

Paid Leave Oregon Advisory Committee

January 4, 2023

1:00pm – 3:00pm

ZoomGov - <https://www.zoomgov.com/j/1603758108>

Agenda

Members

Karen Humelbaugh
David Gerstenfeld
Jeannine Beatrice
Amanda Dalton
Jenny Dresler
Linda Herrera
Eric Hunter
Andrea Paluso
Eva Rippeteau

Docket #	Topic	Purpose	Presenter
1.0	Welcome	Inform	Karen Madden Humelbaugh &
1.1	Member Roundtable		David Gerstenfeld
1.2	Agency Updates		
1.3	Approval of Nov. & Dec. Meeting Notes		
2.0	Policy & Operations Updates	Inform	Kelley Ofoni, Danielle Willey &
2.1	Legislative Concepts		Shannon Ball
3.0	Customer Care, Outreach & Communication Updates	Inform	Michele Schwartz &
			Angela Yeager
4.0	Additional Program Updates	Inform	Karen Madden Humelbaugh

Paid Leave Oregon Advisory Committee Docket

Docket Item:

1.3 – Approval of November & December Meeting Notes

Docket Summary:

Karen Madden Humelbaugh asks committee members if they have any edits to the notes from the previous meeting. After feedback is addressed, the committee will vote on whether to approve the notes. November notes were inadvertently left off of the December agenda and will instead be voted on at the January meeting.

Docket Materials:

PDF – Paid Leave Oregon Advisory Committee Notes 11-2022

PDF – Paid Leave Oregon Advisory Committee Notes 12-2022

Staff Recommendation:

Approve notes.

Meeting:	Paid Leave Oregon Advisory Committee				
Date/time:	November 2, 2022				
Location:	Microsoft Teams				
Attendees:	P (Present) A (Absent) S (sent sub)				
	Facilitator: Karen Madden Humelbaugh Scribe: Mackenzie Jones				
Members		Staff		Guest	
P	Karen Madden Humelbaugh	P	Mackenzie Jones		
P	David Gerstenfeld	P	Shannon Ball		
P	Jeannine Beatrice	P	Juan Serratos		
A	Amanda Dalton (employers)	P	Danielle Willey		
P	Jenny Dresler (employers)	A	Michele Roland-Schwartz		
A	Linda Herrera (employees)	P	Kelley Ofoni		
P	Eric Hunter (employers)	P	Angela Yeager		
P	Andrea Paluso (employees)				
P	Eva Rippeteau (employees)				
P	Paloma Sparks (employers)				
P	Jessica Giannettino (employees)				

Agenda

Docket #	Topic	Purpose	Presenter
1.0	Welcome	Inform	Karen Madden Humelbaugh &
1.1	Member Roundtable		David Gerstenfeld
1.2	Agency & Program Updates		
1.3	Approval of October Meeting Notes		

No concerns from committee members, notes approved.

The agency is continuing to manage though a tight budget and is having discussions at the national level regarding the decrease in federal funds. The Unemployment Insurance (UI) division typically receives and increase in claims during the winter season and is seeing more than projected this year. The number of claims received for UI in October was 30% greater than those received in September.

The deadline for quarterly reporting just passed and 50,000 employers filed in the new Frances Online system. Frances has gone smoothly, especially considering the size and scale but as anticipated, the agency has recognized a few adjustments that need to be made during the next rollout. Teams are working hard to prepare for the next rollout which will include Paid Leave benefits.

The agency is preparing for the election and making sure they are ready to bring new legislators and the Governor up to speed and ensuring continued support of the agency's work.

2.0	Policy & Rules Update	Inform	Shannon Ball
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Shannon Ball provided an update on administrative rulemaking:

- Batch 4 contributions and equivalent plan rules are finalized and are available online. The team is still waiting on a decision from the Attorney General regarding an exemption from the model rules for contested cases.
- Batch 5 rules related to benefits will be filed within the next week or two.

Paloma Sparks suggests continuing to maintain one document with a compilation of all finalized rules. Shannon Ball will continue sending an updated document each time rules are finalized and will work with the Communications Team to possibly upload the document onto the website.

Employee Count – Temporary Rule proposal:

Karen Madden Humelbaugh and Kelley Ofoni opened a discussion with the committee regarding amending the administrative rule for employee count. If the proposed change has a consensus today, the agency will need to quickly enter temporary rulemaking and have everything solidified prior to when contributions begin in January. Kelley Ofoni provided an overview of the key differences between the current administrative rule and the proposed method for determining employee count.

The proposed method would be using a monthly employee count to calculate the annual average compared to the current method which uses a quarterly count. You would add the monthly counts and divide by 12 to receive the average employee count. If the average employee count is below 25 (no rounding), you are considered a small employer.

The proposed method would use the same type of count that is already being reported by majority of employers for payroll reports for Unemployment Insurance (UI). In general for many employers, it would be the same number. However, if an employer has employees not covered under UI but who are covered under Paid Leave, they'd need to add those employees to their count. When benefits begin, if an employer has hired a replacement worker while the employer is out on leave, that employee would be deducted from the count.

The proposed method would allow for a calendar year lookback period, so the average count for 2022 would determine whether a business is small or large for all of 2023, and so on. This is different than the current method which has to be offset for July-June to allow time for a determination and would vary year-to-year.

With the current method, the Paid Leave division would make a determination based on the information provided on the quarterly tax report and send out an employer size notice to the employers. With the proposed method, employers would determine if their employer size.

Andrea Paluso asked what happens if the employer makes a false determination? Paid Leave still has access to plenty of information and can request additional information from employers in fact finding if there is a question of accuracy in their employee count.

Karen Madden Humelbaugh asked the committee to express their support or concern for the proposed change:

- Paloma Sparks – Appreciates the proposal and believes this is more in line with legislative intent.
- Jenny Dressler – Believes this will help smaller business owners and is closer to legislative intent.
- Jessica Giannettino – Requested a week to confer with others to make sure nothing is fundamentally bothering with seasonal employment
- Andrea Paluso – Would like time to confer but believes it is reasonable to move forward with drafting. Doesn't expect opposition unless there are major concerns. Expressed apprehension regarding the self-determination of employer size.
- Eric Hunter – Feels that the proposed plan is more straight forward and seems like the right direction.
- Eva Rippeteau – Would like time to confer.

Without immediate, large concerns the team is comfortable moving forward with drafting a temporary administrative rule to change the method of determining employee count. Members who have additional feedback can send to the Paid Leave team by the end of the week.

Danielle Willey shared updates from the Paid Leave Benefits Section. Benefits is preparing for the next rollout of the Frances system and are recruiting for a Benefits Eligibility Manager and a Claims Manager to help support the team. The team is continuing to work with the Policy and Operations team on definition sessions for Frances configuration in preparation of the benefits rollout.

4.0	Customer Care & Outreach	Inform	Michele Schwartz
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Karen Madden Humelbaugh provided updates from Paid Leave's Customer Care and Outreach section. The outreach team is continuing to host the Community Conversations Zoom sessions which have continued to have great attendance. These sessions are scheduled out for the remainder of November and December with some sessions hosted outside typical business hours.

The team has reached almost 10,000 constituents with their outreach and engagement efforts.

Customer Care is recruiting for a number of additional positions, some of which will require bilingualism.

5.0	Communications Update	Inform	Angela Yeager
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Angela Yeager provided updates on the work from the Communications Team. The statewide campaign launches the week of November 14. The employer campaign will include paid advertising in the forms of radio, digital media and social media ads. Examples include a brief 15 second "explainer video" that will play on digital streaming platforms as well as sponsored articles in the Portland Business Journal. The new modernized website is still in development and will launch this winter.

Andrea Paluso expressed her worry about informing employees so they are prepared for their payroll deductions and making sure they understand the benefits of the program. The paid advertising campaign for employees doesn't begin until after January but the team is currently doing specific media outreach with paid outlets to help get word out to employees. While majority of messaging now is targeting employers, it is also reaching and informing employees. The team expects that the upcoming Facebook Live events will reach more employees. The team is also meeting with employee groups and state employees.

Paloma Sparks mentioned that she has received several requests from employers for template language to use in their employee handbooks. The team will try to compile some language that will be helpful for employers.

Andrea Paluso flagged outreach plans for medical professionals as a future topic of discussion.

6.0	Additional Program Updates
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Karen Madden Humelbaugh requests that members continue their advocacy and help getting the word out about Paid Leave and preparing everyone ready for the upcoming changes. If members have any suggestions on groups of people that Paid Leave should meet with they can send their suggestions to Karen or have those groups contact the team directly at paidleave@oregon.gov.

Action Items

Action	Assigned	Due Date	Completed
Work with Communications Team to post a compilation of all finalized rules on the Paid Leave website.	Shannon Ball		
Language for employer handbooks	Karen Madden Humelbaugh		

Decisions

- October Advisory Committee meeting notes were approved.

Meeting:	Paid Leave Oregon Advisory Committee				
Date/time:	December 7, 2022				
Location:	Microsoft Teams				
Attendees:	P (Present) A (Absent) S (sent sub)				
	Facilitator: Karen Madden Humelbaugh Scribe: Mackenzie Jones				
Members		Staff		Guest	
P	Karen Madden Humelbaugh	P	Mackenzie Jones		
P	David Gerstenfeld	P	Shannon Ball		
P	Jeannine Beatrice	P	Juan Serratos		
A	Amanda Dalton (employers)	P	Danielle Willey		
P	Jenny Dresler (employers)	P	Michele Roland-Schwartz		
P	Linda Herrera (employees)	P	Angela Yeager		
S	Eric Hunter (employers)	P	Kelley Ofoni		
S	Andrea Paluso (employees)				
P	Eva Rippeteau (employees)				
P	Paloma Sparks (employers)				
P	Jessica Giannettino (employees)				

Agenda

Docket #	Topic	Purpose	Presenter
1.0	Welcome	Inform	Karen Madden Humelbaugh &
1.1	Member Roundtable		David Gerstenfeld
1.2	Agency & Program Updates		
1.3	Approval of November Meeting Notes		

The November meeting minutes were inadvertently left out of the distributed docket and will be looped in with the December meeting minutes for the committee to approve at the January meeting.

Jessica Giannettino announced that her last day with the Oregon AFL-CIO will be December 8. Paloma Sparks announced that her last day with Oregon Business and Industry is December 15. The Paid Leave Team extends their gratitude and appreciation for all the hard work both Jessica and Paloma have contributed in developing the program. The committee will begin the appointment process for new Advisory Committee members at a future date.

David Gerstenfeld shared agency updates. The agency is continuing to closely monitor the budget and advocating at the national level for additional funding. They are waiting to see if there will be any congressional efforts to reauthorize the Trade Act Program. The Unemployment Insurance program is experiencing their normal seasonal uptick and are experiencing challenges in maintaining the excellent phone wait time and customer service levels that were accomplishing over the past year. However, some of the new tools and management approaches have been effective and they are seeing quick improvements. The Research Division has been considering how to use and evaluate data innovatively by looking across programs, silos and different types of data. They have been conducting research in Oregon specifically around the disparate effects of the pandemic. The agency is also working to prepare and inform the new coming legislators and Governor's team.

2.0	Policy & Operations Updates	Inform	Kelley Ofoni & Danielle Willey
<p>Danielle Willey provided operations updates. The Paid Leave team has been working closely with Modernization staff and the technology vendor to establish what the Frances Online system will look like for the benefits rollout. Subject matter experts are working diligently to ensure they are creating an equitable and accessible program. The deadline for employers to submit a declaration of intent was on November 30th. The team has received nearly 2,500 declarations of intent in addition to 107 equivalent plan applications. 23 of the applications have been reviewed and approved and the team is working hard to process the remaining. Fully-insured equivalent plans require the insurance provider to work with Department of Consumer and Business Services (DCBS) to ensure their plan meets DCBS standards.</p> <p>Shannon Ball shared a brief administrative rules update. Two temporary rules to change how employer size is calculated were filed with the Secretary of State (SOS) on November 22, 2022. Batch 1-5 are now final and available on the SOS website. The team is planning for a couple additional batches of rules in the future and are hoping to have batch 6 (related to employer size) final in April and batch 7 (any amendments or additional rules) final in August.</p>			
3.0	Customer Care, Outreach & Communication Updates	Inform	Michele Schwartz & Angela Yeager
<p>Michele Schwartz provided updates on Customer Care and Outreach. Emily Sokolski has joined the team as the new labor and union worker advocacy liaison and brings with her valuable experience having worked with AFL-CIO and SEIU. Two additional team members will be joining the outreach team next week. The team has remained busy hosting both in-person and virtual sessions with employers and employees across the state including farm and agricultural service organizations, civil rights and advocacy organizations and many more. The team is developing a customer care approach in preparation for customer calls related to benefits beginning in September. They have been receiving an average of 100 contacts per day by phone and email and their response time average is same-day.</p> <p>Angela Yeager shared updates from the Communications Team. The statewide campaign launched on November 14th and has since generated nearly 48,000 new website users, 4 million impressions on the website and almost 40,000 clicks. Paid Leave Oregon videos have had 313,000 start-to-finish views. Both English and Spanish ads are performing well. The paid Facebook and LinkedIn ads have been very successful, however the Twitter ads are not thriving. The team is currently reevaluating whether they will redistribute some or all of their spending from the Twitter ads to one of the better performing social media platforms. The communications team has been working on media outreach including radio and news interviews. They are hoping to launch the new Paid Leave website in December or early January.</p>			
4.0	Additional Program Updates	Inform	Karen Madden Humelbaugh
<p>Karen Madden Humelbaugh shared a few additional program updates. The team urges committee members to continue helping with spreading the word, sharing the program's social media, sharing job postings and getting the team in contact with community organizations. The team is continuing to hire for many positions and welcomed 19 new staff last week.</p>			

Action Items

Action	Assigned	Due Date	Completed
Work with Communications Team to post a compilation of all finalized rules on the Paid Leave website.	Shannon Ball		12/2/2022

Paid Leave Oregon Advisory Committee Docket

Docket Item:**2.1 – Legislative Concepts****Docket Summary:**

The 2023 legislative concept proposal deadline for the Paid Leave Oregon Division has closed; however, the Division would like to ask for four additional legislative concepts to be added to our existing technical corrections and housekeeping bill (LC 507). Each day as we continue to implement the program, additional needs for statutory changes are identified in order for the implementation of the program.

Attached are four individual one pagers that summarize the legislative concept proposal, provides the reason the legislative concept is needed, and draft statutory language.

Docket Materials:**PDF – Legislative Concept One-Pagers**

- Authorized Rep One Pager LC
- Appeal One Pager LC
- Grant Recovery One Pager LC
- Appeal Dismissal One Pager LC

Staff Recommendation:

Paid Leave Oregon Division recommends the Advisory Committee approve the agency to move forward to the Governor's Office and for drafting the four legislative concepts.

POTENTIAL - 2023 PAID LEAVE OREGON LEGISLATIVE CONCEPT (LC)

Authorized Representative

LC PROPOSAL:

The Paid Leave Oregon Division is recommending a statutory change in ORS 657B.400 to allow an authorized representative to receive information on behalf of the claimant if the claimant so chooses.

REASON FOR LC:

The current proposed confidentiality statute recommendations only allows information to be disclosed to the claimant or legal representative in a hearing. Currently, the department cannot disclose anything about the Paid Leave benefits except to the claimant. However, in many situations the claimant may not be available and needs an authorized representative to assist them with their Paid Leave benefits or contributions.

STAKEHOLDER FEEDBACK:

Employee representatives – Will discuss at January AC meeting.

Employer representatives – Will discuss at January AC meeting.

PROPOSED STATUTORY LANGUAGE: (The entire statute is not included – only the section that we recommending expanding is included. See **bold** language below for LC 507 proposed language and in **red** for suggested changes).

657B.400 Confidentiality of Information.

(1) Except as provided in subsections (2) to (7) and (10) of this section, all information in the records of the Employment Department or a third party administrator pertaining to the administration of this chapter:

(a) Is confidential and for the exclusive use and information of the Director of the Employment Department in administering this chapter;

(b) May not be used in any court action or in any proceeding pending in the court unless the director or the State of Oregon is a party to the action or proceeding or unless the action or proceeding concerns the establishment, enforcement or modification of a support obligation and support services are being provided by the Division of Child Support of the Department of Justice or the district attorney pursuant to ORS 25.080; and

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

(2) The Employment Department may disclose information:

(a) To any claimant, employer, or a person designated by the claimant or employer, either expressly or by implication, to receive the information as may be provided by the Employment Department in administrative rule legal representative, at a hearing before an administrative

law judge, to the extent necessary for the proper presentation of a claim for family and medical leave insurance benefits **or contributions**.

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

DRAFT

POTENTIAL - 2023 PAID LEAVE OREGON LEGISLATIVE CONCEPT (LC)

Appeal Language Clean-Up

LC PROPOSAL:

The Paid Leave Oregon Division is recommending a statutory change in ORS 657B.410 to expand the statute to allow for appeals of decisions on contributions, elective coverage, assistance grants, and penalties made by the Paid Leave Division. Also expand the statute to allow for parties to have attorneys represent them in hearings if they would like, but do not have to and can have others represent parties also in a hearing.

REASON FOR LC:

Currently, appeals are only allowed under this section of statute for decisions on equivalent plan approvals/denials, benefits approvals or denials, weekly benefit amounts, or disqualification due to false statements. The requirement to only allow an appeal for certain items with the Paid Leave statutes limits what items may be allowed to be heard through an appeal by the Office of Administrative Hearings. When an agency makes a determination that deprives a person, there is a due process requirement. Without this change, the contribution, elective coverage, assistance grants, and penalty adjustments may need to be heard at the Oregon Court of Appeals (ORS 183.482) instead of the Office of Administrative Hearings or to the Marion County Circuit Court (ORS 183.484). This would require a separate appeal process for Paid Leave contribution adjustments and Unemployment Insurance adjustments, which would be a burden to the employer.

ORS 9.160 states a person cannot represent someone unless they are qualified to practice law in Oregon. Adding this language, allows for parties to be represented at the Office of Administrative Hearings by attorneys qualified to practice law in Oregon or by someone they choose to represent them as long as they don't charge more than the director approves. This will allow for both parties to be represented by not just attorneys. Paid Leave Oregon received approval from the Attorney General to allow an officer or employee of the department to represent the department in hearings and has stated so in temporary administrative rule OAR 471-070-8000.

STAKEHOLDER FEEDBACK:

Employee representatives – Will discuss at January AC meeting.

Employer representatives – Will discuss at January AC meeting.

PROPOSED STATUTORY LANGUAGE:

Last Revised: 1/3/23
Author: Shannon Ball

Purpose: Advisory Committee
Status: Internal

657B.410 Appeals process, generally; process subject to judicial review. (1) The Director of the Employment Department shall establish a process by which:

(a) An employer may request a hearing to obtain review of a final decision of the director regarding approval or denial of an employer's application for approval of a plan under ORS 657B.210.

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

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

(B) The weekly benefit amount payable to a covered individual as determined under ORS 657B.050; or

(C) Disqualification from the receipt of benefits including liability or repayment of benefits as determined under ORS 657B.120.

(c) A self-employed individual or tribal government may request a hearing to obtain review of final decisions regarding elective coverage under ORS 657B.130.

(d) An employer may request a hearing to obtain review of final decisions regarding contributions under ORS 657B.150 to ORS 657B.175 or 657B.370.

(e) An employer may request a hearing to obtain review of the penalties imposed under ORS 657B.910 or 657B.920.

(f) An employer may request a hearing to obtain review of final decisions regarding assistance grants under ORS 657B.200.

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

(3) Notwithstanding any other law, a person in any proceeding before the director or the Office of Administrative Hearing may be represented by counsel or other agent authorized by such person. No counsel or agent representing an individual shall charge or receive for the services more than an amount approved by the director. As used in this subsection, "person" has the meaning defined in ORS 174.100 and also includes this state and all political subdivisions of this state.

POTENTIAL - 2023 PAID LEAVE OREGON LEGISLATIVE CONCEPT (LC)
Assistance Grant Recovery

LC PROPOSAL:

The Paid Leave Oregon Division is recommending a statutory change in ORS 657B.280 and ORS 657B.320 to allow the department to charge penalty and interest and to collect on assistant grant repayments.

REASON FOR LC:

Currently, there is nothing in statute specific to the repayment and collection of small employer assistance grants. The eligibility of a small employer assistance grant may change if the employer size was incorrectly calculated or discovered during an audit to be a large employer instead of a small employer. A repayment and collection would occur if the Department or the recipient later determines they shouldn't have received the assistance grant. This will allow the trust fund to be repaid for payments that were made improperly, just like for contributions and benefits.

STAKEHOLDER FEEDBACK:

Employee representatives – Will discuss at January AC meeting.

Employer representatives – Will discuss at January AC meeting.

PROPOSED STATUTORY LANGUAGE:

657B.280 Delinquent contributions and improper benefit payments or assistance grant as liens on real or personal property; foreclosure. (1) This section applies to:

(a) An employer that fails to remit to the Department of Revenue any amount of contributions due under ORS 657B.150;

(b) An individual liable to repay any amount of benefits paid under this chapter to which the individual was not entitled; **and**

(c) A person liable under ORS 657B.330 for amounts due under this chapter; **and**

(d) An employer liable to repay any amount of employer assistance grants paid under ORS 657B.200 to which the employer was not entitled.

(2) If a judgment or final administrative order is rendered in favor of the Director of the Employment Department for amounts described in subsection (1) of this section, the amounts shall be a lien in favor of the director upon all property, whether real or personal, belonging to the employer, individual or person.

(3) The lien shall be perfected and attach:

(a) To real and personal property located within the county, upon the recording of a warrant, as provided in ORS 657B.300, with the clerk of the county in which the property is located.

(b) To personal property wherever located within the state, upon:

(A) The recording of a warrant, as provided in ORS 657B.300, with the clerk of any county; and

(B) The filing of a copy of the warrant with the Secretary of State as provided in ORS 657B.290.

(4) The lien created by this section may be foreclosed by a suit in the circuit court in the manner provided by law for the foreclosure of other liens on real or personal property.

657B.320 Delinquent contributions and assistance grant repayments; interest; civil penalties; collection by civil action; settlement. (1) If an employer defaults with respect to any amount of contributions required to be made by the employer to the Paid Family and Medical Leave Insurance Fund established under ORS 657B.430 or defaults on the repayment of an ineligible assistance grant, the unpaid amount, together with interest and penalties, shall be collected by the Director of the Employment Department in a civil action against the employer brought in the name of the director.

(2)(a) Judgment rendered on a civil action brought under subsection (1) of this section in favor of the director shall bear interest at the rate provided in subsection (3) of this section.

(b) An employer's compliance with the requirements of ORS 657B.150 shall date from the time that contributions were collected from the employer.

(c) The amount of contributions or assistance grant repayments collected from an employer, together with interest and penalties, shall be paid into the fund.

(3)(a) Interest upon any amounts due from an employer shall be paid and collected at the rate of one and one-half percent per month from the date prescribed for the payment to the fund. In computing the interest, a fraction of a month shall be counted as a full month.

(b) Interest shall be paid at the same time contributions or assistance grant repayments are required to be paid by the employer to the fund.

(4) If an employer fails to pay contributions required by ORS 657B.150 at the time prescribed by the director, the employer shall be in default.

(5) If an employer receives an amount in assistance grants to which the employer was not entitled and the employer fails to repay that amount within 30 days of receiving notice of repayment from the department, the employer shall be in default.

(56) If an employer that is in default with respect to payment of contributions or assistance grant repayments fails to make payment within 10 days after written demand has been made by the director, the employer shall be subject to a penalty of 10 percent of the amount of the contributions or assistance grant repayments. A demand for payment shall be deemed to have been made when deposited in the mail addressed to the employer at the employer's last known address of record with the director.

(67) If any part of a deficiency is due to fraud with intent to avoid payment of contributions to the fund or due to fraud with intent to receive assistance grants, then 50 percent of the total amount of the deficiency, in addition to the deficiency, shall be assessed, collected and paid, in the same manner as if it were a deficiency, and deposited in the fund.

(78) Civil actions brought in the name of the director under this section to collect contributions, improperly received assistance grants, interest or penalties from an employer shall be entitled to preference upon the calendar over all civil cases that involve only private parties.

(89)(a) Notwithstanding the provisions of this section, the director may agree to accept from an employer or former employer with a delinquent account any amount the director finds reasonable under the circumstances as consideration in settlement of the full amount of contributions, improperly received assistance grants, interest or penalties due if the director finds that:

(A) The total interest collectible on the delinquent account is in excess of 25 percent of the principal;

(B) The employer or former employer no longer conducts an active business and has insufficient net assets to pay the full amount of all contributions, assistance grant repayments, interest or penalties due; and

(C) The employer or former employer can pay some but not all of the delinquent amounts.

(b) Whenever a settlement agreement is made pursuant to paragraph (a) of this subsection, a written record signed by the director shall be maintained in the files of the director. Such records shall set forth:

- (A) The name of the employer or former employer against whom the liability was assessed;
- (B) The amount of the assessed liability;
- (C) The amount of the liability paid;
- (D) The amount of the liability canceled or waived; and
- (E) A sworn statement of the employer or former employer setting forth the complete financial responsibility of the employer or former employer and containing a full disclosure of all matters bearing upon the ability of the employer or former employer to pay the full amount of the liability assessed.

(910) The director shall file a full and true copy of the record of each settlement agreement with the Secretary of State as a public record.

(1011) Any amount agreed to in settlement of the director's claims on behalf of the fund pursuant to subsection (89)(a) of this section shall be first credited to the contributions **or assistance grant repayments** due from the employer or former employer until the principal amount of contributions **or assistance grant repayments** due has been satisfied and shall be deposited in the fund.

POTENTIAL - 2023 PAID LEAVE OREGON LEGISLATIVE CONCEPT (LC)

Appeal Dismissal

LC PROPOSAL:

The Paid Leave Oregon Division is recommending a new statute to allow the Director of the Employment Department to dismiss a request for a hearing in specific situations.

REASON FOR LC:

This will allow the Department to dismiss a request for a hearing and not require the Office of Administrative Hearings to be involved if the requestor asks for the hearing to be withdrawn, the issue was resolved at the department level, the appeal was too early, or the hearing request is made by someone who isn't entitled to a hearing. This will save time for all parties involved and will reduce unnecessary administrative burden and costs. Without this LC, the hearing would have to go to the Office of Administrative Hearings, be assigned an administrative law judge, and have to be at least looked at or even heard even though the requesting party may have asked for it to be withdrawn.

STAKEHOLDER FEEDBACK:

Employee representatives – Will discuss at January AC meeting.

Employer representatives – Will discuss at January AC meeting.

PROPOSED STATUTORY LANGUAGE:

657B.XXX Dismissal of request for hearing.

(1) The Director of the Employment Department may dismiss a request for hearing that has been filed, as provided in ORS 657B.410 if:

- (a) The request for hearing is withdrawn by the requesting party;
- (b) The issues are resolved by reversal or amendment of the decision that is the subject of the hearing request;
- (c) The request for hearing is filed prior to the date of the written decision or written determination that is the subject of the request; or
- (d) The request for hearing is made by a person who is not entitled to a hearing or is not the authorized representative of a party who is entitled to a hearing.

(2) A dismissal by the director under section (1) is final unless the party whose request for hearing has been dismissed files, within 20 days after the dismissal notice was mailed to the party's last-known address, a request for hearing regarding the dismissal.

(3) If the party files a timely request under section (2), the hearing regarding the dismissal shall be assigned to an administrative law judge from the Office of Administrative Hearings.

Last Revised: 12/30/22	Purpose: Advisory Committee
Author: Shannon Ball	Status: Draft

(4) The administrative law judge assigned under section (3) shall determine whether the dismissal was appropriately entered. If the dismissal was not appropriately entered, the administrative law judge shall decide the underlying issue upon which the hearing was requested.

DRAFT

Last Revised: 12/30/22	Purpose: Advisory Committee
Author: Shannon Ball	Status: Draft

Paid Leave Oregon Advisory Committee Docket

Docket Item:

3.0 – Customer Care, Outreach, and Communications

Docket Summary:*Communications*

Since it launched Nov. 14, the statewide campaign has generated over 6 million impressions, over 53,633 clicks to the website from our ads, and 587,955 videos played to completion. So far, our efforts -- radio ads, mail, search, paid social, display, digital video and Youtube ads -- have brought over 102,868 new users to the paidleave.oregon.gov website since November 14. We are also averaging 25-50 comments daily on our social media ads on our various platforms from Oregonians (employees and some business owners).

Our earned media (non-paid media resulting from press releases and direct pitching to media, has resulted in recent coverage in: OPB, Oregonian, Portland Business Journal, and most major radio and TV networks. For the month of November alone, media outlets that covered Paid Leave Oregon reached 15.6 million viewers through the various print, radio, TV, and digital mediums.

More than 13,000 people have downloaded the Model Notice Poster since Nov. 17 (the earliest we have data on downloads). Our employer toolkit page is currently our second-most viewed page after the main homepage.

A new round of advertising, with different photos and messaging, launches Jan. 17.

Our new refreshed website will launch this winter. The comms and web team has been focused on this work, along with other deliverables that needed to be complete by January, including: Equivalent Plan Model Notice Template, Self Employment Forms, and Taxability Fact Sheet.

Customer Care & Outreach

The Customer Care & Outreach teams are experiencing an uptick in calls, emails, and requests for presentations as a result of the statewide employer campaign and outreach efforts.

The outreach team ended the year with nearly 16,000 employers and workers in Oregon reached through virtual and in-person presentations and tabling events. We are preparing for a variety of virtual sessions in 2023 to include but not limited to:

- Beginning in January, we will launch another series of *Community Conversations about Paid Leave Oregon*, every Thursday from January 19-February 9th from 3-4pm.
- A new series titled, *Paid Leave Oregon: Contributions Explained* will launch every Tuesday from February 28 – March 21, 2023, 3-4pm. The *Contributions Explained* sessions are intended to support employers with filing their first Oregon Quarterly (OQ) report and will be done in collaboration with the Department of Revenue.



- The outreach team is currently planning another public series titled, *Paid Leave Oregon: Benefits Explained* intended for employees in Oregon, and will begin in late July through September, with some non-traditional hours available
- We will offer a mixture of in-person and virtual sessions in partnership with culturally-specific organizations, healthcare, nonprofits, and more. Dates and locations to be announced.

Docket Materials:

None, this is an informational item only.

Staff Recommendation:

None, this is an informational item only.