

## HB 2548 -8 STAFF MEASURE SUMMARY

### House Committee On Rules

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**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 5/29, 6/16

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#### WHAT THE MEASURE DOES:

The measure establishes the Agricultural Workforce Labor Standards Board. It declares an emergency, effective on passage.

#### Detailed Summary:

##### Section 1: Definitions

Defines terms.

##### Sections 2 – 3: Agricultural Workforce Labor Standards Board (Board)

Establishes Agricultural Workforce Labor Standards Board (Board) within the Bureau of Labor and Industries (BOLI) for the purpose of establishing minimum standards for working conditions of agricultural workers. Minimum standards may include compensation, work schedules, and other working conditions to protect the health and welfare of workers.

Board consists of nine members appointed by the BOLI Commissioner. The composition is as follows:

- four members who represent the interests of agricultural workers;
- four members who represent the interests of employers of agricultural workers; and
- one member of the public with legal knowledge and expertise in health and safety issues that affect agricultural workers and low-wage workers

Specifies that members serve four-year terms. Specifies quorum and voting requirements.

Requires the Governor to appoint executive director. Permits Executive Director to hire staff.

Board members are eligible for compensation, as determined by the Board, but at minimum receive per diem, that is not less than \$151 for expenses member incurs.

Board meetings are public meetings, held at least once a month in different locations around the state. Meetings are required to have accommodations including closed captioning, sign language interpretation, and language interpretations.

##### Section 4: Duties of Board

Requires board to establish minimum standards for agricultural workers that are designed to ensure the health and welfare of workers.

- Prohibits Board from establishing standards that are less protective or beneficial than other applicable statute or rule or standard previously established.
- At a minimum, the standards must:
  - Set compensation rates that are not less than the greater of either the applicable minimum wage rate or the H-2A Adverse Effect Wage Rate.
  - Set compensation rates for piece-rate workers that accounts for the geographic area where work is performed, type of work performed, and potential need for cost-of-living adjustments.
  - Establish working conditions requirements, including rest breaks, work schedules, and working hours.

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- Require training standards for agricultural workers, supervisory employees, and nonsupervisory employees who are not agricultural workers.
- Provide workplace health and safety requirements specific to agricultural workers that are no less protective than provided under the Oregon OSHAs Oregon Safe Employment Act.
- Provide for paid benefits that may include paid leave, retirement benefits, hazard pay, severance pay, disability insurance, and workers' compensation.
- Create for cause termination standards.
- Requires Board to evaluate and consider information to ensure that the standards meet or exceed prevailing market conditions before establishing minimum standards. Specifies information that must be evaluated.

### Section 5: Uniform Training Standards

Requires Board to establish recommended uniform training standards for agricultural workers, supervisory employees and nonsupervisory employees who are not agricultural workers.

- Require training standard at minimum include information about adopted compensation and working conditions, rights and remedies for agricultural workers, duties and obligations of Board, and contact information for agency that has enforcement authority.
- Requires employers to:
  - Provide training to new hires, before the new hire's start date.
  - Provide training in the language the employer typically uses to communicate with employees.

Requires the Board to establish, by rule, a process to allow a worker organization to become certified to provide the training. Specifies element that certification must include.

Requires Board to hold at least one public hearing and public input process for training standards.

Requires employer to keep records to demonstrate compliance with training requirements.

### Section 6: Comprehensive Review

Requires Board to conduct a comprehensive review of previously established minimum standards at least once every two years.

### Section 7: Reporting

Requires the Board to submit an annual report, no later than December 1, to the Governor and the Legislative Assembly summarizing the results of the comprehensive review and any actions taken by the Board in the prior year.

### Section 8: Board Authority

Permits the Board to conduct investigations, issue subpoenas to compel the testimony of any party or witness and require the production of documents, including any book, record, document, certificate, writing, article and other information relevant to such matters before the Board.

### Section 9: Retaliation

Prohibits employers from terminating an agricultural worker unless the termination is for cause. Sets forth the conditions that must be satisfied in order to determine the existence of cause. Provides remedies for agricultural workers alleging a retaliation or a violation of the for cause standard.

### Section 10: Civil Action

Permits a worker to file a civil action for injunctive relief or other appropriate equitable relief against any person alleged to have violated a minimum standard established by the Board.

Section 11: Limits

Nothing in the Act limits the rights of any parties to a collective bargaining agreement or diminishes the rights or remedies that are otherwise available to an agricultural worker under federal or state law or regulation, including the right to file a wage claim.

Section 12: For Cause Termination

Prohibits an employer from terminating the employment of agricultural worker unless the worker is terminated for cause. Provides exceptions to prohibition.

Section 14: Emergency Clause

Declares emergency, effective on passage.

Fiscal impact: May have fiscal impact, statement not yet issued

Revenue impact: May have revenue impact, statement not yet issued

**ISSUES DISCUSSED:**

- Reason for the study
- Current employment-related protections for agricultural workers
- Workplace conditions experienced by agricultural workers
- Design and methodology of study by Portland State University
- Economics of agricultural sectors
- Available data related to farmworkers
- Appropriate research institution and partners for study

**EFFECT OF AMENDMENT:**

-8 Replaces the measure.

The amendment requires the Center for Public Service at Portland State University (PSU), in coordination with Oregon State University (OSU), conduct a study that examines the labor standards and working experiences of farmworkers in Oregon and evaluate the adequacy and availability of existing workplace protections. It requires the Legislative Policy and Research Office (LPRO) conduct a study that includes data collection and assessment and a review of relevant studies, reports, publications, and other relevant literature relating to the labor standards in the agricultural industry and rights and protections afforded to farmworkers in this state.

Detailed Summary:

Study by the Center for Public Service at PSU

Requires the Center for Public Service at PSU, in coordination with OSU, conduct a study that examines the labor standards and working experiences of farmworkers in Oregon and evaluate the adequacy and availability of existing workplace protections.

Requires the study to analyze the following issues related to the experiences of farmworkers working in Oregon:

- Health and safety risks, including work-related injuries and fatalities.
- Wages, including hourly and piece-rate compensation and work schedules.
- Availability of, and access to, benefits such as health insurance,

retirement benefits and paid leave.

- Short-term and long-term financial security of farmworkers.

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- Opportunities to raise workplace concerns or complaints.
- Gender-specific experiences and dynamics within the agricultural sector.
- Availability of training and educational opportunities.
- Barriers to enforcement of labor protections and access to legal remedies.
- Employment conditions for farmworkers employed by farm labor contractors licensed under ORS 658.705 to 658.850.
- Working experiences of H-2A temporary agricultural workers.
- Impacts on wages, working conditions and employment opportunities for local farmworkers resulting from the use of H-2A temporary agricultural workers.

Requires PSU engage with farmworkers and nonprofit organizations representing farmworkers that represent a diverse range of agricultural industries, operations, and geographic areas. Specifies that engagement must include methods that gather firsthand experiences and perspectives of farmworkers regarding the working conditions they experience.

Requires PSU conduct a confidential survey of farmers regarding the workplace benefits provided to farmworkers and the factors that influence farmers' decisions to provide benefits. Requires the survey represent farmers from a diverse range of agricultural industries, operations, and geographic areas.

Requires PSU, to the greatest extent practicable, use data collection and reporting practices that protect the confidentiality of farmers and farmworkers. Specifies method for protecting confidentiality.

Requires PSU integrate the study findings with study conducted by Legislative Policy and Research Office.

Requires PSU to report to interim committees on agricultural, business and labor, and natural resources on the following schedule:

- Report on initial findings by May 1, 2026;
- Update on initial findings and summary of progress by September 1, 2026; and
- Final report submitted by December 1, 2026. Specifies elements that must be included in the final report.

### Study by the Legislative Policy and Research Office (LPRO)

Requires LPRO conduct a study that includes data collection and assessment and a review of relevant studies, reports, publications, and other relevant literature relating to the labor standards in the agricultural industry and rights and protections afforded to farmworkers in this state.

Requires, to the extent practicable and within the scope of allocated funding, the study include:

- An assessment of data from the Oregon Employment Department (OED), Bureau of Labor and Industries (BOLI), Oregon Department of Agriculture (ODA), and United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) regarding the state of the agricultural industry for the five-year period beginning January 1, 2021 and ending December 31, 2025. Specifies data that must be obtained by LPRO from each agency for purposes of the study.
- A review of existing state and federal laws and regulations that provide workplace protections and benefits to farmworkers.
- An examination of how BOLI, OED, Department of Consumer and Business Services (DCBS), and other relevant state agencies coordinate to administer policies and programs regarding farmworkers' rights and protections and carrying out enforcement mechanisms regarding such rights and protections. Specifies policies and programs that must be evaluated within each agency.
- An examination of peer-reviewed studies and research evaluating the impacts of the use of H-2A temporary agricultural workers.

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Requires LPRO report to interim committees on agricultural, business and labor, and natural resources by September 15, 2026.

Appropriates General Fund to the Higher Education Coordination Commission and LPRO for the purpose of the studies.

Repeals studies on January 2, 2027.

Declares an emergency, effective upon passage.

### **BACKGROUND:**

A state or municipality may use a wage board to either recommend or establish wages, hours, and working conditions for an industry sector. Wage boards are typically composed of equal representation from industry employers and employees who must either together or with other members of the board achieve a majority to either adopt or recommend the adoption of wages, hours, or working conditions for the industry.

Wage boards may be advisory boards, making recommendations regarding minimum wages and working conditions to either a legislative body or executive official, such as a labor commissioner. A wage board may be a policymaking body, having the ability to adopt minimum wages and working conditions, establish training requirements, and establish minimum content and posting requirements for workers' rights.

Currently, Colorado and New York have boards related to the agricultural industry. The Colorado Agricultural Work Advisory Committee (AWAC) is an advisory body established in 2021. The AWAC is within the Division of Labor Standards and Statistics with nine members who are appointed either by the Director or the Commissioner of Agriculture and who serve four-year terms:

- two members who have worked as agricultural workers.
- two members who are advocates of workers' rights.
- three members who represent agricultural employers.
- two representatives from the Migrant Farm Worker Division of Colorado Legal Services.

The AWAC must

- analyze the wages and working conditions of agricultural workers and report its findings and any legislative recommendations to the legislature.
- annually report its progress, findings, and legislative recommendations to specified legislative committees.

The AWAC must annually report its progress, findings, and legislative recommendations to the appropriate legislative committees.

The New York Farm Laborers Wage Board (FLWB) was established in 2019 to require the Industrial Commissioner to appoint the FLWB to recommend successively lower overtime work thresholds and phase-in dates. The membership was appointed by the Commissioner and must include

- one representative of the farm bureau.
- one representative of the N.Y. AFL-CIO.
- one member of the general public, who is the chairperson.