

House Bill 3122

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of Associated Oregon Industries)

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 **as introduced**.

Establishes that employee who returns to work after taking family leave is entitled to be restored to available equivalent position instead of being restored to same position of employment held by employee before taking leave.

A BILL FOR AN ACT

1
2 Relating to family leave; creating new provisions; and amending ORS 659A.171.

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

4 **SECTION 1.** ORS 659A.171 is amended to read:

5 659A.171. (1) After returning to work after taking family leave under the provisions of ORS
6 659A.150 to 659A.186, an eligible employee is entitled to be restored to [*the position of employment*
7 *held by the employee when the leave commenced if that position still exists, without regard to whether*
8 *the employer filled the position with a replacement worker during the period of family leave. If the*
9 *position held by the employee at the time family leave commenced no longer exists, the employee is en-*
10 *titled to be restored to*] any available equivalent position with equivalent employment benefits, pay
11 and other terms and conditions of employment. If an equivalent position is not available at the job
12 site of the employee's former position, the employee may be offered an equivalent position at a job
13 site located within 20 miles of the job site of the employee's former position.

14 (2) Except for employee benefits used during the period of leave, the taking of family leave under
15 ORS 659A.150 to 659A.186 shall not result in the loss of any employment benefit accrued before the
16 date on which the leave commenced.

17 (3) This section does not entitle any employee to:

18 (a) Any accrual of seniority or employment benefits during a period of family leave; or

19 (b) Any right, benefit or position of employment other than the rights, benefits and position that
20 the employee would have been entitled to had the employee not taken the family leave.

21 (4)(a) Before restoring an employee to a position under subsection (1) of this section, an em-
22 ployer may require that the employee receive certification from the employee's health care provider
23 that the employee is able to resume work. Certification under this subsection may only be required
24 pursuant to a uniformly applied practice or policy of the employer.

25 (b) This subsection does not affect the ability of an employer to require an employee during a
26 period of family leave to report periodically to the employer on the employee's status and on the
27 employee's intention to return to work.

28 (5) Benefits are not required to continue to accrue during a family leave unless continuation or
29 accrual is required under an agreement of the employer and the employee, a collective bargaining
30 agreement or an employer policy. Notwithstanding ORS 652.610 (3), if the employer is required or
31 elects to pay any part of the costs of providing health, disability, life or other insurance coverage

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 for an employee during the period of family leave that should have been paid by the employee, the
2 employer may deduct from the employee's pay such amounts upon the employee's return to work
3 until the amount the employer advanced toward the payments is paid. In no event may the total
4 amount deducted for insurance under the provisions of this subsection exceed 10 percent of the
5 employee's gross pay each pay period.

6 (6) Notwithstanding ORS 652.610 (3), if the employer pays any part of the costs of health, disa-
7 bility, life or other insurance coverage for an employee under the provisions of subsection (5) of this
8 section, and the employee does not return to employment with the employer after taking family
9 leave, the employer may deduct amounts paid by the employer from any amounts owed by the em-
10 ployer to the employee, or may seek to recover those amounts by any other legal means, unless the
11 employee fails to return to work because of:

12 (a) A continuation, reoccurrence or onset of a serious health condition that would entitle the
13 employee to leave for one of the purposes specified by ORS 659A.159 (1)(b) or (c); or

14 (b) Other circumstances beyond the control of the employee.

15 **SECTION 2. The amendments to ORS 659A.171 by section 1 of this 2011 Act apply only**
16 **to persons commencing a period of family leave under the provisions of ORS 659A.150 to**
17 **659A.186 on or after the effective date of this 2011 Act.**

18