

House Bill 3471

Sponsored by Representatives BARNHART, LININGER; Representatives GALLEGOS, NOSSE, SMITH WARNER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Imposes fee on certain large employers who pay employees less than specified amount. Authorizes Commissioner of the Bureau of Labor and Industries to enforce Act and to impose and collect fee. Imposes penalties for failure to file certain reports or maintain records. Provides for appeal process of fee assessment.

Establishes Employment-Related Public Benefit Fee Fund and Employment-Related Public Benefit Administrative Fund. Continuously appropriates moneys in funds to Bureau of Labor and Industries for administration and enforcement of Act and for transfer to Department of Human Services for purposes of Employment Related Day Care program and Medicaid.

Prohibits retaliation and discrimination against certain employees. Makes retaliation or discrimination unlawful employment practice.

Creates Advisory Council on the Employment-Related Public Benefit Fee.

A BILL FOR AN ACT

1
2 Relating to payment of wages by certain employers; creating new provisions; amending ORS 651.060;
3 and providing for revenue raising that requires approval by a three-fifths majority.

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

5 **SECTION 1. It is the policy of this state to support state programs that encourage the**
6 **availability of a stable, productive workforce by reducing the shortage of quality, affordable**
7 **health care and child care as a barrier to employment of the inhabitants of this state and,**
8 **as the state incurs significant costs related to labor practices that are substantially more**
9 **likely to leave employees in need of publicly subsidized health care and child care, to ensure**
10 **that employers who tend to enjoy the aggregate benefits of the provision of public assistance**
11 **programs to working families contribute a fair portion of the costs of administering, im-**
12 **proving and expanding those programs, including the Employment Related Day Care program**
13 **administered by the Department of Human Services and Medicaid.**

14 **SECTION 2. As used in sections 1 to 15 of this 2015 Act:**

15 (1) **"Covered employee" means all employees except those excluded under ORS 653.020.**

16 (2) **"Employ" has the meaning given that term in ORS 653.010.**

17 (3) **"Employee" means any person who is employed in this state.**

18 (4)(a) **"Employer" means any person who employs another person, the State of Oregon**
19 **or a political subdivision of the State of Oregon, any county, city, district, authority, public**
20 **corporation or entity and any of their instrumentalities organized and existing under law or**
21 **charter.**

22 (b) **"Employer" does not include the United States Government.**

23 (5) **"Employment-related public benefit fee" means any fee assessed under section 4 of**
24 **this 2015 Act and paid by a person to the state in accordance with sections 1 to 15 of this**
25 **2015 Act.**

26 (6) **"Person" has the meaning given that term in ORS 174.100.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (7) "Wages" has the meaning given that term in ORS 653.010.

2 **SECTION 3.** (1) The Commissioner of the Bureau of Labor and Industries is responsible
3 for administering and enforcing the provisions of sections 1 to 15 of this 2015 Act, including,
4 but not limited to, identifying covered employees, determining the amount of fees owed and
5 enforcing payment and collections of fees.

6 (2) The commissioner may exercise the authority specified in ORS 651.060 and may adopt
7 rules necessary for the administration and enforcement of the provisions of sections 1 to 15
8 of this 2015 Act.

9 (3) The commissioner shall consult with the Department of Human Services and the Ad-
10 visory Council on the Employment-Related Public Benefit Fee about the implementation and
11 enforcement of the provisions of sections 1 to 15 of this 2015 Act. The commissioner may
12 consult and coordinate with the department about the collection and enforcement of fee
13 payments.

14 **SECTION 4.** (1) An employer that employs 250 or more employees in this state shall pay
15 a fee to the Bureau of Labor and Industries of 50 cents per hour worked for each covered
16 employee who earns a regular rate of pay equal to or less than the greater of:

17 (a) \$11 per hour; or

18 (b) 120 percent of the state minimum wage rate.

19 (2) Employers shall pay and the Commissioner of the Bureau of Labor and Industries
20 shall collect the fee required under this section at the times and in the manner specified in
21 rules adopted by the commissioner. The commissioner shall deposit fees paid and collected
22 under this section in the Employment-Related Public Benefit Fee Fund.

23 **SECTION 5.** (1) An employer shall keep true and accurate records of all persons employed
24 by the employer and records of hours worked, compensation paid and other statistics as
25 prescribed by the Commissioner of the Bureau of Labor and Industries for the administration
26 of sections 1 to 15 of this 2015 Act.

27 (2) Records kept by the employer as required by this section must be open to inspection
28 by the commissioner at any reasonable time. A person may not refuse to allow the commis-
29 sioner to inspect the payroll or other records or documents relevant to the enforcement of
30 sections 1 to 15 of this 2015 Act.

31 (3) The commissioner may require from an employer reports on the compensation, hours,
32 employment and related matters concerning the employer's employees as the commissioner
33 deems necessary to the effective administration of sections 1 to 15 of this 2015 Act.

34 (4) An employer shall fully, correctly and promptly furnish the commissioner all infor-
35 mation required by the commissioner to carry out the purposes and provisions of sections 1
36 to 15 of this 2015 Act.

37 (5)(a) An employer shall file an annual report in a form prescribed by the commissioner
38 that provides the information necessary to determine the amount of employment-related
39 public benefit fees due from the employer, if any.

40 (b) The employer shall file the report with the Bureau of Labor and Industries at the
41 time and in the manner provided by the commissioner by rule.

42 (6) The commissioner shall ensure that periodic audits of employers are conducted to
43 enforce compliance with sections 1 to 15 of this 2015 Act.

44 (7) The commissioner shall establish by rule processes for enforcing and reasonable
45 penalties or other remedies for failure to comply with the provisions of this section, includ-

1 ing, but not limited to, rules that establish reasonable penalties or other remedies for failure
 2 to file timely reports.

3 **SECTION 6.** (1) The Commissioner of the Bureau of Labor and Industries is authorized
 4 to use any and all appropriate means of collecting amounts due under sections 1 to 15 of this
 5 2015 Act, including but not limited to liens on real or personal property, issuance of war-
 6 rants, requiring an employer to provide security for amounts due and additional alternative
 7 remedies adopted by rule.

8 (2) The remedies established under sections 1 to 15 of this 2015 Act for the collection of
 9 fees, interest and penalties are cumulative, and an action taken by the commissioner, the
 10 Attorney General or any other public officer may not be construed to be an election on the
 11 part of the state or any of its officers to pursue any remedy to the exclusion of any other
 12 remedy.

13 (3) In a civil action brought under this section, the prevailing party is entitled to recover
 14 from the opposing party or parties reasonable costs and attorney fees to be fixed by the
 15 court upon entry of a final order or judgment in favor of the prevailing party in a court
 16 hearing, in a trial or on appeal.

17 **SECTION 7.** (1) If an employer files a report for the purpose of determining the amount
 18 of fees due under section 4 of this 2015 Act but fails to pay fees or interest, the Commis-
 19 sioner of the Bureau of Labor and Industries may assess the amount of fees or interest due
 20 on the basis of the information submitted and shall give written notice of the assessment to
 21 the employer, mailed to the employer's last-known address of record with the
 22 commissioner. Notwithstanding section 9 of this 2015 Act, if the report is subsequently de-
 23 termined to be incorrect, the commissioner may make additional assessments.

24 (2) If an employer fails to file a report when required by the commissioner for the pur-
 25 pose of determining the amount of fees due under section 4 of this 2015 Act, the commis-
 26 sioner may estimate the amount based upon available information regarding the period or
 27 periods for which no report was filed and, upon the basis of the estimate, shall compute and
 28 assess the amount of fees payable by the employer. The commissioner shall mail written
 29 notice of the assessment to the employer at the employer's last-known address of record
 30 with the commissioner.

31 (3) If the commissioner is not satisfied with a report made by an employer for the pur-
 32 pose of determining the amount of fees due under section 4 of this 2015 Act, the commis-
 33 sioner may compute the amount required to be paid upon the basis of facts contained in the
 34 report or upon the basis of any information obtainable and may make an assessment of the
 35 amount of the deficiency. The commissioner shall mail written notice of the deficiency as-
 36 sessment to the employer at the employer's last-known address of record with the commis-
 37 sioner.

38 **SECTION 8.** (1) If the Commissioner of the Bureau of Labor and Industries has reason
 39 to believe that an employer liable under section 4 of this 2015 Act is insolvent, or that the
 40 collection of any fees will be jeopardized by delaying collection, the commissioner may make
 41 an immediate assessment of the estimated amount of accrued fees, noting upon the assess-
 42 ment that it is a jeopardy assessment levied under this section, and may proceed to enforce
 43 collection of the assessment immediately.

44 (2) The commissioner may, when levying an assessment under this section, demand a
 45 bond or deposit of security as is necessary to ensure collection of the amount of the as-

1 assessment.

2 (3) The commissioner shall mail written notice of an assessment levied under this section
 3 to the employer liable under section 4 of this 2015 Act at the employer's last-known address
 4 of record with the commissioner.

5 **SECTION 9.** (1) Assessments provided for in sections 7 and 8 of this 2015 Act finally fix
 6 the amount of fees due and payable unless the employer liable under section 4 of this 2015
 7 Act applies for review of the assessment as provided in subsection (2) of this section.

8 (2) A fee assessment is conclusive and binding upon the employer unless, within 20 days
 9 after the mailing of the notice of assessment to the last-known address of the employer as
 10 shown by the records of the Commissioner of the Bureau of Labor and Industries or, in the
 11 absence of mailing, within 20 days after the delivery of the notice, the employer files a
 12 written application for review with the commissioner, setting forth with specificity the rea-
 13 sons the employer contends the notice of assessment is incorrect. The employer may not
 14 raise any issues not identified in the initial application for review at any subsequent review
 15 proceeding without good cause.

16 (3) If the employer files a valid application for review within the time provided in sub-
 17 section (2) of this section, the commissioner shall review the determination and notify the
 18 employer in writing of the result of the review.

19 (4) The decision of the commissioner reflecting the result of the review provided for in
 20 subsection (3) of this section is final, conclusive and binding upon the employer unless the
 21 employer, within 20 days after mailing or delivery of the notice, files a request for hearing
 22 with the commissioner. The request must be in writing and must state with specificity the
 23 reasons the employer contends the decision of the commissioner is incorrect. The employer
 24 may not raise any issues not identified in the request for hearing at any subsequent review
 25 proceeding without good cause.

26 (5) When the employer has filed a valid request for hearing, an administrative law judge
 27 assigned from the Office of Administrative Hearings established under ORS 183.605 shall
 28 conduct a hearing, unless a hearing has previously been afforded the employer on the same
 29 grounds as set forth in the request. The administrative law judge shall give notice of the
 30 time and place of hearing to the commissioner and to the employer by mail directed to the
 31 last-known address of record with the commissioner. The filing of a request for hearing with
 32 respect to a disputed fee assessment does not affect the right of the commissioner to perfect
 33 any liens provided by sections 1 to 15 of this 2015 Act. The employer bears the burden of
 34 proving any alleged errors in the fee assessment, including coverage determinations.

35 (6) After hearing, the administrative law judge shall enter findings of fact and decision
 36 either affirming or modifying the fee assessment. The administrative law judge shall
 37 promptly notify the employer and the commissioner of the decision.

38 (7) An order of the administrative law judge is final on the date of notification or of the
 39 mailing of the notice to the commissioner and to the employer at the last-known address of
 40 record with the commissioner, and is conclusive and binding upon the employer and upon the
 41 commissioner unless a petition for judicial review is filed in the manner and within the time
 42 prescribed in ORS chapter 183, except that the petition for review must be filed within 20
 43 days after the order is final.

44 (8) The commissioner may adopt rules to establish appropriate streamlined procedures
 45 for the hearings provided for in subsection (5) of this section, including but not limited to

1 telephonic hearings, and hearings by written submission only where there are no factual
2 disputes requiring witness credibility determinations.

3 (9) An employer liable under section 4 of this 2015 Act who fails to apply for review under
4 subsection (4) of this section within the time specified or, having applied, fails to comply with
5 any of the review procedures, is precluded from raising any defense, to any action, suit or
6 proceeding brought by the commissioner for the recovery of fees based upon the assessment,
7 that could have been raised in the review. Fees assessed under this section are subject to
8 the penalties and interest provided for in section 10 of this 2015 Act.

9 **SECTION 10.** (1) If an employer liable under section 4 of this 2015 Act defaults on pay-
10 ment required to be made by the employer under sections 1 to 15 of this 2015 Act, the Com-
11 missioner of the Bureau of Labor and Industries shall collect the fees due, together with
12 interest on the assessed fees and penalties, in a civil action against the employer brought in
13 the name of the commissioner, and any judgment rendered on the action bears interest at
14 the rate provided in subsection (5) of this section.

15 (2) An employer is in default if the employer fails to make payment of fees or interest
16 required by sections 1 to 15 of this 2015 Act at the time prescribed by the commissioner for
17 the payment of fees.

18 (3) Compliance of an employer with the requirement for timely payment of fees imposed
19 under section 4 of this 2015 Act is established as of the date the fees are received by the
20 Bureau of Labor and Industries.

21 (4) Fees collected by the Bureau of Labor and Industries under sections 1 to 15 of this
22 2015 Act shall be paid into the Employment-Related Public Benefit Fee Fund. Interest and
23 penalties collected pursuant to this subsection shall be paid into the Employment-Related
24 Public Benefit Administrative Fund.

25 (5)(a) An employer liable under section 4 of this 2015 Act shall pay interest upon amounts
26 due from the employer at the same time the employer is required to pay the fees. Interest
27 accrues at the rate of 1.5 percent per month from the date the payment must be made. A
28 fraction of a month is counted as a full month for the determination of the amount of in-
29 terest due.

30 (b) Interest does not begin to accrue on the assessed fees until the due date, and court
31 costs may not be imposed on the employer for any action to enforce collection commenced
32 prior to the due date.

33 (6)(a) If an employer that is in default with respect to payment of the fees required under
34 section 4 of this 2015 Act fails to make required payments within 10 days after the commis-
35 sioner makes written demand for payment of the fees due, the commissioner may impose a
36 penalty of 10 percent of the amount of the unpaid fees.

37 (b) A demand for payment is deemed to have been made when deposited in the mail ad-
38 dressed to the employer at the employer's last-known address of record with the commis-
39 sioner.

40 (7) If any part of any deficiency in payment of fees is due to fraud with intent to avoid
41 payment of employment-related public benefit fees, the commissioner shall assess and col-
42 lect, in addition to the amount of the deficiency, 50 percent of the total amount of the defi-
43 ciency in the same manner as if it were a deficiency and shall pay the amount into the
44 Employment-Related Public Benefit Administrative Fund.

45 (8) Civil actions brought in the name of the commissioner under this section to collect

1 fees, interest or penalties from an employer are entitled to preference upon the calendar of
 2 the court over all civil cases that involve only private parties.

3 (9)(a) In any hearing, action, suit or proceeding brought by or against the commissioner,
 4 a certificate attested to by the commissioner showing the amount of fees, interest and pen-
 5 alties due from an employer is prima facie evidence of the payment by the employer of
 6 amounts of fees, interest, and penalties owed, of the amounts of any delinquent payments
 7 and of the compliance by the commissioner with all the provisions of sections 1 to 15 of this
 8 2015 Act relating to the computation and assessment of the fees, interest and penalties
 9 specified in the certificate.

10 (b) If the original of any record, file, order, proceeding, decision, award or other docu-
 11 ment on file with the Bureau of Labor and Industries is competent and admissible in evi-
 12 dence, a certified copy of the original furnished by the commissioner under the seal of the
 13 agency shall be received in evidence in any hearing conducted by the Office of Administrative
 14 Hearings and in all courts.

15 (10)(a) In the case of default by an employer on payment of fees due under section 4 of
 16 this 2015 Act, a person described in paragraph (b) of this subsection who, as an officer,
 17 member, partner or employee, has a duty to perform the actions required by employers un-
 18 der sections 1 to 15 of this 2015 Act is personally liable for amounts due under sections 1 to
 19 15 of this 2015 Act. More than one person may be jointly and severally liable under sections
 20 1 to 15 of this 2015 Act.

21 (b) This subsection applies only to:

22 (A) An officer or employee of a corporation;

23 (B) A member or employee of a limited liability company; or

24 (C) A partner in or employee of a limited liability partnership.

25 (11) If the commissioner determines that an amount is due under sections 1 to 15 of this
 26 2015 Act, the commissioner shall mail a notice of assessment to the person liable at the
 27 person's last-known address of record with the commissioner.

28 **SECTION 11.** (1) There is established in the State Treasury the Employment-Related
 29 Public Benefit Fee Fund, separate and distinct from the General Fund. Interest earned by
 30 the Employment-Related Public Benefit Fee Fund shall be credited to the fund.

31 (2) All fees collected by the Bureau of Labor and Industries under section 4 of this 2015
 32 Act shall be deposited in the Employment-Related Public Benefit Fee Fund.

33 (3) The moneys in the fund are continuously appropriated to the Bureau of Labor and
 34 Industries for the purposes of transfers to:

35 (a) The Department of Human Services for funding of services provided by the Employ-
 36 ment Related Day Care program and Medicaid; and

37 (b) The Employment-Related Public Benefit Administrative Fund for the purpose of pay-
 38 ment of administrative expenses incurred in the implementation and enforcement of sections
 39 1 to 15 of this 2015 Act.

40 (4) The Department of Human Services may use the moneys transferred to the depart-
 41 ment under this section only for the purpose of carrying out the provisions of sections 1 to
 42 15 of this 2015 Act.

43 **SECTION 12.** (1) There is established in the State Treasury the Employment-Related
 44 Public Benefit Administrative Fund, separate and distinct from the General Fund. Interest
 45 earned by the Employment-Related Public Benefit Administrative Fund shall be credited to

1 the fund.

2 (2) The Employment-Related Public Benefit Administrative Fund consists of moneys col-
3 lected or received by the Bureau of Labor and Industries as follows:

4 (a) All interest and penalties collected pursuant to sections 1 to 15 of this 2015 Act.

5 (b) An amount necessary to ensure the enforcement of the provisions of sections 1 to 15
6 of this 2015 Act. This amount may not exceed 20 percent of the fees collected pursuant to
7 section 4 of this 2015 Act.

8 (3) The moneys in the fund are continuously appropriated to the Bureau of Labor and
9 Industries for expenses incurred in implementing and administering sections 1 to 15 of this
10 2015 Act. These expenses include, but are not limited to, the costs incurred in the collection
11 of fee payments required under section 4 of this 2015 Act and expenses of the Advisory
12 Council on the Employment-Related Public Benefit Fee established under section 13 of this
13 2015 Act.

14 (4) On July 1 of each odd-numbered year, the Bureau of Labor and Industries shall
15 transfer moneys in the Employment-Related Public Benefit Administrative Fund that have
16 not been expended for the purpose of administration and enforcement of sections 1 to 15 of
17 this 2015 Act to the Employment-Related Public Benefit Fee Fund.

18 **SECTION 13.** (1) The Advisory Council on the Employment-Related Public Benefit Fee is
19 established in the Bureau of Labor and Industries.

20 (2) The advisory council is an advisory committee that works collaboratively under the
21 guidance of a chairperson, who shall be elected by the council members to set agendas and
22 help facilitate council work.

23 (3) The Governor shall appoint nine members to the council as follows:

24 (A) Three members who represent employers in this state;

25 (B) Three members who represent employees of agencies that provide services funded
26 by the Employment Related Day Care program administered by the Department of Human
27 Services or Medicaid; and

28 (C) Three members who are working public assistance recipients.

29 (4) The Bureau of Labor and Industries, the Department of Human Services, the Office
30 of Child Care and the Employment Department shall appoint representatives to serve as ex-
31 officio members of the council.

32 (5) The members of the council shall serve for a term of two years and are entitled to
33 compensation and expenses as provided in ORS 292.495.

34 (6) The council shall meet once every quarter.

35 (7) The council shall:

36 (a) Advise the Bureau of Labor and Industries, the Department of Human Services and
37 the state generally on matters related to the implementation of sections 1 to 15 of this 2015
38 Act, public assistance usage among working Oregonians and reliance of large businesses on
39 state assistance programs;

40 (b) Advise the appropriate agencies on matters related to the implementation of sections
41 1 to 15 of this 2015 Act;

42 (c) Study and monitor the causes of, effects of and solutions for large businesses paying
43 low wages to working Oregonians and the impact of those labor practices on working
44 Oregonians' need for public assistance;

45 (d) Identify the benefits received by employers from the provision of public assistance to

1 the Oregon workforce;

2 (e) Make recommendations for legislation and agency proposals and actions;

3 (f) Foster communication between working Oregonians who provide or receive public as-
4 sistance, employers and state agencies for the purpose of improving the quality of state
5 public assistance programs serving lower-income Oregonians;

6 (g) Advise the Commissioner of the Bureau of Labor and Industries and other interested
7 state agencies or officials on policies and procedures related to public assistance usage
8 among working Oregonians and the impact of public assistance programs on workforce
9 quality and stability; and

10 (h) Submit an annual report to the Legislative Assembly in the manner specified in ORS
11 192.245 and make the report available to the public.

12 **SECTION 14.** (1) An employer or agent of an employer may not willfully refuse or fail to
13 pay the fees required under section 4 of this 2015 Act or to furnish any report, audit or in-
14 formation duly required by the Commissioner of the Bureau of Labor and Industries under
15 sections 1 to 15 of this 2015 Act.

16 (2) An employer may not make a deduction from the wages or salary of an employee to
17 pay any portion of the contribution the employer is required to make under sections 1 to 15
18 of this 2015 Act.

19 (3) A person may not willfully make a false statement or misrepresentation to lower or
20 eliminate fees required under section 4 of this 2015 Act.

21 (4) An employer may not, directly or through any officer, agent, employee or franchisee,
22 discharge an employee, absent good cause, for the purpose of avoiding the applicability of the
23 provisions of sections 1 to 15 of this 2015 Act to the employer or the employer's obligations
24 or coverage under sections 1 to 15 of this 2015 Act, within 90 days after the effective date
25 of this 2015 Act. Any adverse action resulting in the discharge of an employee absent good
26 cause raises a rebuttable presumption that the action was taken to avoid an employer's ob-
27 ligations or coverage under sections 1 to 15 of this 2015 Act.

28 **SECTION 15.** (1) An employer or agent of an employer may not discharge an employee
29 or otherwise discriminate against an employee with respect to the employee's compensation,
30 terms, conditions or privileges of employment because the employee or any person acting
31 pursuant to a request of the employee:

32 (a) Provided information relating to a potential violation of sections 1 to 15 of this 2015
33 Act to any other person, including the Bureau of Labor and Industries or the Advisory
34 Council on the Employment-Related Public Benefit Fee;

35 (b) Serves or has served on the council;

36 (c) Has communicated or cooperated with a state agency or the council;

37 (d) Requested an investigation by giving notice to the Commissioner of the Bureau of
38 Labor and Industries;

39 (e) Caused to be instituted any proceedings under or related to sections 1 to 15 of this
40 2015 Act; or

41 (f) Testified or is about to testify in a proceeding or hearing related to issues arising
42 under sections 1 to 15 of this 2015 Act.

43 (2) A violation of this section is an unlawful employment practice.

44 (3)(a) A employee alleging to have been discriminated or retaliated against in violation
45 of subsection (1) of this section may, within 90 days after the employee has reasonable cause

1 **to believe the violation has occurred, file a complaint with the commissioner.**

2 **(b) Upon receipt of the complaint, the commissioner shall process the complaint under**
 3 **the procedures, policies and remedies established under ORS 659A.820 in the same manner**
 4 **and to the same extent that the complaint would be processed if the complaint involved**
 5 **allegations of an unlawful employment practice under ORS 659A.030 (1)(f).**

6 **(c) Within 90 days after receipt of a complaint filed under this subsection, the commis-**
 7 **sioner shall notify the complainant of the commissioner's determination.**

8 **(4) The protection provided under this section applies to any person who mistakenly, but**
 9 **in good faith, alleges a violation of any provision of sections 1 to 15 of this 2015 Act, or oth-**
 10 **erwise makes an inquiry in relation to sections 1 to 15 of this 2015 Act.**

11 **SECTION 16.** ORS 651.060 is amended to read:

12 651.060. (1) The Commissioner of the Bureau of Labor and Industries may conduct investigations,
 13 issue subpoenas and subpoenas duces tecum, administer oaths, obtain evidence and take testimony
 14 in all matters relating to the duties required under ORS 279C.800 to 279C.870, 651.030, 651.050,
 15 651.120 and 651.170 **and sections 1 to 15 of this 2015 Act** and ORS chapters 652, 653, 658 and 659A
 16 and in all contested cases scheduled for hearing by the Bureau of Labor and Industries pursuant to
 17 ORS chapter 183 when the information sought is relevant to a lawful investigative purpose and is
 18 reasonable in scope. The testimony shall be taken in some suitable place in the vicinity to which
 19 testimony is applicable. The commissioner shall adopt rules for gathering information through
 20 subpoenas or testimony. The rules must include procedures through which a party may object to
 21 providing information. After being served with a subpoena, if a person refuses, without reasonable
 22 cause, to be examined, to answer any question or to produce any document or other thing as re-
 23 quired by the subpoena, the commissioner may petition the circuit court in the county in which the
 24 investigation is pending for an order directing the person to show cause why the person has not
 25 complied with the subpoena and should not be held in contempt. The commissioner shall serve the
 26 court's order upon the person in the manner provided by ORCP 55 D. If the person fails to show
 27 cause for the noncompliance, the court shall order the person to comply with the subpoena within
 28 such time as the court shall direct and may hold the person in contempt.

29 (2) Witnesses subpoenaed and testifying before any officer of the bureau shall be paid the fees
 30 and mileage provided for witnesses in ORS 44.415 (2). The payment shall be made from the fund
 31 appropriated for the use of the bureau and in the manner provided in ORS 651.170 for the payment
 32 of other expenses of the bureau.

33 (3) The commissioner shall employ a deputy commissioner and such other assistants or personnel
 34 as may be necessary to carry into effect the powers and duties of the commissioner or of the bureau
 35 and may prescribe the duties and responsibilities of the employees. The commissioner may delegate
 36 any of the powers of the commissioner or of the bureau to the deputy commissioner and to the other
 37 assistants employed under this subsection for the purpose of transacting the business of the
 38 commissioner's office or of the bureau. In the absence of the commissioner, the deputy commissioner
 39 and the other assistants whom the commissioner employs have full authority, under the
 40 commissioner's direction, to do and perform any duty that the law requires the commissioner to
 41 perform. However, the commissioner is responsible for all acts of the deputy commissioner and of
 42 the assistants employed under this subsection.

43 (4) The commissioner may adopt such reasonable rules as may be necessary to administer and
 44 enforce any statutes over which the commissioner or the bureau has jurisdiction.

45 (5) The commissioner may conduct and charge and collect fees for public information programs

1 pertaining to any of the statutes over which the commissioner or the bureau has jurisdiction.

2 **SECTION 17. Section 4 of this 2015 Act applies to hours worked by employees described**
3 **in section 4 of this 2015 Act on or after January 1, 2016.**

4
