

# House Bill 2204

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Employment Department)

## SUMMARY

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

Eliminates Employment Department component of JOBS Plus program. Transfers balance of moneys in Oregon JOBS Plus Unemployment Wage Fund to General Fund.

## A BILL FOR AN ACT

1  
2 Relating to JOBS Plus program; creating new provisions; amending ORS 411.877, 411.878, 411.882,  
3 411.886, 411.888, 411.889, 411.890; 411.892 and 657.190; and repealing ORS 411.884 and 657.925.

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

5 **SECTION 1.** ORS 411.877 is amended to read:

6 411.877. As used in ORS [316.680,] 411.877 to 411.896 [and 657.925]:

7 (1) "Board" means the JOBS Plus Advisory Board established in ORS 411.886.

8 (2) [*Department*] means the Department of Human Services. **"Food stamp plan" means the**  
9 **plan described in ORS 411.825.**

10 (3) **"Job opportunities and basic skills program" means the program described in ORS**  
11 **412.006.**

12 [(3)] (4) "JOBS Plus" or "program" means the JOBS Plus Program established in ORS 411.878.

13 **SECTION 2.** ORS 411.878 is amended to read:

14 411.878. (1) In establishing and implementing a program to be known as the JOBS Plus Program,  
15 the Legislative Assembly recognizes that early attachment to work and development of knowledge  
16 and skills are the most effective means of helping people make the transition from dependence on  
17 public assistance and subsidizing in poverty to regular employment and self-reliance. It is the intent  
18 of the Legislative Assembly to promote greater economic self-sufficiency among Oregon families [and  
19 workers] by:

20 (a) Increasing the employability of unemployed and underemployed Oregonians through on-the-  
21 job training;

22 (b) Invigorating the public-private workforce partnership through development of jobs with both  
23 private for-profit and public employers;

24 (c) Ensuring that program participants through their employment development plans have op-  
25 portunities to improve work skills, education and employability and to establish recent work histo-  
26 ries with work site training, mentoring, individual education accounts and provision of necessary  
27 support service benefits that include child care, workers' compensation, job placement and a guar-  
28 antee that participation in the JOBS Plus Program does not result in a reduction in net income to  
29 a participant when compared with the participant's combined income from the temporary assistance  
30 for needy families program[,] **and** the food stamp **plan** [*program and the unemployment insurance*  
31 *program*]; and

**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 (d) Expeditiously placing program participants in subsidized and unsubsidized employment.

2 (2) The JOBS Plus Program is created as a program in which residents of the State of Oregon  
3 shall, in lieu of receiving food stamp benefits and payments from the temporary assistance for needy  
4 families program, be provided jobs and paid in a way that promotes self-sufficiency and encourages  
5 unemployed Oregonians to improve their positions in the workforce. *[Recipients of unemployment*  
6 *insurance also shall be offered employment under the program.]* The JOBS Plus Program shall be a  
7 public assistance to work strategy for the State of Oregon and operate under the job opportunities  
8 and basic skills program and rules adopted thereunder to the extent such rules are not inconsistent  
9 with ORS *[316.680,]* 411.877 to 411.896 *[and 657.925]*. These rules include but are not limited to rules  
10 regarding participation requirements, *[exemptions]* and support services.

11 **SECTION 3.** ORS 411.882 is amended to read:

12 411.882. In administering the JOBS Plus Program and to the extent permitted by federal law, the  
13 Department of Human Services shall maximize the use of federal grants and apportionments of the  
14 temporary assistance for needy families program, the food stamp *[program]* **plan** and employment  
15 related child care.

16 **SECTION 4.** ORS 411.886 is amended to read:

17 411.886. (1) The JOBS Plus Advisory Board is established. The board shall advise the Depart-  
18 ment of Human Services *[and the Employment Department]* in the direction and administration of the  
19 JOBS Plus Program established **in** *[under ORS 316.680, 411.877 to 411.896 and 657.925]* **411.878**. The  
20 board shall have seven members, consisting of six representatives of the business community and  
21 one employed former recipient of temporary assistance for needy families, *[or the food stamp plan*  
22 *program or the unemployment insurance program].*

23 (2) The Governor shall appoint new members from nominees recommended by the board.

24 (3) Members appointed to the board shall serve terms of three years.

25 **SECTION 5.** ORS 411.888 is amended to read:

26 411.888. (1) Nominations for persons to fill scheduled vacancies must be made to the Governor  
27 not less than 30 days prior to the effective date of the vacancy. Nominations for persons to fill an  
28 unscheduled vacancy shall be made to the Governor not more than 30 days after the position be-  
29 comes vacant.

30 (2) The JOBS Plus Advisory Board shall select one of its members to serve as a chairperson for  
31 such terms and with duties and powers necessary for the performance of the functions of such office  
32 as the board determines. A majority of the members of the board constitutes a quorum for the  
33 transaction of business.

34 (3) The board shall meet at least once each quarter with the Director of Human Services *[and*  
35 *the Director of the Employment Department]*.

36 (4) The board shall report at least annually to the Governor and the Legislative Assembly on  
37 the status and progress of the JOBS Plus Program. The chairperson of the board shall have the  
38 additional duty to work with and coordinate the local councils created in ORS 411.890.

39 **SECTION 6.** ORS 411.889 is amended to read:

40 411.889. The *[Employment Department and the]* Department of Human Services shall explore  
41 contracting for job procurement and placement services with private job placement institutions. If  
42 contracting is deemed beneficial, *[the Employment Department and]* the Department of Human Ser-  
43 vices *[are]* **is** encouraged to and shall have the authority to contract with private placement firms.

44 **SECTION 7.** ORS 411.890 is amended to read:

45 411.890. A JOBS Plus Implementation Council shall be established in service areas to be deter-

1 mined by the Director of Human Services to assist the JOBS Plus Advisory Board[,] **and** the De-  
 2 partment of Human Services [*and the Employment Department*] in the administration of the JOBS  
 3 Plus Program and to allow local flexibility in dealing with the particular needs of each county.  
 4 Each council shall be primarily responsible for recruiting and encouraging participation of employ-  
 5 ment providers in the county. Each council shall be composed of seven members who shall be ap-  
 6 pointed by the county commissioners in each county in the district. Council members shall be  
 7 residents of the district in which they are appointed and shall serve four-year terms. Six members  
 8 of the council shall be from the local business community. At least one member shall be a current  
 9 or former recipient of the temporary assistance for needy families program[,] **or** the food stamp **plan**  
 10 [*program or the unemployment insurance program*].

11 **SECTION 8.** ORS 411.892 is amended to read:

12 411.892. (1)(a) All employers, including public and private sector employers within the State of  
 13 Oregon, are eligible to participate in the JOBS Plus Program. The Department of Human Services  
 14 [*or Employment Department, as appropriate,*] shall adopt by rule a method to disqualify employers  
 15 from participating in the program. No employer is required to participate in the JOBS Plus Program.  
 16 In the event that there are unassigned participants whom no employer desires to utilize, the par-  
 17 ticipants may be assigned to work for a public agency.

18 (b) The maximum number of program participants that any employer is authorized to receive at  
 19 any one time may not exceed 10 percent of the total number of the employer’s employees. However,  
 20 each employer may receive one participant. The Director of Human Services [*or Director of the*  
 21 *Employment Department, as appropriate,*] may waive the limit in special circumstances.

22 (c) The Department of Human Services [*or Employment Department, as appropriate,*] by rule shall  
 23 establish criteria for excluding employers from participation for failure to abide by program re-  
 24 quirements, showing a pattern of terminating participants prior to the completion of training or  
 25 other demonstrated unwillingness to comply with the stated intent of the program.

26 (2) The Department of Human Services [*or Employment Department, as appropriate,*] shall ensure  
 27 that jobs made available to program participants:

28 (a) Do not require work in excess of 40 hours per week;

29 [(b) *Are in conformity with section 3304(a)(5) of the Federal Unemployment Tax Act;*]

30 [(c)] (b) Are not used to displace regular employees or to fill unfilled positions previously es-  
 31 tablished; and

32 [(d)] (c) Do not pay a wage that is substantially less than the wage paid for similar jobs in the  
 33 local economy with appropriate adjustments for experience and training.

34 (3)(a) Eligibility for the program shall be limited to residents who are:

35 (A) Adults and caretaker relatives who are receiving temporary assistance for needy families  
 36 benefits;

37 (B) Adult food stamp [*program*] recipients except as described in subsection (5)(b) of this section;

38 **and**

39 [(C) *Unemployment compensation recipients; and*]

40 [(D)] (C) Unemployed noncaretaker parents of children who are receiving temporary assistance  
 41 for needy families benefits.

42 (b) In addition to those residents eligible for the program under paragraph (a) of this subsection,  
 43 additional residents who are seeking employment may be eligible for the program if there are  
 44 legislatively allocated funds available [*from the savings attributable to the program in the Unemploy-*  
 45 *ment Compensation Trust Fund or*] in the temporary assistance for needy families budget of the De-

1 partment of Human Services.

2 (4)(a) Individuals desiring work through the program shall contact the nearest Department of  
 3 Human Services office serving the county in which they reside if they are temporary assistance for  
 4 needy families program or food stamp *[program]* **plan** applicants or recipients or noncustodial par-  
 5 ents of individuals receiving temporary assistance for needy families. *[Unemployment insurance ap-  
 6 plicants or recipients or others seeking employment may gain access to the program through their local  
 7 Employment Department office.]*

8 (b) With the assistance of the local JOBS Plus Implementation Councils and the JOBS Plus  
 9 Advisory Board, the Department of Human Services shall develop a job inventory of sufficient size  
 10 to accommodate all of the participants who desire to work in the program. In consultation with the  
 11 participant, the department shall try to match the profile of each participant with the needs of an  
 12 employer when assigning a participant to work with the employer.

13 (c) Either the employer or the participant may terminate the assignment by contacting the ap-  
 14 propriate Department of Human Services *[or Employment Department]* office. In such event, the De-  
 15 partment of Human Services *[or Employment Department]* shall reassess the needs of the participant  
 16 and assign the participant to another JOBS Plus Program placement or another job opportunity and  
 17 basic skills program component and, at the employer’s request, provide the employer with another  
 18 participant.

19 (d)(A) *[Subject to ORS 657.925 (6)(d),]* If after four months in a placement, a participant has not  
 20 been hired for an unsubsidized position, the employer shall allow the worker to undertake eight  
 21 hours of job search per week. Participating employers shall consider such time as hours worked for  
 22 the purposes of paying wages.

23 (B) *[Subject to ORS 657.925 (6)(d),]* If after six months in a placement, a participant has not been  
 24 hired for an unsubsidized position, the placement shall be terminated, and the caseworker shall re-  
 25 assess the participant’s employment development plan.

26 (e) The Department of Human Services may pay placement and barrier removal payments to  
 27 temporary assistance for needy families **program** and food stamp *[program]* **plan** participants as  
 28 necessary to enable participation in the JOBS Plus Program.

29 (f) The Department of Human Services shall accept eligible volunteers into the program prior  
 30 to mandating program participation by eligible persons.

31 (5)(a) Assignment of participants to available jobs shall be based on a preference schedule de-  
 32 veloped by the Department of Human Services *[and the Employment Department]*. Any temporary  
 33 assistance for needy families recipient or food stamp recipient may volunteer for the program.

34 (b) The following individuals may not be required to participate in the program:

35 (A) **Recipients under the** temporary assistance for needy families **program** and **the** food stamp  
 36 **plan** *[recipients]* who are eligible for Supplemental Security Income benefits or other ongoing state  
 37 or federal maintenance benefits based on age or disability.

38 (B) Food stamp applicants or recipients who are employed full-time or are college students eli-  
 39 gible for food stamps and enrolled full-time in a community college or an institution of higher edu-  
 40 cation, or enrolled half-time in a community college or an institution of higher education and  
 41 working at least 20 hours per week.

42 (C) Teenage parents who remain in high school if progressing toward a diploma. Teenage par-  
 43 ents not in school are eligible for the JOBS Plus Program.

44 (c) The Department of Human Services shall provide life skills classes and opportunities to  
 45 achieve General Educational Development (GED) certificates to appropriate participants in con-

1 junction with working in the JOBS Plus Program.

2 (d) **Subject to subsection (7) of this section**, temporary assistance for needy families and food  
 3 stamp benefits shall be suspended at the end of the calendar month in which an employer makes the  
 4 first wage payment to a participant who is a custodial parent in a family that receives temporary  
 5 assistance for needy families or to any adult member of a household receiving food stamp benefits.  
 6 Failure of the participant to cooperate with the requirements of the JOBS Plus Program may result  
 7 in the participant’s removal, in accordance with rules adopted by the Department of Human Ser-  
 8 vices, from the JOBS Plus Program and suspension of the participant’s temporary assistance for  
 9 needy families grant and food stamp benefits. A temporary assistance for needy families and food  
 10 stamp benefits recipient who has been removed from the program for failing to cooperate shall be  
 11 eligible to reapply to participate in the program and shall have eligibility for program services de-  
 12 termined without regard to the length of time the person was not participating following removal.

13 (6)(a) Employers shall pay all participating individuals at least the hourly rate of the Oregon  
 14 minimum wage.

15 (b) Sick leave, holiday and vacation absences shall conform to the individual employer’s rules  
 16 for temporary employees.

17 (c) Group health insurance benefits shall be provided by the employer to program participants  
 18 if, and to the extent that, state or federal law requires the employer to provide such benefits.

19 (d) All persons participating in the JOBS Plus Program shall be considered to be temporary  
 20 employees of the individual employer providing the work and shall be entitled only to benefits re-  
 21 quired by state or federal law.

22 (e) Employers shall provide workers’ compensation coverage for each JOBS Plus Program par-  
 23 ticipant.

24 (7) In the event that the net monthly full-time wage paid to a participant would be less than the  
 25 level of income from the temporary assistance for needy families program and the food stamp benefit  
 26 amount equivalent that the participant would otherwise receive, the Department of Human Services  
 27 shall determine and pay a supplemental payment as necessary to provide the participant with that  
 28 level of net income. The department shall determine and pay in advance supplemental payments to  
 29 participants on a monthly basis as necessary to ensure equivalent net program wages. Participants  
 30 shall be compensated only for time worked.

31 (8) In addition to and not in lieu of the payments provided for under subsections (6) and (7) of  
 32 this section, participants shall be entitled to retain the full child support payments collected by the  
 33 Department of Justice.

34 (9) Program participants who are eligible for federally and state funded medical assistance at  
 35 the time they enter the program shall remain eligible as long as they continue to participate in the  
 36 program. In conformity with existing state day care program regulations, child day care shall be  
 37 provided for all program participants who require it.

38 (10) JOBS Plus Program employers shall:

39 (a) Endeavor to make JOBS Plus Program placements positive learning and training experiences;

40 (b) Maintain health, safety and working conditions at or above levels generally acceptable in the  
 41 industry and no less than that of comparable jobs of the employer;

42 (c) Provide on-the-job training to the degree necessary for the participants to perform their du-  
 43 ties;

44 (d) Recruit volunteer mentors from among their regular employees to assist the participants in  
 45 becoming oriented to work and the workplace; and

1 (e) Sign an agreement to abide by all requirements of the program, including the requirement  
 2 that the program not supplant existing jobs. All agreements shall include provisions noting the em-  
 3 ployer's responsibility to repay reimbursements in the event the employer violates program rules.  
 4 When a professional placement service, professional employment organization or temporary employ-  
 5 ment agency is acting as an employer pursuant to subsection [(14)] (13) of this section, agreements  
 6 under this paragraph shall require a three-party agreement between the professional placement  
 7 service, professional employment organization or temporary employment agency, the organization  
 8 where the participant has been placed to perform services and the State of Oregon. The three-party  
 9 agreement shall include provisions requiring that all JOBS Plus reimbursements received by the  
 10 professional placement service, professional employment organization or temporary employment  
 11 agency be credited to the organization where the participant has been placed to perform services.

12 (11) Program participant wages shall be subject to federal and state income taxes, Social Secu-  
 13 rity taxes and unemployment insurance tax or reimbursement as applicable under ORS chapter 657,  
 14 which shall be withheld and paid in accordance with state and federal law. Supplemental payments  
 15 made pursuant to subsection (7) of this section shall not be subject to state income taxes under ORS  
 16 chapter 316 and, to the extent allowed by federal law, shall not be subject to federal income taxes  
 17 and Social Security taxes.

18 (12)(a)[(A)] The Department of Human Services shall reimburse employers for the employers'  
 19 share of Social Security, unemployment insurance and workers' compensation premiums paid on be-  
 20 half of program participants[, *other than those who are unemployment insurance claimants,*] referred  
 21 to the employer by the Department of Human Services, as well as the minimum wage earnings paid  
 22 by the employer to program participants referred to the employer by the Department of Human  
 23 Services.

24 [(B) *The Employment Department shall reimburse employers \$5 per hour paid by the employer as*  
 25 *earnings to JOBS Plus Program participants, who are unemployment insurance claimants and are re-*  
 26 *ferred to the employer by the Employment Department.*]

27 (b) If the Department of Human Services [*or Employment Department*] finds that an employer has  
 28 violated any of the rules of the JOBS Plus Program, the [*appropriate*] department:

29 (A) Shall withhold any amounts due to employers under paragraph (a) of this subsection.

30 (B) May seek repayment of any amounts paid to employers under paragraph (a) of this sub-  
 31 section.

32 [(13) *Subject to ORS 657.925 (6)(d), for unemployment insurance claimants participating in the*  
 33 *JOBS Plus Program:*]

34 [(a) *If after nine weeks in a placement, a participant has not been hired for an unsubsidized posi-*  
 35 *tion, the employer shall allow the worker to undertake up to five hours of job search per week. Par-*  
 36 *ticipating employers shall consider this time as hours worked for the purposes of paying wages.*]

37 [(b) *If after 13 weeks in a placement, a participant has not been hired for an unsubsidized position,*  
 38 *the employer shall terminate the placement and the Employment Department shall assess the partic-*  
 39 *ipant's employment development plan.*]

40 [(14)] (13) For purposes of this section, "employer" shall include professional placement services,  
 41 professional employment organizations and temporary employment agencies.

42 **SECTION 9.** ORS 657.190 is amended to read:

43 657.190. [(1)] In determining whether any work is suitable for an individual, the Director of the  
 44 Employment Department shall consider, among other factors, the degree of risk involved to the  
 45 health, safety and morals of the individual, the physical fitness and prior training, experience and

1 prior earnings of the individual, the length of unemployment and prospects for securing local work  
2 in the customary occupation of the individual and the distance of the available work from the resi-  
3 dence of the individual.

4 *[(2) Notwithstanding subsection (1) of this section, the director may refer claimants to JOBS Plus*  
5 *Program jobs for which the claimant does not have adequate skills or experience when the JOBS Plus*  
6 *Program job is likely to result in an upgrade in the claimant's skills and experience.]*

7 **SECTION 10. Any unexpended balances remaining in the Oregon JOBS Plus Unemploy-**  
8 **ment Wage Fund on the effective date of this 2009 Act shall revert to the General Fund.**

9 **SECTION 11. ORS 411.884 and 657.925 are repealed.**

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