Enforcement Fund. Specifies that moneys received by Department of Revenue as result of expanded enforcement must be deposited in fund. Continuously appropriates moneys in fund to department for purpose of transferring moneys to Building Opportunities for Oregon Small Business Today Account.

Increases limit on expenditures, for biennium beginning July 1, 2009, for payment of expenses from [*Tax Amnesty Fund to Department of Revenue for purpose of expanding enforcement of tax compliance*] **fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Oregon Business Development Department for business, innovation and trade.**

Sunset June 30, 2013.

Requires Department of Human Services to complete criminal records check on home care workers.

Exempts employees of residential treatment facility or residential treatment home who are licensed to treat individuals with alcohol or drug dependence from prohibition against use of public funds to employ individuals who commit certain crimes for specified purposes. Sunset July 1, 2011.

Modifies definition of "abuse" for purpose of reporting abuse that occurs in residential facility or adult foster home.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to employers; creating new provisions; amending ORS 443.004 and 443.875 and section 5,
3 chapter 721, Oregon Laws 2009; appropriating money; limiting expenditures; and prescribing an
4 effective date.

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

6 **SECTION 1. Sections 2 and 3 of this 2010 Act are added to and made a part of ORS**
7 **285B.050 to 285B.098.**

8 **SECTION 2. (1) As used in this section and section 3 of this 2010 Act:**

9 (a) **"BOOST Account" means the Building Opportunities for Oregon Small Business To-**
10 **day Account established under section 3 of this 2010 Act.**

11 (b) **"Comparable wages" means wages that are reasonably equivalent to wages paid to**
12 **other employees of a small business employer regardless of position.**

13 (c) **"Full-time" means a minimum of 35 hours per week or 25 hours per week with health**
14 **benefit plan coverage.**

15 (d) **"Health benefit plan" has the meaning given that term in ORS 743.730.**

16 (e) **"Small business employer" means a business having 100 or fewer employees in a**

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 **traded sector industry.**

2 (f) **“Wages” means all compensation for performance of personal services by an employee**
3 **for a small business employer, including salaries, commissions, benefits, the cash value of**
4 **all compensation paid in any medium other than cash and any other form of remuneration**
5 **paid to employees for personal services.**

6 (2) **Any small business employer may file with the Oregon Business Development De-**
7 **partment an application to borrow money, or an application for a grant of financial assist-**
8 **ance, from the BOOST Account for industry development purposes as defined by rule of the**
9 **department. The application shall be filed in the manner and be accompanied by such infor-**
10 **mation as the department may prescribe by rule.**

11 (3) **The department may approve an application for a loan or grant under this section if,**
12 **after investigation, the department finds that:**

13 (a) **The applicant demonstrates a reasonable capacity to increase employment opportu-**
14 **nities in this state or, in the case of a loan, demonstrates a reasonable capacity to retain**
15 **existing jobs in this state.**

16 (b) **The applicant has established goals of creating new full-time jobs in Oregon or, in the**
17 **case of a loan, has established goals of retaining existing jobs in Oregon, with a reasonable**
18 **prospect of achieving such goals.**

19 (c) **The applicant has a demonstrated history of providing comparable wages to its em-**
20 **ployees.**

21 (d) **In the case of a loan, the applicant can provide good and sufficient collateral for the**
22 **loan.**

23 (e) **Moneys are or will be available in the BOOST Account.**

24 (4)(a) **Following the department’s approval of an application under subsection (3) of this**
25 **section, the department may:**

26 (A) **Enter into a loan contract with the applicant of not more than \$150,000, secured by**
27 **good and sufficient collateral, with a plan for repayment not to exceed four years. The con-**
28 **tract entered into under this subparagraph shall contain a repayment plan that includes the**
29 **amount of interest to be charged and information about appropriate legal remedies the de-**
30 **partment may pursue to secure repayment upon the applicant’s default or failure to comply**
31 **with the contract, including withholding of any amounts otherwise due. The department shall**
32 **develop rules governing repayment of loans under this subparagraph and the collection of**
33 **moneys owed to the BOOST Account. The department may take any action permitted by**
34 **statute or rule that the department deems necessary to secure the repayment of the loan.**

35 (B) **Make grants not to exceed \$2,500 per new full-time job established by the applicant**
36 **after the date of approval of its application. A grant may not be made under this subpara-**
37 **graph unless the new full-time employee has been unemployed for at least 60 days preceding**
38 **the date of hire and the new full-time job is held by the employee for a minimum period of**
39 **six consecutive months. The total sum of moneys paid under this subparagraph may not ex-**
40 **ceed \$50,000 per applicant in any calendar year. Grants made under this subparagraph shall**
41 **be paid in the quarter following receipt by the department of a report from the applicant that**
42 **provides information about new full-time jobs established by the applicant and upon verifi-**
43 **cation of employment in a manner to be established by the department by rule.**

44 (b) **In entering into loan contracts under paragraph (a)(A) of this subsection, the de-**
45 **partment shall give preference to an applicant that proposes to create new full-time jobs.**

1 **SECTION 3.** (1) The Oregon Business Development Department shall establish the
2 Building Opportunities for Oregon Small Business Today Account, or BOOST Account, as an
3 account within the Oregon Business Development Fund.

4 (2) The purpose of the account is to promote access to working capital that results in
5 immediate job growth and job retention through the making of loans and awarding of grants
6 to small businesses in Oregon.

7 (3) The department may charge administrative costs to the account to pay for actual and
8 necessary administrative expenses incurred by the department in administering the account
9 and implementing section 2 of this 2010 Act.

10 **SECTION 4.** (1) The Department of Revenue is directed to expand its enforcement activ-
11 ities to improve the compliance of employers and other businesses with income and corpo-
12 rate excise tax laws.

13 (2) Not later than January 2, 2011, the department shall report on its progress in imple-
14 menting this section to the interim legislative committees on revenue. The report must in-
15 clude the results of the expansion of the enforcement activities under this section.

16 (3) The department may adopt rules necessary to administer this section.

17 **SECTION 5.** (1) The Tax Enforcement Fund is established in the State Treasury, separate
18 and distinct from the General Fund. Interest earned by the Tax Enforcement Fund shall be
19 credited to the Tax Enforcement Fund. Moneys in the fund are continuously appropriated to
20 the Department of Revenue for the purpose described in subsection (3) of this section.

21 (2) Notwithstanding ORS 316.502, 317.850 and 318.070, all moneys received by the depart-
22 ment as a result of the expanded enforcement activities under section 4 of this 2010 Act shall
23 be deposited in the Tax Enforcement Fund.

24 (3)(a) At least quarterly, the department shall transfer the balance of the Tax Enforce-
25 ment Fund to the Oregon Business Development Department to be deposited in the Building
26 Opportunities for Oregon Small Business Today Account established in section 3 of this 2010
27 Act.

28 (b) Notwithstanding paragraph (a) of this subsection, for the biennium beginning July 1,
29 2009, the total amount of transfers from the Tax Enforcement Fund to the Building Oppor-
30 tunities for Oregon Small Business Today Account may not exceed \$3,000,000.

31 **SECTION 6.** Notwithstanding any other law limiting expenditures, the limitation on
32 expenditures established by section 8, chapter 710, Oregon Laws 2009, for the biennium be-
33 ginning July 1, 2009, as the maximum limit for payment of expenses from the Tax Amnesty
34 Fund is increased by \$3,500,000 for the purpose of carrying out the provisions of section 4
35 of this 2010 Act.

36 **SECTION 7.** Notwithstanding any other law limiting expenditures, the limitation on
37 expenditures established by section 2 (1), chapter 721, Oregon Laws 2009, for the biennium
38 beginning July 1, 2009, as the maximum limit for payment of expenses from fees, moneys or
39 other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal
40 funds, collected or received by the Oregon Business Development Department for business,
41 innovation and trade, is increased by \$41,538.

42 **SECTION 8.** If Senate Bill 1017 becomes law, section 5 of this 2010 Act is amended to read:

43 **Sec. 5.** (1) The Tax Enforcement Fund is established in the State Treasury, separate and distinct
44 from the General Fund. Interest earned by the Tax Enforcement Fund shall be credited to the Tax
45 Enforcement Fund. Moneys in the fund are continuously appropriated to the Department of Revenue

1 for the purpose described in subsection (3) of this section.

2 (2) Notwithstanding ORS 316.502, 317.850 and 318.070, all moneys received by the department
3 as a result of the expanded enforcement activities under section 4 of this 2010 Act shall be deposited
4 in the Tax Enforcement Fund.

5 (3)(a) At least quarterly, the department shall transfer the balance of the Tax Enforcement Fund
6 to the Oregon Business Development Department to be deposited in the Building Opportunities for
7 Oregon Small Business Today Account established in section 3 of this 2010 Act.

8 (b) Notwithstanding paragraph (a) of this subsection, for the biennium beginning July 1, 2009,
9 the total amount of transfers from the Tax Enforcement Fund to the Building Opportunities for
10 Oregon Small Business Today Account may not exceed [~~\$3,000,000~~] **\$5,000,000**.

11 **SECTION 9. Sections 2 to 5 of this 2010 Act are repealed on June 30, 2013.**

12 **SECTION 10. (1) All moneys remaining in the Tax Enforcement Fund on June 30, 2011,**
13 **shall be transferred to the General Fund.**

14 **(2) All moneys remaining in the Building Opportunities for Oregon Small Business Today**
15 **Account on June 30, 2013, shall be transferred to the General Fund.**

16 **(3) All moneys remaining in the Tax Enforcement Fund on June 30, 2013, shall be trans-**
17 **ferred to the General Fund.**

18 **SECTION 11.** Section 5, chapter 721, Oregon Laws 2009, is amended to read:

19 **Sec. 5.** For the biennium beginning July 1, 2009, expenditures by the [*Economic and*
20 *Community*] **Oregon Business** Development Department are not limited for:

21 (1) Loans from the following funds:

22 (a) Oregon Business Development Fund (ORS 285B.092), Oregon Entrepreneurial Development
23 Loan Fund (ORS 285B.758), Credit Enhancement Fund (ORS 285B.215) and Brownfields Redvelop-
24 ment Fund (ORS 285A.188); and

25 (b) Special Public Works Fund (ORS 285B.455), Water Fund (ORS 285B.563), Marine Navigation
26 Improvement Fund (ORS 777.267), Oregon Port Revolving Fund (ORS 285A.708) and Safe Drinking
27 Water Revolving Loan Fund (ORS 285A.213).

28 (2) Debt service, excluding debt service on lottery revenue bonds.

29 **(3) Loans or grants from the Building Opportunities for Oregon Small Business Today**
30 **Account established by section 3 of this 2010 Act.**

31 **SECTION 12.** ORS 443.004 is amended to read:

32 443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
33 a criminal records check under ORS 181.534 on:

34 (a) An employee of a residential facility, adult foster home, in-home care agency or home health
35 agency[, *and on*];

36 (b) Any individual who is paid directly or indirectly with public funds who has or will have
37 contact with a recipient of home health, in-home care or support services or a resident of an adult
38 foster home or a residential facility; **and**

39 **(c) A home care worker registering with the Home Care Commission or renewing a reg-**
40 **istration with the Home Care Commission.**

41 (2) Public funds may not be used to support, in whole or in part, the employment in any capacity
42 having contact with a recipient of home health, in-home care or support services or a resident of a
43 residential facility or an adult foster home, of an individual who has been convicted:

44 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
45 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,

1 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,
2 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,
3 167.054 or 167.057;

4 (b) Of a crime listed in ORS 181.594;

5 (c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled sub-
6 stance;

7 (d) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to
8 (c) of this subsection; or

9 (e) Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a
10 crime described in paragraphs (a) to (d) of this subsection.

11 (3) Subsection (2) of this section does not apply to:

12 (a) A peer support specialist; **or**

13 **(b) An employee of a residential treatment facility or a residential treatment home that**
14 **is licensed under ORS 443.415 to provide for individuals with alcohol or drug dependence.**

15 (4) If the department or authority has a record of substantiated abuse committed by an employee
16 or potential employee of a home health agency, in-home care agency, adult foster home or residen-
17 tial facility, regardless of whether criminal charges were filed, the department or authority shall
18 notify, in writing, the employer and the employee or potential employee.

19 (5) As used in this section:

20 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

21 **(b) "Home care worker" has the meaning given that term in ORS 410.600.**

22 [(b)] (c) "Home health agency" has the meaning given that term in ORS 443.005.

23 [(c)] (d) "In-home care agency" has the meaning given that term in ORS 443.305.

24 [(d)] (e) "Peer support specialist" means a person who:

25 (A) Is providing peer support services as defined by the authority by rule;

26 (B) Is under the supervision of a qualified clinical supervisor;

27 (C) Has completed training required by the authority; and

28 (D) Is currently receiving or has formerly received mental health services, or is in recovery from
29 a substance use disorder and meets the abstinence requirements for staff providing services in al-
30cohol or other drug treatment programs.

31 [(e)] (f) "Residential facility" has the meaning given that term in ORS 443.400.

32 **(g) "Residential treatment facility" has the meaning given that term in ORS 443.400.**

33 **(h) "Residential treatment home" has the meaning given that term in ORS 443.400.**

34 **SECTION 13.** ORS 443.004, as amended by section 12 of this 2010 Act, is amended to read:

35 443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete
36 a criminal records check under ORS 181.534 on:

37 (a) An employee of a residential facility, adult foster home, in-home care agency or home health
38 agency;

39 (b) Any individual who is paid directly or indirectly with public funds who has or will have
40 contact with a recipient of home health, in-home care or support services or a resident of an adult
41 foster home or a residential facility; and

42 (c) A home care worker registering with the Home Care Commission or renewing a registration
43 with the Home Care Commission.

44 (2) Public funds may not be used to support, in whole or in part, the employment in any capacity
45 having contact with a recipient of home health, in-home care or support services or a resident of a

1 residential facility or an adult foster home, of an individual who has been convicted:

2 (a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165,
3 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465,
4 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215,
5 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017,
6 167.054 or 167.057;

7 (b) Of a crime listed in ORS 181.594;

8 (c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled sub-
9 stance;

10 (d) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to
11 (c) of this subsection; or

12 (e) Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a
13 crime described in paragraphs (a) to (d) of this subsection.

14 (3) Subsection (2) of this section does not apply to[:]

15 [(a)] a peer support specialist.[: or]

16 [(b) *An employee of a residential treatment facility or a residential treatment home that is licensed*
17 *under ORS 443.415 to provide for individuals with alcohol or drug dependence.*]

18 (4) If the department or authority has a record of substantiated abuse committed by an employee
19 or potential employee of a home health agency, in-home care agency, adult foster home or residen-
20 tial facility, regardless of whether criminal charges were filed, the department or authority shall
21 notify, in writing, the employer and the employee or potential employee.

22 (5) As used in this section:

23 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

24 (b) "Home care worker" has the meaning given that term in ORS 410.600.

25 (c) "Home health agency" has the meaning given that term in ORS 443.005.

26 (d) "In-home care agency" has the meaning given that term in ORS 443.305.

27 (e) "Peer support specialist" means a person who:

28 (A) Is providing peer support services as defined by the authority by rule;

29 (B) Is under the supervision of a qualified clinical supervisor;

30 (C) Has completed training required by the authority; and

31 (D) Is currently receiving or has formerly received mental health services, or is in recovery from
32 a substance use disorder and meets the abstinence requirements for staff providing services in al-
33cohol or other drug treatment programs.

34 (f) "Residential facility" has the meaning given that term in ORS 443.400.

35 [(g) *"Residential treatment facility" has the meaning given that term in ORS 443.400.*]

36 [(h) *"Residential treatment home" has the meaning given that term in ORS 443.400.*]

37 **SECTION 14.** ORS 443.875 is amended to read:

38 443.875. (1) If the Department of Human Services or the Oregon Health Authority substantiates
39 an allegation of abuse that occurred in a facility, the department or authority shall immediately
40 notify the facility of its findings.

41 (2) Upon receipt of the notice described in subsection (1) of this section, a facility shall provide
42 written notice of the findings to the individual found to have committed abuse, residents of the fa-
43cility, the residents' case managers and the residents' guardians.

44 (3) An application for employment at a facility must inquire whether the applicant has been
45 found to have committed abuse.

1 (4) As used in this section:

2 (a) "Abuse" has the meaning given that term in ORS [124.050 and] 430.735.

3 (b) "Facility" means:

4 (A) A residential facility as defined in ORS 443.400; or

5 (B) An adult foster home as defined in ORS 443.705.

6 **SECTION 15. The amendments to ORS 443.004 by section 13 of this 2010 Act become op-**
7 **erative July 1, 2011.**

8 **SECTION 16. This 2010 Act takes effect on the 91st day after the date on which the**
9 **special session of the Seventy-fifth Legislative Assembly adjourns sine die.**

10