



# SALEM HUMAN RESOURCES MANAGEMENT ASSOCIATION

Affiliate of the Society for Human Resource Management



## FIRST DAYS OF SESSION LEGISLATIVE REPORT<sup>1</sup>- FEBRUARY 2015

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Oregon's 78<sup>th</sup> Legislative Assembly convened on February 2, 2015. There are a significant number of employment related bills proposed for the 2015 session, including hotly contested topics such as statewide paid sick leave, new protected leaves, and incremental increases to Oregon's minimum wage. With expanded democratic majorities in both the Senate and the House, much of this year's proposed employment-related legislation could move towards passage. So, stay tuned as we keep you updated on pending employment legislation and alert you to new laws that are passed this session.

BILL	DESCRIPTION	COMMENT
<b>SENATE BILLS</b>		
SB 130 & SB 332	<b>Repeals State Preemption On Minimum Wage:</b> These bills would repeal the state preemption of authority of local governments to set minimum wage requirements, allowing individual cities to set their own minimum wage thresholds.	<i>This proposed legislation would repeal the current law, which generally prevents local governments from setting minimum wages. The bills would allow cities to set unique minimum wage thresholds.</i>  <b><i>These bills have been referred to the Senate Committee on Workforce and the Senate Committee on Rules, respectively.</i></b>
SB 327	<b>Oregon Minimum Wage Increase:</b> This bill would increase Oregon's minimum wage in graduated steps through 2017, in relation to certain federal guidelines, from current levels to \$12.20 per hour.	<i>The current Oregon minimum wage is set at a rate adjusted for inflation, based on the Consumer Price Index. The 2015 Oregon minimum wage is \$9.25, which is the second highest minimum wage rate in the United States. This bill would require that 2016 and 2017 Oregon minimum wage rates be set above the hourly equivalent of the federal poverty guidelines for a family of four established by the United State Department of Health Services (\$10.90 in 2016 and \$12.20 in 2017). After 2017, the bill returns the minimum hourly wage rate back to the adjusted inflation rate.</i>  <b><i>This bill has been referred to the Senate Committee on Workforce.</i></b>

<sup>1</sup> <sup>1</sup> [Jennifer Paul](#) an attorney with the [SAALFELD GRIGGS](#) law firm in Salem Oregon. ([www.sglaw.com](http://www.sglaw.com)). This summary was prepared with the firm's assistance. The information contained in this report is current as of 2/11/2015. This summary focuses on significant bills affecting private sector employers and is not intended to cover every employment-related bill. This information is considered accurate but is not guaranteed. Additional information is available at [www.leg.state.or.us](http://www.leg.state.or.us). The above comments are not legal advice and do not necessarily reflect the views of Salem Human Resource Management Association, its board or members, or any affiliated organization. The purpose of this report is to provide information and analysis and is not intended to lobby one position over another. Follow these updates on Twitter [@sgEmploymentLaw](#).

SB 454	<p><b>Oregon Paid Sick Leave:</b> This bill would require all employers, regardless of size, to implement paid sick leave for employees. The bill requires employers to provide paid sick time to employees, accruing at a rate of one hour for every 30 hours worked, up to at least 56 hours per year. The sick leave must be paid out at the employee’s regular rate of pay and can be used in hourly increments or the smallest increment used by the employer’s payroll system for the employee’s own self-care or to care for the employee’s qualifying family member. The employer may not require more than 10 days’ notice for the use of paid sick time. The employer must allow for carryover of accrued but unused sick time from year-to-year, but employers are allowed to cap such hours or enter into a pay-out agreement by mutual consent with the employee for such accrued, but unused hours. The bill does not require pay-out at termination or resignation. The bill outlines specific protections against retaliation for employees that inquire about sick time. The bill creates additional record keeping requirements for employers related to paid sick leave, with quarterly updates provided to employees. An exemption exists for employment relationships in the building construction industry and for longshoreman subject to collective bargaining agreements. This bill further makes any violation of the paid sick leave law an unlawful employment practice subject to the jurisdiction of BOLI.</p>	<p><i>This bill is a statewide mandate for paid sick leave. Presently, paid sick leave is not required in Oregon, except by Portland’s local ordinance, which is currently effective, and Eugene’s local ordinance, which will go into effect this summer. This bill applies to all employers regardless of size. The bill provides that an employer’s existing PTO or sick leave policy may satisfy the new law as long as it meets the minimum requirements of the law. It is still unclear whether passage of this bill would preempt current local ordinances addressing sick leave.</i></p> <p><b><i>This bill has been referred to the Senate Workforce Committee, and a public hearing is scheduled for February 16, 2015.</i></b></p>
SB 492	<p><b><u>Authorized use of Accrued Sick Leave or Personal Leave for Victims of Domestic Violence:</u></b> This bill authorizes the use of accrued sick leave or personal business leave by certain employees who are victims of domestic violence, harassment, sexual assault or stalking.</p>	<p><i>Oregon law already allows employees whom are eligible for leave as victims of domestic violence, harassment, sexual assault or stalking, to use any paid accrued vacation leave or any other paid leave that is offered by the covered employer in lieu of vacation leave during the period of leave. This bill expressly adds any “accrued sick leave or personal business leave” to accrued leave that the employee may use during the covered leave period.</i></p> <p><b><i>This bill has been referred to the Senate Workforce Committee.</i></b></p>
SB 48	<p><b><u>Extended Dependent Care Assistance Tax Credit for Employers:</u></b> This bill would extend the sunset for the tax credit for employer-provided dependent care assistance.</p>	<p><b><i>This bill has been referred to the Senate Human Services and Early Childhood Committee and then Tax Credits.</i></b></p>
SB 185	<p><b><u>Restrictions to Employer Required Employee Social Media Accounts:</u></b> This bill makes it an unlawful employment practice for employers to require employees or applicants to establish and maintain personal social media accounts or to authorize an employer to advertise on the personal social media account of employees or applicants.</p>	<p><i>This bill adds some requirements to the existing social media law, which prevents employers from asking employees and applicants for passwords or usernames to their personal social media accounts.</i></p> <p><b><i>This bill has been referred to the Senate Workforce Committee.</i></b></p>

SB 468	<p><b>BOLI Warrants for Debt Collection:</b> This bill authorizes the Commissioner of Bureau of Labor and Industries to issue warrants for collection of debts owed the bureau, within 30 days of the date payment becomes due, where no provision has been made to secure the payment. This bill would apply retroactively and covers debts owed to the bureau before, on or after the effective date of the bill.</p>	<p><i>As drafted, this bill has no provision that expressly requires notice to the employer or entity that may be subject to a BOLI warrant to collect debts, and the bill does not provide a right to cure.</i></p> <p><b><i>This bill has been referred to the Senate Workforce Committee and then the Senate Judiciary Committee.</i></b></p>
<b>HOUSE BILLS</b>		
HB 2004	<p><b>Repeals State Preemption On Minimum Wage:</b> See comments to SB 130 &amp; SB 332</p>	<p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>
HB 2008	<p><b>Oregon Minimum Wage Increase:</b> See comments to SB 327.</p>	<p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>
HB 2009	<p><b>Oregon Minimum Wage Increase:</b> This bill increases Oregon's minimum wage in graduated steps to \$15.00 per hour by 2018.</p>	<p><i>The current Oregon minimum wage is set at a rate adjusted for inflation, based on the Consumer Price Index. The 2015 Oregon minimum wage is \$9.25, which is the second highest minimum wage rate in the United States. This bill would require that the 2016 minimum wage be set at \$11.50; the 2017 minimum wage be set at \$13.25; and the 2018 minimum wage be set at \$15.00.</i></p> <p><b><i>This bill has been referred to the House Committee on Business and Labor.</i></b></p>
HB 2005	<p><b>Oregon Paid Sick Leave:</b> See comments to SB454.</p>	<p><b><i>This bill has been referred to the House Business and Labor Committee. A public hearing will be held on February 16, 2015.</i></b></p>
HB 2535	<p><b>Required Leave for Firefighting Forces:</b> This bill requires employers to provide unpaid leaves of absence to employees serving with firefighting forces during a declared fire emergency, and provides job protections for such employees. This bill applies to employers with one or more employees.</p>	<p><i>Current law allows the employer to provide leave to employees who serve on firefighting forces at the employer's discretion after written notice is provided by the employee of such request for leave. The bill makes such leave mandatory until the employee is released from service. While the bill still generally requires written notice by the employee, no such notice is required where the employee is ordered by the Governor to serve.</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>

<p>HB 2606</p>	<p><b>OFLA Sibling Coverage:</b> This bill expands coverage of the Oregon Family Leave Act to include siblings as a qualifying family member for whom an employee may take protected leave to care for or grieve under OFLA's bereavement leave coverage.</p>	<p><i>Under current law, employees that are eligible for family leave may take unpaid time off to care for the following qualifying family members: the spouse, the biological, adoptive or foster parent or child, the grandparent or grandchild, a parent-in-law, or a person with whom the employee was or is in a relationship of in loco parentis. This bill adds siblings to the definition of covered family members. This bill would create yet another difference between what qualified as OFLA and FMLA for tracking leave, making</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>
<p>HB 2607</p>	<p><b>OFLA Reduction in Hours for Eligibility:</b> This bill reduces the number of average hours an employee must work on a weekly basis, from 25 hours to 24 hours, to qualify for OFLA.</p>	<p><i>Under current Oregon law an employee was not eligible for OFLA if he/she worked fewer than 25 hours per week for the covered employer during the 180 days immediately prior to the date on which the family leave would commence. This bill reduces the eligibility requirement to 24 hours per week. This allows an employee working three 8 hour days each week to be eligible for OFLA.</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>
<p>HB 2006</p>	<p><b>Gender Related Pay Equity:</b> This bill makes it an unlawful employment practice to pay employees of the opposite sex who hold equivalent jobs at a different wage rate. The bill does allow employers to pay different wage rates for "equivalent" jobs based on: a seniority system; a merit system; a system that measures earnings by quantity or quality or production; or a different bona fide factor other than sex (such as education, training, or experience) if the employer can demonstrate that the factor is job-related, furthers a legitimate business purpose and was applied reasonably in light of the asserted basis for paying the employees at different wage rates. The employee still has the ability to demonstrate that an alternative employment practice exists that would serve the same business purpose without resulting in such a factor and that the employer has refused to adopt the alternative practice.</p>	<p><i>Current Oregon law protects against gender discrimination in the workplace; however, this bill specifically addresses pay. The definition of "equivalent job" includes jobs that are not necessarily the same position but for which "the requirements are equivalent when considered as a composite of skills, effort, responsibility and working conditions." This definition leaves much debate about what an "equivalent job" means. An employer may not reduce the wage rate of an employee to comply with the law, and any amount due to comply with the law are considered unpaid wages. This bill makes unequal pay between a man and a woman in equivalent job positions, prima facie evidence of a violation and then shifts the burden to employers to show a bona fide reason for the difference in pay.</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>
<p>HB 2007</p>	<p><b>Protection for Wage Information Disclosures:</b> This bill makes it an unlawful employment practice to take disciplinary action, including discharging, demoting, suspending, discriminating or retaliating against an employee who inquires about, discusses or discloses, in any manner, wage information about him or herself or another employee. Such disclosure includes discussing wage information to make a complaint or institute an investigation. The bill carves out an exception for an employee who has access to wage information as a part of that employee's job, and allows employers to discipline such an employee for unauthorized disclosures of wage related information acquired through an employee's position.</p>	<p><i>The NLRA already restricts employers, both in union and non-unionized workforces, from creating or enforcing policies that stifle employees' discussions about hours, wages, and working conditions. In this respect, discussions about pay are already protected by the NLRA. This bill would create a cause of action under Oregon law.</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>

<p>HB 2212</p>	<p><b>Requires Regular Pay Days:</b> This bill authorizes the imposition of a civil penalty against employers that fail to pay wages owing to employees on a regular payday. Payment is considered made upon delivery or mailing of the payment. The bill does carve out an exception for circumstances beyond the control of the employer.</p>	<p><i>Oregon law already requires employer to maintain a regular payday where they have to pay all employees' wages due and owing to them. The bill makes the employer subject to civil penalty for failure to do so in an amount not to exceed \$1,000.00.</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee.</i></b></p>
<p>HB 2542</p>	<p><b>Expanded Unpaid Wage Definition:</b> This bill expands the definition of "compensation" for purposes of determining unpaid wages to include "wages and all amounts payable for vacation leave and other personal business leave accrued by an employee under a policy implemented by the employer."</p>	<p><i>Currently, employers are not required to pay out accrued but unused paid leave, like vacation or PTO at termination, unless required by its own policy or by a CBA. As written, it is unclear if the bill would only make unpaid vacation/PTO "compensation," allowing employees to make a wage claim against former employers, or if the bill would require a payout of accrued vacation/PTO.</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee. A public hearing will be held on February 20, 2015.</i></b></p>
<p>HB 2010</p>	<p><b>Work Schedule Requirements:</b> This bill requires all employers with 15 or more employees to engage in an interactive process to establish an acceptable work schedule when an employee requests a flexible, predictable or stable work schedule. After engaging in the interactive process the employer is not obligated to alter the employee's work schedule unless the request is due to a serious health condition, caregiving responsibilities, a second job, or the employee's participation in education or job-training programs. The bill makes it an unlawful employment practice to discharge or otherwise retaliate against an employee who requests, discusses or files a complaint related to work scheduling.</p> <p>This bill also requires retail/hospitality/food services industry employers with 15 or more employees to provide employees with a work schedule at least two weeks before it becomes effective. Additionally, if an employer changes an employee's work schedule with less than 24 hours' notice, the employer must pay the employee one hour of wages at the employee's regular rate for each shift changed unless the shift change was the result of an unexpected availability of another employee.</p>	<p><i>This bill would require employers to make accommodations for an employee to work for another employer or train for another job, which may run contrary to many employers' moonlighting policies.</i></p> <p><i>This bill's scheduling requirements would place a heavy burden on employers in the retail, hospitality, and food services industries. The bill's requirement may also prevent employers in these industries from altering employees' schedules to avoid an employee incurring overtime pay, limiting employer flexibility and cost-control measures.</i></p> <p><b><i>This bill has been referred to the House Business and Labor Committee. A public hearing will be held on February 20, 2015.</i></b></p>
<p>HB 2390</p>	<p><b>Workplace Wellness Programs:</b> This bill would create a subtraction from federal taxable income for up to \$300.00 in cash dividends paid by employer to employee for participation in workplace wellness program.</p>	<p><i>This bill defines "workplace wellness program" to mean a fitness program, a weight control program, a health or wellness education program, or a tobacco cessation or prevention program, on the basis of a health assessment.</i></p> <p><b><i>This bill was referred to the House Health Care Committee with subsequent referral to Revenue. A public hearing will be held on February 13, 2015.</i></b></p>

<p>HB 2646</p>	<p><b>Unpaid Parental Leave:</b> This bill makes it an unlawful employment practice to fail to grant an employee, as the parent, guardian, or custodian of a child, unpaid parental leave to attend certain school-related activities, such as a conference required by a school administrator, or to deal with an emergency concerning the child. The bill also requires an employer to provide an employee up to eight hours of unpaid leave per school year to: attend conferences, attend school-related activities during school hours, volunteer at the school during regular school hours, and attend school sponsored events. Employees would be able to take this leave in increments as small as one hour. An employer may require written request for the leave at least 5 school days prior to the date leave is taken and documentation from the school related to the requested leave.</p>	<p><i>Unlike similar bills in previous sessions, this bill is not currently tied to the Oregon Family Leave Act, and therefore applies to employers regardless of size.</i></p> <p><b><i>This bill was referred to the House Business and Labor Committee. A public hearing will be held on February 20, 2015.</i></b></p>
<p>HB 2043</p>	<p><b>E-Verify Required Use:</b> This bill would require employers to verify the legal status of employees through the federal E-Verify program prior to deducting expenses related to worker’s employment from Oregon taxable income.</p>	<p><i>E-Verify is a federal government sponsored electronic employment verification system. It is currently mandatory for all private employers in only a few states.</i></p> <p><b><i>This bill was referred to the House Judiciary Committee.</i></b></p>
<p>HB 2090</p>	<p><b>Task Force to Study Employees Receiving Public Assistance:</b> This bill establishes a task force to study the relationship between large employers and their employees who are receiving public assistance to make recommendations regarding feasibility of imposing employer fees to offset shifting of expenses to public assistance.</p>	<p><b><i>This bill was referred to the House Business and Labor Committee with subsequent referral to the House Ways and Means Committee.</i></b></p>
<p>HB 2685</p>	<p><b>Expanded Protected Class—Familial Status:</b> This bill adds “familial status” as a protected class under Oregon law, prohibiting discrimination in employment based on the familial status of employee. For purposes of this bill “familial status” means the state of being, or having the potential to become, a provider of care or support to a family member.</p>	<p><i>The law already prohibits discrimination based on the familial status by preventing employers from refusing to hire or terminating someone based on the fact that a family member works or has worked for the employer. The bill would strengthen employees’ rights by adding “familial status” to other items already protected by anti-discrimination laws, such as race, color, religion, sex, sexual orientation, national origin, marital status, age, and those with an expunged juvenile record.</i></p> <p><b><i>This bill was referred to the House Business and Labor Committee. A public hearing will be held on February 20, 2015.</i></b></p>
<p>HB 2386</p>	<p><b>BOLI Cease and Desist Orders:</b> This bill authorizes the Commissioner of Bureau of Labor and Industries to issue temporary cease and desist orders under certain circumstances, including alleged violations related to prevailing wage issues, farm labor contractors, wages, record keeping, minimum wage, employment conditions, and dealings with minors, and requiring an employer to refrain from the unlawful practice alleged.</p>	<p><b><i>This bill was referred to House Business and Labor Committee.</i></b></p>
<p>HB 2387</p>	<p><b>BOLI Bond Rights:</b> This bill authorizes the Commissioner of Bureau of Labor and Industries to compel a bond through administrative action from an employer, where the employer has failed to establish or maintain a regular payday as required by Oregon law and the employer has failed to provide the required bond within 10 days after demand from the bureau.</p>	<p><b><i>This bill was referred to the House Business and Labor Committee.</i></b></p>