

Requested by Representative BOSHART DAVIS

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4002**

1 On page 1 of the printed A-engrossed bill, line 2, delete “314.772,”.

2 In line 3, delete “316.502, 317.850, 318.031,”.

3 Delete lines 5 through 23.

4 On page 2, delete lines 1 through 30 and insert:

5 **“SECTION 1. As used in this section and section 2 of this 2022 Act:**

6 **“(1) ‘Agricultural salary’ means no less than the wage set pursuant**
7 **to ORS 653.025, multiplied by 2,704 hours per year, then divided by 12**
8 **months.**

9 **“(2) ‘Agricultural worker’ means an individual who performs ser-**
10 **vices in agriculture for an employer in exchange for an agreed**
11 **remuneration or rate of pay.**

12 **“(3) ‘Agriculture’ includes:**

13 **“(a) Farming in all its branches, including the cultivation and**
14 **tillage of the soil;**

15 **“(b) Dairying;**

16 **“(c) The production, cultivation, growing and harvesting of any**
17 **agricultural or horticultural commodities;**

18 **“(d) The raising of livestock, bees, fur-bearing animals or poultry;**
19 **and**

20 **“(e) Any other practices performed by a farmer or on a farm as an**
21 **incident to or in conjunction with farming operations, including**

1 preparation for market, delivery to storage or to market, or delivery
2 to carriers for transportation to market.

3 “(4) ‘Salary’ has the meaning given that term in ORS 653.010.

4 “(5) ‘Workweek’ means a fixed period of time established by an
5 employer that reflects a regularly recurring period of 168 hours or
6 seven consecutive 24-hour periods.

7 **“SECTION 2. (1) Except as provided in subsection (2) of this section,**
8 **an employer may not permit, require or suffer an agricultural worker**
9 **to work a total number of hours in excess of 48 hours in one**
10 **workweek.**

11 “(2)(a) An employer may permit, require or suffer an agricultural
12 worker who does not earn an agricultural salary to work more than
13 48 hours in one workweek if the employer compensates the agricul-
14 tural worker at one and one-half times the worker’s regular rate of
15 pay for each overtime hour or portion of an hour that the worker
16 works in excess of 48 hours.

17 “(b) An employer may permit, require or suffer an agricultural
18 worker who earns an agricultural salary to work more than 55 hours
19 in one workweek if the employer compensates the agricultural worker
20 at one and one-half times the applicable minimum wage rate under
21 ORS 653.025 for each overtime hour or portion of an hour that the
22 worker works in excess of 55 hours in one workweek.

23 “(3)(a) Notwithstanding subsection (2) of this section, during a peak
24 labor period, an employer may permit, require or suffer an agricul-
25 tural worker who does not earn an agricultural salary to work more
26 than 55 hours in one workweek if the employer compensates the agri-
27 cultural worker at one and one-half times the worker’s regular rate
28 of pay for each overtime hour or portion of an hour that the worker
29 works in excess 55 hours in one workweek.

30 “(b)(A) An employer shall designate the time period during which

1 a peak labor period will occur but in no event may a peak labor period
2 exceed 15 weeks per calendar year.

3 “(B) The weeks that comprise a peak labor period need not be con-
4 secutive nor coincide with a designated peak labor period in any pre-
5 vious calendar year.

6 “(4)(a) For purposes of this section, a workweek may begin on any
7 day of the week and at any hour of the day and need not coincide with
8 a calendar week.

9 “(b) An employer may change the beginning of an agricultural
10 worker’s workweek if the change is intended to be permanent and is
11 not designed to evade overtime requirements.

12 “(5) A claim for a violation of this section may be made under ORS
13 653.055.”.

14 In line 31, delete “4a” and insert “3”.

15 In line 39, delete “5” and insert “4”.

16 On page 3, line 15, delete “6” and insert “5”.

17 Delete lines 37 through 45 and delete pages 4 through 6.

18 On page 7, delete lines 1 through 18 and insert:

19 **“SECTION 6. (1) The Employment Department shall develop an**
20 **Agricultural Worker Overtime Relief Payment Program under which**
21 **agricultural workers, as defined in section 1 of this 2022 Act, who meet**
22 **the eligibility criteria under subsection (3) of this section may apply**
23 **to the department to receive payments for hours worked by the worker**
24 **in excess of 40 hours but not exceeding the maximum hours allowable**
25 **per workweek as specified in section 2 of this 2022 Act.**

26 **“(2)(a) The department shall prescribe by rule application forms and**
27 **the process by which agricultural workers may apply for payments**
28 **under the program.**

29 **“(b) Applications shall be made by applicants directly to the third-**
30 **party administrator with which the department enters into an agree-**

1 **ment under subsection (4) of this section for administration of the**
2 **program.**

3 **“(c) Applications shall be made by applicants once each calendar**
4 **month that is the month in which the agricultural worker worked**
5 **more than 40 hours but not exceeding the maximum hours allowable**
6 **per workweek as specified under section 2 of this 2022 Act.**

7 **“(d) A worker who submits an application under this section shall**
8 **include with the application a copy of the worker’s paycheck stubs.**

9 **“(e) Applications shall be submitted under penalties for false**
10 **swearing under ORS 162.075.**

11 **“(3) An agricultural worker is eligible for a payment under the**
12 **program established under this section if the worker:**

13 **“(a) Lives in Oregon;**

14 **“(b) Worked more than 40 hours in one workweek at a farm located**
15 **in this state; and**

16 **“(c) Did not receive one and one-half times the worker’s regular**
17 **rate of pay for the hours worked in excess of 40 hours but not ex-**
18 **ceeding the maximum hours allowable per workweek as specified in**
19 **section 2 of this 2022 Act.**

20 **“(4) The department shall enter into an agreement with an exempt**
21 **organization under which the organization shall administer the pro-**
22 **gram developed under subsection (1) of this section.**

23 **“(5) As soon as practicable after receiving an application under this**
24 **section, the third-party administrator shall:**

25 **“(a) Consider the application if it is timely and complete;**

26 **“(b) Determine the eligibility of the applicant for payments under**
27 **this section;**

28 **“(c) Approve or reject the application; and**

29 **“(d) Notify the applicant of the department’s decision.**

30 **“(6)(a) Within 30 days following approval of an application, the**

1 **third-party administrator shall make a payment directly to an agri-**
2 **cultural worker in an amount equal to one-half times the regular rate**
3 **of pay for each hour the worker worked over 40 hours in one workweek**
4 **but not exceeding the maximum hours allowable per workweek as**
5 **specified in section 2 of this 2022 Act.**

6 **“(b) Notwithstanding paragraph (a) of this subsection, if there are**
7 **insufficient moneys available for relief payments, all payments shall**
8 **be reduced proportionately based on the relative dollar amounts of the**
9 **payments until there are sufficient moneys to make the payments.**

10 **“(7) As used in this section:**

11 **“(a) ‘Exempt organization’ means an organization described in sec-**
12 **tion 501(c)(3) of the Internal Revenue Code that is exempt from income**
13 **tax under section 501(a) of the Internal Revenue Code.**

14 **“(b) ‘Third-party administrator’ means the exempt organization**
15 **with which the department enters into an agreement under this sec-**
16 **tion for administration of the program established under this section.**

17 **“SECTION 7. (1) The Agricultural Worker Overtime Relief Fund is**
18 **established in the State Treasury, separate and distinct from the**
19 **General Fund. Interest earned by the fund shall be credited to the**
20 **fund. The fund consists of moneys appropriated, allocated, deposited**
21 **or transferred to the fund by the Legislative Assembly. The moneys**
22 **in the fund are continuously appropriated to the Employment De-**
23 **partment for the purposes specified in section 6 of this 2022 Act.**

24 **“(2) The moneys in the fund shall be used by the department to:**

25 **“(a) Reimburse the department for actual costs incurred by the de-**
26 **partment in developing and implementing the program developed un-**
27 **der section 6 of this 2022 Act; and**

28 **“(b) After payment of the costs described in paragraph (a) of this**
29 **subsection, distribute the remaining balance to the third-party ad-**
30 **ministrator with which the department enters into an agreement un-**

1 **der section 6 of this 2022 Act for payments to eligible agricultural**
2 **workers.**

3 **“SECTION 8. In addition to and not in lieu of any other appropri-**
4 **ation, there is appropriated to the Employment Department, for the**
5 **biennium ending June 30, 2023, out of the General Fund, the amount**
6 **of \$50,000,000 to be deposited into the Agricultural Worker Overtime**
7 **Relief Fund established under section 7 of this 2022 Act, which shall**
8 **be expended for the purposes set forth in section 7 of this 2022 Act.”.**

9 In line 19, delete “17” and insert “9”.

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