

# House Bill 2438

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Employment Department)

## 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**.

Transfers Office of Administrative Hearings from Employment Department to Oregon Department of Administrative Services.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the Office of Administrative Hearings; creating new provisions; amending ORS 183.605  
3 and 183.690; and declaring an emergency.

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

5 **SECTION 1. The duties, functions and powers of the Employment Department relating**  
6 **to the Office of Administrative Hearings are imposed upon, transferred to and vested in the**  
7 **Oregon Department of Administrative Services.**

8 **SECTION 2. (1) The Director of the Employment Department shall:**

9 (a) **Deliver to the Oregon Department of Administrative Services all records and property**  
10 **within the jurisdiction of the director that relate to the duties, functions and powers trans-**  
11 **ferred by section 1 of this 2015 Act; and**

12 (b) **Transfer to the Oregon Department of Administrative Services those employees en-**  
13 **gaged primarily in the exercise of the duties, functions and powers transferred by section 1**  
14 **of this 2015 Act.**

15 (2) **The Director of the Oregon Department of Administrative Services shall take pos-**  
16 **session of the records and property, and shall take charge of the employees and employ them**  
17 **in the exercise of the duties, functions and powers transferred by section 1 of this 2015 Act,**  
18 **without reduction of compensation but subject to change or termination of employment or**  
19 **compensation as provided by law.**

20 (3) **The Governor shall resolve any dispute between the Employment Department and the**  
21 **Oregon Department of Administrative Services relating to transfers of records, property and**  
22 **employees under this section, and the Governor's decision is final.**

23 **SECTION 3. (1) The unexpended balances of amounts authorized to be expended by the**  
24 **Employment Department for the biennium beginning July 1, 2015, from revenues dedicated,**  
25 **continuously appropriated, appropriated or otherwise made available for the purpose of ad-**  
26 **ministering and enforcing the duties, functions and powers transferred by section 1 of this**  
27 **2015 Act are transferred to and are available for expenditure by the Oregon Department of**  
28 **Administrative Services for the biennium beginning July 1, 2015, for the purpose of adminis-**  
29 **tering and enforcing the duties, functions and powers transferred by section 1 of this 2015**  
30 **Act.**

**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       (2) The expenditure classifications, if any, established by Acts authorizing or limiting  
 2 expenditures by the Employment Department remain applicable to expenditures by the  
 3 Oregon Department of Administrative Services under this section.

4       **SECTION 4.** The transfer of duties, functions and powers to the Oregon Department of  
 5 Administrative Services by section 1 of this 2015 Act does not affect any action, proceeding  
 6 or prosecution involving or with respect to such duties, functions and powers begun before  
 7 and pending at the time of the transfer, except that the Oregon Department of Administra-  
 8 tive Services is substituted for the Employment Department in the action, proceeding or  
 9 prosecution.

10       **SECTION 5.** (1) Nothing in sections 1 to 7 of this 2015 Act and the amendments to ORS  
 11 183.605 and 183.690 by sections 8 and 9 of this 2015 Act relieves a person of a liability, duty  
 12 or obligation accruing under or with respect to the duties, functions and powers transferred  
 13 by section 1 of this 2015 Act. The Oregon Department of Administrative Services may  
 14 undertake the collection or enforcement of any such liability, duty or obligation.

15       (2) The rights and obligations of the Employment Department legally incurred under  
 16 contracts, leases and business transactions executed, entered into or begun before the op-  
 17 erative date of section 1 of this 2015 Act and accruing under or with respect to the duties,  
 18 functions and powers transferred by section 1 of this 2015 Act are transferred to the Oregon  
 19 Department of Administrative Services. For the purpose of succession to these rights and  
 20 obligations, the Oregon Department of Administrative Services is a continuation of the Em-  
 21 ployment Department and not a new authority.

22       **SECTION 6.** Notwithstanding the transfer of duties, functions and powers by section 1  
 23 of this 2015 Act, the rules of the Employment Department with respect to such duties,  
 24 functions or powers that are in effect on the operative date of section 1 of this 2015 Act  
 25 continue in effect until superseded or repealed by rules of the Oregon Department of Ad-  
 26 ministrative Services. References in such rules of the Employment Department to the Em-  
 27 ployment Department or an officer or employee of the Employment Department are  
 28 considered to be references to the Oregon Department of Administrative Services or an of-  
 29 ficer or employee of the Oregon Department of Administrative Services.

30       **SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly  
 31 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in  
 32 the context of the duties, functions and powers transferred by section 1 of this 2015 Act,  
 33 reference is made to the Employment Department, or an officer or employee of the Em-  
 34 ployment Department, whose duties, functions or powers are transferred by section 1 of this  
 35 2015 Act, the reference is considered to be a reference to the Oregon Department of Ad-  
 36 ministrative Services or an officer or employee of the Oregon Department of Administrative  
 37 Services who by this 2015 Act is charged with carrying out such duties, functions and powers.

38       **SECTION 8.** ORS 183.605 is amended to read:

39       183.605. (1) The Office of Administrative Hearings is established within the [*Employment De-*  
 40 *partment*] **Oregon Department of Administrative Services**. The office shall be managed by the  
 41 chief administrative law judge appointed under ORS 183.610. The office shall make administrative  
 42 law judges available to agencies under ORS 183.605 to 183.690. Administrative law judges assigned  
 43 from the office under ORS 183.605 to 183.690 may:

44       (a) Conduct contested case proceedings on behalf of agencies in the manner provided by ORS  
 45 183.605 to 183.690;

1 (b) Perform such other services, as may be requested by an agency, that are appropriate for the  
2 resolution of disputes arising out of the conduct of agency business; and

3 (c) Perform such other duties as may be authorized under ORS 183.605 to 183.690.

4 (2) All persons serving as administrative law judges in the office must meet the standards and  
5 training requirements of ORS 183.680.

6 (3) The [*Employment Department*] **Oregon Department of Administrative Services** shall pro-  
7 vide administrative services to the Office of Administrative Hearings, including budget services,  
8 accounting services, procurement services, contracting services, human resources services and in-  
9 formation technology services. The services must be provided in a manner that is consistent with  
10 law, rules and state policies. The Office of Administrative Hearings shall reimburse the [*Employment*  
11 *Department*] **Oregon Department of Administrative Services** for the costs of the services pro-  
12 vided.

13 **SECTION 9.** ORS 183.690 is amended to read:

14 183.690. (1) The Office of Administrative Hearings Oversight Committee is created. The com-  
15 mittee consists of nine members, as follows:

16 (a) The President of the Senate and the Speaker of the House of Representatives shall appoint  
17 four legislators to the committee. Two shall be Senators appointed by the President. Two shall be  
18 Representatives appointed by the Speaker.

19 (b) The Governor shall appoint two members to the committee. At least one of the members  
20 appointed by the Governor shall be an active member of the Oregon State Bar with experience in  
21 representing parties who are not agencies in contested case hearings.

22 (c) The Attorney General shall appoint two members to the committee.

23 (d) The chief administrative law judge for the Office of Administrative Hearings shall serve as  
24 an ex officio member of the committee. The chief administrative law judge may cast a vote on a  
25 matter before the committee if the votes of the other members are equally divided on the matter.

26 (2) The term of a legislative member of the committee shall be two years. If a person appointed  
27 by the President of the Senate or by the Speaker of the House ceases to be a Senator or Represen-  
28 tative during the person's term on the committee, the person may continue to serve as a member  
29 of the committee for the balance of the member's term on the committee. The term of all other ap-  
30 pointed members shall be four years. Appointed members of the committee may be reappointed. If  
31 a vacancy occurs in one of the appointed positions for any reason during the term of membership,  
32 the official who appointed the member to the vacated position shall appoint a new member to serve  
33 the remainder of the term. An appointed member of the committee may be removed from the com-  
34 mittee at any time by the official who appointed the member.

35 (3)(a) The members of the committee shall select from among themselves a chairperson and a  
36 vice chairperson.

37 (b) The committee shall meet at such times and places as determined by the chairperson.

38 (4) Legislative members shall be entitled to payment of per diem and expense reimbursement  
39 under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

40 (5) The committee shall:

41 (a) Study the operations of the Office of Administrative Hearings;

42 (b) Make any recommendations to the Governor and the Legislative Assembly that the commit-  
43 tee deems necessary to increase the effectiveness, fairness and efficiency of the operations of the  
44 Office of Administrative Hearings;

45 (c) Make any recommendations for additional legislation governing the operations of the Office

1 of Administrative Hearings; and

2 (d) Conduct such other studies as necessary to accomplish the purposes of this subsection.

3 (6) The [*Employment Department*] **Oregon Department of Administrative Services** shall provide the committee with staff, subject to availability of funding for that purpose.

5 **SECTION 10. The Director of the Employment Department, the chief administrative law judge and the Director of the Oregon Department of Administrative Services may take any action necessary before the operative date of section 1 of this 2015 Act that is necessary to enable the Director of the Oregon Department of Administrative Services and the chief administrative law judge to exercise, on and after the operative date of section 1 of this 2015 Act, the duties, functions and powers of the Director of the Oregon Department of Administrative Services and the chief administrative law judge pursuant to section 1 of this 2015 Act.**

13 **SECTION 11. Sections 1 to 7 of this 2015 Act and the amendments to ORS 183.605 and 183.690 by sections 8 and 9 of this 2015 Act become operative on January 1, 2016.**

15 **SECTION 12. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.**