

Senate Bill 913

Sponsored by COMMITTEE ON LABOR AND BUSINESS (at the request of 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**.

Makes technical changes to paid family and medical leave insurance program.

Provides circumstances under which Director of the Employment Department may dismiss request for hearing.

Authorizes director to disclose confidential information relating to paid family and medical leave program under certain circumstances.

Clarifies Employment Department's rulemaking authority regarding dispute resolution process for equivalent employer plans.

Excludes certain information related to final orders of department from requirement that information be maintained in digital format.

Modifies definition of "employee" to exclude certain elected officials and holders of public office. Clarifies that definition of "wages" does not mean employee contributions paid by employer.

Clarifies determination criteria for employee's place of performance for purposes of determining whether employee's wages are subject to provisions related to contributions and benefits.

Permits employer to allow employee to use all or portion of other paid leave to supplement paid family and medical leave benefits.

Clarifies that chapter relating to family and medical leave insurance benefits and contributions is not tax law subject to jurisdiction of tax court.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the family and medical leave insurance program; creating new provisions; amending ORS
3 183.471, 305.410, 657B.010, 657B.015, 657B.030, 657B.090, 657B.150, 657B.175, 657B.210, 657B.400,
4 657B.410 and 657B.420; and prescribing an effective date.

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

6 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 657B.**

7 **SECTION 2. (1) When a request for a hearing is made under this chapter, the Director**
8 **of the Employment Department may dismiss the request or application for hearing if:**

9 (a) **The request for hearing is withdrawn by the requesting party;**

10 (b) **The matter is resolved by reversal or amendment of the decision that is the subject**
11 **of the hearing request;**

12 (c) **The request for hearing is filed prior to the date of the written decision or written**
13 **determination that is the subject of the hearing request; or**

14 (d) **The request for hearing is made by a person who is not entitled to a hearing or is**
15 **not the authorized representative of a party who is entitled to a hearing.**

16 (2)(a) **A dismissal by the director under subsection (1) of this section is final unless the**
17 **party whose request for hearing has been dismissed files a request for hearing regarding the**
18 **dismissal within 20 days after the dismissal notice is sent electronically or mailed to the**
19 **party's last-known address.**

20 (b) **If the party files a timely request under paragraph (a) of this subsection, the hearing**
21 **regarding the dismissal shall be assigned to an administrative law judge from the Office of**
22 **Administrative Hearings.**

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 (c) **The administrative law judge assigned under paragraph (b) of this subsection shall**
 2 **determine whether the dismissal was appropriately entered. If the dismissal was not appro-**
 3 **priately entered, the administrative law judge shall decide the underlying issue upon which**
 4 **the hearing was requested.**

5 **SECTION 3.** ORS 657B.090 is amended to read:

6 657B.090. (1) Family and medical leave insurance benefits are not payable to a covered individ-
 7 ual unless:

8 (a) The individual submits a claim to the Director of the Employment Department in the manner
 9 determined by the director by rule; and

10 (b) The director has made a decision to allow or deny the claim under ORS 657B.100.

11 (2) If the director has made a decision to allow the claim, the director shall make a reasonable
 12 effort to issue the first payment of benefits to a covered individual within two weeks after receiving
 13 the claim.

14 (3)(a) Benefits may be claimed for leave that is taken by a covered individual in increments that
 15 are equivalent to one work day or one work week as those terms are defined by the director by rule.

16 (b) If a covered individual takes leave in increments that are equivalent to one work day, ben-
 17 efits may be claimed for leave that occurs in nonconsecutive periods of leave [*that, when combined,*
 18 *provide the minimum benefit amount provided in ORS 657B.050*].

19 (4) Benefit amounts, as determined under ORS 657B.050:

20 (a) Must be prorated to increments that are equivalent to one work day; and

21 (b) Must be paid in increments that are equivalent to one work week.

22 **SECTION 4.** ORS 657B.015 is amended to read:

23 657B.015. Family and medical leave insurance benefits are available to any of the following
 24 during a period of family leave, medical leave or safe leave:

25 (1) An eligible employee who:

26 (a) During the base year or alternate base year, as applicable, contributes to the Paid Family
 27 and Medical Leave Insurance Fund established under ORS 657B.430 in accordance with ORS
 28 657B.150; and

29 (b) Submits a claim for benefits in accordance with the requirements under ORS 657B.090;

30 (2) A self-employed individual who:

31 **(a)(A) Has earned at least \$1,000 in taxable income during the base year; or**

32 **(B) Has not earned at least \$1,000 in taxable income during the base year, but who has**
 33 **earned at least \$1,000 in taxable income during the alternate base year;**

34 [(a)] **(b)** Elects coverage under ORS 657B.130; [*and*]

35 [(b)] **(c)** During the base year or alternate base year, as applicable, contributes to the Paid
 36 Family and Medical Leave Insurance Fund established under ORS 657B.430 an amount determined
 37 by the Director of the Employment Department under ORS 657B.150; [*or*] **and**

38 **(d) Submits a claim for benefits in accordance with the requirements under ORS**
 39 **657B.090; or**

40 (3) An employee of a tribal government, if:

41 **(a)(A) The employee has earned at least \$1,000 in wages during the base year; or**

42 **(B) The employee has not earned at least \$1,000 in wages during the base year, but has**
 43 **earned at least \$1,000 in wages during the alternate base year;**

44 [(a)] **(b)** The tribal government elects coverage for its employees under ORS 657B.130; [*and*]

45 [(b)] **(c)** During the base year or alternate base year, as applicable, the employee and tribal

1 government contribute to the Paid Family and Medical Leave Insurance Fund established under ORS
2 657B.430 an amount determined by the director under ORS 657B.150[.]; **and**

3 **(d) Submits a claim for benefits in accordance with the requirements under ORS**
4 **657B.090.**

5 **SECTION 5.** ORS 657B.150 is amended to read:

6 657B.150. (1)(a) Except as otherwise provided in subsections (3) and (4) of this section **and ORS**
7 **657B.210 (4)**, all employers and [*eligible*] employees shall contribute to the Paid Family and Medical
8 Leave Insurance Fund established under ORS 657B.430.

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

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

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

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

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

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

21 (b) If an employer that employs fewer than 25 employees elects to pay the employer contribu-
22 tions under subsection (1) of this section, the employer may apply to receive a grant under ORS
23 657B.200.

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

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

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

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

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

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

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

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

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

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

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

12 (c) The report shall be accompanied by payment of any contributions due under this section in
13 a manner determined by the Department of Revenue by rule.

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

16 (14)(a) If an employer ceases or discontinues operations or business, or sells out, exchanges or
17 otherwise disposes of the business or stock of goods, any payroll contribution payable under this
18 section is immediately due and payable, and the employer shall, within 10 calendar days, pay the
19 payroll contribution due. Any person who becomes a successor in interest to the business is liable
20 for the full amount of the unpaid payroll contribution.

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

23 (15) Benefits may not be denied to a covered individual solely because an employer failed to
24 collect or remit the contributions required under this section.

25 **SECTION 6.** ORS 657B.210 is amended to read:

26 657B.210. (1)(a) An employer may apply to the Director of the Employment Department for ap-
27 proval of an employer-offered benefit plan that provides family and medical leave insurance benefits
28 to the employer's employees.

29 (b) An employer that seeks approval of a plan shall submit an application to the director in the
30 form and manner prescribed by the director by rule, accompanied by an application fee not to ex-
31 ceed \$250.

32 (2) The director shall review and approve an application for a plan if the director finds that:

33 (a) The plan is made available to all employees who have been continuously employed with an
34 employer for 30 days.

35 (b) The benefits afforded to employees covered under the plan are equal to or greater than the
36 weekly benefits and the duration of leave that an eligible employee would qualify for under this
37 chapter.

38 (3) An employer may make a plan available to employees who have been employed by the em-
39 ployer for less than 30 days but in no event may an employer require an employee to have been
40 employed by the employer for more than 30 days to be eligible for coverage under the plan.

41 (4) Neither an employer that provides benefits under an approved plan nor an employee covered
42 under such a plan is required to make the contributions under ORS 657B.150.

43 (5)(a) An employer may assume all or a part of the costs related to a plan approved under this
44 section.

45 (b) If an employer assumes only part of the costs, the employer may deduct employee contribu-

1 tions from the wages of employees to finance the costs related to the plan, except that any contri-
 2 bution amounts deducted may not exceed the amount that an *[eligible]* employee would otherwise
 3 be required to contribute under ORS 657B.150.

4 (c) Employee contributions received or retained by an employer under this subsection must be
 5 used for plan expenses and are not considered to be a part of an employer's assets for any purpose.

6 (6) Any paid sick leave earned under ORS 653.606 is in addition to the benefits made available
 7 under a plan that has been approved under this section.

8 (7) An employee who takes leave pursuant to a plan approved under this section shall provide
 9 notice to an employer of such leave in the same manner as provided in ORS 657B.040.

10 (8) A plan approved under this section shall remain in effect for a period of not less than one
 11 year.

12 (9) Nothing in this section prohibits an employee who is otherwise eligible from applying for
 13 coverage under the program established under ORS 657B.340 or under a separate employer-offered
 14 plan that has been approved under this section.

15 (10) The director shall adopt rules[:]

16 *[(a) To prevent the payment of benefits in excess of 100 percent of an eligible employee's average*
 17 *weekly wage to an employee who is simultaneously covered under more than one employer-offered plan*
 18 *or who has additional coverage under the program established under ORS 657B.340; and]*

19 *[(b)]* that require that the benefits made available to an eligible employee who is covered under
 20 more than one plan shall be prorated under each respective plan.

21 (11) An employer that offers a plan approved under this section shall:

22 (a) Be subject to the same requirements provided in ORS 657B.060 and 657B.070;

23 (b) Maintain all reports, information and records relating to the plan, including payroll and ac-
 24 count records that document employee contributions and expenses, in the manner established by the
 25 director by rule; and

26 (c) Provide written notice to employees that includes:

27 (A) Information about benefits available under the approved plan, including the duration of
 28 leave;

29 (B) The process for filing a claim to receive benefits under the plan;

30 (C) The process for employee deductions used to finance the costs of the plan, if any;

31 (D) An employee's right to dispute a benefit determination in the manner determined by the di-
 32 rector under ORS 657B.420;

33 (E) The right to job protection and benefits continuation, if applicable; and

34 (F) A statement that discrimination and retaliatory personnel actions against an employee for
 35 inquiring about the family and medical leave insurance program established under ORS 657B.340,
 36 giving notification of leave under the program, taking leave under the program or claiming family
 37 and medical leave insurance benefits are prohibited.

38 (12) Benefits received under this section are considered wages for purposes of a wage claim
 39 under ORS chapter 652.

40 (13) An employer whose application for plan approval was denied by the director under this
 41 section or terminated by the director under ORS 657B.220 may request review of the decision as
 42 provided in ORS 657B.410.

43 **SECTION 7.** ORS 657B.400 is amended to read:

44 657B.400. (1) **Except as provided in subsections (2) to (7) and (10) of this section,** all infor-
 45 mation in the records of the Employment Department or a third party administrator pertaining to

1 the administration of this chapter:

2 (a) Is confidential and for the exclusive use and information of the Director of the Employment
3 Department in administering this chapter;

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

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

10 **(2) The Employment Department may disclose information:**

11 **(a) To the extent necessary for the payment of benefits or collection of contributions due**
12 **under this chapter:**

13 **(A) To any claimant or employer; or**

14 **(B) To a legal representative or other designee authorized by a claimant or employer in**
15 **accordance with any rules adopted by the director regarding the receipt of confidential in-**
16 **formation on behalf of a claimant or employer.**

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

24 **(3) At the discretion of the director and subject to an interagency agreement, the Em-**
25 **ployment Department may disclose, upon request, information:**

26 **(a) To state or local child support enforcement agencies enforcing child support obli-**
27 **gations for the purposes of establishing child support obligations, locating individuals owing**
28 **child support obligations and collecting child support obligations from those individuals. The**
29 **information disclosed is confidential and may not be used for any other purpose. The costs**
30 **of disclosing information under this paragraph shall be paid by the child support enforcement**
31 **agency.**

32 **(b) To agencies participating in an income and eligibility verification system for the pur-**
33 **pose of verifying an individual's eligibility for benefits, or the amount of benefits, under a**
34 **state or federal program for unemployment insurance, temporary assistance for needy fam-**
35 **ilies, medical assistance, supplemental nutrition assistance, Supplemental Security Income,**
36 **child support enforcement or Social Security. The information disclosed is confidential and**
37 **may not be used for any other purpose. The costs of disclosing information under this par-**
38 **agraph shall be paid by the requesting agency.**

39 **(c) To officers and employees of the United States Department of Housing and Urban**
40 **Development and to representatives of a state or local public housing agency for the purpose**
41 **of determining an individual's eligibility for benefits, or the amount of benefits, under a**
42 **housing assistance program. The information disclosed is confidential and may not be used**
43 **for any other purpose. The costs of disclosing information under this paragraph shall be paid**
44 **by the requesting agency.**

45 **(4) At the discretion of the director and subject to an interagency agreement, the Em-**

1 **ployment Department may disclose information secured from employers:**

2 (a) **To state agencies, federal agencies, local government agencies, public universities**
3 **listed in ORS 352.002 and the Oregon Health and Science University established under ORS**
4 **353.020, to the extent necessary to properly carry out governmental planning, performance**
5 **measurement, program analysis, socioeconomic analysis or policy analysis functions per-**
6 **formed under applicable law and at the discretion of the director and subject to an intera-**
7 **gency agreement. The information disclosed is confidential and may not be disclosed by the**
8 **agencies or universities in any manner that would identify individuals, claimants, employees**
9 **or employers. If the information disclosed under this paragraph is not prepared for the use**
10 **of the Employment Department, the costs of disclosing the information shall be paid by the**
11 **agency or university requesting the information.**

12 (b) **As part of a geographic information system. Points on a map may be used to repre-**
13 **sent economic data, including the location, employer size and industrial classification of**
14 **businesses in Oregon. Information presented as part of a geographic information system may**
15 **not give specific details regarding a business's address, actual employment or proprietary**
16 **information. If the information disclosed under this paragraph is not prepared for the use**
17 **of the Employment Department, the costs of disclosing the information shall be paid by the**
18 **party requesting the information.**

19 (5) **At the discretion of the director and subject to an interagency agreement, the Em-**
20 **ployment Department may disclose information received from an employer, an employee or**
21 **a claimant:**

22 (a) **To public employees in the performance of their duties under state or federal laws**
23 **relating to the payment of family and medical leave insurance benefits.**

24 (b) **Pursuant to an informed consent, received from the employer, employee or claimant,**
25 **to disclose the information.**

26 (c) **To the Bureau of Labor and Industries for the purpose of performing duties under**
27 **ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to 658.511 or ORS chapter 652, 653 or**
28 **659A. The information disclosed may include the names and addresses of employers and em-**
29 **ployees, payroll data of employers and employees, and information obtained for an appeal**
30 **from a determination under a plan approved under ORS 657B.210. The information disclosed**
31 **is confidential and may not be used for any other purpose. If the information disclosed under**
32 **this paragraph is not prepared for the use of the Employment Department, the costs of dis-**
33 **closing the information shall be paid by the bureau.**

34 (d) **To the Department of Revenue for the purpose of performing its duties under ORS**
35 **293.250 or under the revenue and tax laws of this state and identifying potential identity theft**
36 **and fraud. The information disclosed may include the names and addresses of employers and**
37 **employees, payroll data of employers and employees, and particulars, as defined in ORS**
38 **314.835. The information disclosed is confidential and may not be disclosed by the Department**
39 **of Revenue in any manner that would identify an employer or employee except to the extent**
40 **necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing**
41 **any report or return required or permitted to be filed under the revenue and tax laws ad-**
42 **ministered by the department. The Department of Revenue may not disclose any information**
43 **received to any private collection agency or for any other purpose. If the information dis-**
44 **closed under this paragraph is not prepared for the use of the Employment Department, the**
45 **costs of disclosing the information shall be paid by the Department of Revenue.**

1 (e) To the Department of Consumer and Business Services for the purpose of performing
2 its duties under ORS chapters 654, 656 and 731. The information disclosed may include, but
3 is not limited to, the name, address, number of employees and standard industrial classi-
4 fication code of an employer and payroll data of employers and employees. The information
5 disclosed is confidential and may not be disclosed by the Department of Consumer and
6 Business Services in any manner that would identify an employer or employee except to the
7 extent necessary to carry out the department's duties under ORS chapters 654, 656 and 731,
8 including administrative hearings and court proceedings in which the Department of Con-
9 sumer and Business Services is a party. If the information disclosed under this paragraph
10 is not prepared for the use of the Employment Department, the costs of disclosing the in-
11 formation shall be paid by the Department of Consumer and Business Services.

12 (f) To the Construction Contractors Board for the purpose of performing its duties under
13 ORS chapter 701. The information disclosed to the board may include the names and ad-
14 dresses of employers and status of their compliance with this chapter. If the information
15 disclosed under this paragraph is not prepared for the use of the Employment Department,
16 the costs of disclosing the information shall be paid by the board.

17 (g) To the Department of Transportation to assist the department in carrying out its
18 duties relating to collection of delinquent and liquidated debts, including taxes, under ORS
19 184.610 to 184.665, 184.670 to 184.733 and 805.263, ORS chapter 319 and the Oregon Vehicle
20 Code, or in auditing or reviewing any report or return required or permitted to be filed under
21 the revenue and tax laws administered by the department. The information disclosed may
22 include the names and addresses of employers and employees and payroll data of employers
23 and employees. The information disclosed is confidential and may not be disclosed by the
24 Department of Transportation in any manner that would identify an employer or employee
25 except to the extent necessary to carry out the department's duties relating to collection of
26 delinquent and liquidated debts or in auditing or reviewing any report or return required or
27 permitted to be filed under the revenue and tax laws administered by the department. The
28 Department of Transportation may not disclose any information received to any private
29 collection agency or for any other purpose. If the information disclosed under this paragraph
30 is not prepared for the use of the Employment Department, the costs of disclosing the in-
31 formation shall be paid by the Department of Transportation.

32 (h) To the Department of Human Services and the Oregon Health Authority to assist the
33 department and the authority in the collection of debts that the department and the au-
34 thority are authorized by law to collect. The information disclosed may include the names
35 and addresses of employers and employees and payroll data of employers and employees. The
36 information disclosed is confidential and may not be disclosed by the Department of Human
37 Services or the Oregon Health Authority in any manner that would identify an employer or
38 employee except to the extent necessary for the collection of debts as described in this par-
39 agraph. The Department of Human Services and the Oregon Health Authority may not dis-
40 close information received under this paragraph to a private collection agency or use the
41 information for a purpose other than the collection of debts as described in this paragraph.
42 If the information disclosed under this paragraph is not prepared for the use of the Em-
43 ployment Department, the costs of disclosing the information shall be paid by the Depart-
44 ment of Human Services or the Oregon Health Authority.

45 (i) To the State Treasurer useful for the purpose of performing the State Treasurer's

1 **duties under ORS 98.302 to 98.436, 98.992, 113.235 and 116.253. The information disclosed is**
 2 **confidential and may not be used by the State Treasurer for any other purpose. If the in-**
 3 **formation disclosed under this paragraph is not prepared for the use of the Employment**
 4 **Department, the costs of disclosing the information shall be paid by the State Treasurer.**

5 [(2)] (6) At the discretion of the director and subject to an interagency agreement, the director
 6 may disclose information to a public official in the performance of the public official's official duties
 7 administering or enforcing laws within the public official's authority and to an agent or contractor
 8 of a public official. The public official shall agree to assume responsibility for misuse of the infor-
 9 mation by the public official's agent or contractor.

10 [(3)] (7) At the discretion of the director, the director may disclose information to a contractor
 11 pursuant to a contract for actuarial services. The contractor shall agree to assume responsibility for
 12 misuse of the information by the contractor's agent.

13 **(8) Any officer appointed by or any employee of the director who discloses confidential**
 14 **information, except with the authority of the director, pursuant to rules or as otherwise**
 15 **required by law, may be disqualified from holding any appointment or employment with the**
 16 **Employment Department.**

17 **(9) Any person or any officer or employee of an entity to whom information is disclosed**
 18 **by the Employment Department under this section who divulges or uses the information for**
 19 **any purpose other than that specified in the provision of law or agreement authorizing the**
 20 **use or disclosure may be disqualified from performing any service under contract or from**
 21 **holding any appointment or employment with the state agency that engaged or employed**
 22 **that person, officer or employee. The Employment Department may immediately cancel or**
 23 **modify any information-sharing agreement with an entity when a person or an officer or**
 24 **employee of that entity discloses confidential information, other than as specified in law or**
 25 **agreement.**

26 [(4)] (10) At the discretion of the director, the director may disclose information to an employee
 27 or officer within any division of the **Employment** Department as necessary to conduct research,
 28 compile aggregate data from the information received and any other purpose deemed necessary by
 29 the director to assist the director in carrying out the duties under this chapter or other duties under
 30 ORS chapter 657.

31 **(11) The director may adopt any rules necessary to implement this section.**

32 **SECTION 8.** ORS 657B.410 is amended to read:

33 657B.410. (1) The Director of the Employment Department shall establish a process by which:

34 (a) An employer may request a hearing to obtain review of a final decision of the director re-
 35 garding approval or denial of an employer's application for approval of a plan under ORS 657B.210.

36 (b) A covered individual may request a hearing to obtain review of a final decision of the di-
 37 rector regarding:

38 (A) Approval or denial of a claim submitted to the director for payment of family and medical
 39 leave insurance benefits;

40 (B) The weekly benefit amount payable to a covered individual as determined under ORS
 41 657B.050; or

42 (C) Disqualification from the receipt of benefits including liability or repayment of benefits as
 43 determined under ORS 657B.120.

44 (c) **A self-employed individual or a tribal government may request a hearing to review a**
 45 **final decision of the director regarding elective coverage under ORS 657B.130.**

1 **(d) An employer may request:**

2 **(A) A review of a final decision of the director regarding employer contributions due**
 3 **under this chapter;**

4 **(B) A hearing regarding penalty determinations under ORS 657B.910 or 657B.920; or**

5 **(C) A hearing to review a final decision of the director regarding a grant described in**
 6 **ORS 657B.200.**

7 (2) Notwithstanding ORS 183.315, the process established by the director under this section shall
 8 comply with provisions for a contested case under ORS chapter 183 and is subject to judicial review
 9 as provided in ORS 183.482.

10 **(3)(a) Notwithstanding any other law, a party to a proceeding described under this section**
 11 **may authorize a legal representative or other person to represent the party in the proceeding**
 12 **in the manner prescribed by the director by rule. A legal representative or other person who**
 13 **is authorized to represent the party in the proceeding must comply with any procedures or**
 14 **process regarding such representation established by the department by rule, including, but**
 15 **not limited to, a rule establishing the maximum amount that the legal representative or**
 16 **other authorized person may charge for such representation.**

17 **(b) For purposes of this subsection, “person” includes individuals, corporations, associ-**
 18 **ations, firms, partnerships, limited liability companies and joint stock companies, this state**
 19 **and the political subdivisions of this state.**

20 **SECTION 9.** ORS 657B.420 is amended to read:

21 657B.420. The Director of the Employment Department shall establish by rule a method to re-
 22 solve disputes between employers and employees concerning coverage and benefits provided under
 23 a plan approved under ORS 657B.210 **that may, as appropriate, employ the appeals process es-**
 24 **tablished under ORS 657B.410 to provide employers and employees an opportunity to obtain**
 25 **review of a determination by the director.**

26 **SECTION 10.** ORS 657B.010, as amended by section 1, chapter 24, Oregon Laws 2022, and sec-
 27 tion 29, chapter 83, Oregon Laws 2022, is amended to read:

28 657B.010. As used in this chapter:

29 (1) “Alternate base year” means the last four completed calendar quarters preceding the benefit
 30 year.

31 (2) “Average weekly wage” means the amount calculated by the Employment Department as the
 32 state average weekly covered wage under ORS 657.150 (4)(e) as determined not more than once per
 33 year.

34 (3) “Base year” means the first four of the last five completed calendar quarters preceding the
 35 benefit year.

36 (4) “Benefits” means family and medical leave insurance benefits.

37 (5)(a) “Benefit year” means, except as provided in paragraph (b) of this subsection, a period of
 38 52 consecutive weeks beginning on the Sunday immediately preceding the date on which family
 39 leave, medical leave or safe leave commences.

40 (b) “Benefit year” means, in the event that the 52-week period described in paragraph (a) of this
 41 subsection would result in an overlap of any quarter of the base year of a previously filed valid
 42 claim, a period of 53 consecutive weeks beginning on the Sunday immediately preceding the date
 43 on which family leave, medical leave or safe leave commences.

44 (6) “Child” means:

45 (a) A biological child, adopted child, stepchild or foster child of a covered individual or of the

1 covered individual's spouse or domestic partner;

2 (b) A person who is or was a legal ward of a covered individual or of the covered individual's
3 spouse or domestic partner; or

4 (c) A person who is or was in a relationship of in loco parentis with a covered individual or
5 with the covered individual's spouse or domestic partner.

6 **(7) "Claimant" means an individual who has submitted an application or established a
7 claim for benefits.**

8 [(7)] **(8)** "Contribution" or "contributions" means the money payments made by any of the fol-
9 lowing under ORS 657B.150:

10 (a) An employer;

11 (b) An [eligible] employee;

12 (c) A self-employed individual;

13 (d) A tribal government; or

14 (e) An employee of a tribal government.

15 [(8)] **(9)** "Covered individual" means any one of the following who qualifies **under ORS 657B.015**
16 to receive family and medical leave insurance benefits:

17 (a) An eligible employee;

18 (b) A self-employed individual; or

19 (c) An employee of a tribal government.

20 [(9)] **(10)** "Domestic partner" means an individual joined in a domestic partnership.

21 [(10)] **(11)** "Domestic partnership" has the meaning given that term in ORS 106.310.

22 [(11)] **(12)** "Eligible employee" means:

23 (a)(A) An employee who has earned at least \$1,000 in wages during the base year; or

24 (B) If an employee has not earned at least \$1,000 in wages during the base year, an employee
25 who has earned at least \$1,000 in wages during the alternate base year; and

26 (b) [Who may apply for] **An employee to whom** paid family and medical leave insurance benefits
27 **may be available** under ORS 657B.015.

28 [(12)] **(13)** "Eligible employee's average weekly wage" means an amount calculated by the Di-
29 rector of the Employment Department by dividing the total wages earned by an eligible employee
30 during the base year by the number of weeks in the base year.

31 [(13)(a)] **(14)(a)** "Employee" means:

32 (A) An individual performing services for an employer for remuneration or under any contract
33 of hire, written or oral, express or implied.

34 (B) A home care worker as defined in ORS 410.600.

35 (b) "Employee" does not include:

36 (A) An independent contractor as defined in ORS 670.600.

37 (B) A participant in a work training program administered under a state or federal assistance
38 program.

39 (C) A participant in a work-study program that provides students in secondary or postsecondary
40 educational institutions with employment opportunities for financial assistance or vocational train-
41 ing.

42 (D) A railroad worker exempted under the federal Railroad Unemployment Insurance Act.

43 (E) A volunteer.

44 **(F) A judge as defined in ORS 260.005.**

45 **(G) A member of the Legislative Assembly.**

1 **(H) A holder of public office as defined in ORS 260.005.**

2 [(14)(a)] **(15)(a)** “Employer” means any person that employs one or more employees working
3 anywhere in this state or any agent or employee of such person to whom the duties of the person
4 under this chapter have been delegated.

5 (b) “Employer” includes:

6 (A) A political subdivision of this state or any county, city, district, authority or public corpo-
7 ration, or any instrumentality of a county, city, district, authority or public corporation, organized
8 and existing under law or charter;

9 (B) An individual;

10 (C) Any type of organization, corporation, partnership, limited liability company, association,
11 trust, estate, joint stock company or insurance company;

12 (D) Any successor in interest to an entity described in subparagraph (C) of this paragraph;

13 (E) A trustee, trustee in bankruptcy or receiver; or

14 (F) A trustee or legal representative of a deceased person.

15 (c) “Employer” does not include the federal government or a tribal government.

16 [(15)] **(16)** “Employment agency” has the meaning given that term in ORS 658.005.

17 [(16)] **(17)** “Family and medical leave insurance benefits” means the wage replacement benefits
18 that are available to a covered individual under ORS 657B.050 or under the terms of an employer
19 plan approved under ORS 657B.210, for family leave, medical leave or safe leave.

20 [(17)(a)] **(18)(a)** “Family leave” means leave from work taken by a covered individual:

21 (A) To care for and bond with a child during the first year after the child’s birth or during the
22 first year after the placement of the child through foster care or adoption; or

23 (B) To care for a family member with a serious health condition.

24 (b) “Family leave” does not mean:

25 (A) Leave described in ORS 659A.159 (1)(d);

26 (B) Leave described in ORS 659A.159 (1)(e); or

27 (C) Leave authorized under ORS 659A.093.

28 [(18)] **(19)** “Family member” means:

29 (a) The spouse of a covered individual;

30 (b) A child of a covered individual or the child’s spouse or domestic partner;

31 (c) A parent of a covered individual or the parent’s spouse or domestic partner;

32 (d) A sibling or stepsibling of a covered individual or the sibling’s or stepsibling’s spouse or
33 domestic partner;

34 (e) A grandparent of a covered individual or the grandparent’s spouse or domestic partner;

35 (f) A grandchild of a covered individual or the grandchild’s spouse or domestic partner;

36 (g) The domestic partner of a covered individual; or

37 (h) Any individual related by blood or affinity whose close association with a covered individual
38 is the equivalent of a family relationship.

39 [(19)] **(20)** “Medical leave” means leave from work taken by a covered individual that is made
40 necessary by the individual’s own serious health condition.

41 [(20)] **(21)** “Parent” means:

42 (a) A biological parent, adoptive parent, stepparent or foster parent of a covered individual;

43 (b) A person who was a foster parent of a covered individual when the covered individual was
44 a minor;

45 (c) A person designated as the legal guardian of a covered individual at the time the covered

1 individual was a minor or required a legal guardian;

2 (d) A person with whom a covered individual was or is in a relationship of in loco parentis; or

3 (e) A parent of a covered individual's spouse or domestic partner who meets a description under
4 paragraphs (a) to (d) of this subsection.

5 [(21)] (22) "Safe leave" means leave taken for any purpose described in ORS 659A.272.

6 [(22)] (23) "Self-employed individual" means:

7 (a) An individual who has self-employment income as defined in section 1402(b) of the Internal
8 Revenue Code as amended and in effect on December 31, 2021; or

9 (b) An independent contractor as defined in ORS 670.600.

10 [(23)] (24) "Serious health condition" has the meaning given that term in ORS 659A.150.

11 [(24)] (25) "Third party administrator" means a third party that enters into an agreement with
12 the Director of the Employment Department to implement and administer the paid family and med-
13 ical leave program established under this chapter.

14 [(25)] (26) "Tribal government" has the meaning given that term in ORS 181A.940.

15 [(26)] (27)(a) "Wages" has the meaning given that term in ORS 657.105.

16 (b) "Wages" does not mean contribution amounts paid to the Paid Family and Medical
17 Leave Insurance Fund by an employer on behalf of an employee under ORS 657B.150 (5).

18 **SECTION 11.** ORS 183.471 is amended to read:

19 183.471. (1) When an agency issues a final order in a contested case, the agency shall maintain
20 the final order in a digital format that:

21 (a) Identifies the final order by the date it was issued;

22 (b) Is suitable for indexing and searching; and

23 (c) Preserves the textual attributes of the document, including the manner in which the docu-
24 ment is paginated and any boldfaced, italicized or underlined writing in the document.

25 (2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its
26 designee, with electronic copies of final orders issued by the agency in contested cases. The request
27 must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS
28 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an electronic
29 copy of all final orders identified in the request.

30 (3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests
31 submitted under this section in a calendar year. For any subsequent request, an agency may impose
32 a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with
33 the request.

34 (4) For purposes of this section, a final order entered in a contested case by an administrative
35 law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the adminis-
36 trative law judge to conduct the hearing.

37 (5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to final
38 orders issued in contested cases by:

39 (a) The Department of Revenue;

40 (b) The State Board of Parole and Post-Prison Supervision;

41 (c) The Department of Corrections;

42 (d) The Employment Relations Board;

43 (e) The Public Utility Commission of Oregon;

44 (f) The Oregon Health Authority;

45 (g) The Land Conservation and Development Commission;

1 (h) The Land Use Board of Appeals;

2 (i) The Division of Child Support of the Department of Justice;

3 (j) The Department of Transportation, if the final order relates to the suspension, revocation or
 4 cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or to the
 5 assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;

6 (k) The Employment Department or the Employment Appeals Board, if the final order relates to
 7 benefits as defined in ORS 657.010 **or benefits as defined in ORS 657B.010**;

8 (L) The Employment Department, if the final order relates to an assessment of unemployment
 9 tax **or to employer and employee contributions under ORS 657B.150** for which a hearing was
 10 not held; or

11 (m) The Department of Human Services, if the final order was not related to licensing or certi-
 12 fication.

13 **SECTION 12.** ORS 657B.175 is amended to read:

14 657B.175. (1) An employee's wages shall be used to make determinations under this chapter if
 15 the wages are earned for service **that is:**

16 *[(1) Performed entirely within this state; or]*

17 *[(2) Performed both within and outside this state, but the service performed outside this state is
 18 incidental to the employee's service within the state.]*

19 **(a) Localized within this state; or**

20 **(b) Not localized within any state, but some of the service is performed within this state
 21 and:**

22 **(A) The base of operations is in this state or, if there is no base of operations, the place
 23 from which the service is directed or controlled is in this state; or**

24 **(B) The base of operations or place from which the service is directed or controlled is
 25 not in any state in which some part of the service is performed, but the individual's resi-
 26 dence is in this state.**

27 **(2) Service is localized within this state if it is:**

28 **(a) Performed entirely within this state; or**

29 **(b) Performed both within and outside this state, but the service performed outside this
 30 state is incidental to the employee's service within this state.**

31 **SECTION 13.** ORS 657B.030 is amended to read:

32 657B.030. (1) Family and medical leave insurance benefits are in addition to any paid sick time
 33 under ORS 653.606, vacation leave or other paid leave earned by an employee.

34 (2) An employer may permit an employee to use **all or a portion of** paid sick time, vacation
 35 leave or any other paid leave earned by the employee in addition to receiving paid family and
 36 medical leave insurance benefits *[to replace an employee's wages up to 100 percent of the eligible
 37 employee's average weekly wage]* during a period of leave taken for family leave, medical leave or
 38 safe leave.

39 (3) In any week in which an employee is eligible to receive workers' compensation or unem-
 40 ployment benefits under ORS chapter 656 or 657, the employee is disqualified from receiving family
 41 and medical leave insurance benefits.

42 **SECTION 14.** ORS 305.410 is amended to read:

43 305.410. (1) Subject only to the provisions of ORS 305.445 relating to judicial review by the Su-
 44 preme Court and to subsection (2) of this section, the tax court shall be the sole, exclusive and final
 45 judicial authority for the hearing and determination of all questions of law and fact arising under

1 the tax laws of this state. For the purposes of this section, and except to the extent that they pre-
 2 clude the imposition of other taxes, the following are not tax laws of this state:

3 (a) ORS chapter 577 relating to Oregon Beef Council contributions.

4 (b) ORS 576.051 to 576.455 relating to commodity commission assessments.

5 (c) ORS chapter 477 relating to fire protection assessments.

6 (d) ORS chapters 731, 732, 733, 734, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 relating to
 7 insurance company fees and taxes.

8 (e) ORS chapter 473 relating to liquor taxes.

9 (f) ORS chapter 825 relating to motor carrier taxes.

10 (g) ORS chapter 319 relating to motor vehicle and aircraft fuel taxes and the road usage charges
 11 imposed under ORS 319.885.

12 (h) ORS title 59 relating to motor vehicle and motor vehicle operators' license fees and ORS title
 13 39 relating to boat licenses.

14 (i) ORS chapter 578 relating to Oregon Wheat Commission assessments.

15 (j) ORS chapter 462 relating to racing taxes.

16 (k) ORS chapter 657 relating to unemployment insurance taxes.

17 (L) ORS chapter 656 relating to workers' compensation contributions, assessments or fees.

18 (m) ORS 311.420, 311.425, 311.455, 311.650, 311.655 and ORS chapter 312 relating to foreclosure
 19 of real and personal property tax liens.

20 (n) ORS 409.800 to 409.816 and 409.900 relating to long term care facility assessments.

21 **(o) ORS chapter 657B relating to family and medical leave insurance benefits and con-**
 22 **tributions.**

23 (2) The tax court and the circuit courts shall have concurrent jurisdiction to try actions or suits
 24 to determine:

25 (a) The priority of property tax liens in relation to other liens.

26 (b) The validity of any deed, conveyance, transfer or assignment of real or personal property
 27 under ORS 95.060 and 95.070 (1983 Replacement Part) or 95.200 to 95.310 where the Department of
 28 Revenue has or claims a lien or other interest in the property.

29 (3) Subject only to the provisions of ORS 305.445 relating to judicial review by the Supreme
 30 Court, the tax court shall be the sole, exclusive and final judicial authority for the hearing and de-
 31 termination of all questions of law and fact concerning the authorized uses of the proceeds of bonded
 32 indebtedness described in section 11 (11)(d), Article XI of the Oregon Constitution.

33 (4) Except as permitted under section 2, amended Article VII, Oregon Constitution, this section
 34 and ORS 305.445, no person shall contest, in any action, suit or proceeding in the circuit court or
 35 any other court, any matter within the jurisdiction of the tax court.

36 **SECTION 15. This 2023 Act takes effect on the 91st day after the date on which the 2023**
 37 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**