

(To Resolve Conflicts)

B-Engrossed Senate Bill 41

Ordered by the House May 22
Including Senate Amendments dated March 31 and House Amendments
dated May 22 to resolve conflicts

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown 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.

Authorizes Employment Department to disclose information in department records to public universities and Oregon Health and Science University to extent necessary to carry out planning, performance measurement, program analysis, socioeconomic analysis or policy analysis functions. Authorizes department to disclose to any person establishment level information secured from public universities and Oregon Health and Science University.

Updates citation to controlling federal law.

Updates definitions for purposes of specifying certain administrative duties of Director of Employment Department with respect to workforce information.

Repeals Occupational Program Planning System.

Deletes provision related to discontinued Shared Information System.

A BILL FOR AN ACT

1
2 Relating to workforce information; amending ORS 410.619, 657.601, 657.665, 657.730 and 657.734; and
3 repealing ORS 657.736.

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

5 **SECTION 1.** ORS 657.601 is amended to read:

6 657.601. There is established an Employment Department. The department shall:

7 (1) Administer the unemployment insurance laws of this state to support Oregonians during pe-
8 riods of unemployment;

9 (2) Provide for the operation of a statewide employment service, including the establishment and
10 maintenance of a system of public employment offices to promote employment of Oregonians;

11 (3) Provide oversight, operation and management of a statewide comprehensive [*labor market*
12 *and occupational supply and demand information system to assist in the development of a diversified,*
13 *multiskilled*] workforce **and labor market information system**; and

14 (4) Provide child care advocacy, coordination of child care policy and planning, technical as-
15 sistance to child care providers and certification of child care facilities to assist the employment
16 of Oregonians and insure the health and well-being of the future workforce.

17 **SECTION 2.** ORS 657.665 is amended to read:

18 657.665. (1) Except as provided in subsections (2) to (5) of this section, all information in the
19 records of the Employment Department pertaining to the administration of the unemployment in-
20 surance, employment service and **workforce and labor market information** programs:

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 (a) Is confidential and for the exclusive use and information of the Director of the Employment
2 Department in administering the unemployment insurance, employment service and **workforce and**
3 labor market information programs in Oregon.

4 (b) May not be used in any court action or in any proceeding pending in the court unless the
5 director or the state is a party to the action or proceeding or unless the proceeding concerns the
6 establishment, enforcement or modification of a support obligation and support services are being
7 provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

8 (c) Is exempt from disclosure under ORS 192.410 to 192.505.

9 (2) The Employment Department shall disclose information:

10 (a) To any claimant or legal representative, at a hearing before an administrative law judge, to
11 the extent necessary for the proper presentation of an unemployment insurance claim.

12 (b) Upon request to the United States Secretary of Labor. The Employment Department shall
13 disclose the information in a form and containing the information that the United States Secretary
14 of Labor may require. The information disclosed is confidential and may not be used for any other
15 purpose.

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

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

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

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

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

45 (h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the Federal

1 Unemployment Tax Act, to the United States Department of Health and Human Services National
 2 Directory of New Hires. The information disclosed is confidential and may not be used for any other
 3 purpose. The costs of disclosing information under this paragraph shall be paid by the United States
 4 Department of Health and Human Services.

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

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

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

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

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

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

42 (c) In accordance with ORS 657.673.

43 (4) The Employment Department may:

44 (a) Disclose information to public employees in the performance of their duties under state or
 45 federal laws relating to the payment of unemployment insurance benefits, the provision of employ-

1 ment services and the provision of **workforce and** labor market information.

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

7 (c) Disclose information pursuant to an informed consent, received from an employer or claim-
8 ant, to disclose the information.

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

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

19 (f) Disclose information to the Commissioner of the Bureau of Labor and Industries for the
20 purpose of performing duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to
21 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may include the names and ad-
22 dresses of employers and employees and payroll data of employers and employees. The information
23 disclosed is confidential and may not be used for any other purpose. If the information disclosed
24 under this paragraph is not prepared for the use of the Employment Department, the costs of dis-
25 closing the information shall be paid by the bureau.

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

32 (h) Disclose to the Oregon Business Development Commission information required by the com-
33 mission in performing its duty under ORS 285A.050 to verify changes in employment levels following
34 direct employer participation in Oregon Business Development Department programs or indirect
35 participation through municipalities under ORS 285B.410 to 285B.482. The information disclosed to
36 the commission may include an employer's employment level, total subject wages payroll and whole
37 hours worked. The information disclosed is confidential and may not be used for any other purpose.
38 The commission may not disclose the information in any manner that would identify an employing
39 unit or employee except to the extent necessary to carry out the commission's duty under ORS
40 285A.050. If the information disclosed under this paragraph is not prepared for the use of the Em-
41 ployment Department, the costs of disclosing the information shall be paid by the commission.

42 (i) Disclose information to the Department of Revenue for the purpose of performing its duties
43 under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may
44 include the names and addresses of employers and employees and payroll data of employers and
45 employees. The information disclosed is confidential and may not be disclosed by the Department

1 of Revenue in any manner that would identify an employing unit or employee except to the extent
2 necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any
3 report or return required or permitted to be filed under the revenue and tax laws administered by
4 the department. The Department of Revenue may not disclose any information received to any pri-
5 vate collection agency or for any other purpose. If the information disclosed under this paragraph
6 is not prepared for the use of the Employment Department, the costs of disclosing the information
7 shall be paid by the Department of Revenue.

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

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

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

31 (m) Disclose information to the Higher Education Coordinating Commission for the purpose of
32 performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education
33 Act of 1965. The information disclosed may include the names and addresses of employers and em-
34 ployees and payroll data of employers and employees. The information disclosed is confidential and
35 may not be disclosed by the commission in any manner that would identify an employing unit or
36 employee except to the extent necessary to carry out the commission's duties under ORS chapter
37 348 or Title IV of the Higher Education Act of 1965. If the information disclosed under this para-
38 graph is not prepared for the use of the Employment Department, the costs of disclosing the infor-
39 mation shall be paid by the commission.

40 (n) Disclose information to the Department of Transportation to assist the Department of
41 Transportation in carrying out the duties of the Department of Transportation relating to collection
42 of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.656, 184.670 to 184.733
43 and 805.263, ORS chapter 319 and the Oregon Vehicle Code. The information disclosed may include
44 the names and addresses of employers and employees and payroll data of employers and employees.
45 The information disclosed is confidential and may not be disclosed by the Department of Transpor-

1 tation in any manner that would identify an employing unit or employee except to the extent nec-
 2 cessary to carry out the Department of Transportation's duties relating to collection of delinquent
 3 and liquidated debts or in auditing or reviewing any report or return required or permitted to be
 4 filed under the revenue and tax laws administered by the Department of Transportation. The De-
 5 partment of Transportation may not disclose any information received to any private collection
 6 agency or for any other purpose. If the information disclosed under this paragraph is not prepared
 7 for the use of the Employment Department, the costs of disclosing the information shall be paid by
 8 the Department of Transportation.

9 (o) Disclose information to the Department of Human Services and the Oregon Health Authority
 10 to assist the Department of Human Services and the Oregon Health Authority in the collection of
 11 debts that the Department of Human Services and the Oregon Health Authority are authorized by
 12 law to collect. The information disclosed may include the names, addresses and payroll data of em-
 13 ployers and employees. The information disclosed is confidential and may not be disclosed by the
 14 Department of Human Services or the Oregon Health Authority in a manner that would identify an
 15 employing unit or employee except to the extent necessary for the collection of debts as described
 16 in this paragraph. The Department of Human Services and the Oregon Health Authority may not
 17 disclose information received under this paragraph to a private collection agency or use the infor-
 18 mation for a purpose other than the collection of debts as described in this paragraph. If the infor-
 19 mation disclosed under this paragraph is not prepared for the use of the Employment Department,
 20 the costs of disclosing the information shall be paid by the Department of Human Services or the
 21 Oregon Health Authority.

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

31 (q) Disclose to any person establishment level information secured pursuant to this chapter from
 32 federal, state and local government [*employing units*] **agencies, public universities listed in ORS**
 33 **352.002 or the Oregon Health and Science University established under ORS 353.020**. If the
 34 information disclosed under this paragraph is not prepared for the use of the Employment Depart-
 35 ment, the costs of disclosing the information shall be paid by the [*party*] **person** requesting the in-
 36 formation.

37 (r) Disclose to any person the industrial classification code assigned to an employing unit. If the
 38 information disclosed under this paragraph is not prepared for the use of the Employment Depart-
 39 ment, the costs of disclosing the information shall be paid by the [*party*] **person** requesting the in-
 40 formation.

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

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

1 with the Employment Department.

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

10 **SECTION 3.** ORS 657.730 is amended to read:

11 657.730. (1) As used in this section, unless the context requires otherwise:

12 [(a) “Labor market analysis” means the measurement and evaluation of economic forces as they
13 relate to the employment process in the local labor market area. Variables affecting labor market re-
14 lationships include, but are not limited to, such factors as labor force changes and characteristics,
15 population changes and characteristics, occupational and industrial structure and development, tech-
16 nological developments, shifts in consumer demand, volume and extent of unionization and trade dis-
17 putes, recruitment practices, wage levels, conditions of employment and training opportunities.]

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

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

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

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

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

41 (D) Program information, which includes but is not limited to program participant or student
42 information gathered in cooperation with other state and local agencies along with related labor
43 market information to evaluate the effectiveness, efficiency and impact of state and local employ-
44 ment, training, education and job creation efforts in support of planning, management, implementa-
45 tion and evaluation.

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

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

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

11 [(c) *Coordination with other appropriate public agencies to improve employment estimates by en-*
12 *hancing data on corporate officers, improving business establishment listings, expanding samples for*
13 *employment estimates and developing business entry or exit analysis relevant to the generation of oc-*
14 *cupational and economic forecasts.*]

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

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

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

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

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

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

39 (a) Establish rules and procedures to recover reasonable costs incurred in producing and pro-
40 viding:

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

45 (B) Special **workforce and** labor market information products in response to individual requests

1 that incur costs beyond the ordinary costs of doing business including, but not limited to, computer
 2 time, staff costs, preparation and distribution of surveys, electronic scanning, and special data col-
 3 lection, formatting and analysis. The director may enter into agreements with other public agencies
 4 to provide special **workforce and** labor market information products in a quid pro quo arrangement.

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

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

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

12 **SECTION 3a. If House Bill 2312 becomes law, section 3 of this 2017 Act (amending ORS**
 13 **657.730) is repealed and ORS 657.730, as amended by section 20, chapter __, Oregon Laws 2017**
 14 **(Enrolled House Bill 2312), is amended to read:**

15 657.730. (1) As used in this section, unless the context requires otherwise:

16 [(a) “Labor market analysis” means the measurement and evaluation of economic forces as they
 17 relate to the employment process in the local labor market area. Variables affecting labor market re-
 18 lationships include, but are not limited to, such factors as labor force changes and characteristics,
 19 population changes and characteristics, occupational and industrial structure and development, tech-
 20 nological developments, shifts in consumer demand, volume and extent of unionization and trade dis-
 21 putes, recruitment practices, wage levels, conditions of employment and training opportunities.]

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

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

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

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

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

45 (D) Program information, which includes but is not limited to program participant or student

1 information gathered in cooperation with other state and local agencies along with related labor
2 market information to evaluate the effectiveness, efficiency and impact of state and local employ-
3 ment, training, education and job creation efforts in support of planning, management, implementa-
4 tion and evaluation.

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

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

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

15 [(c) *Coordination with other appropriate public agencies to improve employment estimates by en-*
16 *hancing data on corporate officers, improving business establishment listings, expanding samples for*
17 *employment estimates and developing business entry or exit analysis relevant to the generation of oc-*
18 *cupational and economic forecasts.*]

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

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

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

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

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

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

43 (a) Establish rules and procedures to recover reasonable costs incurred in producing and pro-
44 viding:

45 (A) **Workforce and** labor market information products developed by the Employment Depart-

1 ment in the ordinary course of business when the request results in costs over and above the ordi-
2 nary costs of production including, but not limited to, special publication runs, photocopying or
3 supplying the copy in some other medium; and

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

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

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

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

16 **SECTION 4.** ORS 410.619 is amended to read:

17 410.619. (1) A home care worker who is not otherwise employed by the Home Care Commission,
18 the Department of Human Services, the Oregon Health Authority, an area agency or a support ser-
19 vices brokerage shall not be deemed to be an employee of the state, whether or not the state selects
20 the home care worker for employment or exercises any direction or control over the home care
21 worker, for the purpose of the state's liability for the home care worker's actions.

22 (2) The state shall be deemed an employer of home care workers for the purposes of:

23 (a) ORS 410.605, 410.606, 410.612 and 410.614; and

24 (b) ORS chapter 657, **except as provided in ORS 657.730 (4).**

25 **SECTION 5.** ORS 657.734 is amended to read:

26 657.734. (1) As used in this section:

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

28 (b) "System participant" means:

29 (A) [*Mandatory partners under the federal Workforce Investment Act of 1998 (enacted as P.L.*
30 *105-220 and codified as 29 U.S.C. 2801 et seq.*)] **Partners under the federal Workforce Innovation**
31 **and Opportunity Act** and other one-stop system partners, which may include public bodies and
32 private organizations; and

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

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

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

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

1 that:

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

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

4 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
5 viduals; and

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

7 (5)(a) All individual record information in the Performance Reporting Information System is
8 confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to
9 192.505. As administrator of the system, the director may view all data or individual record infor-
10 mation in the system. System participants may not allow public access to information received from
11 the system that identifies a particular individual unless required by law. System participants shall
12 limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small
13 number of aggregated records or some other factor creates a reasonable risk that the identity of
14 individuals may be discovered or disclosed.

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

22 (6) The information in the Performance Reporting Information System is not a public record for
23 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
24 mitted to the system and the information received from the system is a public record, and the
25 custodian of such information is the system participant that submits or receives the information. If
26 the system participant receiving the information is not a public body, the department shall keep a
27 copy of the system information sent to that system participant and shall be the custodian of that
28 copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure
29 of, or refuse to disclose, aggregate or summary level information when a small number of aggregated
30 records or some other factor creates a reasonable risk that the identity of individuals may be dis-
31 covered or disclosed. The department shall refer all other requests for disclosure of system infor-
32 mation to the public body that is the custodian of the information.

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

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

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

45 **SECTION 5a. If House Bill 2312 becomes law, section 5 of this 2017 Act (amending ORS**

1 **657.734) is repealed and ORS 657.734, as amended by section 21, chapter __, Oregon Laws 2017**
2 **(Enrolled House Bill 2312), is amended to read:**

3 657.734. (1) As used in this section:

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

5 (b) "System participant" means:

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

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

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

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

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

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

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

24 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
25 viduals; and

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

27 (5)(a) All individual record information in the Performance Reporting Information System is
28 confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to
29 192.505. As administrator of the system, the director may view all data or individual record infor-
30 mation in the system. System participants may not allow public access to information received from
31 the system that identifies a particular individual unless required by law. System participants shall
32 limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small
33 number of aggregated records or some other factor creates a reasonable risk that the identity of
34 individuals may be discovered or disclosed.

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

42 (6) The information in the Performance Reporting Information System is not a public record for
43 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
44 mitted to the system and the information received from the system is a public record, and the
45 custodian of such information is the system participant that submits or receives the information. If

1 the system participant receiving the information is not a public body, the department shall keep a
2 copy of the system information sent to that system participant and shall be the custodian of that
3 copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure
4 of, or refuse to disclose, aggregate or summary level information when a small number of aggregated
5 records or some other factor creates a reasonable risk that the identity of individuals may be dis-
6 covered or disclosed. The department shall refer all other requests for disclosure of system infor-
7 mation to the public body that is the custodian of the information.

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

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

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

20 **SECTION 6. ORS 657.736 is repealed.**

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