

House Bill 2302

Sponsored by Representative EVANS (Pre-session filed.)

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**.

Provides worker-funded program to pay emergency benefits during state of emergency declared by Governor to unemployed independent contractors on terms similar to terms under which employees receive regular benefits. Becomes operative January 1, 2023.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1 Relating to emergency benefits for independent contractors; and prescribing an effective date.

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

3 **SECTION 1. Sections 2 to 4 of this 2021 Act are added to and made a part of ORS chapter**
4 **657.**

5 **SECTION 2. (1) The Emergency Benefits for Independent Contractors Program is estab-**
6 **lished in the Employment Department for the purpose of providing benefits to unemployed**
7 **independent contractors, for the period of a state of emergency declared by the Governor**
8 **under ORS 401.165, on terms reasonably similar to the terms under which employees receive**
9 **regular benefits under this chapter.**

10 **(2) For weeks beginning on or after the date on which the Governor declares a state of**
11 **emergency under ORS 401.165, and through weeks ending on or before the date on which the**
12 **state of emergency ends, including any extensions of the state of emergency, an individual**
13 **is entitled to emergency benefits under this section if the individual:**

14 **(a) Is an independent contractor as defined in ORS 670.600;**

15 **(b) Is unemployed for a reason related to the event for which the Governor has declared**
16 **the state of emergency;**

17 **(c) Would be deemed "unemployed" under ORS 657.100 if the individual were not an in-**
18 **dependent contractor;**

19 **(d) Is not eligible for regular benefits under ORS 657.150, or any similar federal or state**
20 **program, but would qualify for such benefits if the individual were not an independent con-**
21 **tractor;**

22 **(e) Has made quarterly payments in accordance with section 3 of this 2021 Act; and**

23 **(f) Files a valid claim for emergency benefits under sections 2 to 4 of this 2021 Act.**

24 **(3) For purposes of sections 2 to 4 of this 2021 Act:**

25 **(a) The exclusions from "employment" provided under ORS 657.030 and 657.043 to 657.094**
26 **do not apply to services provided by an independent contractor.**

27 **(b) The location of services provided by an independent contractor shall be determined**
28 **in accordance with ORS 657.040.**

29 **(c) Except for the eligibility requirements under subsection (2) of this section and ORS**
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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 **657.100, emergency benefits under this section shall be subject to the same requirements and**
 2 **procedures as regular benefits.**

3 (d) **The wages of an independent contractor shall be determined under ORS 657.105 and**
 4 **657.115 to 657.140.**

5 (e) **Emergency benefits shall be payable in the same amounts and subject to the same**
 6 **limitations as regular benefits under ORS 657.150.**

7 (f) **The eligibility conditions set forth in ORS 657.155 shall apply to an independent con-**
 8 **tractor.**

9 (g) **Emergency benefits payable under sections 2 to 4 of this 2021 Act shall not be subject**
 10 **to a waiting period under ORS 657.165 if waiver of the waiting period is permitted under state**
 11 **or federal law.**

12 (h) **An independent contractor may be disqualified for emergency benefits in accordance**
 13 **with ORS 657.176.**

14 (i) **Except as provided in subsection (4) of this section, all provisions of this chapter re-**
 15 **lating to disqualification, adjudication of claims, the imposition of penalties and the recovery**
 16 **of overpayments apply to emergency benefits payable to independent contractors under**
 17 **sections 2 to 4 of this 2021 Act.**

18 (j) **All provisions of this chapter relating to the confidentiality and disclosure of infor-**
 19 **mation apply to emergency benefits payable to independent contractors under sections 2 to**
 20 **4 of this 2021 Act.**

21 (4) **If the Employment Department recovers any overpayments of emergency benefits**
 22 **paid under this section, the department shall deposit the recovered amounts, and any inter-**
 23 **est and penalties imposed with respect to the recovered amounts, in the Emergency Benefits**
 24 **for Independent Contractors Fund established under section 4 of this 2021 Act.**

25 (5) **The Director of the Employment Department shall adopt all rules necessary to con-**
 26 **form the program established under this section to the applicable provisions of this chapter.**

27 **SECTION 3. (1)(a) An independent contractor seeking to receive emergency benefits un-**
 28 **der the Emergency Benefits for Independent Contractors Program must register with the**
 29 **Director of the Employment Department.**

30 (b) **The director shall approve the registration if the director determines that the indi-**
 31 **vidual is an independent contractor who has worked enough hours and earned enough in**
 32 **wages to qualify for emergency benefits under section 2 of this 2021 Act.**

33 (c) **The director's determination under this subsection may not be appealed but does not**
 34 **preclude an individual from seeking to register at any time.**

35 (2) **In order to be eligible for emergency benefits, an individual registered for the program**
 36 **must:**

37 (a)(A) **Keep records of work contracts, hours and wages and any other information the**
 38 **director prescribes by rule as necessary or convenient for the administration of the program;**

39 (B) **File reports with the Department of Revenue of the information required to be kept**
 40 **by the individual under subparagraph (A) of this paragraph; and**

41 (C) **Include with the reports filed under subparagraph (B) of this paragraph quarterly**
 42 **payments in amounts actuarially determined by the director by rule to be necessary to fund**
 43 **emergency benefits under section 2 of this 2021 Act; and**

44 (b) **Have complied with the requirements of paragraph (a) of this subsection for the two**
 45 **consecutive calendar quarters immediately preceding the date on which the individual sub-**

1 mits a claim for emergency benefits.

2 (3)(a) The Department of Revenue shall deposit all quarterly payments in the Emergency
3 Benefits for Independent Contractors Fund established under section 4 of this 2021 Act.

4 (b) Emergency benefits are payable only to the extent that funds are available in the
5 Emergency Benefits for Independent Contractors Fund.

6 (4) An individual is eligible for 26 weeks of emergency benefits under sections 2 to 4 of
7 this 2021 Act every four years.

8 **SECTION 4.** (1) The Emergency Benefits for Independent Contractors Fund is established
9 in the State Treasury, separate and distinct from the General Fund. Notwithstanding ORS
10 657.815 (3), all moneys in the Emergency Benefits for Independent Contractors Fund are
11 continuously appropriated to the Employment Department for the purposes set forth in
12 subsection (3) of this section.

13 (2) The Emergency Benefits for Independent Contractors Fund consists of:

14 (a) Quarterly payments made by independent contractors under section 3 of this 2021
15 Act;

16 (b) Moneys appropriated to the fund by the Legislative Assembly; and

17 (c) Recovered amounts deposited in the fund by the Employment Department under sec-
18 tion 2 (4) of this 2021 Act.

19 (3) Moneys in the Emergency Benefits for Independent Contractors Fund may be used
20 solely to pay:

21 (a) Emergency benefits under section 2 of this 2021 Act and under rules prescribed by the
22 Director of the Employment Department pursuant to section 2 of this 2021 Act; and

23 (b) The actual costs incurred by the department in administering sections 2 to 4 of this
24 2021 Act.

25 **SECTION 5.** Sections 2 to 4 of this 2021 Act become operative on January 1, 2023.

26 **SECTION 6.** This 2021 Act takes effect on the 91st day after the date on which the 2021
27 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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