

SB 1515 -3 STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/5, 2/7

WHAT THE MEASURE DOES:

The measure makes several technical fixes to the Paid Leave Oregon Program. The measure also addresses administration and oversight of Paid Leave Oregon, the Oregon Family Leave Act (OFLA), and other protected leave provisions. Finally, the measure works to establish concurrency and alignment of OFLA and Paid Leave Oregon.

Detailed Summary:

- **Administration and Reporting for Oregon Employment Department and Bureau of Labor and Industries (Sections 1-2)**
 - Requires Oregon Employment Department (OED) to collaborate with the Bureau of Labor and Industries (BOLI) to identify any statutory changes necessary to reflect that: 1) BOLI is responsible for processing and investigating complaints related to Paid Leave Oregon, Oregon Family Leave Act, and other protective leave provisions contained in ORS Chapter 659A; and 2) OED will be responsible for any administrative functions of the same provisions, including public outreach for the two programs.
 - Directs OED to determine to what extent benefits are paid to seasonal employees and employees employed through hiring.
 - Requires the Director of OED to report the above findings and any recommendations for legislation to the interim committee of the Legislative Assembly related to labor and business by September 15, 2024.
- **Technical Changes to Paid Leave Oregon (Sections 3-8)**
 - Direct healthcare providers to complete medical verification forms for Paid Leave Oregon within 14 days of receiving request to complete the form. Specifies that the medical verification form must be completed at no expense to the person requesting leave Paid Leave. Allows the person's insurance provider to be billed.
 - Exempts employers from requirement that certain employers provide employees written notice of their schedule in writing at least 14 calendar days before the first day of work when the employee is returning from leave under Paid Leave Oregon program.
 - Includes "federally recognized Oregon Indian tribe" within the exclusion of from definition of "employer" within Paid Leave Oregon.
 - Entitles employee to use accrued paid leave offered by employer in addition to Paid Leave Oregon benefits while on leave.
 - Specifies that employees who are eligible for wage-replacement workers' compensation benefits are ineligible for Paid Leave Oregon benefits.
 - Exempts Paid Leave Oregon benefits from garnishment except for child or spousal support garnishments and restitution for crime victims.
- **Alignment of Paid Leave Oregon and Oregon Family Leave Act (Sections 9-14)**
 - Removes 16 week leave cap per benefit year for leave taken in any combination under both Paid Leave Oregon and Oregon Family Leave Act (OFLA.)
 - Removes unpaid protected leave to care for self or a family member with a serious health condition and unpaid, protected leave to care for an infant or newly adopted or newly placed foster child under OFLA.
 - Modifies sick child leave under OFLA to include all illnesses, injuries, or conditions that require home care.

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- Reduces bereavement leave under OFLA to maximum of four weeks within any one-year period.
- Removes additional 12 weeks of sick child leave currently permitted if employee has taken bonding leave.
- Specifies that it is not an unlawful practice for an employer to deny OFLA leave if the employee is eligible for leave under Family and Medical Leave Act (FMLA) and employee refuses to take FMLA concurrently with OFLA leave.
- **Declares Emergency, effective on passage (Section 22)**

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-3 Replaces the measure. The -3 amendment makes several technical fixes to the Paid Leave Oregon Program. The measure also addresses administration and oversight of Paid Leave Oregon, the Oregon Family Leave Act (OFLA), and other protected leave provisions. Finally, the measure works to establish concurrency and alignment of OFLA and Paid Leave Oregon.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

Detailed Summary:

- **Administration and Reporting for Oregon Employment Department and Bureau of Labor and Industries (Section 1)**
 - Requires the Director of the Oregon Employment Department (OED) to report to the interim committee of the Legislative Assembly related to labor and business by September 15, 2024 on the payment of Paid Leave Oregon benefits to seasonal employees and persons employed through hiring halls, and on consideration of implementing programmatic changes to the Paid Leave Oregon program.
 - Requires OED and the Bureau of Labor and Industries (BOLI) to jointly report to the interim committee of the Legislative Assembly related to labor and business by September 15, 2024 on the apportionment of duties between BOLI and OED regarding protected leave provisions under Paid Leave Oregon and ORS chapter 659A.
- **Technical Changes to Paid Leave Oregon (Sections 2-7)**
 - Exempts employers from requirement to provide specified compensation to employee when employer violates requirement to provide employee written notice of their schedule in writing at least 14 calendar days before the first day of work when employer is provided less than 14 days' notice before the first day of a work schedule of need for leave or of return from leave under either Paid Leave Oregon or other protected leave provisions within ORS Chapter 659A, and an employer makes a change to another employee's schedule who is assigned to cover the specific shifts for the employee on protected leave.
 - Includes "federally recognized Indian tribe" within the exclusion of from definition of "employer" within Paid Leave Oregon.
 - Amends definition of "family leave" under Paid Leave Oregon to include leave to "effectuate the legal process required for placement of a foster child or adoption of a child."
 - Entitles employee to use accrued paid leave offered by employer in addition to Paid Leave Oregon benefits while on leave to extent that total combination of Paid Leave Oregon benefits and and benefits received by employee do not exceed employee's full wage replacement unless the employer permits employee to receive combined amounts in excess of full wage replacement.
 - Specifies that employees who are eligible for time loss workers' compensation benefits are ineligible for Paid Leave Oregon benefits.
 - Exempts Paid Leave Oregon benefits from garnishment except for child or spousal support garnishments and restitution for crime victims.
- **Alignment of Paid Leave Oregon and Oregon Family Leave Act (Sections 7-11)**

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- Removes 16 week leave cap per benefit year for leave taken in any combination under both Paid Leave Oregon and Oregon Family Leave Act (OFLA.)
- Removes unpaid protected leave to care for self or a family member with a serious health condition and unpaid, protected leave to care for an infant or newly adopted or newly placed foster child under OFLA.
- Modifies sick child leave under OFLA to include all illnesses, injuries, or conditions that require home care.
- Specifies that leave taken under OFLA is in addition to leave taken under Paid Leave Oregon.
- Reduces bereavement leave under OFLA to maximum of four weeks within any one-year period.
- Removes additional 12 weeks of sick child leave currently permitted if employee has taken bonding leave.
- Clarifies when two or more family members who work for the same employer may take protected leave concurrently under OFLA.
- Specifies that an employee may begin OFLA leave without prior notice when employee is taking pregnancy disability leave.
- Modifies provisions governing medical verification for leave when an employee takes leave under OFLA for sick child/public health emergency or pregnancy disability leave.
- Specifies that it is not an unlawful practice for an employer to deny OFLA leave if the employee is eligible for leave under Family and Medical Leave Act (FMLA) and employee refuses to take FMLA concurrently with OFLA leave.
- **Temporary Oregon Family Leave Act Provision (Sections 12-13)**
 - Permits eligible employee to take additional two weeks of protected, unpaid leave under Oregon Family Leave Act (OFLA) to effectuate legal process required for placement of foster child or adoption of a child. Specifies notice that employee must provide employer when taking this leave.
- **Operative and Effective Dates (Sections 22-23)**
 - Declares an emergency, effective on passage. Specifies operative date of July 1, 2024 and sunset date of January 1, 2025 for temporary Oregon Family Leave Act provision for effectuating legal process required for placement of foster child or adoption of child. Specifies operative date of January 1, 2025 for provision amending definition of "family leave" under Paid Leave Oregon to include leave to effectuate the legal process required for placement of a foster child or adoption of a child. Specifies operative date of July 1, 2024 for remaining technical fixes and alignment provisions within -3 amendment.

BACKGROUND:

The Paid Leave Oregon program ins contained in ORS chapter 657B and was enacted by the Legislative Assembly in 2019. This program allows eligible Oregon employees to take paid leave for specified family, medical, or safety-related reasons. The program requires employers with 25 or more employees to contribute to the program's fund. An employer may offer employees an equivalent plan approved by OED in lieu of participating in Paid Leave Oregon. Self-employed persons and independent contractors can elect to participate in the program.

The Oregon Family Leave Act (OFLA) applies to employers with 25 or more employees. OFLA permits employees to take protected, unpaid leave for several qualifying reasons, including: parental leave, an employee's serious health condition, a family member's serious health condition, bereavement, pregnancy disability, and sick child leave.

Employers administer OFLA on behalf of their employees. The Oregon Employment Department administers the Paid Leave Oregon program. The Oregon Bureau of Labor and Industries investigates employee complaints for violations of OFLA. Existing law establishes the maximum leave lengths for OFLA and Paid Leave Oregon during a benefit year. Maximum leave lengths may vary by leave type and combination of leave type within each program.

Senate Bill 1515 makes several technical fixes to the Paid Leave Oregon Program, addresses administration and oversight of Paid Leave Oregon, the Oregon Family Leave Act (OFLA), and other protected leave provisions, and works to establish concurrency and alignment of OFLA and Paid Leave Oregon.