

# House Bill 2440

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**.

Requires reduction of benefits payable to unemployment insurance claimant who receives award of back pay for time period during which benefits were received.

Provides that individual is available for work when individual is required to be outside individual's normal labor market area to apply for suitable employment within individual's normal labor market.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to unemployment insurance benefits; creating new provisions; amending ORS 657.150 and  
3 657.155; and declaring an emergency.

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

5 **SECTION 1.** ORS 657.150 is amended to read:

6 657.150. (1) An individual shall be paid benefits for weeks during the benefit year in an amount  
7 which is to be determined by taking into account the individual's work in subject employment in the  
8 base year as provided in this section.

9 (2)(a) To qualify for benefits an individual must have:

10 (A) Worked in subject employment in the base year with total base year wages of \$1,000 or more  
11 and have total base year wages equal to or in excess of one and one-half times the wages in the  
12 highest quarter of the base year; and

13 (B) Have earned wages in subject employment equal to six times the individual's weekly benefit  
14 amount in employment for service performed subsequent to the beginning of a preceding benefit year  
15 if benefits were paid to the individual for any week in the preceding benefit year.

16 (b) If the individual does not meet the requirements of paragraph (a)(A) of this subsection, the  
17 individual may qualify for benefits if the individual has worked a minimum of 500 hours in employ-  
18 ment subject to this chapter during the base year.

19 (3) If the wages paid to an individual are not based upon a fixed period of time or if wages are  
20 paid at irregular intervals or in such manner as not to extend regularly over the period of employ-  
21 ment, for the purposes of subsections (2) to (5) of this section, the individual's wages shall be allo-  
22 cated in accordance with rules prescribed by the Director of the Employment Department. Such  
23 rules shall, insofar as possible, produce results the same as those which would exist if the individual  
24 had been paid wages at regular intervals. The director may adopt rules to attribute hours of work  
25 to an individual if the individual is not paid on an hourly basis or if the employer does not report  
26 the number of hours worked.

27 (4)(a) An eligible individual's weekly benefit amount shall be 1.25 percent of the total wages  
28 paid in the individual's base year. However, such amount shall not be less than the minimum, nor

**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 more than the maximum weekly benefit amount.

2 [(a)] (b) The minimum weekly benefit amount shall be 15 percent (0.1500) of the state average  
3 weekly covered wage for the preceding calendar year, effective for any benefit year commencing on  
4 and after the week which includes July 4, 1975, and the week that includes each July 4 thereafter.

5 [(b)] (c) The maximum weekly benefit amount shall be:

6 (A) Fifty-five percent (0.5500) of the state average weekly covered wage for calendar year 1979,  
7 effective for any benefit year commencing with and after the week which includes July 4, 1980, and  
8 through any benefit year commencing with the week which includes June 27, 1981.

9 (B) Fifty-five percent (0.5500) of the state average weekly covered wage for calendar year 1980,  
10 effective for any benefit year commencing with and after the week which includes July 4, 1981,  
11 through any benefit year commencing with the week which includes September 27, 1981.

12 (C) Fifty-eight percent (0.5800) of the state average weekly covered wage for calendar year 1980,  
13 effective for any benefit year commencing with and after the week which includes October 4, 1981,  
14 through any benefit year commencing with the week which includes June 27, 1982.

15 (D) Sixty percent (0.6000) of the state average weekly covered wage for calendar year 1981, ef-  
16 fective for any benefit year commencing with and after the week which includes July 4, 1982,  
17 through any benefit year commencing with the week which includes June 27, 1983.

18 (E) Sixty-four percent (0.6400) of the state average covered weekly wage for the preceding cal-  
19 endar year, effective for any benefit year commencing with and after the week which includes July  
20 4, 1983, and the week which includes each July 4 thereafter.

21 [(c)] (d) All weekly benefit amounts, if not a multiple of \$1, shall be computed to the next lower  
22 multiple of \$1.

23 [(d)] (e) For the purposes of this subsection, the state average weekly covered wage means an  
24 amount determined by the Employment Department by dividing the total wages paid by subject em-  
25 ployers during the year by 52 times the average monthly employment reported by subject employers  
26 for the year.

27 (5) Benefits paid to an eligible individual in a benefit year shall not exceed 26 times the  
28 individual's weekly benefit amount, or one-third of the base year's wages paid, whichever is the  
29 lesser. If such amount is not a multiple of \$1, it shall be computed to the next lower multiple of \$1.

30 (6) An eligible unemployed individual who has employment in any week shall have the  
31 individual's weekly benefit amount reduced by the amount of earnings paid or payable that exceeds  
32 whichever is the greater of the following amounts:

33 (a) Ten times the minimum hourly wage established by the laws of this state; or

34 (b) One-third of the individual's weekly benefit amount.

35 (7) Payment which has been, is or will be paid to an individual for **back pay** or a holiday or  
36 vacation shall be considered as earnings in the determination of the amount of benefits payable with  
37 respect to **the time period for which the back pay is awarded, or** the week in which the holiday  
38 or vacation falls, in the same manner as provided in subsection (6) of this section. However, if  
39 payment for the holiday or vacation is paid more than 45 days prior to the holiday or vacation or  
40 is delayed more than 45 days following the end of the week in which the holiday or vacation falls,  
41 the provisions of this section do not apply and previously reduced benefits shall be adjusted ac-  
42 cordingly.

43 (8) Payment which has been, or will be made to an individual as a member of a reserve compo-  
44 nent of the Armed Forces of the United States, including the organized militia of the State of  
45 Oregon, for the performance of inactive duty training shall not be considered as earnings in the

1 determination of the amount of benefits payable.

2 **SECTION 2.** ORS 657.155 is amended to read:

3 657.155. (1) An unemployed individual shall be eligible to receive benefits with respect to any  
4 week only if the Director of the Employment Department finds that:

5 (a) The individual has registered for work at and thereafter has continued to report at an em-  
6 ployment office in accordance with such rules as the director may prescribe. However, the director  
7 may, by rule, waive or alter either or both of the requirements of this subsection as to individuals  
8 attached to regular jobs and as to such other types of cases or situations with respect to which the  
9 director finds that compliance with such requirements would be oppressive, or would be inconsistent  
10 with the purposes of this chapter; provided, that no such rule conflicts with ORS 657.255.

11 (b) The individual has made a claim for benefits with respect to such week in accordance with  
12 ORS 657.260.

13 (c) The individual is able to work, is available for work, and is actively seeking and unable to  
14 obtain suitable work. No individual participating in a community work and training program, as  
15 defined in ORS 411.855, shall, solely by reason thereof, be unavailable for work within the meaning  
16 of this section.

17 (d) The individual has been unemployed for a waiting period of one week, unless the Governor  
18 has waived the required waiting period as provided in ORS 401.186.

19 (e) The individual is not disqualified from benefits or ineligible for benefits under any other  
20 section of this chapter.

21 (f) The individual is qualified for benefits under ORS 657.150.

22 (2)(a) An individual who leaves the **individual's** normal labor market area [*of the individual*] for  
23 the major portion of any week is presumed to be unavailable for work within the meaning of this  
24 section.

25 **(b) [This] The presumption described in paragraph (a) of this subsection** may be overcome  
26 if the individual establishes to the satisfaction of the director that the individual:

27 **(A)** Has conducted a bona fide search for work and has been reasonably accessible to suitable  
28 work in the labor market area in which the individual spent the major portion of the week to which  
29 the presumption applies[.]; **or**

30 **(B) Was required to be outside the individual's normal labor market area to apply for**  
31 **suitable employment within the individual's normal labor market.**

32 (3) The director shall either promptly allow credit or pay benefits for any week for which ben-  
33 efits are claimed or promptly give notice of denial thereof in the manner provided in ORS 657.267  
34 and 657.268.

35 **SECTION 3. (1) The amendments to ORS 657.150 by section 1 of this 2015 Act apply to**  
36 **back pay awarded on or after the effective date of this 2015 Act.**

37 **(2) The amendments to ORS 657.155 by section 2 of this 2015 Act apply to weeks beginning**  
38 **on or after the effective date of this 2015 Act.**

39 **SECTION 4. This 2015 Act being necessary for the immediate preservation of the public**  
40 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
41 **on its passage.**