

Requested by Senator PATTERSON

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 800**

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon in-
2 sert “creating new provisions; amending ORS 731.036;”.

3 Delete lines 11 through 24.

4 On page 2, delete lines 1 through 16 and insert:

5 “(B) A residential facility as defined in ORS 443.400; and

6 “(C) An in-home care agency licensed under ORS 443.315.

7 “(2) The Oregon Essential Workforce Health Care Program is established
8 in the Oregon Health Authority. The authority, in coordination with the
9 Department of Human Services, shall provide supplemental payments, as ap-
10 proved by the Centers for Medicare and Medicaid Services, to eligible em-
11 ployers to be used by the eligible employers to provide health care benefits
12 to the employees of their facilities.

13 “(3) To participate in the program, an eligible employer shall:

14 “(a) Enter into a memorandum of understanding with the authority that
15 specifies how the supplemental payments will be used;

16 “(b) Agree to participate in evidence-based workforce and quality of care
17 improvements; and

18 “(c) Annually report quality and other metrics.

19 “(4) The authority, in coordination with the department, may adopt rules
20 to carry out the provisions of this section.

21 **“SECTION 2.** ORS 731.036 is amended to read:

1 “731.036. Except as provided in ORS 743.029 or as specifically provided
2 by law, the Insurance Code does not apply to any of the following to the
3 extent of the subject matter of the exemption:

4 “(1) A bail bondsman, other than a corporate surety and its agents.

5 “(2) A fraternal benefit society that has maintained lodges in this state
6 and other states for 50 years prior to January 1, 1961, and for which a cer-
7 tificate of authority was not required on that date.

8 “(3) A religious organization providing insurance benefits only to its em-
9 ployees, if the organization is in existence and exempt from taxation under
10 section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

11 “(4) Public bodies, as defined in ORS 30.260, that either individually or
12 jointly establish a self-insurance program for tort liability in accordance
13 with ORS 30.282.

14 “(5) Public bodies, as defined in ORS 30.260, that either individually or
15 jointly establish a self-insurance program for property damage in accordance
16 with ORS 30.282.

17 “(6) Cities, counties, school districts, community college districts, com-
18 munity college service districts or districts, as defined in ORS 198.010 and
19 198.180, that either individually or jointly insure for health insurance cov-
20 erage, excluding disability insurance, their employees or retired employees,
21 or their dependents, or students engaged in school activities, or combination
22 of employees and dependents, with or without employee or student contribu-
23 tions, if all of the following conditions are met:

24 “(a) The individual or jointly self-insured program meets the following
25 minimum requirements:

26 “(A) In the case of a school district, community college district or com-
27 munity college service district, the number of covered employees and depen-
28 dents and retired employees and dependents aggregates at least 500
29 individuals;

30 “(B) In the case of an individual public body program other than a school

1 district, community college district or community college service district, the
2 number of covered employees and dependents and retired employees and de-
3 pendents aggregates at least 500 individuals; and

4 “(C) In the case of a joint program of two or more public bodies, the
5 number of covered employees and dependents and retired employees and de-
6 pendents aggregates at least 1,000 individuals;

7 “(b) The individual or jointly self-insured health insurance program in-
8 cludes all coverages and benefits required of group health insurance policies
9 under ORS chapters 743, 743A and 743B;

10 “(c) The individual or jointly self-insured program must have program
11 documents that define program benefits and administration;

12 “(d) Enrollees must be provided copies of summary plan descriptions in-
13 cluding:

14 “(A) Written general information about services provided, access to ser-
15 vices, charges and scheduling applicable to each enrollee’s coverage;

16 “(B) The program’s grievance and appeal process; and

17 “(C) Other group health plan enrollee rights, disclosure or written pro-
18 cedure requirements established under ORS chapters 743, 743A and 743B;

19 “(e) The financial administration of an individual or jointly self-insured
20 program must include the following requirements:

21 “(A) Program contributions and reserves must be held in separate ac-
22 counts and used for the exclusive benefit of the program;

23 “(B) The program must maintain adequate reserves. Reserves may be in-
24 vested in accordance with the provisions of ORS chapter 293. Reserve ade-
25 quacy must be calculated annually with proper actuarial calculations
26 including the following:

27 “(i) Known claims, paid and outstanding;

28 “(ii) A history of incurred but not reported claims;

29 “(iii) Claims handling expenses;

30 “(iv) Unearned contributions; and

1 “(v) A claims trend factor; and

2 “(C) The program must maintain adequate reinsurance against the risk
3 of economic loss in accordance with the provisions of ORS 742.065 unless the
4 program has received written approval for an alternative arrangement for
5 protection against economic loss from the Director of the Department of
6 Consumer and Business Services;

7 “(f) The individual or jointly self-insured program must have sufficient
8 personnel to service the employee benefit program or must contract with a
9 third party administrator licensed under ORS chapter 744 as a third party
10 administrator to provide such services;

11 “(g) The public body, or the program administrator in the case of a joint
12 insurance program of two or more public bodies, files with the Director of
13 the Department of Consumer and Business Services copies of all documents
14 creating and governing the program, all forms used to communicate the
15 coverage to [*beneficiaries*] **enrollees**, the schedule of payments established
16 to support the program and, annually, a financial report showing the total
17 incurred cost of the program for the preceding year. A copy of the annual
18 audit required by ORS 297.425 may be used to satisfy the financial report
19 filing requirement; and

20 “(h) Each public body in a joint insurance program is liable only to its
21 own employees and no others for benefits under the program in the event,
22 and to the extent, that no further funds, including funds from insurance
23 policies obtained by the pool, are available in the joint insurance pool.

24 “(7) All ambulance services.

25 “(8) A person providing any of the services described in this subsection.
26 The exemption under this subsection does not apply to an authorized insurer
27 providing such services under an insurance policy. This subsection applies
28 to the following services:

29 “(a) Towing service.

30 “(b) Emergency road service, which means adjustment, repair or replace-

1 ment of the equipment, tires or mechanical parts of a motor vehicle in order
2 to permit the motor vehicle to be operated under its own power.

3 “(c) Transportation and arrangements for the transportation of human
4 remains, including all necessary and appropriate preparations for and actual
5 transportation provided to return a decedent’s remains from the decedent’s
6 place of death to a location designated by a person with valid legal authority
7 under ORS 97.130.

8 “(9)(a) A person described in this subsection who, in an agreement to
9 lease or to finance the purchase of a motor vehicle, agrees to waive for no
10 additional charge the amount specified in paragraph (b) of this subsection
11 upon total loss of the motor vehicle because of physical damage, theft or
12 other occurrence, as specified in the agreement. The exemption established
13 in this subsection applies to the following persons:

14 “(A) The seller of the motor vehicle, if the sale is made pursuant to a
15 motor vehicle retail installment contract.

16 “(B) The lessor of the motor vehicle.

17 “(C) The lender who finances the purchase of the motor vehicle.

18 “(D) The assignee of a person described in this paragraph.

19 “(b) The amount waived pursuant to the agreement shall be the difference,
20 or portion thereof, between the amount received by the seller, lessor, lender
21 or assignee, as applicable, that represents the actual cash value of the motor
22 vehicle at the date of loss, and the amount owed under the agreement.

23 “(10) A self-insurance program for tort liability or property damage that
24 is established by two or more affordable housing entities and that complies
25 with the same requirements that public bodies must meet under ORS 30.282
26 (6). As used in this subsection:

27 “(a) ‘Affordable housing’ means housing projects in which some of the
28 dwelling units may be purchased or rented, with or without government as-
29 sistance, on a basis that is affordable to individuals of low income.

30 “(b) ‘Affordable housing entity’ means any of the following:

1 “(A) A housing authority created under the laws of this state or another
2 jurisdiction and any agency or instrumentality of a housing authority, in-
3 cluding but not limited to a legal entity created to conduct a self-insurance
4 program for housing authorities that complies with ORS 30.282 (6).

5 “(B) A nonprofit corporation that is engaged in providing affordable
6 housing.

7 “(C) A partnership or limited liability company that is engaged in pro-
8 viding affordable housing and that is affiliated with a housing authority de-
9 scribed in subparagraph (A) of this paragraph or a nonprofit corporation
10 described in subparagraph (B) of this paragraph if the housing authority or
11 nonprofit corporation:

12 “(i) Has, or has the right to acquire, a financial or ownership interest in
13 the partnership or limited liability company;

14 “(ii) Has the power to direct the management or policies of the partner-
15 ship or limited liability company;

16 “(iii) Has entered into a contract to lease, manage or operate the afford-
17 able housing owned by the partnership or limited liability company; or

18 “(iv) Has any other material relationship with the partnership or limited
19 liability company.

20 “(11) Except as provided in ORS 735.500 and 735.510, a person certified
21 by the Department of Consumer and Business Services to operate a retainer
22 medical practice.

23 “**(12) An association or group of eligible employers, as defined in**
24 **section 1 of this 2021 Act, that administers a self-insured program to**
25 **provide health insurance coverage, excluding disability insurance, to**
26 **their employees or retired employees or their dependents or a combi-**
27 **nation of employees and dependents, with or without employee con-**
28 **tributions, if all of the following conditions are met:**

29 “**(a) The number of covered employees and dependents and retired**
30 **employees and dependents aggregates at least 500 individuals;**

1 **“(b) The program includes all coverages and benefits required of**
2 **group health insurance policies under ORS chapters 743, 743A and**
3 **743B;**

4 **“(c) The program has program documents that define program**
5 **benefits and administration;**

6 **“(d) Enrollees of the program are provided copies of summary plan**
7 **descriptions including:**

8 **“(A) Written general information about services provided, access**
9 **to services, charges and scheduling applicable to each enrollee’s cov-**
10 **erage;**

11 **“(B) The program’s grievance and appeal process; and**

12 **“(C) Other group health plan enrollee rights, disclosure or written**
13 **procedure requirements established under ORS chapters 743, 743A and**
14 **743B;**

15 **“(e) Program contributions and reserves are held in separate ac-**
16 **counts and used for the exclusive benefit of the program;**

17 **“(f) The program maintains adequate reserves, which may be in-**
18 **vested in accordance with the provisions of ORS chapter 293, calcu-**
19 **lated annually with proper actuarial calculations including the**
20 **following:**

21 **“(A) Known claims, paid and outstanding;**

22 **“(B) A history of incurred but not reported claims;**

23 **“(C) Claims handling expenses;**

24 **“(D) Unearned contributions; and**

25 **“(E) A claims trend factor;**

26 **“(g) The program maintains adequate reinsurance against the risk**
27 **of economic loss in accordance with the provisions of ORS 742.065 un-**
28 **less the program has received written approval for an alternative ar-**
29 **rangement for protection against economic loss from the Director of**
30 **the Department of Consumer and Business Services;**

