

House Bill 3262

Sponsored by Representatives GORSEK, SCHOUTEN, PILUSO, SALINAS, Senators MONNES ANDERSON, STEINER HAYWARD; Representatives BARKER, DOHERTY, EVANS, HELM, HERNANDEZ, HOLVEY, KENY-GUYER, NOSSE, REARDON, WILDE, WILLIAMS, WITT

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**.

Imposes assessment on large employers with employees who receive or who have minor children who receive certain types of public assistance in this state, in amount equal to public assistance paid. Requires that moneys collected are used to support programs for low-income individuals and families.

Makes refusal to hire recipient of public assistance or adverse employment action against recipient of public assistance unfair employment practice.

Applies to tax years beginning on or after January 1, 2022.

A BILL FOR AN ACT

1
2 Relating to businesses whose employees receive public assistance; creating new provisions; amend-
3 ing ORS 411.320, 411.708, 413.175, 416.310, 416.350, 475B.755, 657.665 and 659A.885; and providing
4 for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. As used in sections 1 to 4 of this 2019 Act:

6 (1) **"Public assistance" means:**

7 (a) **Supplemental Nutrition Assistance Program benefits as defined in ORS 411.806.**

8 (b) **Oregon Supplemental Income Program benefits described in ORS 411.706.**

9 (c) **State Family Pre-SSI/SSDI program benefits under ORS 412.014.**

10 (d) **General assistance as described in ORS 411.710 or benefits provided in the general**
11 **assistance project established in ORS 411.752.**

12 (e) **Health Care for All Oregon Children program benefits under ORS 414.231.**

13 (f) **Medical assistance, as defined in ORS 414.025, provided to individuals described in ORS**
14 **414.706.**

15 (2) **"Subsidized business" means a business that:**

16 (a) **Employs directly, through its subsidiaries or through its franchisees, on business days**
17 **during the preceding calendar year, at least 100 full-time or part-time employees in this**
18 **state; and**

19 (b) **Is primarily engaged in retail distribution or services, food service, hospitality ser-**
20 **vices or call center services.**

21 (3) **"Subsidized employee" means an employee of a subsidized business who receives**
22 **public assistance or who receives public assistance on behalf of the employee's minor child.**

23 **SECTION 2. (1) The Taxpayer Reimbursement Fund is created in the State Treasury,**
24 **separate and distinct from the General Fund, and consists of moneys collected under section**
25 **3 of this 2019 Act.**

26 (2) **Moneys in the fund are continuously appropriated to the Department of Revenue to**
27

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 be transferred as follows:

2 (a) The department shall transfer the following amounts to be deposited in the Oregon
3 Rainy Day Fund established in ORS 293.144:

4 (A) Moneys attributable to state expenditures in providing Supplemental Nutrition As-
5 sistance Program benefits to subsidized employees, after deducting and remitting to the
6 United States Department of Agriculture the expenditures reimbursed by the department,
7 which moneys shall be used to support the program;

8 (B) Moneys attributable to state expenditures in providing Oregon Supplemental Income
9 Program benefits to subsidized employees, after deducting and remitting to the United States
10 Department of Health and Human Services the expenditures reimbursed by the department,
11 which moneys shall be used to support the program;

12 (C) Moneys attributable to state expenditures in providing State Family Pre-SSI/SSDI
13 program benefits to subsidized employees, which moneys shall be used to support the pro-
14 gram; and

15 (D) Moneys attributable to state expenditures in providing general assistance cash pay-
16 ments to subsidized employees and in providing assistance to subsidized employees through
17 the general assistance project, which moneys shall be used to support the general assistance
18 program and the general assistance project.

19 (b) The department shall transfer the following amounts to be deposited in the Oregon
20 Health Authority Fund established in ORS 413.101:

21 (A) Moneys attributable to state expenditures in providing Health Care for All Oregon
22 Children program benefits to children of subsidized employees, after deducting and remitting
23 to the United States Department of Health and Human Services the expenditures reimbursed
24 by the department, which moneys shall be used to support the program; and

25 (B) Moneys attributable to state expenditures in providing medical assistance to subsi-
26 dized employees described in ORS 414.706, after remitting to the United States Department
27 of Health and Human Services the expenditures reimbursed by the department, which mon-
28 eys shall be used to support the program.

29 (c) The Department of Revenue shall retain a portion of the funds and allocate a portion
30 of the funds to the Department of Human Services, the Oregon Health Authority and the
31 Employment Department to reimburse the costs of carrying out each agency's responsibil-
32 ities under section 4 of this 2019 Act.

33 **SECTION 3.** (1) An assessment is imposed on a subsidized business for each tax year in
34 which the subsidized business employs a subsidized employee residing in this state. The De-
35 partment of Revenue shall deposit assessments collected under this section to the Taxpayer
36 Reimbursement Fund established in section 2 of this 2019 Act.

37 (2) The assessment imposed by subsection (1) of this section shall be equal to the amount
38 the state paid in public assistance to the subsidized employees.

39 (3) The department has all powers necessary to administer the collection and enforce-
40 ment of the assessment imposed by subsection (1) of this section, including but not limited
41 to the power to:

42 (a) Adopt rules to administer and enforce this section;

43 (b) Subpoena documents and subpoena witnesses to testify under oath; and

44 (c) Institute or prosecute actions for the enforcement of this section.

45 (4) The department shall annually send to each subsidized business subject to an assess-

1 ment under this section a notice of the amount of the assessment and the date that the as-
 2 sessment is due. The amount of the assessment shall become conclusive and binding upon
 3 the subsidized business unless, within 20 days after the mailing of the notice to the last-
 4 known address of the business as shown on the records of the department, or in the absence
 5 of mailing, within 20 days after the delivery of the notice, the subsidized business files a re-
 6 quest for hearing. Hearings shall be conducted in accordance with ORS chapter 183.

7 (5) Interest of 10 percent per annum shall be assessed on assessments not paid on or
 8 before payment is due. Interest shall begin to accrue the day after the date the payment is
 9 due and shall be deposited into the Taxpayer Reimbursement Fund.

10 (6) If an assessment is more than 60 days overdue, a penalty equal to the interest
 11 charged as described in subsection (5) of this section shall be assessed and due for each
 12 month, or part thereof, that the assessment is not received.

13 (7) All penalties shall be paid to and collected by the department at such times and in
 14 such manner as the department may prescribe and upon collection shall be deposited into the
 15 Taxpayer Reimbursement Fund.

16 **SECTION 4.** (1) The Oregon Health Authority, the Department of Human Services, the
 17 Employment Department and the Department of Revenue shall enter into interagency
 18 agreements and take any steps necessary, including requesting from a federal agency a
 19 waiver of federal requirements, to share the data required to carry out the provisions of this
 20 section.

21 (2) The Oregon Health Authority, the Department of Human Services and the Employ-
 22 ment Department shall collaborate and share data as necessary to:

23 (a) Determine the employers in this state that are subsidized businesses; and

24 (b) Calculate the amount of public assistance in each category listed in section 1 (1)(a)
 25 of this 2019 Act paid to employees of subsidized businesses.

26 (3) The information shared under subsection 2 of this section shall be provided to the
 27 Department of Revenue to permit the Department of Revenue to collect the assessment un-
 28 der section 3 of this 2019 Act and to transfer moneys collected from the assessment to the
 29 Oregon Rainy Day Fund and the Oregon Health Authority Fund as provided in section 2 of
 30 this 2019 Act.

31 (4) Any and all shared data identifying employers and recipients of public assistance may
 32 not be further disclosed for purposes other than the administration of this section and sec-
 33 tion 3 of this 2019 Act, and are:

34 (a) Subject to the confidentiality requirements in ORS 314.845, 411.300, 411.320, 413.171,
 35 413.175 and 657.665; and

36 (b) Not subject to disclosure under ORS 192.311 to 192.378.

37 (5) The authority and the Department of Human Services shall notify applicants for
 38 public assistance that their Social Security numbers may be used to determine employers
 39 who are subject to the assessment under this section.

40 **SECTION 5.** (1) As used in this section:

41 (a) “Employer” has the meaning given that term in ORS 659A.001.

42 (b) “Public assistance” and “subsidized business” have the meaning given those terms in
 43 section 1 of this 2019 Act.

44 (2) It is an unlawful employment practice under ORS chapter 659A for an employer to
 45 discharge, demote, suspend, retaliate, refuse to hire or otherwise discriminate against an

1 **employee who applies for or receives public assistance for the employee or for a minor child.**

2 **(3) An employee who alleges a violation of subsection (2) of this section may bring a civil**
 3 **action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of**
 4 **Labor and Industries in the manner provided by ORS 659A.820.**

5 **SECTION 6.** ORS 411.320 is amended to read:

6 411.320. (1) For the protection of applicants for and recipients of public assistance, except as
 7 otherwise provided in this section, the Department of Human Services may not disclose or use the
 8 contents of any public assistance records, files, papers or communications for purposes other than
 9 those directly connected with the administration of the public assistance programs or necessary to
 10 assist public assistance applicants and recipients in accessing and receiving other governmental or
 11 private nonprofit services, and these records, files, papers and communications are considered con-
 12 fidential subject to the rules of the department. In any judicial or administrative proceeding, except
 13 proceedings directly connected with the administration of public assistance or child support
 14 enforcement laws, their contents are considered privileged communications.

15 (2) Nothing in this section prohibits the disclosure or use of contents of records, files, papers
 16 or communications for purposes directly connected with the establishment and enforcement of:

17 **(a) Support obligations pursuant to the Title IV-D program; or**

18 **(b) The assessment imposed under section 3 of this 2019 Act.**

19 (3) Nothing in this section prohibits the disclosure of the address, Social Security number and
 20 photograph of any applicant or recipient to a law enforcement officer at the request of the officer.
 21 To receive information pursuant to this section, the officer must furnish the agency the name of the
 22 applicant or recipient and advise that the applicant or recipient:

23 (a) Is fleeing to avoid prosecution, custody or confinement after conviction for a felony;

24 (b) Is violating a condition of probation or parole; or

25 (c) Has information that is necessary for the officer to conduct the official duties of the officer
 26 and the location or apprehension of the applicant or recipient is within such official duties.

27 (4) Nothing in this section prohibits disclosure of information between the department and the
 28 Oregon Health Authority for the purpose of administering public assistance programs.

29 **SECTION 7.** ORS 413.175 is amended to read:

30 413.175. (1) For the protection of applicants for and recipients of public assistance and medical
 31 assistance, as defined in ORS 414.025, except as otherwise provided in this section, the Oregon
 32 Health Authority may not disclose or use the contents of any public assistance or medical assistance
 33 records, files, papers or communications for purposes other than those directly connected with the
 34 administration of the public assistance and medical assistance programs or necessary to assist public
 35 assistance or medical assistance applicants and recipients in accessing and receiving other govern-
 36 mental or private nonprofit services, and these records, files, papers and communications are con-
 37 sidered confidential subject to the rules of the authority. In any judicial or administrative
 38 proceeding, except proceedings directly connected with the administration of public assistance,
 39 medical assistance or child support enforcement, their contents are considered privileged communi-
 40 cations.

41 (2) Nothing in this section prohibits the disclosure or use of contents of records, files, papers
 42 or communications for purposes directly connected with the establishment and enforcement of:

43 **(a) Support obligations pursuant to Title IV-D of the Social Security Act; or**

44 **(b) The assessment imposed under section 3 of this 2019 Act.**

45 (3) Nothing in this section prohibits the disclosure of the address, Social Security number and

1 photograph of any applicant or recipient to a law enforcement officer at the request of the officer.
 2 To receive information pursuant to this section, the officer must furnish the agency the name of the
 3 applicant or recipient and advise that the applicant or recipient:

4 (a) Is fleeing to avoid prosecution, custody or confinement after conviction for a felony;

5 (b) Is violating a condition of probation or parole; or

6 (c) Has information that is necessary for the officer to conduct the official duties of the officer
 7 and the location or apprehension of the applicant or recipient is within such official duties.

8 (4) Nothing in this section prohibits disclosure of information between the authority and the
 9 Department of Human Services for the purpose of administering public assistance and medical as-
 10 sistance programs that the authority and the department are responsible for administering.

11 **SECTION 8.** ORS 411.708 is amended to read:

12 411.708. (1) The amount of any assistance paid under ORS 411.706, **other than assistance re-**
 13 **imbursed by the assessment under section 3 of this 2019 Act**, is a claim against the property
 14 or interest in the property belonging to and a part of the estate of any deceased recipient. If the
 15 deceased recipient has no estate, the estate of the surviving spouse of the deceased recipient, if any,
 16 shall be charged for assistance granted under ORS 411.706 to the deceased recipient or the surviving
 17 spouse. There shall be no adjustment or recovery of assistance correctly paid on behalf of any de-
 18 ceased recipient under ORS 411.706 except after the death of the surviving spouse of the deceased
 19 recipient, if any, and only at a time when the deceased recipient has no surviving child who is under
 20 21 years of age or who is blind or has a disability. Transfers of real or personal property by re-
 21 cipients of assistance without adequate consideration are voidable and may be set aside under ORS
 22 411.620 (2).

23 (2) Except when there is a surviving spouse, or a surviving child who is under 21 years of age
 24 or who is blind or has a disability, the amount of any assistance paid under ORS 411.706 is a claim
 25 against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

26 (3) Nothing in this section authorizes the recovery of the amount of any assistance from the
 27 estate or surviving spouse of a recipient to the extent that the need for assistance resulted from a
 28 crime committed against the recipient.

29 **SECTION 9.** ORS 416.310 is amended to read:

30 416.310. (1) Except as otherwise provided by ORS 411.708 **and 416.350**, the estate of every de-
 31 ceased person who received aid from the state or any county or whose burial expenses have been
 32 paid by the state or any county, other than aid received pursuant to ORS 412.006, 444.120 or 444.220,
 33 is liable for the actual cost of such aid so rendered or the actual expenses of such burial **minus**
 34 **any amounts reimbursed by the assessment under section 3 of this 2019 Act**. The state or the
 35 county shall have a just and valid claim against such estate therefor.

36 (2) Nothing in this section relieves the parents, children, brothers or sisters of any needy person
 37 from their obligation to support such person, or prevents the county court from recovering for such
 38 support.

39 (3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or
 40 surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed
 41 against the recipient.

42 **SECTION 10.** ORS 416.350 is amended to read:

43 416.350. (1) The Department of Human Services or the Oregon Health Authority may recover
 44 from any person the amounts of medical assistance the department or the authority incorrectly paid
 45 to or on behalf of the person.

1 (2) Except as prohibited by ORS 178.380, medical assistance pursuant to ORS chapter 414 paid
 2 to or on behalf of an individual who was 55 years of age or older when the individual received the
 3 assistance, or paid to or on behalf of a person of any age who was a permanently institutionalized
 4 inpatient in a nursing facility, intermediate care facility for persons with intellectual disabilities or
 5 other medical institution, may be recovered from the estate of the individual or from any recipient
 6 of property or other assets held by the individual at the time of death including the estate of the
 7 surviving spouse. Claim for such medical assistance correctly paid to or on behalf of the individual
 8 may be established against the estate, but the claim may not be adjusted or recovered until after
 9 the death of the surviving spouse, if any, and only at a time when the individual has no surviving
 10 child who is under 21 years of age or who is blind or permanently and totally disabled. Transfers
 11 of real or personal property by recipients of such aid without adequate consideration are voidable
 12 and may be set aside under ORS 411.620 (2).

13 (3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or
 14 surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed
 15 against the recipient.

16 (4) In any action or proceeding under this section to recover medical assistance paid, it is the
 17 legal burden of the person who receives the property or other assets from a medical assistance re-
 18 cipient to establish the extent and value of the recipient's legal title or interest in the property or
 19 assets in accordance with rules established by the authority.

20 (5) Amounts recovered under this section do not include the value of benefits paid to or on be-
 21 half of a beneficiary under a policy or certificate of qualified long term care insurance as defined
 22 in ORS 743.652, that were disregarded in determining eligibility for or the amount of medical as-
 23 sistance provided to the beneficiary.

24 **(6) A claim for medical assistance under this section shall be reduced by any amount that**
 25 **is reimbursed by the assessment under section 3 of this 2019 Act.**

26 [(6)] (7) As used in this section:

27 (a) "Estate" includes all real and personal property and other assets in which the deceased in-
 28 dividual had any legal title or interest at the time of death including assets conveyed to a survivor,
 29 heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship,
 30 life estate, living trust or other similar arrangement.

31 (b) "Medical assistance" includes the state's monthly contribution to the federal government to
 32 defray the costs of outpatient prescription drug coverage provided to a person who is eligible for
 33 Medicare Part D prescription drug coverage and who receives medical assistance.

34 **SECTION 11.** ORS 475B.755 is amended to read:

35 475B.755. Except as otherwise provided in ORS 475B.700 to 475B.760 or where the context re-
 36 quires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of
 37 returns, periods of limitation, determination of and notices of deficiencies, assessments, collections,
 38 liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court,
 39 stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and
 40 the procedures relating thereto, apply to the determinations of taxes, penalties and interest under
 41 ORS 475B.700 to 475B.760 **and to assessments, penalties and interest under section 3 of this**
 42 **2019 Act.**

43 **SECTION 12.** ORS 657.665 is amended to read:

44 657.665. (1) Except as provided in subsections (2) to (5) of this section, all information in the
 45 records of the Employment Department pertaining to the administration of the unemployment in-

1 surance, employment service and workforce and labor market information programs:

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

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

9 (c) Is exempt from disclosure under ORS 192.311 to 192.478.

10 (2) The Employment Department shall disclose information:

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

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

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

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

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

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

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

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

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

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

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

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

28 (a) To state agencies, federal agencies, local government agencies, public universities listed in
 29 ORS 352.002 and the Oregon Health and Science University established under ORS 353.020, to the
 30 extent necessary to properly carry out governmental planning, performance measurement, program
 31 analysis, socioeconomic analysis or policy analysis functions performed under applicable law. The
 32 information disclosed is confidential and may not be disclosed by the agencies or universities in any
 33 manner that would identify individuals, claimants, employees or employing units. If the information
 34 disclosed under this paragraph is not prepared for the use of the Employment Department, the costs
 35 of disclosing the information shall be paid by the agency or 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 Innovation and Opportunity
10 Act for the purpose of administering state workforce programs under the Act. The information dis-
11 closed is confidential and may not be used for any other purpose. The costs of disclosing information
12 under this paragraph shall be paid by the requesting partner.

13 (e) Disclose the names and addresses of employing units to the Bureau of Labor and Industries
14 for the purpose of disseminating information to employing units. The names and addresses disclosed
15 are confidential and may not be used for any other purpose. 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 bureau.

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

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

30 (h) Disclose to the Oregon Business Development Commission and the Oregon Business Devel-
31 opment Department information required by the commission and the department in performing their
32 duties under ORS 285A.050 and 285B.630 to verify changes in employment levels following direct
33 employer participation in department programs or indirect participation through municipalities un-
34 der ORS 285B.410 to 285B.482. The information disclosed to the commission and the department may
35 include an employer's employment level, total subject wages payroll and whole hours worked. The
36 information disclosed is confidential and may not be used for any other purpose. The commission
37 and the department may not disclose the information in any manner that would identify an employ-
38 ing unit or employee except to the extent necessary to carry out the commission's and the
39 department's duties under ORS 285A.050 and 285B.630. If the information disclosed under this para-
40 graph is not prepared for the use of the Employment Department, the costs of disclosing the infor-
41 mation shall be paid by the commission or the Oregon Business Development Department.

42 (i) Disclose information to the Department of Revenue for the purpose of performing its duties
43 under ORS 293.250 **or section 3 of this 2019 Act** or under the revenue and tax laws of this state.
44 The information disclosed may include the names and addresses of employers and employees and
45 payroll data of employers and employees. The information disclosed is confidential and may not be

1 disclosed by the Department of Revenue in any manner that would identify an employing unit or
2 employee except to the extent necessary to carry out the department's duties under ORS 293.250 or
3 in auditing or reviewing any report or return required or permitted to be filed under the revenue
4 and tax laws administered by the department. The Department of Revenue may not disclose any in-
5 formation received to any private collection agency or for any other purpose. If the information
6 disclosed under this paragraph is not prepared for the use of the Employment Department, the costs
7 of disclosing the information 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 184.665, 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 performance**
11 **of their duties under section 4 of this 2019 Act or** in the collection of debts that the Department
12 of Human Services and the Oregon Health Authority are authorized by law to collect. The infor-
13 mation disclosed may include the names, addresses and payroll data of employers and employees.
14 The information disclosed is confidential and may not be disclosed by the Department of Human
15 Services or the Oregon Health Authority in a manner that would identify an employing unit or em-
16 ployee except to the extent necessary for **the performance of their duties under section 4 of this**
17 **2019 Act or for** the collection of debts as described in this paragraph. The Department of Human
18 Services and the Oregon Health Authority may not disclose information received under this para-
19 graph to a private collection agency or use the information for a purpose other than the collection
20 of debts as described in this paragraph. If the information disclosed under this paragraph is not
21 prepared for the use of the Employment Department, the costs of disclosing the information shall
22 be paid by the Department of Human Services or the Oregon Health Authority.

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

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

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 person requesting the information.

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

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

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

9 **SECTION 13.** ORS 659A.885, as amended by sections 9 and 10, chapter 197, Oregon Laws 2017,
 10 and section 13, chapter 691, Oregon Laws 2017, is amended to read:

11 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 12 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 13 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
 14 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
 15 court may order back pay in an action under this subsection only for the two-year period imme-
 16 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 17 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 18 year period immediately preceding the filing of the action. In any action under this subsection, the
 19 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 20 cept as provided in subsection (3) of this section:

21 (a) The judge shall determine the facts in an action under this subsection; and

22 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 23 review the judgment pursuant to the standard established by ORS 19.415 (3).

24 (2) An action may be brought under subsection (1) of this section alleging a violation of:

25 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 475B.281, 476.574, 652.020,
 26 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852, 659A.030,
 27 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145,
 28 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,
 29 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315,
 30 659A.318, 659A.320, 659A.355, 659A.357 or 659A.421 **or section 5 of this 2019 Act;** or

31 (b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

32 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
 33 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
 34 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
 35 659A.290, 659A.318, 659A.355, 659A.357 or 659A.421 **or section 5 of this 2019 Act:**

36 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
 37 compensatory damages or \$200, whichever is greater, and punitive damages;

38 (b) At the request of any party, the action shall be tried to a jury;

39 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
 40 ment pursuant to the standard established by ORS 19.415 (1); and

41 (d) Any attorney fee agreement shall be subject to approval by the court.

42 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
 43 olation of ORS 652.220, the court may award punitive damages if:

44 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
 45 with malice or acted with willful and wanton misconduct; or

1 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
2 659A.850 for a violation of ORS 652.220.

3 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060, the
4 court may award, in addition to the relief authorized under subsection (1) of this section,
5 compensatory damages or \$200, whichever is greater.

6 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
7 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
8 section, compensatory damages or \$250, whichever is greater.

9 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
10 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
11 penalty in the amount of \$720.

12 (8) Any individual against whom any distinction, discrimination or restriction on account of
13 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
14 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
15 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
16 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
17 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
18 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
19 section:

20 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
21 compensatory and punitive damages;

22 (b) The operator or manager of the place of public accommodation, the employee or person
23 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
24 damages awarded in the action;

25 (c) At the request of any party, the action shall be tried to a jury;

26 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

27 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
28 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
29 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
30 and

31 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
32 judgment pursuant to the standard established by ORS 19.415 (1).

33 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
34 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
35 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
36 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
37 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
38 manner as a person or group of persons may file a civil action under this section. In a civil action
39 filed under this subsection, the court may assess against the respondent, in addition to the relief
40 authorized under subsections (1) and (3) of this section, a civil penalty:

41 (a) In an amount not exceeding \$50,000 for a first violation; and

42 (b) In an amount not exceeding \$100,000 for any subsequent violation.

43 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
44 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
45 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to

1 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
2 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
3 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
4 appealing an adverse decision of the trial court.

5 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
6 or 659A.421 or discrimination under federal housing law:

7 (a) "Aggrieved person" includes a person who believes that the person:

8 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

9 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
10 occur.

11 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
12 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
13 tifies that the case is of general public importance. The court may allow an intervenor prevailing
14 party costs and reasonable attorney fees at trial and on appeal.

15 **SECTION 14. Section 3 of this 2019 Act applies to tax years beginning on or after January**
16 **1, 2022.**

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