

SB 858-2
(LC 486)
1/28/25 (JAS/ps)

Requested by SENATE COMMITTEE ON LABOR AND BUSINESS

**PROPOSED AMENDMENTS TO
SENATE BILL 858**

1 On page 1 of the printed bill, line 3, delete “657B.050,” and delete the
2 second “and”.

3 Delete line 4 and insert “; and prescribing an effective date.”.

4 Delete lines 6 through 25 and delete pages 2 through 11 and insert:

5 **“SECTION 1.** ORS 657B.030, as amended by section 5, chapter 20, Oregon
6 Laws 2024, is amended to read:

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

10 “(2)(a) Except as otherwise provided in paragraph (b) of this subsection,
11 an employee is entitled to use any accrued paid sick leave, accrued paid va-
12 cation leave or any other paid leave that is offered by the employer in ad-
13 dition to receiving paid family and medical leave insurance benefits during
14 a period of leave taken for family leave, medical leave or safe leave to the
15 extent that the total combined amount of accrued paid leave and benefits
16 received by the employee does not exceed an amount equal to the employee’s
17 full wage replacement during the period of family leave, medical leave or
18 safe leave.

19 “(b) An employer may permit an employee to use accrued paid leave in
20 addition to receiving paid family and medical leave insurance benefits such
21 that the total combined amounts received by the employee may exceed the

1 employee's full wage replacement amount as described in paragraph (a) of
2 this subsection.

3 “(3) Subject to the terms of any agreement between the employee and the
4 employer or the terms of a collective bargaining agreement, the employer
5 may determine the particular order in which accrued leave is to be used
6 when more than one type of accrued leave is available to the covered indi-
7 vidual.

8 “(4) In any week in which an employee is eligible to receive workers’
9 compensation time loss benefits under ORS chapter 656 or [*unemployment*
10 *benefits under ORS chapter 657*] **wage replacement benefits under a state**
11 **or federal unemployment benefits program**, the employee is disqualified
12 from receiving family and medical leave insurance benefits.

13 **“SECTION 2.** ORS 657B.090 is amended to read:

14 “657B.090. (1) **Except as otherwise provided under this section**, family
15 and medical leave insurance benefits are not payable to a covered individual
16 unless:

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

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

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

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

27 “(b) If a covered individual takes leave in increments that are equivalent
28 to one work day, benefits may be claimed for leave that occurs in noncon-
29 secutive periods of leave.

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

1 “(a) Must be prorated to increments that are equivalent to one work day;
2 and

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

4 **“(5)(a) If a covered individual dies or becomes incapacitated before**
5 **submitting a claim to the director for payment of family and medical**
6 **leave insurance benefits or before the director has made a final deci-**
7 **sion regarding the approval or denial of a pending or existing claim**
8 **previously submitted to the director, an authorized agent may engage**
9 **in any of the following activities on behalf of the deceased or inca-**
10 **pacitated covered individual:**

11 **“(A) Submit a claim for benefits to the director for a qualifying**
12 **purpose under ORS 657B.020 and in the manner prescribed by the di-**
13 **rector by rule.**

14 **“(B) Receive information about benefits due or paid by the director**
15 **to the covered individual.**

16 **“(C) Receive information concerning decisions regarding existing**
17 **or pending claims previously submitted to the director.**

18 **“(D) Request a hearing to obtain review of a final decision of the**
19 **director regarding any of the matters provided in ORS 657B.410 (1)(b).**

20 **“(E) Submit any additional information the director deems neces-**
21 **sary to complete a claim for benefits.**

22 **“(b) Actions taken on behalf of a deceased or incapacitated covered**
23 **individual by an authorized agent under this subsection are binding**
24 **on the covered individual.**

25 **“(c) The payment of benefits by the director to an incapacitated**
26 **covered individual under this section, or to the estate of a deceased**
27 **individual in accordance with ORS 293.490, releases the director from**
28 **any future liability with respect to such benefits.**

29 **“(6) The director shall adopt rules to implement the provisions of**
30 **this section. At a minimum, the rules must:**

1 “(a) Provide the requirements for the designation or authorization
2 of an authorized agent.

3 “(b) Establish when an authorized agent’s authority to act on behalf
4 of a deceased or incapacitated covered individual expires.

5 “(7) As used in this section:

6 “(a) ‘Authorized agent’ means an individual who:

7 “(A) Has been specifically designated by a covered individual in the
8 manner prescribed by the director by rule to act on behalf of the cov-
9 ered individual; or

10 “(B) Is authorized under rules adopted by the director to act on
11 behalf of a covered individual.

12 “(b) ‘Incapacitated’ has the meaning given that term under ORS
13 125.005.

14 “**SECTION 3.** ORS 657B.210 is amended to read:

15 “657B.210. (1)(a) An employer may apply to the Director of the Employ-
16 ment Department for approval of an employer-offered benefit plan that pro-
17 vides family and medical leave insurance benefits to the employer’s
18 employees.

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

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

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

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

29 “(3) An employer may make a plan available to employees who have been
30 employed by the employer for less than 30 days but in no event may an em-

1 ployer require an employee to have been employed by the employer for more
2 than 30 days to be eligible for coverage under the plan.

3 “(4) Neither an employer that provides benefits under an approved plan
4 nor an employee covered under such a plan is required to make the contri-
5 butions under ORS 657B.150 **for any calendar quarter that begins on or**
6 **after the effective date of an approved plan, and thereafter, for the**
7 **duration of the approved plan.**

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

10 “(b) If an employer assumes only part of the costs, the employer may de-
11 duct employee contributions from the wages of employees to finance the costs
12 related to the plan, except that any contribution amounts deducted may not
13 exceed the amount that an employee would otherwise be required to con-
14 tribute under ORS 657B.150.

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

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

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

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

26 “(9) Nothing in this section prohibits an employee who is otherwise eli-
27 gible from applying for coverage under the program established under ORS
28 657B.340 or under a separate employer-offered plan that has been approved
29 under this section.

30 “(10) The director shall adopt rules that require that the benefits made

1 available to an eligible employee who is covered under more than one plan
2 shall be prorated under each respective plan.

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

4 “(a) Be subject to the same requirements provided in ORS 657B.060 and
5 657B.070;

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

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

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

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

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

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

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

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

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

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

29 **“SECTION 4.** ORS 657B.400 is amended to read:

30 “657B.400. (1) Except as provided in subsections (2) to (7) and (10) of this

1 section, all information in the records of the Employment Department or a
2 third party administrator pertaining to the administration of this chapter:

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

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

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

12 “(2) The Employment Department may disclose information:

13 “(a) To the extent necessary for the payment of benefits or collection of
14 contributions due under this chapter:

15 “(A) To any claimant or employer; or

16 “(B) To a legal representative, **an authorized agent described under**
17 **ORS 657B.090** or [other] **another** designee authorized by a claimant or em-
18 ployer in accordance with any rules adopted by the director regarding the
19 receipt of confidential information on behalf of a claimant or employer.

20 “(b) Upon request to the United States Attorney’s Office. Under this
21 paragraph, the Employment Department may disclose an individual’s em-
22 ployment and wage information in response to a federal grand jury subpoena
23 or for the purpose of collecting civil and criminal judgments issued by a
24 federal court, including restitution and special assessment fees. The infor-
25 mation disclosed is confidential and may not be used for any other purpose.
26 The costs of disclosing information under this paragraph shall be paid by the
27 United States Attorney’s Office.

28 “(3) At the discretion of the director and subject to an interagency
29 agreement, the Employment Department may disclose, upon request, infor-
30 mation:

1 “(a) To state or local child support enforcement agencies enforcing child
2 support obligations for the purposes of establishing child support obligations,
3 locating individuals owing child support obligations and collecting child
4 support obligations from those individuals. The information disclosed is
5 confidential and may not be used for any other purpose. The costs of dis-
6 closing information under this paragraph shall be paid by the child support
7 enforcement agency.

8 “(b) To agencies participating in an income and eligibility verification
9 system for the purpose of verifying an individual’s eligibility for benefits, or
10 the amount of benefits, under a state or federal program such as unemploy-
11 ment insurance, temporary assistance for needy families, medical assistance,
12 supplemental nutrition assistance, Supplemental Security Income, child sup-
13 port enforcement or Social Security. The information disclosed is confiden-
14 tial and may not be used for any other purpose. The costs of disclosing
15 information under this paragraph shall be paid by the requesting agency.

16 “(c) To officers and employees of the United States Department of Hous-
17 ing and Urban Development and to representatives of a state or local public
18 housing agency for the purpose of determining an individual’s eligibility for
19 benefits, or the amount of benefits, under a housing assistance program. The
20 information disclosed is confidential and may not be used for any other
21 purpose. The costs of disclosing information under this paragraph shall be
22 paid by the requesting agency.

23 “(4) At the discretion of the director and subject to an interagency
24 agreement, the Employment Department may disclose information secured
25 from employers:

26 “(a) To state agencies, federal agencies, local government agencies, public
27 universities listed in ORS 352.002 and the Oregon Health and Science Uni-
28 versity established under ORS 353.020, to the extent necessary to properly
29 carry out governmental planning, performance measurement, program analy-
30 sis, socioeconomic analysis or policy analysis functions performed under ap-

1 plicable law and at the discretion of the director and subject to an
2 interagency agreement. The information disclosed is confidential and may
3 not be disclosed by the agencies or universities in any manner that would
4 identify individuals, claimants, employees or employers. If the information
5 disclosed under this paragraph is not prepared for the use of the Employment
6 Department, the costs of disclosing the information shall be paid by the
7 agency or university requesting the information.

8 “(b) As part of a geographic information system. Points on a map may be
9 used to represent economic data, including the location, employer size and
10 industrial classification of businesses in Oregon. Information presented as
11 part of a geographic information system may not give specific details re-
12 garding a business’s address, actual employment or proprietary information.
13 If the information disclosed under this paragraph is not prepared for the use
14 of the Employment Department, the costs of disclosing the information shall
15 be paid by the party requesting the information.

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

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

22 “(b) Pursuant to an informed consent, received from the employer, em-
23 ployee or claimant, to disclose the information.

24 “(c) To the Bureau of Labor and Industries for the purpose of performing
25 duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to
26 658.511 or ORS chapter 652, 653 or 659A. The information disclosed may in-
27 clude the names and addresses of employers and employees, payroll data of
28 employers and employees, and information obtained for an appeal from a
29 determination under a plan approved under ORS 657B.210. The information
30 disclosed is confidential and may not be used for any other purpose. If the

1 information disclosed under this paragraph is not prepared for the use of the
2 Employment Department, the costs of disclosing the information shall be
3 paid by the bureau.

4 “(d) To the Department of Revenue for the purpose of performing its du-
5 ties under ORS 293.250 or under the revenue and tax laws of this state and
6 identifying potential identity theft and fraud. The information disclosed may
7 include the names and addresses of employers and employees, payroll data
8 of employers and employees, and particulars, as defined in ORS 314.835. The
9 information disclosed is confidential and may not be disclosed by the De-
10 partment of Revenue in any manner that would identify an employer or em-
11 ployee except to the extent necessary to carry out the department’s duties
12 under ORS 293.250 or in auditing or reviewing any report or return required
13 or permitted to be filed under the revenue and tax laws administered by the
14 department. The Department of Revenue may not disclose any information
15 received to any private collection agency or for any other purpose. If the
16 information disclosed under this paragraph is not prepared for the use of the
17 Employment Department, the costs of disclosing the information shall be
18 paid by the Department of Revenue.

19 “(e) To the Department of Consumer and Business Services for the pur-
20 pose of performing its duties under ORS chapters 654, 656 and 731. The in-
21 formation disclosed may include, but is not limited to, the name, address,
22 number of employees and standard industrial classification code of an em-
23 ployer and payroll data of employers and employees. The information dis-
24 closed is confidential and may not be disclosed by the Department of
25 Consumer and Business Services in any manner that would identify an em-
26 ployer or employee except to the extent necessary to carry out the
27 department’s duties under ORS chapters 654, 656 and 731, including admin-
28 istrative hearings and court proceedings in which the Department of Con-
29 sumer and Business Services is a party. If the information disclosed under
30 this paragraph is not prepared for the use of the Employment Department,

1 the costs of disclosing the information shall be paid by the Department of
2 Consumer and Business Services.

3 “(f) To the Construction Contractors Board for the purpose of performing
4 its duties under ORS chapter 701. The information disclosed to the board
5 may include the names and addresses of employers and status of their com-
6 pliance with this chapter. If the information disclosed under this paragraph
7 is not prepared for the use of the Employment Department, the costs of dis-
8 closing the information shall be paid by the board.

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

27 “(h) To the Department of Human Services and the Oregon Health Au-
28 thority to assist the department and the authority in the collection of debts
29 that the department and the authority are authorized by law to collect. The
30 information disclosed may include the names and addresses of employers and

1 employees and payroll data of employers and employees. The information
2 disclosed is confidential and may not be disclosed by the Department of
3 Human Services or the Oregon Health Authority in any manner that would
4 identify an employer or employee except to the extent necessary for the col-
5 lection of debts as described in this paragraph. The Department of Human
6 Services and the Oregon Health Authority may not disclose information re-
7 ceived under this paragraph to a private collection agency or use the infor-
8 mation for a purpose other than the collection of debts as described in this
9 paragraph. If the information disclosed under this paragraph is not prepared
10 for the use of the Employment Department, the costs of disclosing the in-
11 formation shall be paid by the Department of Human Services or the Oregon
12 Health Authority.

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

19 “(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 “(7) At the discretion of the director, the director may disclose informa-
26 tion to a contractor pursuant to a contract for actuarial services. The con-
27 tractor shall agree to assume responsibility for misuse of the information by
28 the contractor’s agent.

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

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

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

13 “(10) At the discretion of the director, the director may disclose informa-
14 tion to an employee or officer within any division of the Employment De-
15 partment as necessary to conduct research, compile aggregate data from the
16 information received and any other purpose deemed necessary by the director
17 to assist the director in carrying out the duties under this chapter or other
18 duties under ORS chapter 657.

19 “(11) The director may adopt any rules necessary to implement this sec-
20 tion.

21 **“SECTION 5.** ORS 657B.410 is amended to read:

22 “657B.410. (1) The Director of the Employment Department shall establish
23 a process by which:

24 “(a) An employer may request a hearing to obtain review of a final deci-
25 sion of the director regarding any of the following:

26 “(A) Approval or denial of an employer’s application for approval of a
27 plan under ORS 657B.210;

28 “(B) The assessment of penalties under ORS 657B.925; or

29 “(C) A determination made under ORS 657B.332.

30 “(b) A covered individual **or an authorized agent, as defined in ORS**

1 **657B.090**, may request a hearing to obtain review of a final decision of the
2 director regarding any of the following:

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

5 “(B) The weekly benefit amount payable to a covered individual as de-
6 termined under ORS 657B.050;

7 “(C) Matters affecting the covered individual under ORS 657B.040 or
8 657B.332; or

9 “(D) Benefit overpayments, including overpayments under ORS 657B.335.

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

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

14 “(A) To review a final decision of the director regarding contributions
15 under this chapter;

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

18 “(C) To review a final decision of the director regarding a grant made
19 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]* **person in** a proceeding
24 described under this section may *[authorize a legal representative]* **be re-**
25 **presented by legal counsel** or *[other person to represent the party in the*
26 *proceeding in the manner]* **by any other representative that the person**
27 **authorizes to represent the person as** prescribed by the director by rule.
28 *[A legal representative]* **The legal counsel** or other *[person who is]* **repre-**
29 **sentative** authorized to represent the *[party]* **person** in the proceeding must
30 comply with any procedures or process regarding such representation estab-

1 lished by the department by rule, including, but not limited to, a rule es-
2 tablishing the maximum amount that the legal [*representative*] **counsel** or
3 other authorized [*person*] **representative** may charge for such represen-
4 tation.

5 “(b) For purposes of this subsection, ‘person’ includes individuals, corpo-
6 rations, associations, firms, partnerships, limited liability companies and
7 joint stock companies, this state and the political subdivisions of this state.

8 **“SECTION 6. The amendments to ORS 657B.030 by section 1 of this**
9 **2025 Act become operative on January 1, 2026.**

10 **“SECTION 7. This 2025 Act takes effect on the 91st day after the**
11 **date on which the 2025 regular session of the Eighty-third Legislative**
12 **Assembly adjourns sine die.”.**

13
