

Enrolled
House Bill 3698

Sponsored by COMMITTEE ON REVENUE

CHAPTER

AN ACT

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

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

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

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

(a) "BOOST Account" means the Building Opportunities for Oregon Small Business Today Account established under section 3 of this 2010 Act.

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

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

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

(e) "Small business employer" means a business having 100 or fewer employees in a traded sector industry.

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

(2) Any small business employer may file with the Oregon Business Development Department an application to borrow money, or an application for a grant of financial assistance, from the BOOST Account for industry development purposes as defined by rule of the department. The application shall be filed in the manner and be accompanied by such information as the department may prescribe by rule.

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

(a) The applicant demonstrates a reasonable capacity to increase employment opportunities in this state or, in the case of a loan, demonstrates a reasonable capacity to retain existing jobs in this state.

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

(c) The applicant has a demonstrated history of providing comparable wages to its employees.

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

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

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

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

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

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

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

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

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

SECTION 4. (1) The Department of Revenue is directed to expand its enforcement activities to improve the compliance of employers and other businesses with income and corporate excise tax laws.

(2) Not later than January 2, 2011, the department shall report on its progress in implementing this section to the interim legislative committees on revenue. The report must include the results of the expansion of the enforcement activities under this section.

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

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

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

(3)(a) At least quarterly, the department shall transfer the balance of the Tax Enforcement Fund to the Oregon Business Development Department to be deposited in the Building

Opportunities for Oregon Small Business Today Account established in section 3 of this 2010 Act.

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

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

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

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

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

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

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

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

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

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

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

(3) All moneys remaining in the Tax Enforcement Fund on June 30, 2013, shall be transferred to the General Fund.

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

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

(1) Loans from the following funds:

(a) Oregon Business Development Fund (ORS 285B.092), Oregon Entrepreneurial Development Loan Fund (ORS 285B.758), Credit Enhancement Fund (ORS 285B.215) and Brownfields Redevelopment Fund (ORS 285A.188); and

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

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

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

SECTION 12. ORS 443.004 is amended to read:

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

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

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

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

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

(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465, 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215, 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, 167.054 or 167.057;

(b) Of a crime listed in ORS 181.594;

(c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

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

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

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

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

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

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

(5) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465, 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215, 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, 167.054 or 167.057;

(b) Of a crime listed in ORS 181.594;

(c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

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

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

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

[a)] a peer support specialist.[; or]

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

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

(5) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 14. ORS 443.875 is amended to read:

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

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

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

(4) As used in this section:

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

(b) "Facility" means:

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

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

SECTION 15. The amendments to ORS 443.004 by section 13 of this 2010 Act become operative July 1, 2011.

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

Passed by House February 23, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 24, 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