

## Employment Department

	2019-21 Actual	2021-23 Legislatively Adopted	2021-23 Legislatively Approved *	2023-25 Current Service Level	2023-25 Governor's Recommended Budget
General Fund	8,227,171	47,103,458	48,765,505	--	--
Other Funds	194,831,829	279,153,141	285,661,087	349,842,882	445,935,654
Other Funds (NL)	2,779,417,760	5,058,847,795	5,058,847,795	2,620,819,560	2,621,260,260
Federal Funds	236,771,214	293,520,514	310,599,469	167,807,824	174,150,948
Federal Funds (NL)	7,519,122,177	1,081,179,119	1,081,179,119	69,308,000	69,305,500
<b>Total Funds</b>	<b>10,738,370,151</b>	<b>6,759,804,027</b>	<b>6,785,052,975</b>	<b>3,207,778,266</b>	<b>3,310,652,362</b>
Positions	2,577	3,297	3,304	1,762	2,087
FTE	1,953.11	2,248.02	2,253.62	1,741.61	2,058.55

\* Includes Emergency Board and administrative actions through December 2022.

### Program Description

The mission of the Oregon Employment Department is to support business and support employment. The agency does this through services offered in five program areas: Unemployment Insurance provides wage replacement income to qualifying workers unemployed through no fault of their own; Workforce Operations offers job listings, referrals, and career development resources; Workforce and Economic Research coordinates the collection and dissemination of occupation and economic climate data for the state, workforce regions, and counties of Oregon; the Paid Family Medical Leave Insurance Division is designing a paid leave program for workers, funded with employer and employee contributions; and the Office of Administrative Hearings conducts contested case hearings for approximately 70 state agencies. In addition, the Employment Department has a specific budgetary program area focused on the modernization of its information technology systems.

### CSL Summary

The Employment Department has no General Fund or Lottery Funds current service level requirements for the 2023-25 biennium. Last biennium's General Fund related to startup costs for the Paid Family Medical Leave Insurance Division have been phased out, and no additional General Fund for that program is anticipated to be required. The Employment Department is on track to repay the General Fund loan for startup costs in the amount of \$56.9 million for the 2019-21 and 2021-23 biennia by June 30, 2023. Rollout of the new Frances technology system, which will enable employer reporting and payment to function smoothly, and contributions for the Paid Leave Oregon program are scheduled to be collected through this system beginning January 1, 2023.

Standard Department of Administrative Services price list and inflationary adjustments per budget instructions were applied. One-time General Fund for start-up costs of the Paid Leave Oregon plan in the amount of \$11.2 million was phased out, as were Other Funds of \$33.4 million and Federal Funds of \$27.5 million for expenditures related to the following:

- Services and supplies costs in the Unemployment Insurance Division related to positions that were added to accommodate elevated claim, appeals, and fraud investigations stemming from the COVID-19 pandemic;
- Services and supplies costs in the Workforce Operations division related to positions funded from contracted services that were approved on a limited duration basis (although there are policy option packages to make some of these positions permanent, as contract service and federal Trade Act funding are anticipated to continue to be stable);
- One Time services and supplies expenditures related to IT professional services costs for implementation of the Modernization project for the Unemployment Insurance and Paid Leave Oregon programs; and
- Services and supplies costs related to limited duration positions in the Office of Administrative Hearings and Central Services that were related to support for increased Unemployment Insurance workload;

Additionally, four Employment Adjudicator positions are being abolished in package 040 (mandated caseload), as the Department has enough positions to manage anticipated 2023-25 workload as assumed in the February 2022 economic forecast.

#### Policy Issues

*Agency Revenue* - Federal funding provided to the Employment Department is largely cyclical: during times of high unemployment, the U.S. Department of Labor tends to increase federal administrative grant funding to help state unemployment insurance (UI) administrators handle the higher rate of claims for benefits, and provides additional funding for benefits and extensions to those that qualify under both temporary and permanent programs; during times of low unemployment and economic expansion, Federal Funds decrease substantially, and the Employment Department relies on reserves -- from the Supplemental Employment Department Administrative Fund (SEDAF) and penalty and interest revenue (called the Employment Department Special Administrative Fund) derived from delinquent employer taxes -- to continue operations. Maintaining a reserve allows the Department to continue a baseline level of operations, maintain cash flow until federal reimbursements occur, scale up quickly at the onset of a recession, and continue operations in the event of temporary federal government shutdowns or federal budget continuing resolutions that may interrupt funding flows.

While more federal dollars were made available to states during the COVID-19 pandemic, the percentage of administrative costs covered by federal funding actually decreased. Workload continued long after shutdowns ended, owing to appeals of eligibility determinations and fraud detection and prevention. The Employment Department was forced to use significant amounts of Other Funds to administer its programs during the end of the pandemic when federal funding decreased but workload remained high. As of February 1, 2023, the Department had less than one month of operating reserves, compared to between three and four months it maintained prior to the COVID-19 pandemic. The Department undertook a contracted business process evaluation in the wake of increased claims during the pandemic in an effort to identify and improve service levels and communication to those with claims. SEDAF and penalty and interest payments have been used to maintain these higher levels of staffing, but the continued imbalance between expenses and available federal revenue does not allow for sustainable operations at this higher level. To increase reserves to sustainable levels of at least one month of operating reserves by June 2023 and two months of operating reserves by June 2025, internal budget balancing actions, such as not filling positions as they become vacant, adjusting

office space and leases, using available one-time Other Funds and Federal Funds, and decreasing services and supplies expenditures, have been underway since early 2022. These types of actions will continue into 2023 to maintain a positive cashflow in the current biennium and beyond, while trying to ensure sufficient staffing exists for remaining pandemic and ongoing workload, for future phases of IT modernization and associated rollout of benefits under the new Frances system.

*Office of Administrative Hearings* - The Governor's Office appointed a new Chief Administrative Law Judge for the Office of Administrative Hearings (OAH) in 2022. Legislation may be introduced to add specificity to the role of, and additional support for, the OAH Advisory Committee.

### Governor's Budget

*Paid Leave Oregon* - Implementation of the Paid Leave Oregon component of the modernization project is in process with three major milestones:

- The agency began processing Equivalent Plan applications as of September 2022.
- Employer and employee contributions are scheduled to begin January 1, 2023.
- The third major milestone is to begin processing and issuing Paid Leave Oregon benefits and small business assistance grants beginning September 3, 2023, which will impact the 2023-25 biennium budget, requiring additional employees to review and process claims and subsequent benefit appeals.

Resources for this work are included in policy option package 103, in the amount of \$29.5 million Other Funds and 146 additional positions.

*IT Modernization* - Information technology modernization is a multi-biennia endeavor. Other Funds expenditure limitation for the modernization project related to the benefits portion of the Frances system are included in policy option package 101. The Governor's budget includes \$33.2 million Other Funds expenditure limitation to continue the project, which allocates costs between the portions of the project that are attributable to the Paid Leave Oregon and Unemployment Insurance programs. This package also includes a cost allocation model that distributes costs to each program that benefits from the project (two thirds of total project costs are anticipated to be related to the Paid Leave Oregon program). The majority of the expenditure limitation is for the implementation cost for the UI Modernization Project solution vendor, and independent quality management services.

The Governor's budget also includes resources in policy option package 102 in the amount of \$1.2 million for the next phase of its IT system modernization, involving the Workforce system. The requested resources are intended to enable sufficient planning and Independent Quality Management Services review to enable the project to progress through Stage Gate 2 of the joint LFO/Enterprise information Services review process. The total completed project cost is estimated between \$7 and \$20 million and is intended to replace the computer systems supporting the delivery of employment services and administration of federal programs.

*Agency Organization* - The Governor's Budget assumes the creation of a new division to support employer contributions and payment recovery for both the Unemployment Insurance and Paid Leave Oregon programs. This division will combine the very similar operations of the two divisions, which serve the same employers, allowing for a better customer experience. The position transfers and attendant expenditure limitation occur in policy option package 106, which transfers employees from both the UI and Paid Leave divisions, results in a net increase in expenditure limitation of \$780,240 Total Funds, and 2 positions (2.00 FTE).

*Performance Enhancements* - Policy option packages 111, 112, and 113 are funded with a combination of Other Funds and Federal Funds to add staff in response to recommendations from a performance analysis performed under contract during the 2021-23 biennium. The packages will provide resources to meet a number of objectives, including the following: analyze call and issue trends that allow OED to more nimbly shift resources and respond in a more timely way (10 positions); creation of a non-IT related project management office (8 positions); better management of permanent and limited duration positions (2 positions); enhancement of equity and inclusion efforts (3 positions), and to provide better communication to the public (1 position). The combined total of these requests amount to \$7.3 million and 14 positions.

*Agency Operating Enhancements* - The Governor's budget includes \$21.7 million Other Funds and 100 positions (29 of which would be permanent) in policy option package 115, primarily for fraud prevention and investigation, but also to augment central services in budget, communications, and human resources. This package is proposed to be funded through an increase diversion of employer Unemployment Insurance taxes to the Supplemental Employment Department Administrative Fund for operations that can't otherwise be funded by federal funding, from the current rate of 0.09%, to 0.109%; a statutory change would be needed to implement this change. The 2025-27 fiscal impact of this package is significantly smaller: \$6.2 million and 41 permanent positions (41.00 FTE).

*Miscellaneous* - Other policy option package requests are associated with workload resulting from grants or federal support for benefit, employment and training services provided to workers.

#### Other Significant Issues and Background

*Lawsuit Settlement* - The Employment Department has settled two lawsuits, related to benefit delays, and overpayment determinations. The lawsuits did not seek monetary damages, but rather service standards regarding timeliness of benefit determinations and payments, and circumstances under which overpayment recovery would be sought when the Employment Department has made a benefit calculation or determination error. These settlements appear to be driving some of the staffing requests in policy option packages 111, 112, 113, 114, and 115.

*Space needs/remote work* - The Employment Department continues to promote working remotely where appropriate. As such, assessments are underway to incorporate employees in the new Paid leave Oregon program into existing facilities that are owned or leased by the Employment Department.

*Audit Findings* - The Secretary of State completed an audit identifying process deficiencies in eligibility determinations, timeliness of claims and disparities in the rate of claims resolution amongst some demographic groups, all of which were exacerbated by high claim volume during the pandemic. OED agreed with audit findings and has implemented multiple policies and process improvements to address the findings.

*Office of Administrative Hearings* - OAH has worked through the majority of pandemic-related appeals, but continues to see higher than anticipated referrals for regular Unemployment Insurance benefits. OAH has shifted existing resources to address this issue on a rotational basis, as well as hired some limited duration positions, which will likely be in place through March or possibly June of 2023. OAH did not request any policy option packages for the 2023-25 biennium, but the Legislative Fiscal Office will be monitoring caseload volume to ensure that decision makers are aware of any longer-term trends and possible resource needs.

*Agency Leadership* - The current Acting Director of the Employment Department has been serving in this capacity since 2000. The Department has undergone numerous leadership changes in the last decade, and a new Governor brings the distinct possibility of new agency leadership, with possible implications for agency priorities and workforce stability going forward.

#### Key Performance Measures

A copy of the Employment Department Annual Performance Progress Report can be found on the LFO website:

[https://www.oregonlegislature.gov/lfo/APPR/APPR\\_OED\\_2021-09-24.pdf](https://www.oregonlegislature.gov/lfo/APPR/APPR_OED_2021-09-24.pdf)

Performance for 2021 was influenced by the “tail” of pandemic related UI claims and appeals, the more complicated of which took additional time to resolve. Other measures are directly affected by labor markets (such as the percentage of workers that access workforce services and remain employed for an extended period). Given the atypical nature of the pandemic-related recession and subsequent, the Employment Department met targets for 42.8% of its measures.