

Enrolled Senate Bill 219

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CHAPTER

AN ACT

Relating to confidential information secured by Employment Department; amending ORS 657.665.

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

SECTION 1. ORS 657.665 is amended to read:

657.665. (1) Information secured from employing units, employees or other individuals pursuant to this chapter:

(a) Shall be confidential and for the exclusive use and information of the Director of the Employment Department in the discharge of duties and shall not be open to the public (other than to public employees in the performance of their public duties under state or federal laws for the payment of unemployment insurance benefits and to public employees in the performance of their public duties under the recognized compensation and retirement, relief or welfare laws of this state), except to the extent necessary for the presentation of a claim and except as required by the regulations of the United States Secretary of Health and Human Services pursuant to section 3304(a) of the Federal Unemployment Tax Act, as amended, and except as required by section 303 of the Social Security Act, as amended.

(b) Shall not be used in any court in any action or proceeding pending therein unless the director or the state is a party to such action or proceedings or the proceedings concern the establishment, enforcement or modification of a support obligation and support services are being provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

(2) However, any claimant or legal representative, at a hearing before an administrative law judge, shall be supplied with information from such records to the extent necessary for the proper presentation of a claim.

(3) Notwithstanding subsection (1) of this section, information secured from employing units pursuant to this chapter may be released:

(a) To agencies of this state, federal agencies and local government agencies to the extent necessary to properly carry out governmental planning, performance measurement, program analysis, socioeconomic analysis and policy analysis functions performed under applicable law. Information provided such agencies shall be confidential and shall not be released by such agencies in any manner that would be identifiable as to individuals, claimants, employees or employing units. Costs of furnishing information pursuant to this subsection not prepared for the use of the Employment Department shall be borne by the parties requesting the information; and

(b) In accordance with ORS 657.673.

(4) Nothing in this section shall prevent the Employment Department from providing names and addresses of employing units to the Bureau of Labor and Industries for the purpose of disseminating information to employing units. The names and addresses provided shall be confidential and shall not be used for any other purposes. Costs of furnishing information pursuant to this subsection not prepared for the use of the Employment Department shall be borne by the bureau.

(5) Nothing in this section shall prevent the Employment Department from providing to the Commissioner of the Bureau of Labor and Industries, for the purpose of performing duties under ORS 279C.800 to 279C.870, the names, addresses and industrial codes of [employer] **employing** units, the number of employees each unit employs during a given time period and the firm number assigned to [employer] **employing** units by the Employment Department. Information so provided shall be confidential and shall not be released by the commissioner in any manner that would identify such employing units except to the extent necessary to carry out the purposes of this subsection and as provided in subsection (1)(b) of this section. Costs of furnishing information pursuant to this subsection not prepared for the use of the Employment Department shall be borne by the bureau.

(6) Nothing in this section shall prevent the Employment Department from providing information required under ORS 657.660 (3) and (4) to the Public Employees Retirement System for the purpose of determining the eligibility of members of the retirement system for disability retirement allowances under ORS chapter 238. The information provided shall be confidential and shall not be used for any other purposes. Costs of furnishing information pursuant to this subsection shall be borne by the Public Employees Retirement System.

(7) Nothing in this section shall prevent the Employment Department from providing to the Oregon Economic and Community Development Commission information required by the commission in performing its duty under ORS 285A.050 to verify changes in employment levels following direct employer participation in Economic and Community Development Department programs or indirect participation through municipalities under ORS 285B.410 to 285B.482 and regional boards and partnerships under ORS 285B.230 to 285B.269. Information provided to the commission may include an employer's employment level, total subject wages payroll and whole hours worked. The information may not be used for any other purpose and must be held confidential. The commission may not release the information in any manner that would identify the employing unit or any employee except to the extent necessary to carry out its duties under ORS 285A.050. Costs of furnishing information under this subsection that is not prepared for the use of the Employment Department shall be borne by the commission.

(8) Any officer or employee of the Director of the Employment Department, who, except with authority of the director or pursuant to regulations, or as otherwise required by law, shall disclose confidential information under this section, thereafter may be disqualified from holding any appointment or employment by the director.

(9) Nothing in this section shall prevent the Employment Department from providing information to the Department of Revenue for the purpose of performing its duties under ORS 293.250, or the revenue and tax laws of this state. Information provided may include names and addresses of employers and employees and payroll data of employers and employees. Information so provided shall be confidential and shall not be released by the Director of the Department of Revenue in any manner that would identify such employing unit or employee except to the extent necessary to carry out its duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. However, the Director of the Department of Revenue shall not disclose any information received to any private collection agency or for any other purpose. Costs of furnishing information pursuant to this subsection not prepared for the use of the Employment Department shall be borne by the Department of Revenue.

(10) Nothing in this section shall prevent the Employment Department from providing information to the Department of Consumer and Business Services for the purpose of performing its duties under ORS chapters 654 and 656. Information provided may include but is not limited to the name, address, number of employees and industrial classification code of an employer and payroll data of

employers and employees. Information provided shall be confidential and may not be released by the Department of Consumer and Business Services in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS chapters 654 and 656, including administrative hearings and court proceedings in which the Department of Consumer and Business Services is a party. Costs of furnishing information pursuant to this subsection that is not prepared for the use of the Employment Department shall be borne by the Department of Consumer and Business Services.

(11) Nothing in this section shall prevent the Employment Department from providing information to the Construction Contractors Board for the purpose of performing its duties under ORS chapter 701. Information provided to the board may include names and addresses of employers and status of their compliance with this chapter.

(12) Nothing in this section shall prevent the Employment Department from providing information to the State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and powers under ORS 453.307 to 453.414. Information so provided shall be the employer or agent name, address, telephone number and standard industrial classification. Information so provided shall be confidential and shall not be released by the State Fire Marshal in any manner that would identify such employing units except to the extent necessary to carry out duties under ORS 453.307 to 453.414. Costs of furnishing information pursuant to this subsection not prepared for the use of the Employment Department shall be borne by the office of the State Fire Marshal.

(13) Nothing in this section shall prevent the Employment Department from providing information to the Oregon Student Assistance Commission for the purposes of performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education Act of 1965, as amended. Information provided may include names and addresses of employers and employees and payroll data of employers and employees. Information so provided shall be confidential and shall not be released by the Oregon Student Assistance Commission in any manner that would identify such employing unit or employee except to the extent necessary to carry out duties under ORS chapter 348 or Title IV of the Higher Education Act of 1965, as amended. Costs of furnishing information pursuant to this subsection not prepared for the use of the Employment Department shall be borne by the Oregon Student Assistance Commission.

(14)(a) Nothing in this section shall prevent the Employment Department from providing information to the Department of Transportation to assist the Department of Transportation in carrying out the duties of the Department of Transportation relating to collection of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.666, 184.670 to 184.733 and 805.263, ORS chapter 319 and the Oregon Vehicle Code.

(b) Information provided may include names and addresses of employers and employees and payroll data. Information provided is confidential and may not be released by the Department of Transportation in any manner that would identify any employing unit or employee except to the extent necessary to carry out the Department of Transportation's duties or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the Department of Transportation.

(c) Notwithstanding the exception described in paragraph (b) of this subsection, the Department of Transportation may not disclose any information received to any private collection agency.

(d) If the information provided pursuant to this subsection is not prepared for the use of the Employment Department, costs of furnishing the information shall be paid by the Department of Transportation.

[(14)] (15) Any person or officer or employee of an entity to whom information is disclosed or given by the Employment Department pursuant to this section, who divulges or uses such information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure, may be disqualified from holding any appointment or employment, or performing any service under contract, with the state agency employing that person or officer.

[(15)] (16) Notwithstanding subsection (1) of this section, the industrial classification code assigned to an employing unit may be released to state agencies, federal agencies and local government agencies to the extent necessary to carry out governmental functions performed under applicable law. Except as provided in ORS 190.270, information provided to such agencies is confidential and may not be released by the agencies in any manner that would allow identification of an employing unit. Costs of furnishing information that is not prepared for the use of the Employment Department shall be paid by the party requesting the information under this subsection.

SECTION 2. If Senate Bill 197 becomes law, section 1 of this 2007 Act (amending ORS 657.665) is repealed and ORS 657.665, as amended by section 1, chapter 89, Oregon Laws 2007 (Enrolled Senate Bill 197), is amended to read:

657.665. (1) Except as provided in subsections (2) to (4) of this section, all information in the records of the Employment Department pertaining to the administration of the unemployment insurance, employment service and labor market information programs:

(a) Is confidential and for the exclusive use and information of the Director of the Employment Department in administering the unemployment insurance, employment service and labor market information programs in Oregon.

(b) May not be used in any court action or in any proceeding pending in the court unless the director or the state is a party to the action or proceeding or unless the proceeding concerns the establishment, enforcement or modification of a support obligation and support services are being provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

(c) Is exempt from disclosure under ORS 192.410 to 192.505.

(2) The Employment Department shall disclose information:

(a) To any claimant or legal representative, at a hearing before an administrative law judge, to the extent necessary for the proper presentation of an unemployment insurance claim.

(b) Upon request to the United States Secretary of Labor. The Employment Department shall disclose the information in a form and containing the information that the United States Secretary of Labor may require. The information disclosed is confidential and may not be used for any other purpose.

(c) Pursuant to section 303(a)(7) of the Social Security Act, upon request to any agency of the United States charged with the administration of public works or assistance through public employment. Under this paragraph, the Employment Department shall disclose the name, address, ordinary occupation and employment status of each recipient of unemployment insurance benefits and a statement of the recipient's right to further benefits under this chapter. The information disclosed is confidential and may not be used for any other purpose.

(d) Pursuant to section 303(c)(1) of the Social Security Act, to the Railroad Retirement Board. Under this paragraph, the Employment Department shall disclose unemployment insurance records. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the board.

(e) Pursuant to section 303(d) of the Social Security Act, upon request to officers and employees of the United States Department of Agriculture and to officers or employees of any state food stamp agency for the purpose of determining an individual's eligibility for or the amount of food stamps. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Agriculture.

(f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act, to state or local child support enforcement agencies enforcing child support obligations under Title IV-D of the Social Security Act for the purposes of establishing child support obligations, locating individuals owing child support obligations and collecting child support obligations from those individuals. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the child support enforcement agency.

(g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to agencies participating in the income and eligibility verification system for the purpose of verifying an individual's eligibility

for benefits, or the amount of benefits, under unemployment insurance, Temporary Assistance for Needy Families, Medicaid, food stamps, Supplemental Security Income, child support enforcement or Social Security programs. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting agency.

(h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the Federal Unemployment Tax Act, to the United States Department of Health and Human Services National Directory of New Hires. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Health and Human Services.

(i) Pursuant to section 303(i) of the Social Security Act, to officers and employees of the United States Department of Housing and Urban Development and to representatives of a public housing agency for the purpose of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the United States Department of Housing and Urban Development. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Housing and Urban Development or the public housing agency.

(j) Pursuant to regulations of the United States Secretary of Health and Human Services issued under section 3304(a)(16)(A) of the Federal Unemployment Tax Act, and except as required by section 303 of the Social Security Act, to the state, a political subdivision or a federally recognized Indian tribe that has signed an agreement with the Department of Human Services to administer Part A of Title IV of the Social Security Act for the purpose of determining an individual's eligibility for assistance, or the amount of assistance, under a program funded under Part A of Title IV of the Social Security Act. The information disclosed is confidential and may not be used for any other purpose.

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

(3) The Employment Department may disclose information secured from employing units:

(a) To agencies of this state, federal agencies and local government agencies to the extent necessary to properly carry out governmental planning, performance measurement, program analysis, socioeconomic analysis and policy analysis functions performed under applicable law. The information disclosed is confidential and may not be disclosed by the agencies in any manner that would identify individuals, claimants, employees or employing units. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the agency requesting the information.

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

(c) In accordance with ORS 657.673.

(4) The Employment Department may:

(a) Disclose information to public employees in the performance of their duties under state or federal laws relating to the payment of unemployment insurance benefits, the provision of employment services and the provision of labor market information.

(b) At the discretion of the Director of the Employment Department and subject to an interagency agreement, disclose information to public officials in the performance of their official duties

administering or enforcing laws within their authority and to the agents or contractors of public officials. The public official shall agree to assume responsibility for misuse of the information by the official's agent or contractor.

(c) Disclose information pursuant to an informed consent, received from an employer or claimant, to disclose the information.

(d) Disclose information to partners under the federal Workforce Investment Act of 1998 for the purpose of administering state workforce programs under the Act. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting partner.

(e) Disclose the names and addresses of employing units to the Bureau of Labor and Industries for the purpose of disseminating information to employing units. The names and addresses disclosed are confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(f) Disclose information to the Commissioner of the Bureau of Labor and Industries for the purpose of performing duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(g) Disclose information required under ORS 657.660 (3) and (4) to the Public Employees Retirement System for the purpose of determining the eligibility of members of the retirement system for disability retirement allowances under ORS chapter 238. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the Public Employees Retirement System.

(h) Disclose to the Oregon Economic and Community Development Commission information required by the commission in performing its duty under ORS 285A.050 to verify changes in employment levels following direct employer participation in Economic and Community Development Department programs or indirect participation through municipalities under ORS 285B.410 to 285B.482 and regional boards and partnerships under ORS 285B.230 to 285B.269. The information disclosed to the commission may include an employer's employment level, total subject wages payroll and whole hours worked. The information disclosed is confidential and may not be used for any other purpose. The commission may not disclose the information in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duty under ORS 285A.050. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(j) Disclose information to the Department of Consumer and Business Services for the purpose of performing its duties under ORS chapters 654 and 656. The information disclosed may include the name, address, number of employees and industrial classification code of an employer and payroll

data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Consumer and Business Services in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS chapters 654 and 656, including administrative hearings and court proceedings in which the Department of Consumer and Business Services is a party. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Consumer and Business Services.

(k) Disclose information to the Construction Contractors Board for the purpose of performing its duties under ORS chapter 701. The information disclosed to the board may include the names and addresses of employers and status of their compliance with this chapter. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the board.

(L) Disclose information to the State Fire Marshal to assist the State Fire Marshal in carrying out duties under ORS 453.307 to 453.414. The information disclosed may include the name, address, telephone number and industrial classification code of an employer. The information disclosed is confidential and may not be disclosed by the State Fire Marshal in any manner that would identify an employing unit except to the extent necessary to carry out duties under ORS 453.307 to 453.414. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the office of the State Fire Marshal.

(m) Disclose information to the Oregon Student Assistance Commission for the purpose of performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education Act of 1965. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the commission in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duties under ORS chapter 348 or Title IV of the Higher Education Act of 1965. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(n) Disclose information to the Department of Transportation to assist the Department of Transportation in carrying out the duties of the Department of Transportation relating to collection of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.666, 184.670 to 184.733 and 805.263, ORS chapter 319 and the Oregon Vehicle Code. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Transportation in any manner that would identify an employing unit or employee except to the extent necessary to carry out the Department of Transportation's duties relating to collection of delinquent and liquidated debts or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the Department of Transportation. The Department of Transportation may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Transportation.

[(n)] (o) Disclose to any person establishment level information secured pursuant to this chapter from federal, state and local government employing units. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

[(o)] (p) Disclose to any person the industrial classification code assigned to an employing unit. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

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

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

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.....M.,....., 2007

Approved:

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Secretary of Senate

.....M.,....., 2007

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President of Senate

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Governor

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