

House Bill 3505

Sponsored by Representative CHAICHI

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**.

Modifies definitions of "employer" and "employee" to include certain categories of individuals within scope of application of laws concerning private sector labor relations.

A BILL FOR AN ACT

1
2 Relating to categories of employees covered under state labor relations laws; amending ORS 663.005.

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

4 **SECTION 1.** ORS 663.005 is amended to read:

5 663.005. As used in this chapter, unless the context requires otherwise:

6 (1) "Board" means the Employment Relations Board.

7 (2) "Conciliator" means the head of the State Conciliation Service.

8 (3) "Employee" includes any employee, and is not limited to the employees of a particular em-
9 ployer unless this chapter explicitly states otherwise, and includes any individual whose work has
10 ceased as a consequence of, or in connection with, a current labor dispute and who has not obtained
11 any other regular and substantially equivalent employment, but does not include an individual:

12 [(a) *Employed in agricultural labor as defined in ORS 657.045;*]

13 [(b)] (a) Employed by the parent or spouse of the individual;

14 [(c) *Employed in the domestic service of any family or person at home;*]

15 [(d)] (b) Having the status of an independent contractor;

16 [(e)] (c) Employed as a supervisor;

17 [(f)] (d) Employed by an employer subject to the Railway Labor Act, as amended (45 U.S.C. 151
18 **et seq.** [to 163 and 181 to 188]);

19 [(g) *Employed in the building and construction industry;*]

20 [(h)] (e) Employed by any other person who is not an employer as defined in subsection (4) of
21 this section; or

22 [(i)] (f) Employed by an employer subject to the jurisdiction of the National Labor Relations
23 Board under its existing jurisdictional standards, pursuant to the Labor Management Relations Act
24 of 1947, as amended (29 U.S.C. 141 to 187).

25 (4) "Employer" includes any person acting as an agent of an employer, directly or indirectly,
26 but does not include:

27 (a) The United States or any wholly owned government corporation, or any Federal Reserve
28 Bank.

29 (b) This state, or any county, city or political subdivision or agency thereof.

30 (c) Any person subject to the Railway Labor Act, as amended (45 U.S.C. 151 **et seq.** [to 163 and
31 181 to 188]).

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) Any labor organization (other than when acting as an employer), or anyone acting in the
2 capacity of officer or agent of a labor organization.

3 *[(e) Any person involved in the building and construction industry.]*

4 *[(f)]* (e) Any person subject to the jurisdiction of the National Labor Relations Board under its
5 existing jurisdictional standards, pursuant to the Labor Management Relations Act of 1947, as
6 amended (29 U.S.C. 141 to 187).

7 (5) "Labor dispute" includes any controversy concerning terms, tenure or conditions of employ-
8 ment or concerning the association or representation of persons in negotiating, fixing, maintaining,
9 changing or seeking to arrange terms or conditions of employment, regardless of whether the
10 disputants stand in the proximate relation of employer and employee.

11 (6) "Labor organization" means an organization of any kind, or an agency or an employee rep-
12 resentation committee or plan, in which employees participate and which exists for the purpose, in
13 whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of
14 pay, hours of employment or conditions of work.

15 (7) "Professional employee" means:

16 (a) An employee engaged in work:

17 (A) Predominantly intellectual and varied in character as opposed to routine mental, manual,
18 mechanical or physical work;

19 (B) Involving the consistent exercise of discretion and judgment in its performance;

20 (C) Of such a character that the output produced or the result accomplished cannot be stand-
21 arized in relation to a given period of time;

22 (D) Requiring knowledge of an advanced type in a field of science or learning customarily ac-
23 quired by a prolonged course of specialized intellectual instruction and study in an institution of
24 higher learning or a hospital, as distinguished from a general academic education or from an ap-
25 prenticeship or from training in the performance of routine mental, manual or physical processes;
26 or

27 (b) An employee who:

28 (A) Has completed the courses of specialized intellectual instruction and study described in
29 paragraph (a)(D) of this subsection; and

30 (B) Is performing related work under the supervision of a professional person to qualify the
31 employee to become a professional employee as defined in paragraph (a) of this subsection.

32 (8) "Representative" includes an individual or labor organization.

33 (9) "Supervisor" means any individual, other than a licensed professional or practical nurse,
34 having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote,
35 discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust
36 their grievances, or effectively to recommend such action, if in connection with the foregoing the
37 exercise of such authority is not of a merely routine or clerical nature, but requires the use of in-
38 dependent judgment.

39 (10) "Unfair labor practice" means any unfair labor practice listed in ORS 663.120 to 663.165.

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