

2017 – 19 Legislation Summary

Listed below is a summary of bills passed during the 2017 and 2018 legislative sessions relevant to the University of Oregon's human resources partners.

Senate Bills

Senate Bill 187

Effective Date: August 2, 2017
Vision Screening Reimbursements

Background and Current Law: House Bill 3000 (2013) directed the Oregon Department of Education to make recommendations regarding regular vision screenings in public schools.

Bill Summary: Senate Bill 187 requires the Oregon Department of Education to reimburse education providers for expenses related to vision screening, including contracting with private entities. It establishes the Vision Health Account in the State Treasury and appropriates \$1 million from the General Fund for the account.

Oregon Laws 2017: Chapter 640

Senate Bill 200

Effective Date: August 2, 2017
PERS Credit Purchase Option for Uniformed Services

Background and Current Law: Under current law, members of the Public Employees Retirement System (PERS) may augment their total public service time credit at retirement for purposes of calculating retirement benefits by purchasing retirement credits for periods of service in the uniformed services. A PERS member may purchase credit for up to four years of active service in the U.S. Armed Forces performed on or after January 1, 1950, and for periods of service in the uniformed services if the member leaves a qualifying position to perform service and returns to a qualifying position within five years.

Bill Summary: Senate Bill 200 expands eligibility to purchase retirement credit to any PERS member who entered or reentered active service in uniformed services on or after January 1, 1950.

Oregon Law: 641

Senate Bill 201

Effective Date: January 1, 2018
Remuneration for Public University PERS Membership

Background and Current Law: When the Legislative Assembly established the Oregon Public Service Retirement Plan (OPSRP) in 2003, it defined salary as "remuneration [that] is includable in the employee's taxable income under Oregon law." This definition excludes compensation paid to Oregon

public employees who reside and work outside of Oregon. However, Oregon public universities continued to make OPSRP contributions for all employees, including for out-of-state employees whose compensation was not taxable in Oregon. Oregon public universities also continued to communicate to prospective and newly hired employees that they could receive benefits under OPSRP without informing them that compensation not taxable in Oregon would not be taken into account for OPSRP benefit purposes.

Bill summary: Senate Bill 201 establishes that remuneration paid to OPSRP members for services to the university during continuous period of employment is taxable income under Oregon law if the member was hired by a university with a governing board in a qualifying position from August 29, 2003, to December 31, 2016, and the member resided and performed those services for the university in the United States.

Oregon Laws 2017: Chapter 642

Senate Bill 299

Effective Date: July 1, 2017

Limits and Application of Sick Time policies

Background and Current Law: in 2015, the Legislative Assembly enacted Senate Bill 454, requiring employers to provide sick time for employees. Employers with 10 or more employees, or at least six employees in Portland, must implement a sick time policy that allows employees to use up to 40 hours of paid sick time per year. Other employers must implement a policy that allows employees to use up to 40 hours of paid sick time per year. The method for calculating the number of employees working for an employer is provided by administrative rule.

Bill Summary: Senate Bill 299 excludes certain individuals from the employee count for purposes of determining which sick leave requirements apply. It clarifies that an employer may limit employees to 40 hours of sick time accrual per year, and may adopt a policy limiting employees from accruing more than a total of 80 hours of sick time and from using more than 40 hours in a year.

Oregon Laws: 2017 Chapter 520

Senate Bill 712

Effective Date: January 1, 2018

PERS Service Credit for Workers' Compensation Disability Payments

Background and Current Law: Under current law, Tier one and Tier Two members of the Public Employees Retirement System (PERS) who return to qualifying employment following disability leave for a duty-related injury under the workers' compensation system are eligible for PERS service credit for that period. Oregon Public Service Retirement Plan (OPSRP) members in the same circumstances are not eligible for PERS service credit for that period.

Bill Summary: Senate Bill 712 provides that an OPSRP member who returns to qualifying employment after receiving disability payment for an injury or disease sustained while in actual performance of duty, and not intentionally self-inflicted, receives hours of service credit for vesting purposes and retirement credit for the period of those payments.

Senate Bill 934

Effective Date: January 1, 2018
Health Care Payment Reform

Background and Current law: The “patient-centered medical home” is a delivery of care model that is intended to reduce costs and the inappropriate use of health services while improving the quality of care and patient experience. “Patient centered” refers to the full scope of a patient’s physical and mental needs being addressed in coordination, including specialist and hospice care. With the proliferation of medical homes in the United States over the past decade, a growing body of research assessing their effects has become available. Based on available evidence, federal and state policy makers and health care payers have increasingly expressed interest in medical homes as a tool to restructure primary care.

Bill Summary: Senate Bill 934 requires coordinated care organizations, commercial insurers, the Public Employees’ Benefit Board (PEBB), and the Oregon Educators Benefit Board (OEBB) to spend at least 12 percent of their total expenditures on primary care by January 1, 2023. Insurers that spend less than 12 percent of their premiums on primary care are required to develop a plan to increase spending by at least one percent each year.

Oregon Laws 2017: Chapter 489

Senate Bill 1559

Effective Date: January 1, 2019
Whistleblower Protection Manual

Background and Current Law: “Whistleblowers” are employees, typically public employees, who report questionable conduct or activity by their employer and, in doing so, put themselves at risk of retaliation by the employer. Such retaliation may take the form of discharge, demotion, or other adverse decision with regard to compensation or employment conditions. Congress initially addressed whistleblower rights and protections for federal employees as part of the Civil Service Reform Act of 1978, and has since strengthened those protections over time. Every state has since enacted statutory whistleblower protections for public employees, including Oregon, and a handful of states extended protections to private employees.

Bill Summary: Senate Bill 1559 requires the Bureau of Labor and Industries (BOLI) to prepare an online manual of uniform whistleblower standards and procedures. The measure also requires that four state agencies pilot a process for two years that allows whistleblowers to report anonymously; Oregon Health Authority, Oregon Department of Transportation, Department of Human Services, and Department of Environmental Quality. BOLI and the identified agencies are also directed to compile data for a written report to the Governor and the legislature by January 1 of each odd-numbered year

Oregon Laws 2018

Senate Bill 1566

Effective Date: June 2, 2018

Public Employees Retirement System Funding

Background and Current Law: The retirement benefits paid to members of the Public Employees Retirement System (PERS) are funded by a combination of participating employer contributions and earnings on invested funds. The PERS Board adjusts contribution rates every two years so that, over time, those contributions will be sufficient to fund the projected benefits earned. However, when revenues are insufficient to pay for benefits already accrued, that shortfall is called the Unfunded Actuarial Liability (UAL). At the end of 2016, the UAL was \$19.9 billion. Some employers make a voluntary lump sum payment into a separate side account, attribute solely to that employer making the payment, to prepay for all or part of their projected costs of pension benefits. Not including the \$5.4 billion in employer side accounts at the end of 2016, the PERS liability was estimated to be 75 percent funded at that time (79 percent funded with side accounts).

In 2017, Governor Kate Brown appointed a task force to identify additional funding to reduce the PERS UAL by up to \$5 billion over the next five years. The task force report outlined a series of options and considerations for the Governor's review. Following review, the Governor proposed Senate Bill 1566.

Bill Summary: Senate Bill 1566 relates to employer contribution rates to PERS. It addresses the PERS UAL by establishing the Employer Incentive Fund (EIF), the School Districts Unfunded Liability Fund (SDULF), and the Unfunded Accrued Liability Resolution (UALR) Program.

Senate Bill 1566 appropriates moneys in the EIF to the Public Employees Retirement Board (PERB) to incentivize public employers to make lump sum prepayments of employer contributions. The EIF is capitalized by Senate Bill 1529 (2018) with one-time funding from a portion of corporate tax revenue received by the Department of Revenue, estimated to be \$25 million.

Senate Bill 1566 appropriates moneys to the SDULF to the PERB to apply against the liabilities of public employers that are school districts. The SDULF is capitalized by Senate Bill 1529 (2018) with one-time funding from a portion of corporate tax revenue received by the Department of Revenue, estimated to be \$115 million, and by additional revenue that may become available from excess proceeds from debt collection, capital gains, taxes, estate taxes, and interest on unclaimed property.

Senate Bill 1566 creates UALR Program to assist employers in the development of plans to improve their funded status and to manage changes in employer contribution rates.

Senate Bill 1566 directs the State Treasurer to report the Legislative Assembly by September 30, 2019, on the feasibility and prudence of borrowing money from the Oregon Short term Fund for investments that allow supplemental deposits to PERS to reduce the UAL. Lastly, the measure provides for an expedited review process by the Oregon Supreme Court to determine whether any provision is unconstitutional.

Oregon Laws 2018

House Bills

House Bill 2005

Effective Date: October 6, 2017

Pay Equity

Background and Current Law: Under existing wage and hour statutes, an employer is prohibited from paying an employee at a lower wage than that paid to employees of the opposite sex for work of comparable character when the work requires comparable skills unless there is a nondiscriminatory merit or seniority system in place or the difference is based in good faith on factors other than sex. An employee who was paid in violation of the statute has a private right of action to recover unpaid wages for the prior one-year period and an equal amount in damages. Reasonable attorney's fees may be awarded to the prevailing plaintiff.

In addition, it is an unlawful employment practice for an employer to discriminate based on race, color, religion, sex, sexual orientation, national origin, marital status, or age in wages or in terms, conditions, or privileges of employment. An employee or applicant has a private right of action for recovery of back pay for the prior two-year period as well as compensatory and punitive damages and either party may request a jury trial. The prevailing party may be awarded costs and reasonable attorney's fees.

Bill Summary: House Bill 2005 extends pay equity provisions to people in the following protected classes: race, color, religion, sex, sexual orientation, national origin, marital status, disability, age, and veteran status. The measure prohibits an employer from using salary history to screen applicants or to determine compensation, or from acquiring the salary history of an applicant or employee from a current or former employer. The measure does not prohibit an applicant from disclosing salary history when negotiating compensation. The measure expands administrative and judicial remedies for pay equity violations and retaliation for wage inquiry or wage claim to include compensatory and punitive damages and jury trial. Employers may file pre-trial motion to preclude compensatory and punitive damages if the employer can demonstrate that they have completed a pay equity analysis within the three years preceding the claim, eliminated pay differentials for the plaintiff, and made reasonable substantial progress toward eliminating the wage differentials for the protected class asserted by the plaintiff. The provision allowing a civil action against an employer alleged to have sought the salary history of an applicant becomes operative January 1, 2024. All other provisions become operative January 1, 2019

Oregon Laws 2017: Chapter 197

House Bill 2338

Effective Date: January 1, 2018

Workers' Compensation Benefits for Deceased Worker's Beneficiaries

Background and Current Law: When a worker dies from an on-the-job injury or occupational disease, or while permanently and totally disabled, the surviving spouse, children, and other dependents are entitled to receive benefits. Approximately 310 surviving children and dependents currently receive

benefits due to the death of a worker. The benefit structure is complex and difficult to administer, and it can result in different benefit levels for children of the same family, depending on factors such as school enrollment and dependence on surviving spouse.

Bill Summary: House Bill 2338 simplifies the criteria for death benefits making the system easier to understand and administer, and producing predictable benefit levels for families. The measure allows a child or dependent to receive benefits until the age of 19, and specifies that the benefit level is the same regardless of circumstances. Benefits are paid for up to 48 months when the child is in postsecondary education or training program through age 26. Benefits of children and dependents received prior to the effective date will be adjusted subject to the Department of Consumer and Business Services' Retroactive Program.

Oregon Laws 2017: Chapter 71

House Bill 2864

Effective Date: June 2, 2018

Cultural Competence at Postsecondary Education Institutions

Background and Current Law: Many of Oregon's public universities and community colleges are currently engaged in cultural competency efforts. In 2015, House Bill 3308 was passed to help address student concerns regarding the occurrence and impact of micro aggressions, racial slurs, and inappropriate stereotypes at Oregon's public higher education institutions. The legislation directed the Higher Education Coordinating Commission to convene a work group to develop recommendations on these issues. House Bill 2864 codifies the work group's key recommendation to establish a process for developing cultural competency standards at each institution.

Bill Summary: House Bill 2864 defines "cultural competency" and directs public universities and community colleges to establish a process for recommending, and providing oversight for the implementation of, competency standards for the institution and its employees. The bill specifies process requirements. Each public institution of higher education is required to establish a committee, or other entity or process no later than December 31, 2019, and be in full compliance with process requirements no later than December 31, 2020.

Oregon Laws 2017: Chapter 397

House Bill 3170

Effective Date: January 1, 2018

Collective Bargaining Rights of Public University Faculty

Background and Current Law: The Public Employee Collective Bargaining Act (PECBA) codifies the laws governing employment relations between public employers and employees. Employees not covered under the PECBA who are prohibited from organizing include elected officials, persons appointed to serve on boards or commissions, certain incarcerated persons, or persons who are confidential employees, supervisory employees, or managerial employees.

Bill Summary: House Bill 3170 allows faculty members with an academic focus, who work for a public university or the Oregon Health and Science University, to organize and collectively bargain with their employer.

House Bill 3276

Effective Date: August 15, 2017

Treatment Reimbursement for Disease Outbreaks

Background and Current law: Meningitis outbreaks occurred in Eugene at the University of Oregon in 2015 and in Corvallis at Oregon State University in 2017. Meningitis is a communicable disease; the University of Oregon outbreak resulted in hospitalizations and one death. In each case, the university responded by working with public health agencies to quickly vaccinate thousands of students. In some instances, insurers refused to reimburse the University for the Cost of vaccinations as insurers required that vaccines be administered by a primary care or in-network physician, even if that provider is hundreds of miles away. Reimbursement was also denied due to the specific vaccine's status as a recently approved drug.

Bill Summary: House Bill 3276 requires health benefit plan coverage of health services to reimburse the cost of necessary antitoxins, serums, vaccines, immunization agents, antibiotics, antidotes, epidemic or other condition of public importance in a geographic area of the state or statewide.

Oregon Laws 2017: Chapter 719

House Bill 3391

Effective Date: August 15, 2017

Reproductive Health Care Coverage

Background and Current Law: Currently, under the federal Affordable Care Act (ACA), women's preventative health cares, such as mammograms, screenings for cervical cancer, prenatal care, and other services that include reproductive health care, generally must be covered with no cost-sharing. The ACA also "grandfathered" some plans to enable them to continue cost-sharing practices, which allows those plans to maintain copays and deductibles for preventative services.

Bill Summary: House Bill 3391 updates the state Insurance Code by requiring health plans to include certain health care coverage services, drugs, devices, products, and procedures relating to reproductive health without cost-sharing, including: well-women visits; screenings and counseling for sexually transmitted infections; pregnancy-related services; screening, counseling and breast cancer screening; contraceptives approved by the U.S. Food and Drug Administration; and voluntary sterilization. Additionally, the bill requires coverage of services by out-of-network providers without cost-sharing, when an in-network provider is not reasonably accessible or able to provide timely service, and prohibits discrimination based on certain classes by a health benefit plan or medical assistance program.

Oregon Laws 2017: Chapter 721

House Bill 4046

Effective Date: On passage (awaiting Governor's signature)
PERS and Outside Compensation to Higher Education Employees

Background and Current Law: Oregon law allows public university and community college employees to earn income from other private or public sources, including compensation from consulting, appearances, speeches, and intellectual property. State law specifies when compensation is considered official compensation in accordance with state ethics laws.

Bill Summary: House Bill 4046 provides that outside compensation received by an employee of a public university, Oregon Health and Science University, or community college is not included in the employee's salary for purposes of the Public Employees Retirement System (PERS) unless it is paid to the employee by the employing institution. The measure applies to compensation paid on or after the bill's effective date.

Oregon Laws 2018

House Bill 4159

Effective Date: Effective on Passage (awaiting Governor's signature)
PERS Individual Account Program

Background and Current Law: The Public Employees Retirement System (PERS) provides each member with an individual account program (IAP) benefit as well as a traditional pension benefit. Six percent of a member's salary is placed in their (IAP); some employees make the contribution while others have their employer pick up the contribution. Until 2018, all moneys in the IAP were pooled and invested in the Oregon Public Employees Retirement Fund. The Oregon Investment Council decided in 2017 to reduce the risk exposure of members as they aged by investing each member's year of birth. The investment changes. Began January 1, 2018.

Bill summary: House Bill 4159 directs the Public Employees Retirement Board to adopt rules that allow members to choose how their IAP is invested among available options. A member may make an investment change once per calendar year, and the change becomes effective at the start of the next calendar year.

Oregon Laws 2018

House Bill 2337

Effective Date: January 1, 2018
Workers' Compensation Benefits for Permanent Total Disability

Background and Current Law: In the workers' compensation system, a permanent total disability is the loss of use or function of any portion of the body that permanently prevents the worker from regularly performing work in a suitable occupation. The Department of Consumer and Business Services reports that about 600 people are currently receiving benefits for a permanent or total disability, with about 10 new awards made each year. The benefit is two-thirds of the worker's wage, but capped at Oregon's



average weekly wage (currently about \$974). The minimum benefit is 90 percent of the worker's weekly wage or \$50, whichever is lower.

Bill Summary: House Bill 2337 increases the permanent total disability maximum benefit to two-thirds of the worker's wage, capped at 133 percent of Oregon's average weekly wage (currently about \$1,295). The measure also increases the minimum benefit to one-third of Oregon's average weekly wage (currently about \$321). The measure applies to injuries occurring on or after the effective date of the measure; however, benefit levels for individuals injured prior will be adjusted subject to the Department of Consumer and Business Services' Retroactive Program.

Oregon Laws 2017: Chapter 70

Questions?

Contact UO's Government & Community Relations State Affairs Staff

Libby Batlan, Associate Vice President of State & Community Affairs 1- (458)210-8294,
batlan@uoregon.edu

Hans Bernard, Assistant Vice President of State Affairs, Special Assistant to the President –
Portland 1- (503) 753-2921, hbernard@uoregon.edu