



HERSHNER HUNTER LLP
ATTORNEYS

2011 OREGON LEGISLATIVE SESSION

Labor and Employment Laws

The 2011 Oregon legislative session adjourned on June 30, 2011. What follows is a summary analysis of the new laws impacting Oregon employers. If you are interested in reading the full-text of a particular bill, follow the link provided. For more information, please send an e-mail to our [Labor and Employment attorneys](#), Andrew Lewis and Amanda Walkup.

Bill	Summary	Comments	Status
<u>SB 110</u>	This bill allows the Employment Department to notify the employer's agent of an unemployment insurance benefits claim and the denial of a claim.		SB 110 passed into law. Effective May 5, 2011.
<u>SB 628</u>	This bill requires each county to annually publish the actual gross monthly salary of each county officer or employee, and to identify the employee by position.		SB 628 passed into law. Effective January 1, 2012.
<u>SB 638</u>	This law extends the payment of unemployment benefits to qualifying individuals through January 2, 2014.		SB 638 passed into law. Effective March 24, 2011.
<u>SB 725</u>	This bill authorizes the Director of the Employment Department to waive the recovery of benefits paid due to non-claimant error if the director finds that the recovery of benefits would be against equity and good conscience. This bill also changes the test for the reopening of a hearing upon a benefits claim.		SB 725 passed into law. Effective June 23, 2011.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<p><u>SB 898</u></p>	<p>This bill allows the Oregon Health Authority or local public health authority to request proof that a person performing work at a restaurant meets applicable minimum age requirements and allows for ordering the person subject to the minimum age requirement to immediately cease activity if the requested proof of age is not supplied. This bill also provides that the failure of a restaurant licensee or manager to provide proof of age for a person performing work at a restaurant is prima facie evidence the licensee has allowed the person to perform work in violation of the minimum age requirements. This bill also allows the Oregon Liquor Control Commission to request proof that a person performing work at premises licensed by the commission meets applicable minimum age requirements and allows the commission to order a person subject to minimum age requirement to immediately cease activity if proof of age is not supplied. Finally, this bill provides that the failure of a licensee or manager to provide proof of age for a person performing work at the premises is prima facie evidence the licensee has allowed the person to perform work in violation of minimum age requirements.</p>		<p>SB 898 passed into law. Effective January 1, 2012.</p>
<p><u>HB 2034</u></p>	<p>This bill requires an apprenticeship agreement to be registered within 45 days of the start of an apprenticeship and modifies the probationary period for registered apprentices. This bill establishes requirements for the transfer of a registered apprentice between or within apprenticeship programs and delineates the responsibilities of program sponsors and local joint committees. This bill authorizes the division to direct enforcement of apprenticeship and training law by the State Apprenticeship and Training Council and requires the division to adopt rules and to evaluate registered apprenticeship programs. It also sets criteria for evaluation, requires reciprocal approval of certain apprenticeship programs and establishes requirements for reciprocal approval of programs.</p>		<p>HB 2034 passed into law. Effective May 27, 2011.</p>

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<p><u>HB 2036</u></p>	<p>This bill gives the Bureau of Labor and Industries authority to enforce provisions that allow an employee to take leave to attend criminal proceedings and removes conflicting provisions related to BOLI's authority to enforce laws related to discriminatory practices. Finally, the bill allows an employer to make specified employment decisions based on credit history of certain applicants for public safety officer employment.</p>	<p>A previous version of this bill would have lowered the standard for determining whether a person is disabled under Oregon's version of the ADA, but that language was removed.</p>	<p>HB 2036 passed into law. Effective June 1, 2011.</p>
<p><u>HB 2039</u></p>	<p>This bill subjects an employer who issues a dishonored check for the payment of wages to statutory damages and attorney fees and authorizes the Commissioner of the Bureau of Labor and Industries to impose a penalty for issuance of a dishonored check. Any collected penalties would be paid to the employee.</p>	<p>Oregon law already allows payees to sue for up to \$100 (or up to triple the amount for which the check is drawn) as a penalty for issuing a bounced check. This bill would allow BOLI to impose an additional penalty.</p>	<p>HB 2039 passed into law. Effective January 1, 2012.</p>
<p><u>HB 2040</u></p>	<p>This bill requires a wage claimant to specify the amount of wages owed in its demand letter to the employer in order to receive statutory penalties for non-payment, and modifies the length of time (from seven years to three) unclaimed wages collected by the Bureau of Labor and Industries must be held before those wages are forfeited to the state. The bill also makes certain legal summaries available to employers from the bureau's website or upon request.</p>	<p>Current law allows a wage claimant to make a demand for unpaid wages (thereby triggering a right to penalty wages for non-payment) without specifying how much the claimant believes is owed. This bill would require the claimant to specify the amount owed before recovering penalty wages.</p>	<p>HB 2040 passed into law. Effective January 1, 2012.</p>

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<p><u>HB 2049</u></p>	<p>This bill requires the Department of Human Services to reimburse an employer for an employee’s expenses for up to three months if the employer hires an individual placed with the employer through the JOBS Plus Program, and authorizes the department to recover reimbursement paid if the employer fails to retain the employee for six months. This bill also authorizes certain limits to those receiving temporary assistance for needy families to services provided in job opportunity and basic skills programs, and allows the department to reduce aid for three consecutive months if a participant in a job opportunity and basic skills program refuses to comply with program requirements. The bill also requires the department to terminate aid if a participant refuses to comply with program requirements for three months. This bill also expands requirement of assigning rights of support to the state to apply to two-parent families receiving aid that is state-funded or not funded by federal temporary assistance for needy families grant, shortens the time limit for receipt of aid from 60 months to 48 months, requires the department to deny aid to a dependent child if a needy caretaker relative living with the child has received aid for 48 months and limits types of exceptions that exclude receipt of assistance from counting toward the 48-month limit. Finally, the bill allows a family to receive more than 48 months of aid for months in which specified conditions exist. Extends certain temporary provisions to July 1, 2013.</p>		<p>HB 2049 passed into law. Effective July 6, 2011.</p>
<p><u>HB 2060</u></p>	<p>This bill authorizes the Employment Department to disclose employment-related information to the Department of Human Services and the Oregon Health Authority to assist in the collection of certain debts.</p>		<p>HB 2060 passed into law. Effective May 16, 2011.</p>

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 2091</u>	This bill authorizes the Director of the Department of Consumer and Business Services to determine languages other than English and Spanish in which certain information made available to agricultural employers for dissemination to employees shall be provided.		HB 2091 passed into law. Effective January 1, 2012.
<u>HB 2093</u>	This bill limits the provision of managed care services for injured workers to certified managed care organizations. It authorizes the imposition of sanctions that include a civil penalty for a violation and allows issuance of a cease and desist order for repeated or willful violations.		HB 2093 passed into law. Effective January 1, 2012.
<u>HB 2157</u>	This bill requires that an applicant for a landscape contracting business license who (i) is an exempt independent contractor and (ii) enters into a contract with a worker leasing company or temporary service provider to verify that workers supplied to the business by the leasing company or service provider are covered by workers' compensation insurance. It also requires a landscape contracting business that is a nonexempt independent contractor to maintain workers' compensation insurance coverage for the business. This bill creates a penalty for a violation of the workers' compensation insurance requirement, not to exceed \$2,000, and makes a violation of workers' compensation requirement or proof of coverage requirement grounds for suspension, revocation or refusal of license.		HB 2157 passed into law. Effective January 1, 2012.
<u>HB 2240</u>	This bill repeals the sunset on provisions permitting an employee who serves food or beverages, receives tips and reports tips to the employer to waive the employee's meal period and prohibiting the employer from coercing employee into waiving the meal period.		HB 2240 passed into law. Effective January 1, 2012.

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 2241</u>	This bill expands the definition of “uniformed service” for purposes of employment protections for members of uniformed service to match the federal definition, and includes initial active duty for training as a type of military leave for which a public employee may take a leave of absence.		HB 2241 passed into law. Effective April 14, 2011.
<u>HB 2470</u>	This bill exempts meetings of the Interagency Compliance Network and of member agencies for Interagency Compliance Network purposes from the public meetings law.		HB 2470 passed into law. Effective June 9, 2011.
<u>HB 2828</u>	This bill establishes an unlawful employment practice if an employer with 10 or more employees ceases to provide health, disability, life or other insurance during the period an employee is serving or is scheduled to serve as a juror, and provides that the employer commits an unlawful employment practice if the employer discharges, threatens to discharge, intimidates or coerces the employee by reason of the employee’s service or scheduled service as a juror.		HB 2828 passed into law. Effective January 1, 2012.
<u>HB 2919</u>	This bill authorizes the Oregon Business Development Department to make grants to small businesses from the Building Opportunities for Oregon Small Business Today Account if the business hires a veteran as a new full-time employee.		HB 2919 passed into law. Effective January 1, 2012.
<u>HB 3030</u>	This bill exempts certain individuals providing volunteer golf course marshal services from minimum wage standards and mandatory workers’ compensation coverage.		HB 3030 passed into law. Effective January 1, 2012.
<u>HB 3034</u>	This bill provides that a judge or clerk of court may not defer jury service for a person more than once unless the person seeks the subsequent deferral for good cause, and provides that an employer may not require that an employee use vacation leave, sick leave or annual leave for time spent by the employee in		HB 3034 passed into law. Effective January 1, 2012.

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

	responding to a summons for jury duty, and that the employer must allow the employee to take leave without pay for time spent by the employee in responding to a summons for jury duty.		
<u>HB 3186</u>	This bill amends the new cell phone driving law to prohibit cell phone use by a person operating a motor vehicle in the scope of that person's employment. (See also SB 407).		HB 3186 passed into law. Effective January 1, 2012.
<u>HB 3450</u>	This bill reduces to 72 hours the minimum time before the first day of employment that an employer is required to notify an employee in a written employment offer that an arbitration agreement is required as a condition of employment.	Currently an employer is required to notify an employee in writing at least two weeks in advance of employment that the employee will be required to arbitrate all employment disputes. This bill would shorten that time frame to 72 hours.	HB 3450 passed into law. Effective January 1, 2012.
<u>HB 3457</u>	This bill allows a performer in a scripted stage, motion picture or television production to smoke in a public place or place of employment in certain circumstances.		HB 3457 passed into law. Effective June 2, 2011.
<u>HB 3482</u>	This bill expands Oregon's domestic violence leave law by requiring employers to provide employees with a reasonable amount of leave to deal with matters surrounding criminal harassment. It would also prohibit an employer from taking certain employment actions toward an individual who is a victim of criminal harassment, and require an employer to make reasonable safety accommodations requested by an employee who is a victim of criminal harassment. On an unrelated matter, this bill would also permit certain state employees in unclassified or exempt service to be accompanied by an individual selected by employee to be present during any interview with employee requested by employer.		HB 3482 passed into law. Effective August 2, 2011.

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 3490</u>	This bill clarifies the responsibility of counties to provide workers' compensation coverage to qualified search and rescue volunteers.		HB 3490 passed into law. Effective June 17, 2012.
--------------------------------	---	--	--

The following employment related bills were introduced but did not pass, and will not become law.

Bill	Summary
<u>SB 2</u>	This bill requires an employer to provide paid or unpaid time off for Veterans Day to employees who are veterans.
<u>SB 7</u>	This bill creates an income tax credit for employers who create new employment positions that meet certain criteria. There is a \$10 million maximum for all credits allowed.
<u>SB 199</u>	This bill requires certain employers to offer annual vaccinations at no cost to health care employees and to require vaccinations as a condition of employment. The bill also authorizes the Oregon Patient Safety Commission to adopt rules necessary for administration of provisions.
<u>SB 240</u>	This bill requires school employees to report acts of harassment, intimidation or bullying (including cyberbullying), and allows remedial action for a failure to report. (See also HB 2832).
<u>SB 257</u>	This bill excludes people operating taxicabs or nonemergency medical transportation who have an ownership or leasehold interest in the vehicle from the definition of "employment" for purposes of unemployment insurance benefits.
<u>SB 352</u>	This bill defines "casual employee" and "temporary employee," and includes temporary employees in the definition of "appropriate bargaining unit" for purposes of collective bargaining between public employers and public employees.
<u>SB 407</u>	This bill would amend the new cell phone driving law to prohibit cell phone use by a person operating a motor vehicle in the scope of that person's employment. (See also HB 3186).
<u>SB 506</u>	This bill allows eligible employees to take family leave to deal with the death of a family member. The period of leave is limited to two weeks, or to six weeks with medical verification. Any bereavement leave taken would count against the total period of authorized family leave.

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>SB 605</u>	This bill includes siblings as family members for purposes of OFLA. (See also HB 2850).
<u>SB 610</u>	This bill requires day labor service agencies to register with the Commissioner of the Bureau of Labor and Industries. It also adds requirements for day labor employers such as requiring information about the work, employer and wages, and information regarding special attire, accessories, tools and safety equipment.
<u>SB 611</u>	This bill standardizes the definitions of “employ,” “employee,” “employer” and “wages” for purposes of the various statutes relating to hours, wages, wage claims, employment conditions, employment agencies, farm labor contractors and construction contractors. (See also HB 2834).
<u>SB 612</u>	This bill requires construction labor contractors to be licensed by the Commissioner of the Bureau of Labor and Industries. It also establishes licensing requirements and fees and requires the BOLI commissioner to administer and enforce licensing and regulatory requirements and adopt rules. This bill specifies the duties of construction labor contractors and permits the commissioner to assess civil penalties for violations, as well as prohibit certain actions and discrimination against employees. It also creates a cause of action against a person acting as a construction labor contractor without a license and against a person using an unlicensed contractor. (See also HB 2833).
<u>SB 624</u>	This bill establishes an employee’s right to file a civil action for unpaid wages when those wages become due, and authorizes the creation of a lien on an employer’s real and personal property for unpaid wages under certain circumstances. (See also HB 2837).
<u>SB 645</u>	This bill allows employers to adopt a comprehensive drug-free workplace program, including drug and alcohol testing policies, and exempts employers from civil actions under certain conditions when the employer has adopted a comprehensive drug-free workplace program. In effect, this bill would allow employers to enforce drug-free workplace policies against medical marijuana users.
<u>SB 646</u>	This bill expands the ability of an employer to prohibit the use of medical marijuana in the workplace.
<u>SB 666</u>	This bill establishes foster parents as public employees for purposes of labor organization activities, prohibits foster parents from striking, and designates the appropriate bargaining unit for foster parents.
<u>SB 705</u>	This bill limits collective bargaining agreements between the state and its employees to a term of not more than two years.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>SB 734</u>	This bill prohibits the state from indemnifying a person in an exempt service, unclassified service or management service position for the costs of counsel and other costs of defense when a judgment is entered against the person based on a determination that the person has engaged in a civil rights violation or other unlawful employment practice.
<u>SB 750</u>	This bill authorizes a civil penalty for certain unlawful deductions from compensation paid to employees.
<u>SB 825</u>	This bill establishes the Work and Family Life Task Force, which is intended to study issues related to work and family life and report to an appropriate interim committee of the Legislative Assembly. This bill authorizes the task force to make recommendations for legislation, and appropriates moneys in the Wage Security Fund to the Bureau of Labor and Industries for purposes of staff support for the task force. Sunsets the task force on February 4, 2013. (See also HB 3401).
<u>SB 931</u>	This bill grants part-time faculty at community colleges preference for reemployment when new employment opportunities for which part-time faculty is qualified become available.
<u>SB 949</u>	This bill requires the last best offer submitted in certain arbitration proceedings by the exclusive representative of employees of a public employer that requires increases in taxes or fees or reduction of services or workforce to meet costs of implementation of offer to be deemed not to be in best interest and welfare of public.
<u>SB 972</u>	This bill directs the Oregon Health Authority to develop a plan for providing health care coverage for all Oregonians, including recommendations for a constitutionally-dedicated sales tax, assumptions regarding private sector health care delivery options and elimination of the need of employers to provide health insurance coverage to employees, and options to eliminate plan deductibles for persons below certain levels of federal poverty guidelines. Directs authority to submit plan to interim health care committees of Legislative Assembly no later than 60 days preceding date of convening of 2012 regular session of Legislative Assembly.
<u>HB 2035</u>	This bill would standardize the time limitation for filing a civil action for unlawful discrimination to one year from the unlawful conduct.
<u>HB 2037</u>	This bill requires the Commissioner of the Bureau of Labor and Industries to award costs and reasonable attorney fees when a complainant obtains a cease and desist order. This bill would limit the right of an employer to recover attorney's fees only to those situations where there was "no objectively reasonable basis" to issue charges against the employer.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 2038</u>	This bill conforms Oregon law relating to the expression of milk in the workplace to federal law by eliminating (for employers of 50 or more employees) the exemption from providing rest periods for expression of milk in the workplace if granting a rest period creates an undue hardship.
<u>HB 2041</u>	This bill authorizes the Commissioner of the Bureau of Labor and Industries to issue a temporary cease and desist order under certain circumstances.
<u>HB 2092</u>	This bill clarifies the exclusive remedy provisions of the workers' compensation laws. It also provides for administrative review of certain matters arising under the workers' compensation laws and rules, modifies the manner in which notice of compliance is made available to subject employers, eliminates a requirement for consultation with certain professional licensing boards when rules are adopted concerning appropriateness of certain types of medical treatment, and allows medical service providers to seek resolution of medical service disputes through the same process as workers, employers and insurers. Restores authority of the Director of the Department of Consumer and Business Services to extend temporary disability compensation paid to workers in vocational training.
<u>HB 2109</u>	This bill modifies certain provisions related to employees of residential facilities serving individuals with alcohol or drug dependence to exclude those employees from criminal records check requirements, exempt them from elder abuse reporting requirements and reinstate the exemption from disqualification due to conviction of specified crimes.
<u>HB 2230</u>	This bill requires an employer to offer the first payment of wages to an employee within 14 days of the employee's first day of employment, and makes the failure to offer such payment punishable by a maximum fine of \$720.
<u>HB 2243</u>	This bill allows the Attorney General or the Commissioner of the Bureau of Labor and Industries to file a civil action in relation to discrimination against a person for service in uniformed service.
<u>HB 2313</u>	This bill instructs the Bureau of Labor and Industries to study the development of a definition of "independent contractor" by rule for purpose of determination of independent contractor status.
<u>HB 2319</u>	This bill establishes a process for random external file review in certain workers' compensation claims and limits independent medical examination requests in workers' compensation claims to one request by the employer or self-insured employer and one request by the worker. Authorizes the Director of the Department of Consumer and Business Services to adopt rules concerning random external file reviews.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 2346</u>	This bill prohibits an employer or insurer from requiring an injured worker to obtain nonemergency medical services from a specific provider. It also exempts an employer or insurer that has a managed care organization contract and requires an employer to provide an injured worker with written notice of medical treatment rights in a workers' compensation claim.
<u>HB 2348</u>	This bill modifies the definition of "supervisory employee" for purposes of public employee collective bargaining.
<u>HB 2355</u>	This bill establishes a Short-Term Disability Insurance Program and requires the Bureau of Labor and Industries to administer the program and adopt rules. This bill authorizes participation in a voluntary plan if approved by the bureau, and requires employers to withhold from employees' wages amounts necessary to pay premiums. This bill imposes penalties for certain violations, and establishes a Short-Term Disability Benefit Fund. It also appropriates moneys in the fund to the bureau for purposes of the Short-Term Disability Insurance Program.
<u>HB 2360</u>	This bill provides that an employer who discloses information about a current or former employee's job performance to a prospective employer of the employee is presumed to be acting in good faith and immune from civil liability unless the presumption is rebutted by clear and convincing evidence.
<u>HB 2446</u>	Under Oregon law employers cannot compel employees to attend meetings at which religious, political and union activities are discussed, and cannot discipline employees for failing to attend such meetings. This bill would modify that so-called "captive audience law" to exclude prohibitions that relate to campaigns by organized labor. The bill also reduces the amount of damages recoverable for a violation of the captive audience law.
<u>HB 2469</u>	This bill establishes a review processes for certain employer determinations made by the Department of Revenue and Employment Department based on a finding that one or more workers are employees and not independent contractors. Modifies laws relating to the Interagency Compliance Network. Eliminates references to the network and substitutes references to specific agencies.
<u>HB 2574</u>	This bill requires an employer to withhold an as-yet-unspecified percentage of an employee's wages, regardless of withholding exemptions claimed by the employee. Applies to wages paid on or after January 1, 2012.
<u>HB 2604</u>	This bill permits a worker with a claim for unpaid wages and fringe benefits under the prevailing wage law to commence and maintain an independent action to recover wages and fringe benefits in circuit court, and to obtain an award of attorney fees and costs if the worker prevails in the action.
<u>HB 2608</u>	This bill prohibits a public employer from hiring replacement workers for public employees engaged in a lawful strike.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 2771</u>	This bill repeals statutes related to mandatory workplace communication of employer’s opinions about religious and political matters (the so-called “captive audience” ban).
<u>HB 2802</u>	This bill prohibits restrictions on a public body’s ability to enforce immigration laws to the extent permitted by federal law. It authorizes a legal resident to bring a civil action against a public body that violates the prohibition, requires peace officers to make reasonable attempts to determine immigration status of a person stopped or arrested for a crime, and requires the county to verify immigration status of a person incarcerated in a county correctional facility. This bill also authorizes law enforcement agencies to enter into an agreement with the federal government for purposes of enforcing immigration laws and creates the crime of failure to carry an alien registration document punishable by the maximum of 30 days’ imprisonment, \$1,250 fine, or both. It also creates the crime of smuggling which is punishable by a maximum of 10 years’ imprisonment, \$250,000 fine, or both.
<u>HB 2832</u>	This bill expands prohibited acts related to harassment, intimidation, bullying or cyberbullying to include actions by or against school employees, and recognizes that a student or school employee may take reasonable actions to defend against physical acts of harassment, intimidation or bullying. Requires school employees to report acts of harassment, intimidation, bullying or cyberbullying. (See also SB 240).
<u>HB 2833</u>	This bill requires day labor service agencies to register with the Commissioner of the Bureau of Labor and Industries and requires employers to provide information about work, work assignments and wages, and to provide certain special attire, accessories, tools or safety equipment to day laborers. This bill prohibits employers from retaliating or taking certain other actions against day laborers or third party employers and requires the commissioner to adopt rules to implement and enforce the law, such as assessment of civil penalties and the denial, suspension or revocation of a day labor service agency registration. This bill also prohibits employers from discriminating in compensation against part-time employees and employees in contingent jobs, and prohibits persons from entering into a contract for labor or services with certain contractors when the person knows or should know that a contract does not include sufficient funds to allow a contractor to comply with those laws governing labor or services to be provided. It also regulates an entity that procures employment for others as an employment agency when the entity’s services are paid for by anyone other than a job applicant. The bill also increases the amount of bond or other security employment agency must maintain, prohibits employment agencies from charging applicants for certain items or services, and prohibits employment agencies from taking certain actions against applicants. It also creates a cause of action for violations. (See also SB 612).
<u>HB 2834</u>	This bill standardizes the definitions of “employ,” “employee,” “employer” and “wages” for purposes of statutes relating to hours, wages, wage claims, employment conditions, employment agencies, farm labor contractors and construction contractors. (See also SB 611).

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<p><u>HB 2836</u></p>	<p>This bill requires the Construction Contractors Board to investigate and process a complaint for unpaid wages if certain conditions are met, prohibits the board from rejecting a complaint or refusing to open an investigation on certain grounds, and requires the board to suspend a license of a contractor that fails to satisfy a judgment for unpaid wages and to post a summary of the unpaid judgment information on the board’s website. This bill also requires the board, to the extent practicable, to actively recruit and hire multilingual persons when filling positions that require contact with the public. It also repeals that requirement on January 2, 2014. This bill makes failure to comply with certain statutes regarding payment of wages upon termination, wage rates or conditions of employment grounds for imposing license sanctions or a civil penalty against a contractor, and expands the requirement that construction contractors provide the board with a copy of an unpaid judgment against the contractor. Allows a person that the construction contractor permits or suffers to perform work for the contractor to file a complaint for unpaid wages, increases the total amount that may be paid from a residential contractor bond to satisfy a complaint of a nonowner, and increases the total amount that may be paid from a residential contractor bond for costs, interest and attorney fees.</p>
<p><u>HB 2837</u></p>	<p>This bill establishes the right of an employee to file a civil action based on unpaid wages, and authorizes the creation of a lien on an employer’s real and personal property for unpaid wages under certain circumstances. The bill also establishes the priority of a lien for amounts of unpaid wages up to a specified amount, and creates exceptions. (See also SB 624).</p>
<p><u>HB 2844</u></p>	<p>This bill makes a violation by employer of the statute providing for a leave of absence by an employee who is a search and rescue volunteer an unlawful employment practice, and authorizes an employee to file a complaint for violation with the Commissioner of the Bureau of Labor and Industries or to file civil action.</p>
<p><u>HB 2850</u></p>	<p>This bill includes siblings as family members for purposes of family leave. (See also SB 605).</p>
<p><u>HB 2861</u></p>	<p>This bill prohibits discrimination against members of certain protected classes in the payment of wages for work of comparable character that requires comparable skills to perform.</p>
<p><u>HB 2862</u></p>	<p>This bill extends certain employee protections to persons working for educational purposes and persons performing services without compensation.</p>
<p><u>HB 2905</u></p>	<p>This bill requires granting family leave to an employee for academic activities of the employee’s child in the same manner provided for other family leave. It requires employers to grant 18 hours of family leave for academic activities within any one-year period, and requires employees to give notice of leave to their employer.</p>

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 2906</u>	This bill includes class size in the definition of “employment relations” for school district collective bargaining and prohibits a public employer from hiring permanent replacements for public employees engaged in a lawful strike. It also authorizes public employers to hire temporary replacements for striking public employees.
<u>HB 2918</u>	This bill creates the Small Business Health Insurance Pool within the Oregon Health Authority, to be administered by the Oregon Medical Insurance Pool Board. It also permits small businesses to participate in the Oregon Prescription Drug Program.
<u>HB 2932</u>	This bill requires the Oregon Department of Administrative Services to develop and implement plans establishing a four-day, 10-hour-per-day workweek for state employees, with certain exceptions. It also requires the department to report biannually to the Legislative Assembly the results of implementation of four-day workweek.
<u>HB 2933</u>	This bill declares void and unenforceable an agreement between an employer and customer that prohibits the customer from using the services of a former employee unless the customer pays the employer a penalty or moneys if that prohibition exceeds two years. Establishes right to bring civil action for violation.
<u>HB 2973</u>	This bill requires an employer to verify legal status of an employee to be employed in United States through the federal E-Verify program prior to deducting expenses related to the worker’s employment from Oregon taxable income. Prohibits deduction of wages paid to an unverified employee as business expense for purposes of Oregon taxation. (See HB 3045).
<u>HB 2995</u>	This bill requires the Employment Department to adopt rules requiring drug testing of applicants for and recipients of unemployment insurance benefits. Applies to applicants for and recipients of unemployment insurance benefits on or after July 1, 2012.
<u>HB 3045</u>	This bill would require all employers to use the federal E-Verify system for verifying employment eligibility by eliminating the business expense tax deduction for employers who fail to comply. (See also HB 2973).
<u>HB 3052</u>	This bill creates an income tax credit for the hiring of qualified employees. It applies to tax years beginning on or after January 1, 2012, and prior to January 1, 2013.
<u>HB 3053</u>	This bill creates an income tax credit for the hiring of qualified employees by an employer with fewer than 100 employees. It applies to tax years beginning on or after January 1, 2012, and prior to January 1, 2013.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 3122</u>	This bill establishes that an employee who returns to work after taking family leave is entitled to be restored to an available equivalent position instead of being restored to the same position of employment held by the employee before taking leave.
<u>HB 3134</u>	This bill limits the use of personality tests when an education employer is making employment decisions related to a person who will provide educational services. It also allows a person who took a personality test to review the results, provide mitigating evidence and retake the test.
<u>HB 3161</u>	This bill establishes that an owner or operator of a business where live entertainment is provided who requires a performer to remit a portion of tips received while performing is an employer of the performer for wage and hour and related purposes.
<u>HB 3231</u>	This bill allows a state officer or employee who authorizes payment of moneys to a labor organization through payroll deductions to designate the political party to which moneys from the deduction expended by the organization for political purposes may be donated.
<u>HB 3266</u>	This bill removes persons performing construction, electrical or plumbing work for more than two employers at the same time from the employee exemption to the construction contractor, electrical and plumbing laws. It also specifies that the exemption of regular employees of a residential property owner are exempted from plumber licensing laws. Finally, it clarifies the scope of the residential property owner exemption.
<u>HB 3279</u>	This bill authorizes employers to pay employees under 18 years of age an hourly wage consistent with federal minimum wage for a period of 90 days from the date employee begins work.
<u>HB 3330</u>	This bill limits the retroactivity of a release of an injured worker to regular employment or declaration of medically stationary status for termination of payment of temporary disability benefits and the creation of overpayment of benefits. This bill also prohibits an insurer or self-insured employer from recovering overpayment during the period in which the insurer or self-insured employer did not unilaterally suspend payment of compensation when authorized to do so, and modifies the circumstances under which an insurer or self-insured employer may cease paying temporary total disability benefits and commence payment of temporary partial disability benefits. The bill also limits the termination of payment of benefits for misconduct to the period of claim opening in which termination occurs, and requires written notification to the worker of the reasons for termination of payment of benefits and of appeal rights.
<u>HB 3369</u>	This bill deletes the requirement that a commercial construction contractor classified as an exempt independent contractor obtain workers' compensation insurance.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 3401</u>	This bill establishes the Work and Family Life Task Force and directs the task force to study issues related to work and family life and report to the appropriate interim committee of the Legislative Assembly. The bill also authorizes the task force to make recommendations for legislation, and appropriates moneys in the Wage Security Fund to the Bureau of Labor and Industries for purposes of staff support for task force. The bill would sunset the task force on February 4, 2013. (See also SB 825).
<u>HB 3402</u>	This bill requires each school district, education service district and public charter school to adopt a policy related to employees wearing religious clothing while performing official duties.
<u>HB 3427</u>	This bill excludes certain subjects from mandatory collective bargaining between state and certified or recognized representative of employees, and prohibits the state from entering into a collective bargaining agreement on certain subjects.
<u>HB 3479</u>	This bill modifies the authority of the Workers' Compensation Board and of board chairperson and limits term of employment of certain employees of Workers' Compensation Board. It also requires the Employment Relations Board to make the determination if an Administrative Law Judge employed by the Workers' Compensation Board may be terminated.
<u>HB 3497</u>	This bill provides that state laws related to prevailing rates of wage are not operative on and after January 1, 2012, and until January 1, 2016; provides that other provisions that incorporate, rely upon, implement or depend upon state laws are not operative to extent of incorporation, reliance, implementation or dependence; requires the Commissioner of the Bureau of Labor and Industries to determine prevailing rate of wage by means of survey; requires contracting agencies to pay a fee to pay costs of survey and determination; requires an agency that conducts procurement for a public works project to compare the contract price that would result from paying prevailing rate of wage with contract price that would result from not paying prevailing wage, and to report results to the Legislative Assembly; and requires an agency to segregate from appropriation for project amount equivalent to 25 percent of difference, for transfer to the Oregon Rainy Day Fund. Becomes operative January 1, 2012. Sunsets January 1, 2016.
<u>HB 3499</u>	This bill requires all increases in state employee compensation provided for by a collective bargaining agreement between the state and the exclusive representative of state employees in bargaining unit covered by agreement to be based on performance of employee for which increase is proposed. Prohibits granting of increases in state employee compensation that are implemented on predetermined schedule without prior evaluation of performance of employee.
<u>HB 3532</u>	This bill allows worker leasing companies and temporary service providers to apply for loans or grants from the Building Opportunities for Oregon Small Business Today (BOOST) Account.

This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP

<u>HB 3549</u>	This bill allows a person to teach certain courses in schools without being licensed by or registered with the Teacher Standards and Practices Commission if certain requirements are met. Specifies restrictions to employment.
<u>HB 3602</u>	This bill establishes a Task Force on Unemployment Insurance to review the unemployment insurance program. Requires task force to submit report to the Legislative Assembly no later than October 1, 2012, and sunsets task force on date of convening of 2013 regular session of the Legislative Assembly.
<u>HB 3612</u>	This bill allows an entity that is classified by the Construction Contractors Board as an exempt commercial contractor to provide the board with proof of personal health insurance coverage for the proprietor or each partner, corporate officer or member of limited liability company as alternative to procuring and maintaining workers' compensation coverage.
<u>HB 3630</u>	This bill limits provisions in an employment agreement that require an employee to assign or offer to assign rights in an invention to employer. This bill makes certain provisions of an employment agreement related to assignment of employee's rights in invention void and unenforceable. Requires written notification of applicability to employee.
<u>HB 3635</u>	This bill seeks to clarify language concerning persons employed on farms who are exempt from payment of overtime wages.
<u>HB 3648</u>	This bill extends certain employee protections to persons performing work for educational purposes.
<u>HB 3661</u>	This bill regulates certain activities of agents and attorneys who prepare, present or prosecute claims for veterans' benefits before United States Department of Veterans Affairs. Violations are unlawful trade practices.

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances.
If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*

Brought to you by the Labor and Employment attorneys at Hershner Hunter, LLP

©Hershner Hunter, LLP