

## Enrolled House Bill 2236

Sponsored by Representative BOSHART DAVIS; Senator SMITH DB (Presession filed.)

CHAPTER .....

AN ACT

Relating to employment; creating new provisions; amending ORS 657.010; and prescribing an effective date.

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

**SECTION 1.** ORS 657.010, as amended by section 28, chapter 75, Oregon Laws 2024, is amended to read:

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

(1) “Base year” means the first four of the last five completed calendar quarters preceding the benefit year.

(2) “Benefits” means the money allowances payable to unemployed persons under this chapter.

(3) “Benefit year” means a period of 52 consecutive weeks commencing with the first week with respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consecutive weeks period beginning with the first week with respect to which the individual next files an initial valid claim after the termination of the individual’s last preceding benefit year except that the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping any quarter of the base year of a previously filed initial valid claim.

(4) “Calendar quarter” means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director of the Employment Department may, by rule, prescribe.

(5) “Client employer” means an employer that enters into a PEO relationship.

(6) “Client worker” means an individual who performs services for compensation for the client of a professional employer organization.

[(5)] (7) “Contribution” or “contributions” means [*the taxes that are*] the money payments required by this chapter, or voluntary payments permitted, to be made to the Unemployment Compensation Trust Fund.

(8) “Covered employee” means a client worker for whom a PEO has assumed employer responsibilities under a PEO relationship.

[(6)] (9) “Educational institution,” including an institution of higher education, means an institution:

(a) In which participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher;

(b) That is accredited, registered, approved, licensed or issued a permit to operate as a school by the Department of Education or other government agency, or that offers courses for credit that are transferable to an approved, registered or accredited school;

(c) In which the course or courses of study or training that it offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation; and

(d) In which the course or courses of study or training are offered on a regular and continuing basis.

[(7)] (10) "Employment office" means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

[(8)] (11) "Hospital" has the meaning given that term in ORS 442.015.

[(9)] (12) "Institution of higher education" means an educational institution that:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program that is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution.

[(10)] (13) "Instructional capacity" does not include services performed as an instructional assistant as defined in ORS 342.120.

[(11)] (14) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in effect on December 31, 2023.

[(12)] (15) "Nonprofit employing unit" means an organization, or group of organizations, described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

**(16) "PEO relationship" means an agreement between a PEO and a client employer under which certain employer responsibilities for some or all of the client employer's workers are allocated.**

**(17)(a) "Professional employer organization" or "PEO" means a person required to be licensed under ORS 656.855 that enters into a PEO relationship with a client employer.**

**(b) "Professional employer organization" or "PEO" does not mean a person that solely provides workers to a client on a temporary basis or a person that provides payroll processing or similar administrative services without assuming employer responsibilities for client workers.**

[(13)] (18) "State" includes, in addition to the states of the United States of America, the District of Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be considered a state on and after the day on which the United States Secretary of Labor first approves the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by Public Law 94-566.

[(14)] (19) "Taxes" means **contributions** *[the money payments to the Unemployment Compensation Trust Fund required, or voluntary payments permitted, by this chapter]*.

**(20) "Temporary basis" means providing workers to a client:**

**(a) For special situations, including but not limited to employee absences, employee leaves, professional skill shortages, seasonal workloads and special assignments and projects with the expectation that the position will be terminated when the special situation ends.**

**(b) As probationary new hires with a reasonable expectation of transitioning to permanent employment with the client, if the client uses a preestablished probationary period in its overall employment selection program.**

[(15)] (21) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the individual meets the wages-paid-for-employment requirements of ORS 657.150.

[(16)] (22) "Week" means any period of seven consecutive calendar days ending at midnight, as the director may prescribe by rule.

**SECTION 2. Sections 3 and 4 of this 2025 Act are added to and made a part of ORS chapter 657.**

**SECTION 3.** (1)(a) Notwithstanding any other provision of this chapter, during the term of a PEO relationship, the professional employer organization shall elect to treat covered employees as either employees of:

- (A) The professional employer organization; or
- (B) The client employer.

(b) Notwithstanding any other provision of law, if a professional employer organization elects to treat a covered employee as its own employee under paragraph (a) of this subsection, such treatment shall be limited to the payroll tax reporting provisions of this chapter.

(c)(A) Benefits based on the wages of the covered employees reported in accordance with paragraph (a)(A) of this subsection shall be charged, in accordance with ORS 657.471, to the professional employer organization and not to the client employer.

(B) Benefits based on the wages of the covered employees reported in accordance with paragraph (a)(B) of this subsection shall be charged, in accordance with ORS 657.471, to each respective client employer and not to the professional employer organization.

(2) For purposes of determining wages in excess of the taxable wage base under ORS 657.095, any remuneration covered by this chapter that is paid by a client employer or a professional employer organization to an individual during a calendar year shall be included in payroll for both the client employer and the professional employer organization.

(3)(a) A professional employer organization shall notify the Director of the Employment Department in writing of its election of a reporting method under subsection (1)(a) of this section.

(b)(A) A professional employer organization electing the reporting method under subsection (1)(a)(B) of this section shall produce all documentation and information requested by the director within 60 days after submitting the written notice.

(B) If the professional employer organization has not complied with a request under subparagraph (A) of this paragraph on or before the end of the 60-day period, the professional employer organization shall use the reporting method described in subsection (1)(a)(A) of this section.

(4)(a) After an initial election of treatment under subsection (1)(a) of this section, a professional employer organization may change its election by written notice to the director.

(b) Such subsequent change of election:

(A) Shall become effective in the calendar year following the year in which the written notice is received by the director; and

(B) May not be changed again for two calendar years following the effective date of the change.

**SECTION 4.** A professional employer organization's election of its treatment of covered employees under section 3 (1) of this 2025 Act made during the first 120 days following the effective date of this 2025 Act:

(1) Becomes effective as of the first day of the calendar quarter in which the election is made.

(2) Does not count toward the limit on subsequent changes of election under section 3 (4) of this 2025 Act.

**SECTION 5.** Section 4 of this 2025 Act is repealed on January 2, 2027.

**SECTION 6.** This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

**Passed by House April 22, 2025**

**Repassed by House May 29, 2025**

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

**Passed by Senate May 27, 2025**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M.,....., 2025

**Approved:**

.....M.,....., 2025

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2025

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Tobias Read, Secretary of State