

Enrolled Senate Bill 41

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CHAPTER

AN ACT

Relating to workforce information; amending ORS 410.619, 657.601, 657.665, 657.730 and 657.734; and repealing ORS 657.736.

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

SECTION 1. ORS 657.601 is amended to read:

657.601. There is established an Employment Department. The department shall:

- (1) Administer the unemployment insurance laws of this state to support Oregonians during periods of unemployment;
- (2) Provide for the operation of a statewide employment service, including the establishment and maintenance of a system of public employment offices to promote employment of Oregonians;
- (3) Provide oversight, operation and management of a statewide comprehensive [*labor market and occupational supply and demand information system to assist in the development of a diversified, multiskilled*] workforce **and labor market information system**; and
- (4) Provide child care advocacy, coordination of child care policy and planning, technical assistance to child care providers and certification of child care facilities to assist the employment of Oregonians and insure the health and well-being of the future workforce.

SECTION 2. ORS 657.665 is amended to read:

657.665. (1) Except as provided in subsections (2) to (5) of this section, all information in the records of the Employment Department pertaining to the administration of the unemployment insurance, employment service and **workforce and** labor market information programs:

- (a) Is confidential and for the exclusive use and information of the Director of the Employment Department in administering the unemployment insurance, employment service and **workforce and** labor market information programs in Oregon.
 - (b) May not be used in any court action or in any proceeding pending in the court unless the director or the state is a party to the action or proceeding or unless the proceeding concerns the establishment, enforcement or modification of a support obligation and support services are being provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.
 - (c) Is exempt from disclosure under ORS 192.410 to 192.505.
- (2) The Employment Department shall disclose information:
- (a) To any claimant or legal representative, at a hearing before an administrative law judge, to the extent necessary for the proper presentation of an unemployment insurance claim.
 - (b) Upon request to the United States Secretary of Labor. The Employment Department shall disclose the information in a form and containing the information that the United States Secretary

of Labor may require. The information disclosed is confidential and may not be used for any other purpose.

(c) Pursuant to section 303(a)(7) of the Social Security Act, upon request to any agency of the United States charged with the administration of public works or assistance through public employment. Under this paragraph, the Employment Department shall disclose the name, address, ordinary occupation and employment status of each recipient of unemployment insurance benefits and a statement of the recipient's right to further benefits under this chapter. The information disclosed is confidential and may not be used for any other purpose.

(d) Pursuant to section 303(c)(1) of the Social Security Act, to the Railroad Retirement Board. Under this paragraph, the Employment Department shall disclose unemployment insurance records. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the board.

(e) Pursuant to section 303(d) of the Social Security Act, upon request to officers and employees of the United States Department of Agriculture and to officers or employees of any state Supplemental Nutrition Assistance Program agency for the purpose of determining an individual's eligibility for or the amount of supplemental nutrition assistance. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Agriculture.

(f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act, to state or local child support enforcement agencies enforcing child support obligations under Title IV-D of the Social Security Act for the purposes of establishing child support obligations, locating individuals owing child support obligations and collecting child support obligations from those individuals. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the child support enforcement agency.

(g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to agencies participating in the income and eligibility verification system for the purpose of verifying an individual's eligibility for benefits, or the amount of benefits, under unemployment insurance, temporary assistance for needy families, Medicaid, the Supplemental Nutrition Assistance Program, Supplemental Security Income, child support enforcement or Social Security programs. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting agency.

(h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the Federal Unemployment Tax Act, to the United States Department of Health and Human Services National Directory of New Hires. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Health and Human Services.

(i) Pursuant to section 303(i) of the Social Security Act, to officers and employees of the United States Department of Housing and Urban Development and to representatives of a public housing agency for the purpose of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the United States Department of Housing and Urban Development. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Housing and Urban Development or the public housing agency.

(j) Pursuant to regulations of the United States Secretary of Health and Human Services issued under section 3304(a)(16)(A) of the Federal Unemployment Tax Act, and except as required by section 303 of the Social Security Act, to the state, a political subdivision or a federally recognized Indian tribe that has signed an agreement with the Department of Human Services to administer Part A of Title IV of the Social Security Act for the purpose of determining an individual's eligibility for assistance, or the amount of assistance, under a program funded under Part A of Title IV of the Social Security Act. The information disclosed is confidential and may not be used for any other purpose.

(k) Upon request, to the United States Attorney's Office. Under this paragraph, the Employment Department may disclose an individual's employment and wage information in response to a federal grand jury subpoena or for the purpose of collecting civil and criminal judgments, including restitution and special assessment fees. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Attorney's Office.

(3) The Employment Department may disclose information secured from employing units:

(a) To [*agencies of this*] state **agencies**, federal agencies, [*and*] local government agencies, **public universities listed in ORS 352.002 and the Oregon Health and Science University established under ORS 353.020**, to the extent necessary to properly carry out governmental planning, performance measurement, program analysis, socioeconomic analysis [*and*] or policy analysis functions performed under applicable law. The information disclosed is confidential and may not be disclosed by the agencies or universities in any manner that would identify individuals, claimants, employees or employing units. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the agency or university requesting the information.

(b) As part of a geographic information system. Points on a map may be used to represent economic data, including the location, employment size class and industrial classification of businesses in Oregon. Information presented as part of a geographic information system may not give specific details regarding a business's address, actual employment or proprietary information. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

(c) In accordance with ORS 657.673.

(4) The Employment Department may:

(a) Disclose information to public employees in the performance of their duties under state or federal laws relating to the payment of unemployment insurance benefits, the provision of employment services and the provision of **workforce and** labor market information.

(b) At the discretion of the Director of the Employment Department and subject to an interagency agreement, disclose information to public officials in the performance of their official duties administering or enforcing laws within their authority and to the agents or contractors of public officials. The public official shall agree to assume responsibility for misuse of the information by the official's agent or contractor.

(c) Disclose information pursuant to an informed consent, received from an employer or claimant, to disclose the information.

(d) Disclose information to partners under the federal [*Workforce Investment Act of 1998*] **Workforce Innovation and Opportunity Act** for the purpose of administering state workforce programs under the Act. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting partner.

(e) Disclose the names and addresses of employing units to the Bureau of Labor and Industries for the purpose of disseminating information to employing units. The names and addresses disclosed are confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(f) Disclose information to the Commissioner of the Bureau of Labor and Industries for the purpose of performing duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(g) Disclose information required under ORS 657.660 (3) and (4) to the Public Employees Retirement System for the purpose of determining the eligibility of members of the retirement system for disability [*retirement allowances under ORS chapter 238*] **under ORS chapters 238 and 238A**. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the Public Employees Retirement System.

(h) Disclose to the Oregon Business Development Commission information required by the commission in performing its duty under ORS 285A.050 to verify changes in employment levels following direct employer participation in Oregon Business Development Department programs or indirect participation through municipalities under ORS 285B.410 to 285B.482. The information disclosed to the commission may include an employer's employment level, total subject wages payroll and whole hours worked. The information disclosed is confidential and may not be used for any other purpose. The commission may not disclose the information in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duty under ORS 285A.050. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(j) Disclose information to the Department of Consumer and Business Services for the purpose of performing its duties under ORS chapters 654 and 656. The information disclosed may include the name, address, number of employees and industrial classification code of an employer and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Consumer and Business Services in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS chapters 654 and 656, including administrative hearings and court proceedings in which the Department of Consumer and Business Services is a party. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Consumer and Business Services.

(k) Disclose information to the Construction Contractors Board for the purpose of performing its duties under ORS chapter 701. The information disclosed to the board may include the names and addresses of employers and status of their compliance with this chapter. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the board.

(L) Disclose information to the State Fire Marshal to assist the State Fire Marshal in carrying out duties under ORS 453.307 to 453.414. The information disclosed may include the name, address, telephone number and industrial classification code of an employer. The information disclosed is confidential and may not be disclosed by the State Fire Marshal in any manner that would identify an employing unit except to the extent necessary to carry out duties under ORS 453.307 to 453.414. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the office of the State Fire Marshal.

(m) Disclose information to the Higher Education Coordinating Commission for the purpose of performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education

Act of 1965. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the commission in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duties under ORS chapter 348 or Title IV of the Higher Education Act of 1965. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(n) Disclose information to the Department of Transportation to assist the Department of Transportation in carrying out the duties of the Department of Transportation relating to collection of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.656, 184.670 to 184.733 and 805.263, ORS chapter 319 and the Oregon Vehicle Code. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Transportation in any manner that would identify an employing unit or employee except to the extent necessary to carry out the Department of Transportation's duties relating to collection of delinquent and liquidated debts or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the Department of Transportation. The Department of Transportation may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Transportation.

(o) Disclose information to the Department of Human Services and the Oregon Health Authority to assist the Department of Human Services and the Oregon Health Authority in the collection of debts that the Department of Human Services and the Oregon Health Authority are authorized by law to collect. The information disclosed may include the names, addresses and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Human Services or the Oregon Health Authority in a manner that would identify an employing unit or employee except to the extent necessary for the collection of debts as described in this paragraph. The Department of Human Services and the Oregon Health Authority may not disclose information received under this paragraph to a private collection agency or use the information for a purpose other than the collection of debts as described in this paragraph. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Human Services or the Oregon Health Authority.

(p) Disclose to the Alcohol and Drug Policy Commission information required by the commission in evaluating and measuring the performance of alcohol and drug prevention and treatment programs under ORS 430.242 or the impact of the programs on employment. The information disclosed to the commission may include total subject wages payroll and whole hours worked. The information disclosed under this paragraph is confidential and may not be used for any other purpose. The commission may not disclose the information in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duties under ORS 430.242. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(q) Disclose to any person establishment level information secured pursuant to this chapter from federal, state and local government [*employing units*] **agencies, public universities listed in ORS 352.002 or the Oregon Health and Science University established under ORS 353.020**. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the [*party*] **person** requesting the information.

(r) Disclose to any person the industrial classification code assigned to an employing unit. If the information disclosed under this paragraph is not prepared for the use of the Employment Department,

ment, the costs of disclosing the information shall be paid by the [party] **person** requesting the information.

(5) The Employment Department may make public all decisions of the Employment Appeals Board.

(6) Any officer appointed by or any employee of the Director of the Employment Department who discloses confidential information, except with the authority of the director, pursuant to rules or as otherwise required by law, may be disqualified from holding any appointment or employment with the Employment Department.

(7) Any person or any officer or employee of an entity to whom information is disclosed by the Employment Department under this section who divulges or uses the information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure may be disqualified from performing any service under contract or disqualified from holding any appointment or employment with the state agency that engaged or employed that person, officer or employee. The Employment Department may immediately cancel or modify any information sharing agreement with an entity when a person or an officer or employee of that entity discloses confidential information, other than as specified in law or agreement.

SECTION 3. ORS 657.730 is amended to read:

657.730. (1) As used in this section, unless the context requires otherwise:

[a] *“Labor market analysis” means the measurement and evaluation of economic forces as they relate to the employment process in the local labor market area. Variables affecting labor market relationships include, but are not limited to, such factors as labor force changes and characteristics, population changes and characteristics, occupational and industrial structure and development, technological developments, shifts in consumer demand, volume and extent of unionization and trade disputes, recruitment practices, wage levels, conditions of employment and training opportunities.*

[b] (a) *“Labor market area” means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the United States Department of Labor in defining such areas or similar criteria established by the Director of the Employment Department. [The area generally takes the name of its community.] The boundaries depend primarily on economic and geographic factors. The State of Oregon is divided into labor market areas, **including local workforce areas**, which usually include a county or group of contiguous counties.*

[c] (b) *“Workforce and labor market information” means the body of information generated from measurement and evaluation of the socioeconomic factors and variables influencing the employment process in the state and specific labor market areas. These socioeconomic factors and variables [affect labor demand and supply relationships and] include:*

(A) Labor force information, which includes but is not limited to employment, unemployment, labor force participation[, *labor turnover and mobility, average hours and earnings and changes*] and characteristics of the population and labor force [*within specific labor market areas and the state*];

(B) Occupational information, which includes but is not limited to occupational supply and demand estimates and projections, characteristics of occupations, **skill requirements**, wage levels, job duties, training and education requirements, conditions of employment, unionization, retirement practices and training opportunities;

(C) Economic information, which includes but is not limited to number of business starts and stops by industry and labor market area, information on employment growth and decline by industry and labor market area, **employment projections by industry**, employer establishment data and number of union disputes and strikes by industry and labor market area; and

(D) Program information, which includes but is not limited to program participant or student information gathered in cooperation with other state and local agencies along with related labor market information to evaluate the effectiveness, efficiency and impact of state and local employment, training, education and job creation efforts in support of planning, management, implementation and evaluation.

(2) The Director of the Employment Department shall have the following duties:

(a) [*Oversight, operation and management of*] **Overseeing, operating and managing** a statewide comprehensive [*labor market and occupational supply and demand information system, including development of a five-year employment forecast for state and labor market areas*] **workforce and labor market information system.**

(b) [*Preparation of local labor market information packages for the state's workforce system, including special studies and job impact analyses*] **Supporting Oregon's state and local workforce boards by providing foundational workforce data and special studies** in support of state and local employment, training, education and job creation programs, especially activities that prevent job loss, reduce unemployment and create jobs.

(c) [*Coordination with other appropriate public agencies to improve employment estimates by enhancing data on corporate officers, improving business establishment listings, expanding samples for employment estimates and developing business entry or exit analysis relevant to the generation of occupational and economic forecasts.*]

(c) **Supporting other Oregon customers of workforce and labor market information, including, but not limited to, businesses, job seekers, policy makers, educational agencies and students, and providing foundational workforce data and analysis of trends at the state and local levels.**

(d) [*Production of long-term and occupational employment forecasts in cooperation with other appropriate agencies.*]

(e) (d) [*Coordination with state workforce agencies as defined in ORS 660.300 to study ways to standardize federal and state multiagency administrative records, such as unemployment insurance information and other information to produce employment, training, education and economic analysis needed to improve*] **Coordinating with state workforce agencies and other federal, state and local government partners to improve workforce and** labor market information products and services.

(f) (e) [*Production of*] **Producing workforce and** labor market information and economic analysis needed to facilitate the efficient and effective matching of the supply and demand of labor critical to an effective labor exchange in Oregon. [*Information collected will be coordinated with other public agencies through cooperative data collection efforts for statistical analysis, research or studies including, but not limited to, agricultural labor supply and demand, high performance organizations, targeted industries programs, and industrial improvement and expansion.*]

(g) (f) [*Administration of*] **Administering** other appropriate **workforce and** labor market information activities including support of efforts by local workforce investment boards[, *as defined in ORS 660.300,*] to align economic development, education and training with workforce development investments and services for job seekers and businesses to efficiently address local labor market needs and statewide workforce development priorities.

(3) To implement this section, the director shall have authority to:

(a) Establish rules and procedures to recover reasonable costs incurred in producing and providing:

(A) **Workforce and** labor market information products developed by the Employment Department in the ordinary course of business when the request results in costs over and above the ordinary costs of production including, but not limited to, special publication runs, photocopying or supplying the copy in some other medium; and

(B) Special **workforce and** labor market information products in response to individual requests that incur costs beyond the ordinary costs of doing business including, but not limited to, computer time, staff costs, preparation and distribution of surveys, electronic scanning, and special data collection, formatting and analysis. The director may enter into agreements with other public agencies to provide special **workforce and** labor market information products in a quid pro quo arrangement.

(b) Receive federal set aside funds from federal programs that are authorized to fund state and local **workforce and** labor market information and are required to use such information in support of their programs.

(c) Enter into agreements for statistical analysis, research or evaluation studies of privately and publicly funded employment, training, education and economic development programs.

(4) **Home care workers described in ORS 410.619 (1) are not employees of state government for the purposes of workforce and labor market information.**

SECTION 3a. If House Bill 2312 becomes law, section 3 of this 2017 Act (amending ORS 657.730) is repealed and ORS 657.730, as amended by section 20, chapter __, Oregon Laws 2017 (Enrolled House Bill 2312), is amended to read:

657.730. (1) As used in this section, unless the context requires otherwise:

[(a) "*Labor market analysis*" means the measurement and evaluation of economic forces as they relate to the employment process in the local labor market area. Variables affecting labor market relationships include, but are not limited to, such factors as labor force changes and characteristics, population changes and characteristics, occupational and industrial structure and development, technological developments, shifts in consumer demand, volume and extent of unionization and trade disputes, recruitment practices, wage levels, conditions of employment and training opportunities.]

[(b)] (a) "Labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the United States Department of Labor in defining such areas or similar criteria established by the Director of the Employment Department. [*The area generally takes the name of its community.*] The boundaries depend primarily on economic and geographic factors. The State of Oregon is divided into labor market areas, **including local workforce areas**, which usually include a county or group of contiguous counties.

[(c)] (b) "**Workforce and labor market information**" means the body of information generated from measurement and evaluation of the socioeconomic factors and variables influencing the employment process in the state and specific labor market areas. These socioeconomic factors and variables [*affect labor demand and supply relationships and*] include:

(A) Labor force information, which includes but is not limited to employment, unemployment, labor force participation[, *labor turnover and mobility, average hours and earnings and changes*] and characteristics of the population and labor force [*within specific labor market areas and the state*];

(B) Occupational information, which includes but is not limited to occupational supply and demand estimates and projections, characteristics of occupations, **skill requirements**, wage levels, job duties, training and education requirements, conditions of employment, unionization, retirement practices and training opportunities;

(C) Economic information, which includes but is not limited to number of business starts and stops by industry and labor market area, information on employment growth and decline by industry and labor market area, **employment projections by industry**, employer establishment data and number of union disputes and strikes by industry and labor market area; and

(D) Program information, which includes but is not limited to program participant or student information gathered in cooperation with other state and local agencies along with related labor market information to evaluate the effectiveness, efficiency and impact of state and local employment, training, education and job creation efforts in support of planning, management, implementation and evaluation.

(2) The Director of the Employment Department shall have the following duties:

(a) [*Oversight, operation and management of*] **Overseeing, operating and managing** a statewide comprehensive [*labor market and occupational supply and demand information system, including development of a five-year employment forecast for state and labor market areas*] **workforce and labor market information system.**

(b) [*Preparation of local labor market information packages for the state's workforce system, including special studies and job impact analyses*] **Supporting Oregon's state and local workforce boards by providing foundational workforce data and special studies** in support of state and local employment, training, education and job creation programs, especially activities that prevent job loss, reduce unemployment and create jobs.

[(c) Coordination with other appropriate public agencies to improve employment estimates by enhancing data on corporate officers, improving business establishment listings, expanding samples for employment estimates and developing business entry or exit analysis relevant to the generation of occupational and economic forecasts.]

(c) Supporting other Oregon customers of workforce and labor market information, including, but not limited to, businesses, job seekers, policy makers, educational agencies and students, and providing foundational workforce data and analysis of trends at the state and local levels.

[(d) Production of long-term and occupational employment forecasts in cooperation with other appropriate agencies.]

[(e) (d) [Coordination with state workforce agencies as defined in ORS 660.300 to study ways to standardize federal and state multiagency administrative records, such as unemployment insurance information and other information to produce employment, training, education and economic analysis needed to improve] **Coordinating with state workforce agencies and other federal, state and local government partners to improve workforce and** labor market information products and services.

[(f) (e) [Production of] Producing workforce and labor market information and economic analysis needed to facilitate the efficient and effective matching of the supply and demand of labor critical to an effective labor exchange in Oregon. *[Information collected will be coordinated with other public agencies through cooperative data collection efforts for statistical analysis, research or studies including, but not limited to, agricultural labor supply and demand, high performance organizations, targeted industries programs, and industrial improvement and expansion.]*

[(g) (f) [Administration of] Administering other appropriate **workforce and** labor market information activities including support of efforts by local workforce development boards, as defined in ORS 660.300, to align economic development, education and training with workforce development investments and services for job seekers and businesses to efficiently address local labor market needs and statewide workforce development priorities.

(3) To implement this section, the director shall have authority to:

(a) Establish rules and procedures to recover reasonable costs incurred in producing and providing:

(A) **Workforce and** labor market information products developed by the Employment Department in the ordinary course of business when the request results in costs over and above the ordinary costs of production including, but not limited to, special publication runs, photocopying or supplying the copy in some other medium; and

(B) Special **workforce and** labor market information products in response to individual requests that incur costs beyond the ordinary costs of doing business including, but not limited to, computer time, staff costs, preparation and distribution of surveys, electronic scanning, and special data collection, formatting and analysis. The director may enter into agreements with other public agencies to provide special **workforce and** labor market information products in a quid pro quo arrangement.

(b) Receive federal set aside funds from federal programs that are authorized to fund state and local **workforce and** labor market information and are required to use such information in support of their programs.

(c) Enter into agreements for statistical analysis, research or evaluation studies of privately and publicly funded employment, training, education and economic development programs.

(4) Home care workers described in ORS 410.619 (1) are not employees of state government for the purposes of workforce and labor market information.

SECTION 4. ORS 410.619 is amended to read:

410.619. (1) A home care worker who is not otherwise employed by the Home Care Commission, the Department of Human Services, the Oregon Health Authority, an area agency or a support services brokerage shall not be deemed to be an employee of the state, whether or not the state selects the home care worker for employment or exercises any direction or control over the home care worker, for the purpose of the state's liability for the home care worker's actions.

- (2) The state shall be deemed an employer of home care workers for the purposes of:
- (a) ORS 410.605, 410.606, 410.612 and 410.614; and
 - (b) ORS chapter 657, **except as provided in ORS 657.730 (4).**

SECTION 5. ORS 657.734 is amended to read:

657.734. (1) As used in this section:

- (a) "Public body" has the meaning given that term in ORS 192.410.
- (b) "System participant" means:

(A) [*Mandatory partners under the federal Workforce Investment Act of 1998 (enacted as P.L. 105-220 and codified as 29 U.S.C. 2801 et seq.)*] **Partners under the federal Workforce Innovation and Opportunity Act** and other one-stop system partners, which may include public bodies and private organizations; and

(B) Public bodies and private organizations that have been approved by the Director of the Employment Department, in consultation with the Education and Workforce Policy Advisor, to participate in the Performance Reporting Information System.

(2) There is established the Performance Reporting Information System for the purpose of collecting, analyzing and sharing statistical and demographic data for the development and reporting of workforce system performance measures.

(3) The Performance Reporting Information System is intended to share the data described in subsection (2) of this section, by agreement, with all system participants.

(4) The Director of the Employment Department shall administer and, in consultation with the Education and Workforce Policy Advisor, oversee the development of the Performance Reporting Information System. System participants shall be designated as participants in the system by rule of the Employment Department, in consultation with the Education and Workforce Policy Advisor. A system participant shall enter into an interagency or other applicable agreement with the director that:

- (a) Establishes protocols for the collection and sharing of data in the system;
- (b) Establishes safeguards for protecting the confidentiality of data in the system;
- (c) Includes provisions regarding informed consent for sharing information obtained from individuals; and
- (d) Provides for the sharing of costs for developing and maintaining the system.

(5)(a) All individual record information in the Performance Reporting Information System is confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to 192.505. As administrator of the system, the director may view all data or individual record information in the system. System participants may not allow public access to information received from the system that identifies a particular individual unless required by law. System participants shall limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed.

(b) System participants shall provide information in a format that encodes identifying data, including the client's Social Security number, using a formula unique to the system participant. In disclosing Social Security numbers to the system, system participants shall comply with any state and federal laws that govern the collection and use of Social Security numbers by the system participant and any additional requirements specified by the director, in consultation with the Education and Workforce Policy Advisor, that are included in the agreement entered into under subsection (4) of this section.

(6) The information in the Performance Reporting Information System is not a public record for purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information submitted to the system and the information received from the system is a public record, and the custodian of such information is the system participant that submits or receives the information. If the system participant receiving the information is not a public body, the department shall keep a copy of the system information sent to that system participant and shall be the custodian of that copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure

of, or refuse to disclose, aggregate or summary level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed. The department shall refer all other requests for disclosure of system information to the public body that is the custodian of the information.

(7) The department may charge a reasonable fee under ORS 192.440 for the disclosure of reports containing only aggregate data to individuals, public bodies or private organizations.

(8) If a system participant prepares or acquires a record that is confidential under federal or state law, including ORS 192.502 (2), the system participant does not violate state confidentiality laws by providing the information described in this section to the Performance Reporting Information System. *[Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Office of Community Colleges and Workforce Development and the Employment Department are authorized to provide information to the system.]*

(9) Any individual who, without proper authority, discloses confidential information under this section may be disqualified from holding any appointment or employment with the State of Oregon. The department shall adopt by rule procedures to prevent disclosure of confidential information submitted to the Performance Reporting Information System.

SECTION 5a. If House Bill 2312 becomes law, section 5 of this 2017 Act (amending ORS 657.734) is repealed and ORS 657.734, as amended by section 21, chapter __, Oregon Laws 2017 (Enrolled House Bill 2312), is amended to read:

657.734. (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 192.410.

(b) "System participant" means:

(A) Mandatory partners under the federal Workforce Innovation and Opportunity Act and other one-stop system partners, which may include public bodies and private organizations; and

(B) Public bodies and private organizations that have been approved by the Director of the Employment Department, in consultation with the Education and Workforce Policy Advisor, to participate in the Performance Reporting Information System.

(2) There is established the Performance Reporting Information System for the purpose of collecting, analyzing and sharing statistical and demographic data for the development and reporting of workforce system performance measures.

(3) The Performance Reporting Information System is intended to share the data described in subsection (2) of this section, by agreement, with all system participants.

(4) The Director of the Employment Department shall administer and, in consultation with the Education and Workforce Policy Advisor, oversee the development of the Performance Reporting Information System. System participants shall be designated as participants in the system by rule of the Employment Department, in consultation with the Education and Workforce Policy Advisor. A system participant shall enter into an interagency or other applicable agreement with the director that:

(a) Establishes protocols for the collection and sharing of data in the system;

(b) Establishes safeguards for protecting the confidentiality of data in the system;

(c) Includes provisions regarding informed consent for sharing information obtained from individuals; and

(d) Provides for the sharing of costs for developing and maintaining the system.

(5)(a) All individual record information in the Performance Reporting Information System is confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to 192.505. As administrator of the system, the director may view all data or individual record information in the system. System participants may not allow public access to information received from the system that identifies a particular individual unless required by law. System participants shall limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed.

(b) System participants shall provide information in a format that encodes identifying data, including the client's Social Security number, using a formula unique to the system participant. In disclosing Social Security numbers to the system, system participants shall comply with any state and federal laws that govern the collection and use of Social Security numbers by the system participant and any additional requirements specified by the director, in consultation with the Education and Workforce Policy Advisor, that are included in the agreement entered into under subsection (4) of this section.

(6) The information in the Performance Reporting Information System is not a public record for purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information submitted to the system and the information received from the system is a public record, and the custodian of such information is the system participant that submits or receives the information. If the system participant receiving the information is not a public body, the department shall keep a copy of the system information sent to that system participant and shall be the custodian of that copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed. The department shall refer all other requests for disclosure of system information to the public body that is the custodian of the information.

(7) The department may charge a reasonable fee under ORS 192.440 for the disclosure of reports containing only aggregate data to individuals, public bodies or private organizations.

(8) If a system participant prepares or acquires a record that is confidential under federal or state law, including ORS 192.502 (2), the system participant does not violate state confidentiality laws by providing the information described in this section to the Performance Reporting Information System. *[Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Higher Education Coordinating Commission and the Employment Department are authorized to provide information to the system.]*

(9) Any individual who, without proper authority, discloses confidential information under this section may be disqualified from holding any appointment or employment with the State of Oregon. The department shall adopt by rule procedures to prevent disclosure of confidential information submitted to the Performance Reporting Information System.

SECTION 6. ORS 657.736 is repealed.

Passed by Senate April 4, 2017

Repassed by Senate June 6, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 1, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State