

# House Bill 2290

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Employment Department)

## SUMMARY

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

Authorizes Department of Revenue to disclose information to Employment Department for purpose of administering paid family and medical leave insurance program. Requires employers to report total amounts of employee contributions with payment to Department of Revenue and to report employee contributions annually. Includes program eligibility determination in purposes for which county supervisory authority must submit defendant information to Director of Employment Department.

Becomes operative August 1, 2023.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to information sharing for purposes of administration of Employment Department programs;  
3 creating new provisions; amending ORS 137.924, 314.840 and 657B.150; and declaring an emer-  
4 gency.

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

6 **SECTION 1.** ORS 314.840 is amended to read:

7 314.840. (1) The Department of Revenue may:

8 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.239  
9 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-  
10 tative or designee, with a copy of the taxpayer's income tax return filed with the department for  
11 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with  
12 any other information the department considers necessary.

13 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

14 (c) Publish statistics so classified as to prevent the identification of income or any particulars  
15 contained in any report or return.

16 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social  
17 Security number, employer identification number or other taxpayer identification number to the ex-  
18 tent necessary in connection with collection activities or the processing and mailing of correspond-  
19 ence or of forms for any report or return required in the administration of any local tax under ORS  
20 305.620 or any law imposing a tax upon or measured by net income.

21 (2) The department also may disclose and give access to information described in ORS 314.835  
22 to:

23 (a) The Governor of the State of Oregon or the authorized representative of the Governor with  
24 respect to an individual who is designated as being under consideration for appointment or reap-  
25 pointment to an office or for employment in the office of the Governor. The information disclosed  
26 shall be confined to whether the individual:

27 (A) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not

**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 more than the three immediately preceding years for which the individual was required to file an  
 2 Oregon individual income tax return.

3 (B) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or  
 4 otherwise respond to a deficiency notice within 30 days of its mailing.

5 (C) Has been assessed any penalty under the Oregon personal income tax laws and the nature  
 6 of the penalty.

7 (D) Has been or is under investigation for possible criminal offenses under the Oregon personal  
 8 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose  
 9 of making the appointment, reappointment or decision to employ or not to employ the individual in  
 10 the office of the Governor.

11 (b) An officer or employee of the Oregon Department of Administrative Services duly authorized  
 12 or employed to prepare revenue estimates, or a person contracting with the Oregon Department of  
 13 Administrative Services to prepare revenue estimates, in the preparation of revenue estimates re-  
 14 quired for the Governor's budget under ORS 291.201 to 291.224, or required for submission to the  
 15 Emergency Board or the Joint Interim Committee on Ways and Means, or if the Legislative As-  
 16 sembly is in session, to the Joint Committee on Ways and Means, and to the Legislative Revenue  
 17 Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The Department of  
 18 Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes  
 19 of this paragraph only if:

20 (A) The request for information is made in writing, specifies the purposes for which the request  
 21 is made and is signed by an authorized representative of the Oregon Department of Administrative  
 22 Services. The form for request for information shall be prescribed by the Oregon Department of  
 23 Administrative Services and approved by the Director of the Department of Revenue.

24 (B) The officer, employee or person receiving the information does not remove from the premises  
 25 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-  
 26 rate taxpayer.

27 (c) The Commissioner of Internal Revenue or authorized representative, for tax administration  
 28 and compliance purposes only.

29 (d) For tax administration and compliance purposes, the proper officer or authorized represen-  
 30 tative of any of the following entities that has or is governed by a provision of law that meets the  
 31 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

32 (A) A state;

33 (B) A city, county or other political subdivision of a state;

34 (C) The District of Columbia; or

35 (D) An association established exclusively to provide services to federal, state or local taxing  
 36 authorities.

37 (e) The Multistate Tax Commission or its authorized representatives, for tax administration and  
 38 compliance purposes only. The Multistate Tax Commission may make the information available to  
 39 the Commissioner of Internal Revenue or the proper officer or authorized representative of any  
 40 governmental entity described in and meeting the qualifications of paragraph (d) of this subsection.

41 (f) The Attorney General, assistants and employees in the Department of Justice, or other legal  
 42 representative of the State of Oregon, to the extent the department deems disclosure or access  
 43 necessary for the performance of the duties of advising or representing the department pursuant to  
 44 ORS 180.010 to 180.240 and the tax laws of the state.

45 (g) Employees of the State of Oregon, other than of the Department of Revenue or Department

1 of Justice, to the extent the department deems disclosure or access necessary for such employees  
 2 to perform their duties under contracts or agreements between the department and any other de-  
 3 partment, agency or subdivision of the State of Oregon, in the department's administration of the  
 4 tax laws.

5 (h) Other persons, partnerships, corporations and other legal entities, and their employees, to  
 6 the extent the department deems disclosure or access necessary for the performance of such others'  
 7 duties under contracts or agreements between the department and such legal entities, in the  
 8 department's administration of the tax laws.

9 (i) The Legislative Revenue Officer or authorized representatives upon compliance with ORS  
 10 173.850. Such officer or representative shall not remove from the premises of the department any  
 11 materials that would reveal the identity of any taxpayer or any other person.

12 (j) The Department of Consumer and Business Services, to the extent the department requires  
 13 such information to determine whether it is appropriate to adjust those workers' compensation  
 14 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or  
 15 earned income received by an individual.

16 (k) Any agency of the State of Oregon, or any person, or any officer or employee of such agency  
 17 or person to whom disclosure or access is given by state law and not otherwise referred to in this  
 18 section, including but not limited to the Secretary of State as Auditor of Public Accounts under  
 19 Article VI, section 2, of the Oregon Constitution; the Department of Human Services pursuant to  
 20 ORS 412.094; the Division of Child Support of the Department of Justice and district attorney re-  
 21 garding cases for which they are providing support enforcement services under ORS 25.080; the  
 22 State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of Accountancy,  
 23 pursuant to ORS 673.415.

24 (L) The Director of the Department of Consumer and Business Services to determine that a  
 25 person complies with ORS chapter 656 and the Director of the Employment Department to determine  
 26 that a person complies with ORS [*chapter 657*] **chapters 657 and 657B**, the following employer in-  
 27 formation:

- 28 (A) Identification numbers.
- 29 (B) Names and addresses.
- 30 (C) Inception date as employer.
- 31 (D) Nature of business.
- 32 (E) Entity changes.
- 33 (F) Date of last payroll.

34 (m) The Director of the Oregon Health Authority to determine that a person has the ability to  
 35 pay for care that includes services provided by the Oregon State Hospital, or the Oregon Health  
 36 Authority to collect any unpaid cost of care as provided by ORS chapter 179.

37 (n) Employees of the Employment Department, to the extent the Department of Revenue deems  
 38 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary  
 39 to performance of their duties in administering the tax imposed by ORS chapter 657 **and the family**  
 40 **and medical leave insurance program under ORS chapter 657B, and for the purpose of veri-**  
 41 **fying the income of individuals in the administration and enforcement of ORS chapters 657**  
 42 **and 657B.**

43 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and  
 44 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and  
 45 standard industrial classification, if available.

1 (p) Employees of the Department of State Lands or State Treasurer for the purposes of returning  
2 unclaimed property and identifying, locating and publishing lists of taxpayers entitled to unclaimed  
3 refunds under ORS 98.302 to 98.436.

4 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement  
5 agencies to assist in the investigation or prosecution of the following criminal activities:

6 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited  
7 to the stolen document, the name, address and taxpayer identification number of the payee, the  
8 amount of the check and the date printed on the check.

9 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department  
10 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information  
11 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-  
12 dress and taxpayer identification number of the payee, the amount of the check, the date printed  
13 on the check and the altered name and address.

14 (r) The United States Postal Inspection Service or a federal law enforcement agency, including  
15 but not limited to the United States Department of Justice, to assist in the investigation of the fol-  
16 lowing criminal activities:

17 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited  
18 to the stolen document, the name, address and taxpayer identification number of the payee, the  
19 amount of the check and the date printed on the check.

20 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department  
21 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information  
22 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-  
23 dress and taxpayer identification number of the payee, the amount of the check, the date printed  
24 on the check and the altered name and address.

25 (s) The United States Financial Management Service, for purposes of facilitating the offsets de-  
26 scribed in ORS 305.612.

27 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in  
28 the administration of a tax of the municipal corporation that is imposed on or measured by income,  
29 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only  
30 pursuant to a written agreement between the Department of Revenue and the municipal corporation  
31 that ensures the confidentiality of the information disclosed.

32 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS  
33 314.843.

34 (v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes  
35 of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the  
36 purposes of ORS 237.635 (3) and 237.637 (2).

37 (w) The Secretary of State for the purpose of initiating or supporting a recommendation under  
38 ORS 60.032 (3) or 63.032 (3) to administratively dissolve a corporation or limited liability company  
39 that the Director of the Department of Revenue determines has failed to comply with applicable tax  
40 laws of the state.

41 (x)(A) A multijurisdictional information sharing organization formed with oversight by the  
42 Internal Revenue Service to combat identity theft and fraud, if the Department of Revenue is a  
43 member of the organization; and

44 (B) Tax preparation software vendors that are members of an organization described in subpar-  
45 agraph (A) of this paragraph, if information described in ORS 314.835 is shared for the purpose of

1 investigating industry leads of potential identity theft or fraud.

2 (y) The State Treasurer, for the purpose of providing employer responses, as indicated on annual  
3 withholding reports submitted to the Department of Revenue, about whether an employer offers a  
4 qualified retirement savings plan as listed in ORS 178.215.

5 (z) The Oregon 529 Savings Board, for the purpose of facilitating the establishment of accounts  
6 by personal income taxpayers under ORS 178.335 within the Oregon 529 Savings Network through  
7 the use of income tax return forms.

8 (3)(a) Each officer or employee of the department and each person described or referred to in  
9 subsection (2)(a), (b), (f) to (L), (n) to (q) or (w) of this section to whom disclosure or access to the  
10 tax information is given under subsection (2) of this section or any other provision of state law,  
11 prior to beginning employment or the performance of duties involving such disclosure or access,  
12 shall be advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the  
13 violation of ORS 314.835, and shall as a condition of employment or performance of duties execute  
14 a certificate for the department, in a form prescribed by the department, stating in substance that  
15 the person has read these provisions of law, that the person has had them explained and that the  
16 person is aware of the penalties for the violation of ORS 314.835.

17 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a  
18 written agreement has been entered into between the Department of Revenue and the person de-  
19 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is  
20 given, providing that:

21 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-  
22 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-  
23 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of  
24 this section;

25 (B) The information shall be protected as confidential under applicable federal and state laws;  
26 and

27 (C) The United States Postal Inspection Service or the federal law enforcement agency shall  
28 give notice to the Department of Revenue of any request received under the federal Freedom of In-  
29 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

30 (4) The Department of Revenue may recover the costs of furnishing the information described  
31 in subsection (2)(L), (m) and (o) to (q) of this section from the respective agencies.

32 **SECTION 2.** ORS 657B.150 is amended to read:

33 657B.150. (1)(a) Except as otherwise provided in subsections (3) and (4) of this section, all em-  
34 ployers and eligible employees shall contribute to the Paid Family and Medical Leave Insurance  
35 Fund established under ORS 657B.430.

36 (b) Contributions shall be paid by employers and employees as a percentage of a total rate de-  
37 termined by the Director of the Employment Department.

38 (c) The total rate may not exceed one percent of employee wages, up to a maximum of \$132,900  
39 in wages.

40 (2)(a) Employer contributions shall be paid in an amount that is equal to 40 percent of the total  
41 rate determined by the director.

42 (b) An employer shall deduct employee contributions from the wages of each employee in an  
43 amount that is equal to 60 percent of the total rate determined by the director.

44 (3) When an employment agency is acting as an employer, the employer contributions required  
45 under this section shall be the responsibility of the employment agency.

1 (4)(a) Employers that employ fewer than 25 employees are not required to pay the employer  
2 contributions under subsection (1) of this section.

3 (b) If an employer that employs fewer than 25 employees elects to pay the employer contribu-  
4 tions under subsection (1) of this section, the employer may apply to receive a grant under ORS  
5 657B.200.

6 (5) Notwithstanding subsection (1) of this section, an employer may elect to pay the required  
7 employee contributions, in whole or in part, as an employer-offered benefit.

8 (6) Subject to ORS 657B.130 (2) and (3), a self-employed individual who has elected coverage  
9 under ORS 657B.130 (1) shall contribute to the fund, at a rate that may not exceed one percent of  
10 the individual's taxable income as determined by the director by rule, for a period of not less than  
11 three years from the date that the election becomes effective.

12 (7) A tribal government that elects coverage under ORS 657B.130 and employees of the tribal  
13 government shall contribute to the fund in contribution amounts and at a rate that may not exceed  
14 one percent of employee wages, up to a maximum of \$132,900 in wages, as determined by the direc-  
15 tor by rule, for a period of not less than three years from the date that the election becomes effec-  
16 tive.

17 (8) The director shall set rates for the collection of payroll contributions consistent with sub-  
18 section (1) of this section and in a manner such that:

19 (a) At the end of the period for which the rates are effective, the balance of moneys in the fund  
20 is an amount not less than six months' worth of projected expenditures from the fund for perform-  
21 ance of the functions and duties of the director under this chapter; and

22 (b) The volatility of the contribution rates is minimized.

23 (9) For purposes of subsections (1)(c) and (7) of this section, the director shall annually adjust  
24 the maximum amount of employee wages by the percentage increase, if any, in the Consumer Price  
25 Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Sta-  
26 tistics of the United States Department of Labor, since the date of the previous determination made  
27 under this subsection.

28 (10) The director shall determine on an annual basis the amount of payroll contributions, timing  
29 of payroll contributions and maximum employee contributions sufficient to finance the costs related  
30 to the provisions of this chapter.

31 (11) An employer shall hold any moneys collected under this section in trust for the State of  
32 Oregon and for the payment thereof to the Department of Revenue in the manner described in sub-  
33 section (12) of this section.

34 (12)(a) An employer shall make and file a combined quarterly report of wages earned and con-  
35 tributions paid under this section on a form prescribed by the Department of Revenue.

36 (b) The report shall be filed with the Department of Revenue on or before the last day of the  
37 month following the quarter to which the report relates and shall be deemed received on the date  
38 of mailing.

39 (c) The report shall be accompanied by payment of any contributions due under this section [*in*  
40 *a manner determined*] **and by a combined tax and assessment payment coupon prescribed** by the  
41 Department of Revenue [*by rule*].

42 **(13) An employer shall report the total annual contributions withheld for all employees**  
43 **with the annual filing required under ORS 316.202.**

44 ~~[(13)]~~ (14) Moneys collected under this section shall be deposited in the Paid Family and Medical  
45 Leave Insurance Fund established under ORS 657B.430.

1        [(14)(a)] **(15)(a)** If an employer ceases or discontinues operations or business, or sells out, ex-  
2 changes or otherwise disposes of the business or stock of goods, any payroll contribution payable  
3 under this section is immediately due and payable, and the employer shall, within 10 calendar days,  
4 pay the payroll contribution due. Any person who becomes a successor in interest to the business  
5 is liable for the full amount of the unpaid payroll contribution.

6        (b) The director shall adopt rules for compliance with this chapter with regard to contributions  
7 from an employer's successor in interest.

8        [(15)] **(16)** Benefits may not be denied to a covered individual solely because an employer failed  
9 to collect or remit the contributions required under this section.

10        **SECTION 3.** ORS 137.924 is amended to read:

11        137.924. When a defendant is committed to the supervisory authority of the county pursuant to  
12 ORS 137.124, the supervisory authority shall forward the name, date of birth and Social Security  
13 number of the defendant to:

14        (1) The Director of the Employment Department for purposes of making a determination of el-  
15 igibility under ORS 657.155 **and 657B.015**;

16        (2) The Director of the Oregon Health Authority, or the director's designee, for the purposes  
17 of suspending any medical assistance as defined in ORS 414.025; and

18        (3) The Director of Human Services, or the director's designee, for the purposes of suspending  
19 any public assistance as defined in ORS 411.010.

20        **SECTION 4.** The amendments to ORS 137.924, 314.840 and 657B.150 by sections 1 to 3 of  
21 this 2023 Act become operative on August 1, 2023.

22        **SECTION 5.** This 2023 Act being necessary for the immediate preservation of the public  
23 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect  
24 on its passage.