

Senate Bill 453

Sponsored by Senator THOMSEN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Exempts from sick leave certain agricultural employers that experience lower than average commodity values. Authorizes Director of Agriculture to create rules.

A BILL FOR AN ACT

1
2 Relating to commodity fluctuations that affect an agricultural employer's ability to provide employ-
3 ees with sick leave; creating new provisions; and amending ORS 653.601.

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

5 **SECTION 1.** ORS 653.601 is amended to read:

6 653.601. As used in ORS 653.601 to 653.661:

7 (1)(a) "Employee" means an individual who renders personal services at a fixed rate to an em-
8 ployer if the employer either pays or agrees to pay for personal services or permits the individual
9 to perform personal services.

10 (b) "Employee" includes, but is not limited to:

11 (A) An individual who is paid on a piece-rate basis or the basis of the number of operations
12 accomplished or quantity produced or handled;

13 (B) Individuals paid on an hourly, salary or commission basis;

14 (C) Individuals for whom withholding is required under ORS 316.162 to 316.221; and

15 (D) Home care workers as defined in ORS 410.600.

16 (c) "Employee" does not include:

17 (A) An employee who receives paid sick time under federal law;

18 (B) An independent contractor;

19 (C) A participant in a work training program administered under a state or federal assistance
20 program;

21 (D) A participant in a work-study program that provides students in secondary or post-secondary
22 educational institutions with employment opportunities for financial or vocational training;

23 (E) A railroad worker exempted under the federal Railroad Unemployment Insurance Act; and

24 (F) An individual employed by that individual's parent, spouse or child.

25 (2)(a) "Employer" means any person that employs one or more employees working anywhere in
26 this state, a political subdivision of the state and any county, city, district, authority, public corpo-
27 ration or entity, and any instrumentality of a county, city, district, authority, public corporation or
28 entity, organized and existing under law or charter.

29 (b) "Employer" includes an employer located in a city with a population exceeding 500,000.

30 (c) "Employer" does not include:

31 (A) The federal government[.]; **or**

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 **(B) An employer that employs an agricultural worker as defined in ORS 315.163 if:**

2 **(i) The value of an agricultural commodity produced by the employer in a calendar year**
3 **falls below 80 percent of the 10-year average value for that commodity; and**

4 **(ii) The commodity or commodities described in paragraph (i) of this subsection account**
5 **for 30 percent or more of the general revenue of the employer.**

6 (3) “Employer located in a city with a population exceeding 500,000” includes, but is not limited
7 to, an employer that maintains any office, store, restaurant or establishment in that city.

8 (4) “Family member” has the meaning given that term in ORS 659A.150.

9 (5)(a) “Front-load,” except as provided in paragraph (b) of this subsection, means to assign and
10 make available a certain number of hours of sick time to an employee as soon as the employee be-
11 comes eligible to use sick time and on the first day of the immediately subsequent year without re-
12 gard to an accrual rate.

13 (b) For employees employed by an employer for less than a full year, “front-load” means to as-
14 sign and make available to an employee as soon as the employee becomes eligible to use sick time
15 a number of hours of sick time that is the pro rata percentage of the hours the employee would be
16 entitled to for an entire year based on the number of hours the employee was actually employed by
17 the employer for the year.

18 (6) “Paid sick time” means time off:

19 (a) That is provided to an employee by an employer that employs 10 or more employees;

20 (b) That may be used for the purposes specified in ORS 653.616; and

21 (c) That is compensated at the regular rate of pay and without reductions in benefits, including
22 but not limited to health care benefits, that the employee earns from the employer at the time the
23 employee uses the paid sick time.

24 (7) “Sick time” means time during which an employee is permitted to be absent from work for
25 a reason authorized under ORS 653.616 without a reduction in benefits, including but not limited to
26 health care benefits, that the employee earns from the employer.

27 (8) “Year” includes any consecutive 12-month period, such as a calendar year, a tax year, a
28 fiscal year, a contract year or the 12-month period beginning on the anniversary of the date of em-
29 ployment of the employee.

30 **SECTION 2. The Director of Agriculture may adopt rules necessary for the implementa-**
31 **tion and enforcement of section 1 of this 2017 Act.**

32