

House Bill 2535

Sponsored by Representative HOLVEY (Pre-session filed.)

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**.

Requires workers' compensation premium rates for clients of temporary service provider to be based on client's experience rating. Establishes criteria for workers' compensation coverage provided by temporary service provider. Requires temporary service provider to provide workers' compensation coverage for employees provided to clients. Creates exception.

Instructs insurers to provide separate statistical experience of each client of temporary service provider insured by insurer to licensed workers' compensation rating organization.

Prohibits client of temporary service provider from paying employee provided by temporary service provider directly if employee is being paid by temporary service provider.

Instructs Director of Department of Consumer and Business Services to report certain information to Department of Revenue and Employment Department.

A BILL FOR AN ACT

1
2 Relating to employees provided by temporary service provider; creating new provisions; and
3 amending ORS 656.850.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 737.**

6 **SECTION 2. (1) As used in this section, "temporary service provider" has the meaning**
7 **given that term in ORS 656.850.**

8 **(2) When a temporary service provider provides workers to work for a client and also**
9 **provides the workers' compensation coverage for those workers, the insurance premium for**
10 **the client's exposure shall be based on the client's own experience rating, in the same man-**
11 **ner as required for employers insuring directly employed workers.**

12 **(3) An insurer that provides workers' compensation to a temporary service provider shall**
13 **maintain and report to the licensed workers' compensation rating organization of which the**
14 **insurer is a member separate statistical experience for each client of the temporary service**
15 **provider to the uniform statistical plan prescribed by rule of the Director of the Department**
16 **of Consumer and Business Services in accordance with ORS 737.225 (4).**

17 **(4) To reimburse expenses incurred by the insurer in segregating client experience, the**
18 **insurer shall be permitted to charge the temporary service provider a reasonable fee as de-**
19 **termined by the director.**

20 **(5) The temporary service provider shall earn a separate experience rating for any ad-**
21 **ministrative personnel the company employs.**

22 **SECTION 3. Section 4 of this 2013 Act is added to and made a part of ORS chapter 656.**

23 **SECTION 4. (1)(a) A client of a temporary service provider may not pay an employee**
24 **through the temporary service provider and directly to the employee for work performed in**
25 **the same pay period.**

26 **(b) A client of a temporary service provider that pays an employee through the tempo-**
27 **rary service provider and directly to the employee for work performed in the same pay period**

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 is subject to ORS 656.052 and 656.054 and to civil penalties assessed pursuant to ORS 656.735.

2 (2) When a temporary service provider provides workers to a client, the temporary ser-
 3 vice provider shall satisfy the requirements of ORS 656.017 and 656.407 and provide workers'
 4 compensation coverage for those workers and any subject workers employed by the client
 5 unless during the term of the temporary employment arrangement the client has proof of
 6 coverage on file with the Director of the Department of Consumer and Business Services
 7 that extends coverage to subject workers employed by the client and to any workers em-
 8 ployed by the client on a temporary basis. If the client allows the coverage to expire and
 9 continues to employ subject workers or has workers employed on a temporary basis, the
 10 client shall be considered a noncomplying employer unless the temporary service provider
 11 has complied with subsection (4) of this section.

12 (3) When a temporary service provider provides workers to a client, the temporary ser-
 13 vice provider shall ensure that the client provides adequate training, supervision and in-
 14 struction for those workers to meet the requirements of ORS chapter 654.

15 (4) When a temporary service provider provides subject workers to work for a client and
 16 also provides workers' compensation coverage for those workers, the temporary service
 17 provider shall notify the Director of the Department of Consumer and Business Services in
 18 writing. The notification shall be given in such manner as the director may prescribe. A
 19 temporary service provider may terminate its obligation to provide workers' compensation
 20 coverage for workers provided to a client by giving written notice of the termination to the
 21 client and to the director. A notice of termination shall state the effective date and hour of
 22 the termination, but the termination shall be effective not less than 30 days after the notice
 23 is received by the director. Notice to the client under this subsection shall be given by mail,
 24 addressed to the client at the client's last-known address. If the client is a partnership, no-
 25 tice may be given to any of the partners. If the client is a corporation, notice may be given
 26 to any agent or officer of the corporation upon whom legal process may be served.

27 (5) If the Director of the Department of Consumer and Business Services issues a final
 28 order declaring the client of a temporary service provider to be a noncomplying employer
 29 as provided in this section, the director shall notify the Department of Revenue and the
 30 Employment Department. The notification shall be given in such manner as the director may
 31 prescribe and must include information relevant to any payments made by the client directly
 32 to the employee who was provided to the client by the temporary service provider.

33 **SECTION 5.** ORS 656.850 is amended to read:

34 656.850. (1) As used in this section and ORS 656.018, 656.403, 656.855 and 737.270 **and section**
 35 **4 of this 2013 Act:**

36 (a) "Worker leasing company" means a person who provides workers, by contract and for a fee,
 37 to work for a client but does not include a person who provides workers to a client on a temporary
 38 basis.

39 (b) "Temporary basis" means providing workers to a client for special situations such as to
 40 cover employee absences, employee leaves, professional skill shortages, seasonal workloads and
 41 special assignments and projects with the expectation that the position or positions will be termi-
 42 nated upon completion of the special situation. Workers also are provided on a temporary basis if
 43 they are provided as probationary new hires with a reasonable expectation of transitioning to per-
 44 manent employment with the client and the client uses a preestablished probationary period in its
 45 overall employment selection program.

1 (c) "Temporary service provider" means a person who provides workers, by contract and for a
 2 fee, to a client on a temporary basis.

3 (2) No person shall perform services as a worker leasing company in this state without first
 4 having obtained a license therefor from the Director of the Department of Consumer and Business
 5 Services. No person required by this section to obtain a license shall fail to comply with this section
 6 or ORS 656.855, or any rule adopted pursuant thereto.

7 (3) When a worker leasing company provides workers to a client, the worker leasing company
 8 shall satisfy the requirements of ORS 656.017 and 656.407 and provide workers' compensation cov-
 9 erage for those workers and any subject workers employed by the client unless during the term of
 10 the lease arrangement the client has proof of coverage on file with the director that extends cov-
 11 erage to subject workers employed by the client and any workers leased by the client. If the client
 12 allows the coverage to expire and continues to employ subject workers or has leased workers, the
 13 client shall be considered a noncomplying employer unless the worker leasing company has complied
 14 with subsection (5) of this section.

15 (4) When a worker leasing company provides workers for a client, the worker leasing company
 16 shall assure that the client provides adequate training, supervision and instruction for those workers
 17 to meet the requirements of ORS chapter 654.

18 (5) When a worker leasing company provides subject workers to work for a client and also
 19 provides workers' compensation coverage for those workers, the worker leasing company shall notify
 20 the director in writing. The notification shall be given in such manner as the director may prescribe.
 21 A worker leasing company may terminate its obligation to provide workers' compensation coverage
 22 for workers provided to a client by giving to the client and the director written notice of the ter-
 23 mination. A notice of termination shall state the effective date and hour of the termination, but the
 24 termination shall be effective not less than 30 days after the notice is received by the director.
 25 Notice to the client under this section shall be given by mail, addressed to the client at the client's
 26 last-known address. If the client is a partnership, notice may be given to any of the partners. If the
 27 client is a corporation, notice may be given to any agent or officer of the corporation upon whom
 28 legal process may be served.

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