

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 3142**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

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Measure Description:

Modifies definitions of "employ," "employee," "employer" and "wages" for purposes of statutes relating to hours, wages, wage claims, employment conditions, employment agencies, farm labor contractors and construction contractors.

Government Unit(s) Affected:

Bureau of Labor and Industries (BOLI), Statewide

Summary of Expenditure Impact:

Please see analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The measure alters definitions of the terms employ, employee, employer, and wages in several statutes related to payment of wages, wage claims, wage statements, etc. The change to the definition of employee removes the exemption from the definition for independent contractors and inserts language assuming an individual performing services as part of the business of another is an employee unless customarily engaged in an independently established business of the same nature that involved the services performed. This change seems to expand the definition of employee to some individuals that would be considered independent contractors under the current law.

The Oregon Department of Fish and Wildlife (ODFW), Oregon Department of Education (ODE), and Oregon Youth Authority all noted that this would expand the number of individuals that would be considered as "employees" of the agencies under these statutes. The cost to the agencies as a result of the change varied from minimal (ODFW) due to increased likelihood of lawsuits and wage claims to indeterminately significant due to the extension of benefits, employment contract terms, and withholding taxes for the 185 currently active independent contractors providing services for OYA.

The exemption provided by the bill in the definition of employee introduces ambiguity in the application of the statute. State agencies currently using independent contractors are exempted; therefore the fiscal impact of the measure is indeterminate.