

SB 913-1
(LC 4030)
3/7/23 (JAS/ps)

Requested by SENATE COMMITTEE ON LABOR AND BUSINESS (at the request of Employment Department)

**PROPOSED AMENDMENTS TO
SENATE BILL 913**

1 On page 1 of the printed bill, delete lines 6 through 22 and delete pages
2 2 through 15 and insert:

3 **“SECTION 1. Section 2 of this 2023 Act is added to and made a part**
4 **of ORS chapter 657B.**

5 **“SECTION 2. (1) When a request for a hearing is made under this**
6 **chapter, the Director of the Employment Department may dismiss the**
7 **request or application for hearing if:**

8 **“(a) The request for hearing is withdrawn by the requesting party;**

9 **“(b) The matter is resolved by reversal or amendment of the deci-**
10 **sion that is the subject of the hearing request;**

11 **“(c) The request for hearing is filed prior to the date of the written**
12 **decision or written determination that is the subject of the hearing**
13 **request; or**

14 **“(d) The request for hearing is made by a person who is not entitled**
15 **to a hearing or is not the authorized representative of a party who is**
16 **entitled to a hearing.**

17 **“(2)(a) A dismissal by the director under subsection (1) of this sec-**
18 **tion is final unless the party whose request for hearing has been dis-**
19 **missed files a request for hearing regarding the dismissal within 20**
20 **days after the dismissal notice is sent electronically or mailed to the**
21 **party’s last-known address.**

1 **“(b) If the party files a timely request under paragraph (a) of this**
2 **subsection, the hearing regarding the dismissal shall be assigned to**
3 **an administrative law judge from the Office of Administrative**
4 **Hearings.**

5 **“(c) The administrative law judge assigned under paragraph (b) of**
6 **this subsection shall determine whether the dismissal was appropri-**
7 **ately entered. If the dismissal was not appropriately entered, the ad-**
8 **ministrative law judge shall decide the underlying issue upon which**
9 **the hearing was requested.**

10 **“SECTION 3.** ORS 657B.090 is amended to read:

11 **“657B.090. (1) Family and medical leave insurance benefits are not payable**
12 **to a covered individual unless:**

13 **“(a) The individual submits a claim to the Director of the Employment**
14 **Department in the manner determined by the director by rule; and**

15 **“(b) The director has made a decision to allow or deny the claim under**
16 **ORS 657B.100.**

17 **“(2) If the director has made a decision to allow the claim, the director**
18 **shall make a reasonable effort to issue the first payment of benefits to a**
19 **covered individual within two weeks after receiving the claim.**

20 **“(3)(a) Benefits may be claimed for leave that is taken by a covered in-**
21 **dividual in increments that are equivalent to one work day or one work week**
22 **as those terms are defined by the director by rule.**

23 **“(b) If a covered individual takes leave in increments that are equivalent**
24 **to one work day, benefits may be claimed for leave that occurs in noncon-**
25 **secutive periods of leave [*that, when combined, provide the minimum benefit***
26 ***amount provided in ORS 657B.050*].**

27 **“(4) Benefit amounts, as determined under ORS 657B.050:**

28 **“(a) Must be prorated to increments that are equivalent to one work day;**
29 **and**

30 **“(b) Must be paid in increments that are equivalent to one work week.**

1 **“SECTION 4.** ORS 657B.015 is amended to read:

2 “657B.015. Family and medical leave insurance benefits are available to
3 any of the following during a period of family leave, medical leave or safe
4 leave:

5 “(1) An eligible employee who:

6 “(a) During the base year or alternate base year, as applicable, contrib-
7 utes to the Paid Family and Medical Leave Insurance Fund established under
8 ORS 657B.430 in accordance with ORS 657B.150; and

9 “(b) Submits a claim for benefits in accordance with the requirements
10 under ORS 657B.090;

11 “(2) A self-employed individual who:

12 “(a)(A) **Has earned at least \$1,000 in taxable income during the base**
13 **year; or**

14 “(B) **Has not earned at least \$1,000 in taxable income during the**
15 **base year, but who has earned at least \$1,000 in taxable income during**
16 **the alternate base year;**

17 “[(a)] (b) Elects coverage under ORS 657B.130; [and]

18 “[(b)] (c) During the base year or alternate base year, as applicable, con-
19 tributes to the Paid Family and Medical Leave Insurance Fund established
20 under ORS 657B.430 an amount determined by the Director of the Employ-
21 ment Department under ORS 657B.150; [or] **and**

22 “(d) **Submits a claim for benefits in accordance with the require-**
23 **ments under ORS 657B.090; or**

24 “(3) An employee of a tribal government, if:

25 “(a)(A) **The employee has earned at least \$1,000 in wages during the**
26 **base year; or**

27 “(B) **The employee has not earned at least \$1,000 in wages during**
28 **the base year, but has earned at least \$1,000 in wages during the al-**
29 **ternate base year;**

30 “[(a)] (b) The tribal government elects coverage for its employees under

1 ORS 657B.130; [and]

2 “[b)] (c) During the base year or alternate base year, as applicable, the
3 employee and tribal government contribute to the Paid Family and Medical
4 Leave Insurance Fund established under ORS 657B.430 an amount determined
5 by the director under ORS 657B.150[.]; and

6 **“(d) Submits a claim for benefits in accordance with the require-
7 ments under ORS 657B.090.**

8 **“SECTION 5.** ORS 657B.150 is amended to read:

9 “657B.150. (1)(a) Except as otherwise provided in subsections (3) and (4)
10 of this section **and ORS 657B.210 (4)**, all employers and [eligible] employees
11 shall contribute to the Paid Family and Medical Leave Insurance Fund es-
12 tablished under ORS 657B.430.

13 “(b) Contributions shall be paid by employers and employees as a per-
14 centage of a total rate determined by the Director of the Employment De-
15 partment.

16 “(c) The total rate may not exceed one percent of employee wages, up to
17 a maximum of \$132,900 in wages.

18 “(2)(a) Employer contributions shall be paid in an amount that is equal
19 to 40 percent of the total rate determined by the director.

20 “(b) An employer shall deduct employee contributions from the wages of
21 each employee in an amount that is equal to 60 percent of the total rate
22 determined by the director.

23 “(3) When an employment agency is acting as an employer, the employer
24 contributions required under this section shall be the responsibility of the
25 employment agency.

26 “(4)(a) Employers that employ fewer than 25 employees are not required
27 to pay the employer contributions under subsection (1) of this section.

28 “(b) If an employer that employs fewer than 25 employees elects to pay
29 the employer contributions under subsection (1) of this section, the employer
30 may apply to receive a grant under ORS 657B.200.

1 “(5) Notwithstanding subsection (1) of this section, an employer may elect
2 to pay the required employee contributions, in whole or in part, as an
3 employer-offered benefit.

4 “(6) Subject to ORS 657B.130 (2) and (3), a self-employed individual who
5 has elected coverage under ORS 657B.130 (1) shall contribute to the fund, at
6 a rate that may not exceed one percent of the individual’s taxable income
7 as determined by the director by rule, for a period of not less than three
8 years from the date that the election becomes effective.

9 “(7) A tribal government that elects coverage under ORS 657B.130 and
10 employees of the tribal government shall contribute to the fund in contribu-
11 tion amounts and at a rate that may not exceed one percent of employee
12 wages, up to a maximum of \$132,900 in wages, as determined by the director
13 by rule, for a period of not less than three years from the date that the
14 election becomes effective.

15 “(8) The director shall set rates for the collection of payroll contributions
16 consistent with subsection (1) of this section and in a manner such that:

17 “(a) At the end of the period for which the rates are effective, the balance
18 of moneys in the fund is an amount not less than six months’ worth of
19 projected expenditures from the fund for performance of the functions and
20 duties of the director under this chapter; and

21 “(b) The volatility of the contribution rates is minimized.

22 “(9) For purposes of subsections (1)(c) and (7) of this section, the director
23 shall annually adjust the maximum amount of employee wages by the per-
24 centage increase, if any, in the Consumer Price Index for All Urban Con-
25 sumers, West Region (All Items), as published by the Bureau of Labor
26 Statistics of the United States Department of Labor, since the date of the
27 previous determination made under this subsection.

28 “(10) The director shall determine on an annual basis the amount of
29 payroll contributions, timing of payroll contributions and maximum employee
30 contributions sufficient to finance the costs related to the provisions of this

1 chapter.

2 “(11) An employer shall hold any moneys collected under this section in
3 trust for the State of Oregon and for the payment thereof to the Department
4 of Revenue in the manner described in subsection (12) of this section.

5 “(12)(a) An employer shall make and file a combined quarterly report of
6 wages earned and contributions paid under this section on a form prescribed
7 by the Department of Revenue.

8 “(b) The report shall be filed with the Department of Revenue on or be-
9 fore the last day of the month following the quarter to which the report re-
10 lates and shall be deemed received on the date of mailing.

11 “(c) The report shall be accompanied by payment of any contributions due
12 under this section in a manner determined by the Department of Revenue
13 by rule.

14 “(13) Moneys collected under this section shall be deposited in the Paid
15 Family and Medical Leave Insurance Fund established under ORS 657B.430.

16 “(14)(a) If an employer ceases or discontinues operations or business, or
17 sells out, exchanges or otherwise disposes of the business or stock of goods,
18 any payroll contribution payable under this section is immediately due and
19 payable, and the employer shall, within 10 calendar days, pay the payroll
20 contribution due. Any person who becomes a successor in interest to the
21 business is liable for the full amount of the unpaid payroll contribution.

22 “(b) The director shall adopt rules for compliance with this chapter with
23 regard to contributions from an employer’s successor in interest.

24 “(15) Benefits may not be denied to a covered individual solely because
25 an employer failed to collect or remit the contributions required under this
26 section.

27 **“SECTION 6.** ORS 657B.210 is amended to read:

28 “657B.210. (1)(a) An employer may apply to the Director of the Employ-
29 ment Department for approval of an employer-offered benefit plan that pro-
30 vides family and medical leave insurance benefits to the employer’s

1 employees.

2 “(b) An employer that seeks approval of a plan shall submit an applica-
3 tion to the director in the form and manner prescribed by the director by
4 rule, accompanied by an application fee not to exceed \$250.

5 “(2) The director shall review and approve an application for a plan if the
6 director finds that:

7 “(a) The plan is made available to all employees who have been contin-
8 uously employed with an employer for 30 days.

9 “(b) The benefits afforded to employees covered under the plan are equal
10 to or greater than the weekly benefits and the duration of leave that an el-
11 igible employee would qualify for under this chapter.

12 “(3) An employer may make a plan available to employees who have been
13 employed by the employer for less than 30 days but in no event may an em-
14 ployer require an employee to have been employed by the employer for more
15 than 30 days to be eligible for coverage under the plan.

16 “(4) Neither an employer that provides benefits under an approved plan
17 nor an employee covered under such a plan is required to make the contri-
18 butions under ORS 657B.150.

19 “(5)(a) An employer may assume all or a part of the costs related to a plan
20 approved under this section.

21 “(b) If an employer assumes only part of the costs, the employer may de-
22 duct employee contributions from the wages of employees to finance the costs
23 related to the plan, except that any contribution amounts deducted may not
24 exceed the amount that an [*eligible*] employee would otherwise be required
25 to contribute under ORS 657B.150.

26 “(c) Employee contributions received or retained by an employer under
27 this subsection must be used for plan expenses and are not considered to be
28 a part of an employer’s assets for any purpose.

29 “(6) Any paid sick leave earned under ORS 653.606 is in addition to the
30 benefits made available under a plan that has been approved under this sec-

1 tion.

2 “(7) An employee who takes leave pursuant to a plan approved under this
3 section shall provide notice to an employer of such leave in the same manner
4 as provided in ORS 657B.040.

5 “(8) A plan approved under this section shall remain in effect for a period
6 of not less than one year.

7 “(9) Nothing in this section prohibits an employee who is otherwise eli-
8 gible from applying for coverage under the program established under ORS
9 657B.340 or under a separate employer-offered plan that has been approved
10 under this section.

11 “(10) The director shall adopt rules[:]

12 “[*(a) To prevent the payment of benefits in excess of 100 percent of an eli-*
13 *gible employee’s average weekly wage to an employee who is simultaneously*
14 *covered under more than one employer-offered plan or who has additional*
15 *coverage under the program established under ORS 657B.340; and]*

16 “[*(b)*] that require that the benefits made available to an eligible employee
17 who is covered under more than one plan shall be prorated under each re-
18 spective plan.

19 “(11) An employer that offers a plan approved under this section shall:

20 “(a) Be subject to the same requirements provided in ORS 657B.060 and
21 657B.070;

22 “(b) Maintain all reports, information and records relating to the plan,
23 including payroll and account records that document employee contributions
24 and expenses, in the manner established by the director by rule; and

25 “(c) Provide written notice to employees that includes:

26 “(A) Information about benefits available under the approved plan, in-
27 cluding the duration of leave;

28 “(B) The process for filing a claim to receive benefits under the plan;

29 “(C) The process for employee deductions used to finance the costs of the
30 plan, if any;

1 “(D) An employee’s right to dispute a benefit determination in the manner
2 determined by the director under ORS 657B.420;

3 “(E) The right to job protection and benefits continuation, if applicable;
4 and

5 “(F) A statement that discrimination and retaliatory personnel actions
6 against an employee for inquiring about the family and medical leave insur-
7 ance program established under ORS 657B.340, giving notification of leave
8 under the program, taking leave under the program or claiming family and
9 medical leave insurance benefits are prohibited.

10 “(12) Benefits received under this section are considered wages for pur-
11 poses of a wage claim under ORS chapter 652.

12 “(13) An employer whose application for plan approval was denied by the
13 director under this section or terminated by the director under ORS 657B.220
14 may request review of the decision as provided in ORS 657B.410.

15 **“SECTION 7.** ORS 657B.400 is amended to read:

16 **“657B.400. (1) Except as provided in subsections (2) to (7) and (10) of**
17 **this section,** all information in the records of the Employment Department
18 or a third party administrator pertaining to the administration of this
19 chapter:

20 “(a) Is confidential and for the exclusive use and information of the Di-
21 rector of the Employment Department in administering this chapter;

22 “(b) May not be used in any court action or in any proceeding pending
23 in the court unless the director or the State of Oregon is a party to the
24 action or proceeding or unless the action or proceeding concerns the estab-
25 lishment, enforcement or modification of a support obligation and support
26 services are being provided by the Division of Child Support of the Depart-
27 ment of Justice or the district attorney pursuant to ORS 25.080; and

28 “(c) Is exempt from disclosure under ORS 192.311 to 192.478.

29 **“(2) The Employment Department may disclose information:**

30 **“(a) To the extent necessary for the payment of benefits or col-**

1 **lection of contributions due under this chapter:**

2 **“(A) To any claimant or employer; or**

3 **“(B) To a legal representative or other designee authorized by a**
4 **claimant or employer in accordance with any rules adopted by the di-**
5 **rector regarding the receipt of confidential information on behalf of a**
6 **claimant or employer.**

7 **“(b) Upon request to the United States Attorney’s Office. Under**
8 **this paragraph, the Employment Department may disclose an**
9 **individual’s employment and wage information in response to a federal**
10 **grand jury subpoena or for the purpose of collecting civil and criminal**
11 **judgments issued by a federal court, including restitution and special**
12 **assessment fees. The information disclosed is confidential and may not**
13 **be used for any other purpose. The costs of disclosing information**
14 **under this paragraph shall be paid by the United States Attorney’s**
15 **Office.**

16 **“(3) At the discretion of the director and subject to an interagency**
17 **agreement, the Employment Department may disclose, upon request,**
18 **information:**

19 **“(a) To state or local child support enforcement agencies enforcing**
20 **child support obligations for the purposes of establishing child support**
21 **obligations, locating individuals owing child support obligations and**
22 **collecting child support obligations from those individuals. The infor-**
23 **mation disclosed is confidential and may not be used for any other**
24 **purpose. The costs of disclosing information under this paragraph**
25 **shall be paid by the child support enforcement agency.**

26 **“(b) To agencies participating in an income and eligibility verifica-**
27 **tion system for the purpose of verifying an individual’s eligibility for**
28 **benefits, or the amount of benefits, under a state or federal program**
29 **such as unemployment insurance, temporary assistance for needy**
30 **families, medical assistance, supplemental nutrition assistance, Sup-**

1 **plemental Security Income, child support enforcement or Social Se-**
2 **curity. The information disclosed is confidential and may not be used**
3 **for any other purpose. The costs of disclosing information under this**
4 **paragraph shall be paid by the requesting agency.**

5 **“(c) To officers and employees of the United States Department of**
6 **Housing and Urban Development and to representatives of a state or**
7 **local public housing agency for the purpose of determining an**
8 **individual’s eligibility for benefits, or the amount of benefits, under a**
9 **housing assistance program. The information disclosed is confidential**
10 **and may not be used for any other purpose. The costs of disclosing**
11 **information under this paragraph shall be paid by the requesting**
12 **agency.**

13 **“(4) At the discretion of the director and subject to an interagency**
14 **agreement, the Employment Department may disclose information**
15 **secured from employers:**

16 **“(a) To state agencies, federal agencies, local government agencies,**
17 **public universities listed in ORS 352.002 and the Oregon Health and**
18 **Science University established under ORS 353.020, to the extent nec-**
19 **essary to properly carry out governmental planning, performance**
20 **measurement, program analysis, socioeconomic analysis or policy**
21 **analysis functions performed under applicable law and at the dis-**
22 **cretion of the director and subject to an interagency agreement. The**
23 **information disclosed is confidential and may not be disclosed by the**
24 **agencies or universities in any manner that would identify individuals,**
25 **claimants, employees or employers. If the information disclosed under**
26 **this paragraph is not prepared for the use of the Employment De-**
27 **partment, the costs of disclosing the information shall be paid by the**
28 **agency or university requesting the information.**

29 **“(b) As part of a geographic information system. Points on a map**
30 **may be used to represent economic data, including the location, em-**

1 **ployer size and industrial classification of businesses in Oregon. In-**
2 **formation presented as part of a geographic information system may**
3 **not give specific details regarding a business’s address, actual em-**
4 **ployment or proprietary information. If the information disclosed un-**
5 **der this paragraph is not prepared for the use of the Employment**
6 **Department, the costs of disclosing the information shall be paid by**
7 **the party requesting the information.**

8 **“(5) At the discretion of the director and subject to an interagency**
9 **agreement, the Employment Department may disclose information**
10 **received from an employer, an employee or a claimant:**

11 **“(a) To public employees in the performance of their duties under**
12 **state or federal laws relating to the payment of family and medical**
13 **leave insurance benefits.**

14 **“(b) Pursuant to an informed consent, received from the employer,**
15 **employee or claimant, to disclose the information.**

16 **“(c) To the Bureau of Labor and Industries for the purpose of per-**
17 **forming duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or**
18 **658.405 to 658.511 or ORS chapter 652, 653 or 659A. The information**
19 **disclosed may include the names and addresses of employers and em-**
20 **ployees, payroll data of employers and employees, and information**
21 **obtained for an appeal from a determination under a plan approved**
22 **under ORS 657B.210. The information disclosed is confidential and may**
23 **not be used for any other purpose. If the information disclosed under**
24 **this paragraph is not prepared for the use of the Employment De-**
25 **partment, the costs of disclosing the information shall be paid by the**
26 **bureau.**

27 **“(d) To the Department of Revenue for the purpose of performing**
28 **its duties under ORS 293.250 or under the revenue and tax laws of this**
29 **state and identifying potential identity theft and fraud. The informa-**
30 **tion disclosed may include the names and addresses of employers and**

1 employees, payroll data of employers and employees, and particulars,
2 as defined in ORS 314.835. The information disclosed is confidential and
3 may not be disclosed by the Department of Revenue in any manner
4 that would identify an employer or employee except to the extent
5 necessary to carry out the department's duties under ORS 293.250 or
6 in auditing or reviewing any report or return required or permitted to
7 be filed under the revenue and tax laws administered by the depart-
8 ment. The Department of Revenue may not disclose any information
9 received to any private collection agency or for any other purpose. If
10 the information disclosed under this paragraph is not prepared for the
11 use of the Employment Department, the costs of disclosing the infor-
12 mation shall be paid by the Department of Revenue.

13 “(e) To the Department of Consumer and Business Services for the
14 purpose of performing its duties under ORS chapters 654, 656 and 731.
15 The information disclosed may include, but is not limited to, the
16 name, address, number of employees and standard industrial classi-
17 fication code of an employer and payroll data of employers and em-
18 ployees. The information disclosed is confidential and may not be
19 disclosed by the Department of Consumer and Business Services in any
20 manner that would identify an employer or employee except to the
21 extent necessary to carry out the department's duties under ORS
22 chapters 654, 656 and 731, including administrative hearings and court
23 proceedings in which the Department of Consumer and Business Ser-
24 vices is a party. If the information disclosed under this paragraph is
25 not prepared for the use of the Employment Department, the costs of
26 disclosing the information shall be paid by the Department of Con-
27 sumer and Business Services.

28 “(f) To the Construction Contractors Board for the purpose of per-
29 forming its duties under ORS chapter 701. The information disclosed
30 to the board may include the names and addresses of employers and

1 status of their compliance with this chapter. If the information dis-
2 closed under this paragraph is not prepared for the use of the Em-
3 ployment Department, the costs of disclosing the information shall be
4 paid by the board.

5 “(g) To the Department of Transportation to assist the department
6 in carrying out its duties relating to collection of delinquent and liq-
7 uidated debts, including taxes, under ORS 184.610 to 184.665, 184.670 to
8 184.733 and 805.263, ORS chapter 319 and the Oregon Vehicle Code, or
9 in auditing or reviewing any report or return required or permitted to
10 be filed under the revenue and tax laws administered by the depart-
11 ment. The information disclosed may include the names and addresses
12 of employers and employees and payroll data of employers and em-
13 ployees. The information disclosed is confidential and may not be dis-
14 closed by the Department of Transportation in any manner that would
15 identify an employer or employee except to the extent necessary to
16 carry out the department’s duties relating to collection of delinquent
17 and liquidated debts or in auditing or reviewing any report or return
18 required or permitted to be filed under the revenue and tax laws ad-
19 ministered by the department. The Department of Transportation may
20 not disclose any information received to any private collection agency
21 or for any other purpose. If the information disclosed under this par-
22 agraph is not prepared for the use of the Employment Department, the
23 costs of disclosing the information shall be paid by the Department
24 of Transportation.

25 “(h) To the Department of Human Services and the Oregon Health
26 Authority to assist the department and the authority in the collection
27 of debts that the department and the authority are authorized by law
28 to collect. The information disclosed may include the names and ad-
29 dresses of employers and employees and payroll data of employers and
30 employees. The information disclosed is confidential and may not be

1 **disclosed by the Department of Human Services or the Oregon Health**
2 **Authority in any manner that would identify an employer or employee**
3 **except to the extent necessary for the collection of debts as described**
4 **in this paragraph. The Department of Human Services and the Oregon**
5 **Health Authority may not disclose information received under this**
6 **paragraph to a private collection agency or use the information for a**
7 **purpose other than the collection of debts as described in this para-**
8 **graph. If the information disclosed under this paragraph is not pre-**
9 **pared for the use of the Employment Department, the costs of**
10 **disclosing the information shall be paid by the Department of Human**
11 **Services or the Oregon Health Authority.**

12 **“(i) To the State Treasurer useful for the purpose of performing the**
13 **State Treasurer’s duties under ORS 98.302 to 98.436, 98.992, 113.235 and**
14 **116.253. The information disclosed is confidential and may not be used**
15 **by the State Treasurer for any other purpose. If the information dis-**
16 **closed under this paragraph is not prepared for the use of the Em-**
17 **ployment Department, the costs of disclosing the information shall be**
18 **paid by the State Treasurer.**

19 “[2] (6) At the discretion of the director and subject to an interagency
20 agreement, the director may disclose information to a public official in the
21 performance of the public official’s official duties administering or enforcing
22 laws within the public official’s authority and to an agent or contractor of
23 a public official. The public official shall agree to assume responsibility for
24 misuse of the information by the public official’s agent or contractor.

25 “[3] (7) At the discretion of the director, the director may disclose in-
26 formation to a contractor pursuant to a contract for actuarial services. The
27 contractor shall agree to assume responsibility for misuse of the information
28 by the contractor’s agent.

29 **“(8) Any officer appointed by or any employee of the director who**
30 **discloses confidential information, except with the authority of the**

1 **director, pursuant to rules or as otherwise required by law, may be**
2 **disqualified from holding any appointment or employment with the**
3 **Employment Department.**

4 **“(9) Any person or any officer or employee of an entity to whom**
5 **information is disclosed by the Employment Department under this**
6 **section who divulges or uses the information for any purpose other**
7 **than that specified in the provision of law or agreement authorizing**
8 **the use or disclosure may be disqualified from performing any service**
9 **under contract or from holding any appointment or employment with**
10 **the state agency that engaged or employed that person, officer or**
11 **employee. The Employment Department may immediately cancel or**
12 **modify any information-sharing agreement with an entity when a**
13 **person or an officer or employee of that entity discloses confidential**
14 **information, other than as specified in law or agreement.**

15 **“[(4)] (10) At the discretion of the director, the director may disclose in-**
16 **formation to an employee or officer within any division of the **Employment****
17 **Department as necessary to conduct research, compile aggregate data from**
18 **the information received and any other purpose deemed necessary by the di-**
19 **rector to assist the director in carrying out the duties under this chapter or**
20 **other duties under ORS chapter 657.**

21 **“(11) The director may adopt any rules necessary to implement this**
22 **section.**

23 **“SECTION 8. ORS 657B.410 is amended to read:**

24 **“657B.410. (1) The Director of the Employment Department shall establish**
25 **a process by which:**

26 **“(a) An employer may request a hearing to obtain review of a final deci-**
27 **sion of the director regarding approval or denial of an employer’s application**
28 **for approval of a plan under ORS 657B.210.**

29 **“(b) A covered individual may request a hearing to obtain review of a**
30 **final decision of the director regarding:**

1 “(A) Approval or denial of a claim submitted to the director for payment
2 of family and medical leave insurance benefits;

3 “(B) The weekly benefit amount payable to a covered individual as de-
4 termined under ORS 657B.050; [or]

5 “[(C) *Disqualification from the receipt of benefits including liability or re-*
6 *payment of benefits as determined under ORS 657B.120.*]

7 “(C) **Matters affecting the covered individual under ORS 657B.040**
8 **or 657B.120; or**

9 “(D) **Benefit overpayments.**

10 “(c) **A self-employed individual or a tribal government may request**
11 **a hearing to review a final decision of the director regarding elective**
12 **coverage under ORS 657B.130.**

13 “(d) **An employer may request hearing:**

14 “(A) **To review a final decision of the director regarding contribu-**
15 **tions under this chapter;**

16 “(B) **Regarding decisions of the director regarding penalties under**
17 **this chapter; or**

18 “(C) **To review a final decision of the director regarding a grant**
19 **made available under this chapter.**

20 “(2) Notwithstanding ORS 183.315, the process established by the director
21 under this section shall comply with provisions for a contested case under
22 ORS chapter 183 and is subject to judicial review as provided in ORS 183.482.

23 “(3)(a) **Notwithstanding any other law, a party to a proceeding de-**
24 **scribed under this section may authorize a legal representative or**
25 **other person to represent the party in the proceeding in the manner**
26 **prescribed by the director by rule. A legal representative or other**
27 **person who is authorized to represent the party in the proceeding must**
28 **comply with any procedures or process regarding such representation**
29 **established by the department by rule, including, but not limited to,**
30 **a rule establishing the maximum amount that the legal representative**

1 **or other authorized person may charge for such representation.**

2 **“(b) For purposes of this subsection, ‘person’ includes individuals,**
3 **corporations, associations, firms, partnerships, limited liability com-**
4 **panies and joint stock companies, this state and the political subdi-**
5 **visions of this state.**

6 **“SECTION 9.** ORS 657B.420 is amended to read:

7 **“657B.420. The Director of the Employment Department shall establish by**
8 **rule a method to resolve disputes between employers and employees con-**
9 **cerning coverage and benefits provided under a plan approved under ORS**
10 **657B.210 that may, as appropriate, employ the appeals process estab-**
11 **lished under ORS 657B.410 to provide employers and employees an op-**
12 **portunity to obtain review of a determination by the director.**

13 **“SECTION 10.** ORS 657B.010, as amended by section 1, chapter 24,
14 Oregon Laws 2022, and section 29, chapter 83, Oregon Laws 2022, is amended
15 to read:

16 **“657B.010. As used in this chapter:**

17 **“(1) ‘Alternate base year’ means the last four completed calendar quarters**
18 **preceding the benefit year.**

19 **“(2) ‘Average weekly wage’ means the amount calculated by the Employ-**
20 **ment Department as the state average weekly covered wage under ORS**
21 **657.150 (4)(e) as determined not more than once per year.**

22 **“(3) ‘Base year’ means the first four of the last five completed calendar**
23 **quarters preceding the benefit year.**

24 **“(4) ‘Benefits’ means family and medical leave insurance benefits.**

25 **“(5)(a) ‘Benefit year’ means, except as provided in paragraph (b) of this**
26 **subsection, a period of 52 consecutive weeks beginning on the Sunday im-**
27 **mediately preceding the date on which family leave, medical leave or safe**
28 **leave commences.**

29 **“(b) ‘Benefit year’ means, in the event that the 52-week period described**
30 **in paragraph (a) of this subsection would result in an overlap of any quarter**

1 of the base year of a previously filed valid claim, a period of 53 consecutive
2 weeks beginning on the Sunday immediately preceding the date on which
3 family leave, medical leave or safe leave commences.

4 “(6) ‘Child’ means:

5 “(a) A biological child, adopted child, stepchild or foster child of a cov-
6 ered individual or of the covered individual’s spouse or domestic partner;

7 “(b) A person who is or was a legal ward of a covered individual or of
8 the covered individual’s spouse or domestic partner; or

9 “(c) A person who is or was in a relationship of in loco parentis with a
10 covered individual or with the covered individual’s spouse or domestic part-
11 ner.

12 “(7) ‘**Claimant**’ means an individual who has submitted an applica-
13 **tion or established a claim for benefits.**

14 “[7] (8) ‘Contribution’ or ‘contributions’ means the money payments
15 made by any of the following under ORS 657B.150:

16 “(a) An employer;

17 “(b) An [*eligible*] employee;

18 “(c) A self-employed individual;

19 “(d) A tribal government; or

20 “(e) An employee of a tribal government.

21 “[8] (9) ‘Covered individual’ means any one of the following who quali-
22 fies **under ORS 657B.015** to receive family and medical leave insurance
23 benefits:

24 “(a) An eligible employee;

25 “(b) A self-employed individual; or

26 “(c) An employee of a tribal government.

27 “[9] (10) ‘Domestic partner’ means an individual joined in a domestic
28 partnership.

29 “[10] (11) ‘Domestic partnership’ has the meaning given that term in
30 ORS 106.310.

1 “[~~(11)~~] **(12)** ‘Eligible employee’ means:

2 “(a)(A) An employee who has earned at least \$1,000 in wages during the
3 base year; or

4 “(B) If an employee has not earned at least \$1,000 in wages during the
5 base year, an employee who has earned at least \$1,000 in wages during the
6 alternate base year; and

7 “(b) [*Who may apply for*] **An employee to whom** paid family and medical
8 leave insurance benefits **may be available** under ORS 657B.015.

9 “[~~(12)~~] **(13)** ‘Eligible employee’s average weekly wage’ means an amount
10 calculated by the Director of the Employment Department by dividing the
11 total wages earned by an eligible employee during the base year by the
12 number of weeks in the base year.

13 “[~~(13)(a)~~] **(14)(a)** ‘Employee’ means:

14 “(A) An individual performing services for an employer for remuneration
15 or under any contract of hire, written or oral, express or implied.

16 “(B) A home care worker as defined in ORS 410.600.

17 “(b) ‘Employee’ does not include:

18 “(A) An independent contractor as defined in ORS 670.600.

19 “(B) A participant in a work training program administered under a state
20 or federal assistance program.

21 “(C) A participant in a work-study program that provides students in
22 secondary or postsecondary educational institutions with employment op-
23 portunities for financial assistance or vocational training.

24 “(D) A railroad worker exempted under the federal Railroad Unemploy-
25 ment Insurance Act.

26 “(E) A volunteer.

27 “**(F) A judge as defined in ORS 260.005.**

28 “**(G) A member of the Legislative Assembly.**

29 “**(H) A holder of public office as defined in ORS 260.005.**

30 “[~~(14)(a)~~] **(15)(a)** ‘Employer’ means any person that employs one or more

1 employees working anywhere in this state or any agent or employee of such
2 person to whom the duties of the person under this chapter have been de-
3 legated.

4 “(b) ‘Employer’ includes:

5 “(A) A political subdivision of this state or any county, city, district,
6 authority or public corporation, or any instrumentality of a county, city,
7 district, authority or public corporation, organized and existing under law
8 or charter;

9 “(B) An individual;

10 “(C) Any type of organization, corporation, partnership, limited liability
11 company, association, trust, estate, joint stock company or insurance com-
12 pany;

13 “(D) Any successor in interest to an entity described in subparagraph (C)
14 of this paragraph;

15 “(E) A trustee, trustee in bankruptcy or receiver; or

16 “(F) A trustee or legal representative of a deceased person.

17 “(c) ‘Employer’ does not include the federal government or a tribal gov-
18 ernment.

19 “[~~(15)~~] **(16)** ‘Employment agency’ has the meaning given that term in ORS
20 658.005.

21 “[~~(16)~~] **(17)** ‘Family and medical leave insurance benefits’ means the wage
22 replacement benefits that are available to a covered individual under ORS
23 657B.050 or under the terms of an employer plan approved under ORS
24 657B.210, for family leave, medical leave or safe leave.

25 “[~~(17)(a)~~] **(18)(a)** ‘Family leave’ means leave from work taken by a covered
26 individual:

27 “(A) To care for and bond with a child during the first year after the
28 child’s birth or during the first year after the placement of the child through
29 foster care or adoption; or

30 “(B) To care for a family member with a serious health condition.

1 “(b) ‘Family leave’ does not mean:
2 “(A) Leave described in ORS 659A.159 (1)(d);
3 “(B) Leave described in ORS 659A.159 (1)(e); or
4 “(C) Leave authorized under ORS 659A.093.
5 “[(18)] **(19)** ‘Family member’ means:
6 “(a) The spouse of a covered individual;
7 “(b) A child of a covered individual or the child’s spouse or domestic
8 partner;
9 “(c) A parent of a covered individual or the parent’s spouse or domestic
10 partner;
11 “(d) A sibling or stepsibling of a covered individual or the sibling’s or
12 stepsibling’s spouse or domestic partner;
13 “(e) A grandparent of a covered individual or the grandparent’s spouse
14 or domestic partner;
15 “(f) A grandchild of a covered individual or the grandchild’s spouse or
16 domestic partner;
17 “(g) The domestic partner of a covered individual; or
18 “(h) Any individual related by blood or affinity whose close association
19 with a covered individual is the equivalent of a family relationship.
20 “[(19)] **(20)** ‘Medical leave’ means leave from work taken by a covered
21 individual that is made necessary by the individual’s own serious health
22 condition.
23 “[(20)] **(21)** ‘Parent’ means:
24 “(a) A biological parent, adoptive parent, stepparent or foster parent of
25 a covered individual;
26 “(b) A person who was a foster parent of a covered individual when the
27 covered individual was a minor;
28 “(c) A person designated as the legal guardian of a covered individual at
29 the time the covered individual was a minor or required a legal guardian;
30 “(d) A person with whom a covered individual was or is in a relationship

1 of in loco parentis; or

2 “(e) A parent of a covered individual’s spouse or domestic partner who
3 meets a description under paragraphs (a) to (d) of this subsection.

4 “[21] **(22)** ‘Safe leave’ means leave taken for any purpose described in
5 ORS 659A.272.

6 “[22] **(23)** ‘Self-employed individual’ means:

7 “(a) An individual who has self-employment income as defined in section
8 1402(b) of the Internal Revenue Code as amended and in effect on December
9 31, 2021; or

10 “(b) An independent contractor as defined in ORS 670.600.

11 “[23] **(24)** ‘Serious health condition’ has the meaning given that term in
12 ORS 659A.150.

13 “[24] **(25)** ‘Third party administrator’ means a third party that enters
14 into an agreement with the Director of the Employment Department to im-
15 plement and administer the paid family and medical leave program estab-
16 lished under this chapter.

17 “[25] **(26)** ‘Tribal government’ has the meaning given that term in ORS
18 181A.940.

19 “[26] **(27)(a)** ‘Wages’ has the meaning given that term in ORS 657.105.

20 “**(b) ‘Wages’ does not mean contribution amounts paid to the Paid
21 Family and Medical Leave Insurance Fund by an employer on behalf
22 of an employee under ORS 657B.150 (5).**

23 “**SECTION 11.** ORS 183.471 is amended to read:

24 “183.471. (1) When an agency issues a final order in a contested case, the
25 agency shall maintain the final order in a digital format that:

26 “(a) Identifies the final order by the date it was issued;

27 “(b) Is suitable for indexing and searching; and

28 “(c) Preserves the textual attributes of the document, including the man-
29 ner in which the document is paginated and any boldfaced, italicized or
30 underlined writing in the document.

1 “(2) The Oregon State Bar may request that an agency provide the Oregon
2 State Bar, or its designee, with electronic copies of final orders issued by the
3 agency in contested cases. The request must be in writing. No later than 30
4 days after receiving the request, the agency, subject to ORS 192.338, 192.345
5 and 192.355, shall provide the Oregon State Bar, or its designee, with an
6 electronic copy of all final orders identified in the request.

7 “(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the
8 first two requests submitted under this section in a calendar year. For any
9 subsequent request, an agency may impose a fee in accordance with ORS
10 192.324 to reimburse the agency for the actual costs of complying with the
11 request.

12 “(4) For purposes of this section, a final order entered in a contested case
13 by an administrative law judge under ORS 183.625 (3) is a final order issued
14 by the agency that authorized the administrative law judge to conduct the
15 hearing.

16 “(5) This section does not apply to final orders by default issued under
17 ORS 183.417 (3) or to final orders issued in contested cases by:

18 “(a) The Department of Revenue;

19 “(b) The State Board of Parole and Post-Prison Supervision;

20 “(c) The Department of Corrections;

21 “(d) The Employment Relations Board;

22 “(e) The Public Utility Commission of Oregon;

23 “(f) The Oregon Health Authority;

24 “(g) The Land Conservation and Development Commission;

25 “(h) The Land Use Board of Appeals;

26 “(i) The Division of Child Support of the Department of Justice;

27 “(j) The Department of Transportation, if the final order relates to the
28 suspension, revocation or cancellation of identification cards, vehicle regis-
29 trations, vehicle titles or driving privileges or to the assessment of taxes or
30 stipulated settlements in the regulation of vehicle related businesses;

1 “(k) The Employment Department or the Employment Appeals Board, if
2 the final order relates to benefits as defined in ORS 657.010;

3 “(L) The Employment Department, if the final order relates to an assess-
4 ment of unemployment tax for which a hearing was not held; [or]

5 **“(m) The Employment Department, if the final order relates to:**

6 **“(A) Benefits, as defined in ORS 657B.010;**

7 **“(B) Employer and employee contributions under ORS 657B.150 for**
8 **which a hearing was not held;**

9 **“(C) Employer-offered benefit plans approved under ORS 657B.210**
10 **or terminated under ORS 657B.220; or**

11 **“(D) Employer assistance grants under ORS 657B.200; or**

12 **“[(m)] (n) The Department of Human Services, if the final order was not**
13 **related to licensing or certification.**

14 **“SECTION 12.** ORS 657B.175 is amended to read:

15 **“657B.175. (1) An employee’s wages shall be used to make determinations**
16 **under this chapter if the wages are earned for service **that is:****

17 **“[(1) Performed entirely within this state; or]**

18 **“[(2) Performed both within and outside this state, but the service per-**
19 **formed outside this state is incidental to the employee’s service within the**
20 **state.]**

21 **“(a) Localized within this state; or**

22 **“(b) Not localized within any state, but some of the service is per-**
23 **formed within this state and:**

24 **“(A) The base of operations is in this state or, if there is no base**
25 **of operations, the place from which the service is directed or con-**
26 **trolled is in this state; or**

27 **“(B) The base of operations or place from which the service is di-**
28 **rected or controlled is not in any state in which some part of the**
29 **service is performed, but the individual’s residence is in this state.**

30 **“(2) Service is localized within this state if it is:**

1 “(a) Performed entirely within this state; or

2 “(b) Performed both within and outside this state, but the service
3 performed outside this state is incidental to the employee’s service
4 within this state.

5 “**SECTION 13.** ORS 657B.030 is amended to read:

6 “657B.030. (1) Family and medical leave insurance benefits are in addition
7 to any paid sick time under ORS 653.606, vacation leave or other paid leave
8 earned by an employee.

9 “(2) An employer may permit an employee to use **all or a portion of** paid
10 sick time, vacation leave or any other paid leave earned by the employee in
11 addition to receiving paid family and medical leave insurance benefits [*to*
12 *replace an employee’s wages up to 100 percent of the eligible employee’s average*
13 *weekly wage*] during a period of leave taken for family leave, medical leave
14 or safe leave.

15 “(3) In any week in which an employee is eligible to receive workers’
16 compensation or unemployment benefits under ORS chapter 656 or 657, the
17 employee is disqualified from receiving family and medical leave insurance
18 benefits.

19 “**SECTION 14.** ORS 305.410 is amended to read:

20 “305.410. (1) Subject only to the provisions of ORS 305.445 relating to ju-
21 dicial review by the Supreme Court and to subsection (2) of this section, the
22 tax court shall be the sole, exclusive and final judicial authority for the
23 hearing and determination of all questions of law and fact arising under the
24 tax laws of this state. For the purposes of this section, and except to the
25 extent that they preclude the imposition of other taxes, the following are not
26 tax laws of this state:

27 “(a) ORS chapter 577 relating to Oregon Beef Council contributions.

28 “(b) ORS 576.051 to 576.455 relating to commodity commission assess-
29 ments.

30 “(c) ORS chapter 477 relating to fire protection assessments.

1 “(d) ORS chapters 731, 732, 733, 734, 737, 742, 743, 743A, 743B, 744, 746,
2 748 and 750 relating to insurance company fees and taxes.

3 “(e) ORS chapter 473 relating to liquor taxes.

4 “(f) ORS chapter 825 relating to motor carrier taxes.

5 “(g) ORS chapter 319 relating to motor vehicle and aircraft fuel taxes and
6 the road usage charges imposed under ORS 319.885.

7 “(h) ORS title 59 relating to motor vehicle and motor vehicle operators’
8 license fees and ORS title 39 relating to boat licenses.

9 “(i) ORS chapter 578 relating to Oregon Wheat Commission assessments.

10 “(j) ORS chapter 462 relating to racing taxes.

11 “(k) ORS chapter 657 relating to unemployment insurance taxes.

12 “(L) ORS chapter 656 relating to workers’ compensation contributions,
13 assessments or fees.

14 “(m) ORS 311.420, 311.425, 311.455, 311.650, 311.655 and ORS chapter 312
15 relating to foreclosure of real and personal property tax liens.

16 “(n) ORS 409.800 to 409.816 and 409.900 relating to long term care facility
17 assessments.

18 **“(o) ORS chapter 657B relating to family and medical leave insur-**
19 **ance benefits and contributions.**

20 “(2) The tax court and the circuit courts shall have concurrent jurisdic-
21 tion to try actions or suits to determine:

22 “(a) The priority of property tax liens in relation to other liens.

23 “(b) The validity of any deed, conveyance, transfer or assignment of real
24 or personal property under ORS 95.060 and 95.070 (1983 Replacement Part)
25 or 95.200 to 95.310 where the Department of Revenue has or claims a lien or
26 other interest in the property.

27 “(3) Subject only to the provisions of ORS 305.445 relating to judicial re-
28 view by the Supreme Court, the tax court shall be the sole, exclusive and
29 final judicial authority for the hearing and determination of all questions
30 of law and fact concerning the authorized uses of the proceeds of bonded

1 indebtedness described in section 11 (11)(d), Article XI of the Oregon Con-
2 stitution.

3 “(4) Except as permitted under section 2, amended Article VII, Oregon
4 Constitution, this section and ORS 305.445, no person shall contest, in any
5 action, suit or proceeding in the circuit court or any other court, any matter
6 within the jurisdiction of the tax court.

7 **“SECTION 15. (1) Section 2 of this 2023 Act applies to requests for**
8 **hearings made on or after January 1, 2023.**

9 **“(2) The amendments to ORS 657B.015, 657B.030, 657B.090 and**
10 **657B.210 by sections 3, 4, 6 and 13 of this 2023 Act apply to benefits paid**
11 **or made available on or after September 3, 2023.**

12 **“(3) The amendments to ORS 657B.150 by section 5 of this 2023 Act**
13 **apply to contributions due on or after January 1, 2023.**

14 **“(4) The amendments to ORS 657B.400 by section 7 of this 2023 Act**
15 **apply to disclosures of information made by the Employment Depart-**
16 **ment on or after September 3, 2023.**

17 **“(5) The amendments to ORS 657B.410 by section 8 of this 2023 Act**
18 **apply to hearings regarding final decisions of the Director of the Em-**
19 **ployment Department occurring on or after January 1, 2023.**

20 **“(6) The amendments to ORS 657B.420 by section 9 of this 2023 Act**
21 **apply to determinations by the department that occurred on or after**
22 **September 3, 2023.**

23 **“(7) The amendments to ORS 657B.010 by section 10 of this 2023 Act**
24 **apply to contributions paid and benefits made available on or after**
25 **January 1, 2023.**

26 **“(8) The amendments to ORS 183.471 by section 11 of this 2023 Act**
27 **apply to final orders issued in contested cases on or after January 1,**
28 **2023.**

29 **“(9) The amendments to ORS 657B.175 by section 12 of this 2023 Act**
30 **apply to wages earned on or after January 1, 2023.**

1 **“(10) The amendments to ORS 305.410 by section 14 of this 2023 Act**
2 **apply to actions and proceedings commenced on or after January 1,**
3 **2023.**

4 **“SECTION 16. This 2023 Act takes effect on the 91st day after the**
5 **date on which the 2023 regular session of the Eighty-second Legislative**
6 **Assembly adjourns sine die.”**

7
