

SB 722-5
(LC 4159)
2/27/19 (ASD/ps)

Requested by Senator COURTNEY

**PROPOSED AMENDMENTS TO
SENATE BILL 722**

1 On page 1 of the printed bill, line 2, delete “657.100” and insert “657.144,
2 657.150, 657.315, 657.317, 657.392 and 657.396”.

3 Delete lines 5 through 25 and delete pages 2 and 3 and insert:

4 **“SECTION 1. Sections 2, 3 and 12 of this 2019 Act are added to and
5 made a part of ORS chapter 657.**

6 **“SECTION 2. (1) An individual is entitled to benefits under this
7 section if the individual:**

8 **“(a) Is an employee of the United States or a member of the Armed
9 Forces of the United States on active duty;**

10 **“(b) Is being required to perform service for the United States or
11 in the Armed Forces of the United States;**

12 **“(c) Is not receiving wages for the service because of a lapse of
13 federal appropriations; and**

14 **“(d) Would otherwise be eligible for, but is not receiving, unem-
15 ployment compensation for federal employees, or unemployment
16 compensation for ex-servicemembers, as provided under 5
17 U.S.C. chapter 85.**

18 **“(2) Except for the eligibility requirements under subsection (1) of
19 this section and ORS 657.100, benefits under this section shall be sub-
20 ject to the same requirements and procedures as regular benefits as
21 defined in ORS 657.158.**

1 **“(3) An individual who is entitled to benefits under this section**
2 **shall continue to be so entitled until the earlier of the date on which:**

3 **“(a) The individual begins to receive wages on the individual’s reg-**
4 **ular payday for service performed for the United States or in the**
5 **Armed Forces of the United States; or**

6 **“(b) The individual’s employment by the United States or active**
7 **duty status in the Armed Forces of the United States permanently**
8 **ceases.**

9 **“(4) Benefits are payable under this section only to the extent that**
10 **funds are available in the State Benefits for Federal Workers Fund**
11 **established under section 3 of this 2019 Act.**

12 **“(5) If the Employment Department recovers any overpayments of**
13 **benefits paid under this section, the department shall deposit the re-**
14 **covered amounts in the State Benefits for Federal Workers Fund.**

15 **“(6) The Director of the Employment Department may adopt such**
16 **rules as the director considers necessary with respect to benefits pay-**
17 **able under this section.**

18 **“SECTION 3. (1) The State Benefits for Federal Workers Fund is**
19 **established in the State Treasury, separate and distinct from the**
20 **General Fund. Notwithstanding ORS 657.815, all moneys in the State**
21 **Benefits for Federal Workers Fund are continuously appropriated to**
22 **the Employment Department for the purposes set forth in subsection**
23 **(3) of this section.**

24 **“(2) The State Benefits for Federal Workers Fund consists of:**

25 **“(a) Moneys appropriated to the fund by the Legislative Assembly;**
26 **and**

27 **“(b) Recovered amounts deposited in the fund by the department**
28 **under section 2 (5) of this 2019 Act.**

29 **“(3) Moneys in the fund may be used solely to pay:**

30 **“(a) Benefits under section 2 of this 2019 Act and under rules pre-**

1 scribed by the Director of the Employment Department pursuant to
2 section 2 of this 2019 Act; and

3 “(b) The actual costs incurred by the department in administering
4 section 2 of this 2019 Act and rules prescribed by the director pursuant
5 to section 2 of this 2019 Act.

6 “**SECTION 4.** There is appropriated to the Employment Department,
7 for the biennium ending June 30, 2019, out of the General Fund, the
8 amount of \$1 for the purposes of making the payments authorized
9 under section 3 of this 2019 Act.

10 “**SECTION 5.** ORS 657.150 is amended to read:

11 “657.150. (1) An individual shall be paid benefits for weeks during the
12 benefit year in an amount [*which*] **that** is to be determined by taking into
13 account the individual’s work in subject employment in the base year as
14 provided in this section.

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

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

20 “(B) Have earned wages in subject employment equal to six times the
21 individual’s weekly benefit amount in employment for service performed
22 subsequent to the beginning of a preceding benefit year if benefits were paid
23 to the individual for any week in the preceding benefit year.

24 “(b) If the individual does not meet the requirements of paragraph (a)(A)
25 of this subsection, the individual may qualify for benefits if the individual
26 has worked a minimum of 500 hours in employment subject to this chapter
27 during the base year.

28 “(3) If the wages paid to an individual are not based upon a fixed period
29 of time or if wages are paid at irregular intervals or in such manner as not
30 to extend regularly over the period of employment, for the purposes of sub-

1 sections (2) to (5) of this section, the individual's wages shall be allocated
2 in accordance with rules prescribed by the Director of the Employment De-
3 partment. Such rules shall, insofar as possible, produce results the same as
4 those [*which*] **that** would exist if the individual had been paid wages at
5 regular intervals. The director may adopt rules to attribute hours of work
6 to an individual if the individual is not paid on an hourly basis or if the
7 employer does not report the number of hours worked.

8 “(4)(a) An eligible individual's weekly benefit amount shall be 1.25 per-
9 cent of the total wages paid in the individual's base year. However, such
10 amount shall not be less than the minimum, nor more than the maximum
11 weekly benefit amount.

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

16 “[*(b)*] (c) The maximum weekly benefit amount shall be:

17 “(A) Fifty-five percent (0.5500) of the state average weekly covered wage
18 for calendar year 1979, effective for any benefit year commencing with and
19 after the week [*which*] **that** includes July 4, 1980, and through any benefit
20 year commencing with the week [*which*] **that** includes June 27, 1981.

21 “(B) Fifty-five percent (0.5500) of the state average weekly covered wage
22 for calendar year 1980, effective for any benefit year commencing with and
23 after the week [*which*] **that** includes July 4, 1981, through any benefit year
24 commencing with the week [*which*] **that** includes September 27, 1981.

25 “(C) Fifty-eight percent (0.5800) of the state average weekly covered wage
26 for calendar year 1980, effective for any benefit year commencing with and
27 after the week [*which*] **that** includes October 4, 1981, through any benefit
28 year commencing with the week [*which*] **that** includes June 27, 1982.

29 “(D) Sixty percent (0.6000) of the state average weekly covered wage for
30 calendar year 1981, effective for any benefit year commencing with and after

1 the week *[which]* **that** includes July 4, 1982, through any benefit year com-
2 mencing with the week *[which]* **that** includes June 27, 1983.

3 “(E) Sixty-four percent (0.6400) of the state average covered weekly wage
4 for the preceding calendar year, effective for any benefit year commencing
5 with and after the week *[which]* **that** includes July 4, 1983, and the week
6 *[which]* **that** includes each July 4 thereafter.

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

9 “[*(d)*] (e) For the purposes of this subsection, the state average weekly
10 covered wage means an amount determined by the Employment Department
11 by dividing the total wages paid by subject employers during the year by 52
12 times the average monthly employment reported by subject employers for the
13 year.

14 “(5) Benefits paid to an eligible individual in a benefit year shall not ex-
15 ceed 26 times the individual’s weekly benefit amount, or one-third of the base
16 year’s wages paid, whichever is the lesser. If such amount is not a multiple
17 of \$1, it shall be computed to the next lower multiple of \$1.

18 “(6) An eligible unemployed individual who has employment in any week
19 shall have the individual’s weekly benefit amount reduced by the amount of
20 earnings paid or payable that exceeds whichever is the greater of the fol-
21 lowing amounts:

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

24 “(b) One-third of the individual’s weekly benefit amount.

25 “(7) Payment *[which]* **that** has been, is or will be paid to an individual
26 for a holiday or vacation shall be considered as earnings in the determi-
27 nation of the amount of benefits payable with respect to the week in which
28 the holiday or vacation falls in the same manner as provided in subsection
29 (6) of this section. However, if payment for the holiday or vacation is paid
30 more than 45 days prior to the holiday or vacation or is delayed more than

1 45 days following the end of the week in which the holiday or vacation falls,
2 the provisions of this section do not apply and previously reduced benefits
3 shall be adjusted accordingly.

4 **“(8) Payment that has been or is paid to an individual as back pay**
5 **shall be considered as earnings in the determination of the amount**
6 **of benefits payable with respect to the period for which the back pay**
7 **has been or is paid.**

8 “[8] (9) Payment [*which*] **that** has been[,] or will be made to an indi-
9 vidual as a member of a reserve component of the Armed Forces of the
10 United States, including the organized militia of the State of Oregon, for the
11 performance of inactive duty training shall not be considered as earnings in
12 the determination of the amount of benefits payable.

13 **“SECTION 6.** ORS 657.315 is amended to read:

14 “657.315. (1) If the Director of the Employment Department decides that
15 an individual has been paid benefits to which the individual is not entitled
16 because of an error not due to the individual providing a false statement or
17 misrepresentation of a material fact or not disclosing a material fact, or be-
18 cause an initial decision to pay benefits is subsequently reversed by a deci-
19 sion finding the individual is not eligible for the benefits, the individual is
20 liable:

21 **“(a) To repay the amount of the benefits to the director for the**
22 **Unemployment Compensation Trust Fund within five years following**
23 **the week in which the decision establishing the erroneous payment**
24 **became final; or**

25 **“(b) To have the amount deducted from any future benefits otherwise**
26 **payable to the individual under this chapter or the equivalent law of another**
27 **state for any week or weeks within five years following the week in which**
28 **the decision establishing the erroneous payment became final.**

29 **“(2) Subject to ORS 657.269 and 657.270,** a decision of the director under
30 this section does not authorize the recovery of the amount of any benefits

1 paid to an individual until the decision is final [*and the decision specifies*
2 *that the individual is liable to have the amount deducted from any future*
3 *benefits otherwise payable under this chapter or the equivalent law of another*
4 *state for any week or weeks within five years following the week in which the*
5 *decision establishing the erroneous payment became final*].

6 “[*(3) Amounts paid to an individual in excess of the maximum benefits al-*
7 *lowable pursuant to this chapter may be recovered in a civil action brought in*
8 *the name of the director for such purpose.*]

9 “**(3) The director may bring a civil action against an individual to**
10 **recover any amount for which the individual is liable for repayment**
11 **under this section.**

12 “**SECTION 7.** ORS 657.317 is amended to read:

13 “657.317. (1) The Director of the Employment Department shall waive re-
14 covery of benefits under ORS 657.315 if the director finds that the benefits
15 are recoverable due to a change in federal or state law, the application of
16 which has caused the disqualification of benefits previously paid.

17 “(2) The director [*may*] **shall** waive recovery [*of benefits*] under ORS
18 657.315 **of overpaid benefits** if the director finds that recovery of **the** ben-
19 efits would be against equity and good conscience.

20 “[*(3) If the United States Secretary of Labor serves notice that the pro-*
21 *visions of subsection (1) or (2) of this section fail to meet the requirements of*
22 *the Social Security Act or the Federal Unemployment Tax Act, the noncon-*
23 *forming subsection is no longer of any force or effect.*]

24 “[*(4)*] **(3)** The director may waive establishment and recovery of overpaid
25 benefits when no decision has been issued under ORS 657.310 or 657.315 and
26 the amount of the overpayment is less than one-half of the maximum weekly
27 benefit amount in effect at the time the overpayment is discovered.

28 “**SECTION 8.** ORS 657.392 is amended to read:

29 “657.392. (1) If an individual is liable to repay benefits under ORS 657.310
30 **or 657.315**, the amount liable to be repaid, interest **on the amount accruing**

1 **under ORS 657.310** and penalties due shall be a lien in favor of the Director
2 of the Employment Department upon all property, whether real or personal,
3 belonging to such individual.

4 “(2) The lien shall be perfected and attach:

5 “(a) To real and personal property located within [*the*] a county, upon the
6 recording of a warrant, as provided in ORS 657.396, with the clerk of the
7 county [*in which the property is located*].

8 “(b) To personal property wherever located within the state, upon:

9 “(A) The recording of a warrant, as provided in ORS 657.396, with the
10 clerk of any county; and

11 “(B) The filing of a copy of the warrant with the Secretary of State as
12 provided in ORS 657.394.

13 “(3) The lien created by this section may be foreclosed by a suit in the
14 circuit court in the manner provided by law for the foreclosure of other liens
15 on real or personal property.

16 **“SECTION 9.** ORS 657.396 is amended to read:

17 “657.396. (1) In any case in which the Director of the Employment De-
18 partment may bring a civil action for the collection of amounts liable to be
19 repaid under ORS 657.310 **or 657.315**, interest **accruing under ORS 657.310**
20 on those amounts or penalties, the Employment Department may instead:

21 “(a) Assess a collection charge of \$5 if the amount liable to be repaid, the
22 interest then due or the penalty exceeds \$10.

23 “(b) Issue a warrant for the amount liable to be repaid with the added
24 interest, penalty, collection charge and the sheriff’s cost of executing the
25 warrant. A copy of the warrant shall be mailed or delivered to the debtor
26 by the department at the debtor’s last-known address.

27 “(2) At any time after issuing a warrant under this section, the depart-
28 ment may record the warrant in the County Clerk Lien Record of any county
29 of this state. Recording of the warrant has the effect described in ORS
30 205.125. After recording a warrant, the department may direct the sheriff for

1 the county in which the warrant is recorded to levy upon and sell the real
2 and personal property of the debtor found within that county, and to levy
3 upon any currency of the debtor found within that county, for the applica-
4 tion of the proceeds or currency against the amount reflected in the warrant
5 and the sheriff's cost of executing the warrant. The sheriff shall proceed on
6 the warrant in the same manner prescribed by law for executions issued
7 against property pursuant to a judgment, and is entitled to the same fees as
8 provided for executions issued against property pursuant to a judgment. The
9 fees of the sheriff shall be added to and collected as a part of the warrant
10 liability.

11 “(3) In the discretion of the department a warrant under this section may
12 be directed to any agent authorized by the department to collect amounts
13 under this section, and in the execution of the warrant the agent has all of
14 the powers conferred by law upon sheriffs, but is entitled to no fee or com-
15 pensation in excess of actual expenses paid in the performance of such duty.

16 “(4) *[Interest upon the amounts liable to be repaid and the penalty]* **For**
17 **the collection of amounts liable to be repaid under ORS 657.310, inter-**
18 **est on those amounts and penalties** as set forth in the warrant shall be
19 paid and collected at the *[rate]* **rates** prescribed in ORS 657.310.

20 **“SECTION 10. The amendments to ORS 657.317, 657.392 and 657.396**
21 **by sections 7 to 9 of this 2019 Act apply to benefits determined on or**
22 **after the effective date of this 2019 Act to have been overpaid.**

23 **“SECTION 11. ORS 657.144 is amended to read:**

24 “657.144. (1) An individual filing a new claim for benefits under this
25 chapter shall **be advised**, at the time the claim is filed with the Employment
26 Department, *[be advised]* that:

27 “(a) Benefits are subject to federal and state income tax;

28 “(b) Federal and state law may require that a recipient of benefits make
29 quarterly estimated tax payments during the tax year in which the benefits
30 are received;

1 “(c) Federal and state law may impose penalties on a recipient of benefits
2 for the failure to timely make estimated tax payments; and

3 “(d) A recipient of benefits may elect under ORS 657.146 to have amounts
4 withheld from the recipient’s payment of benefits for federal and state in-
5 come tax purposes at the amount specified in:

6 “(A) The federal Internal Revenue Code for the voluntary withholding of
7 unemployment benefits for federal income tax purposes; and

8 “(B) ORS 657.146 for the voluntary withholding of unemployment benefits
9 for state income tax purposes.

10 “(2) The **Director of the** Employment Department shall provide informa-
11 tion [*to recipients of unemployment insurance benefits*] about the state and
12 federal earned income tax credits **to recipients of unemployment insur-**
13 **ance benefits.**

14 “(3) **The director shall make reasonable efforts to ensure that an**
15 **individual filing a new claim for benefits under this chapter is advised,**
16 **at the time the claim is filed with the department, that the individual**
17 **may be subject to the procedures for recovery of benefits paid in error**
18 **set forth in ORS 657.315.**

19 “**SECTION 12. The amount of back pay paid by an employer, or**
20 **awarded by a judge or arbitrator, to an individual may not be reduced**
21 **to reflect the amount of benefits that the individual received during**
22 **the period for which the back pay was paid or awarded.**

23 “**SECTION 13. This 2019 Act being necessary for the immediate**
24 **preservation of the public peace, health and safety, an emergency is**
25 **declared to exist, and this 2019 Act takes effect on its passage.”.**

26