



# **2018 Human Resources Policies & Practices – Legislative Update**

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# 2017 OREGON HOUSE AND SENATE BILLS AFFECTING HUMAN RESOURCES

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- SB 299 – Clarification of Oregon Sick Time
- SB 398 – Notice of Potential Availability of Earned Income Tax Credit
- SB 828 – Predictive Scheduling
- SB 1040 – Union Security Agreements
- HB 2005 – Oregon Equal Pay Act
- HB 3008 – Falsified Pay Records

# SB 299 – CLARIFICATION OF OREGON SICK TIME

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Effective: July 1, 2017

The following are statements from the law, which are intended to be clarifications. BOLI may or may not choose to add or change their current rules.

# SB 299 – CLARIFICATION OF OREGON SICK TIME

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- Clarifies that “employer located in city with population exceeding 500,000” does not include employer who maintains temporary establishment only.
- Clarifies that all employers *may* limit accrual of paid sick time to 40 hours per year.
- Establishes that employee count does not include any director of corporation, member of limited liability company, or partner of limited liability partnership who has at least 51% ownership in one of those business types, or parent, spouse, or child of such individuals.

# SB 299 - CONTINUED

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- For employers with 10 or more employees, it changes rate of pay for accrued sick leave used by employee:
  - paid on commission or piece-rate basis from employee's regular pay rate to a rate no less than minimum wage;
  - paid on both hourly, weekly, or monthly wage and by piece-rate or commission basis, at rate equivalent to employee's hourly, weekly, or monthly wage.
- Requires employer with sick leave policy, paid vacation policy, paid personal time off policy or other paid time off program that is substantially equivalent or more generous to employee than sick time laws to comply with requirements of sick time laws, at a minimum, for the first 40 hours that employer's policy provides per year.

# SB 299 - CONTINUED

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- Amends definition of “payroll” for purposes of workers’ compensation law to exclude sick time pay as provided in sick time laws.
- Clarifies that deduction of sick time leave, for purposes of workers' compensation benefits, does not violate sick time laws.

# SB 398 – NOTICE OF POTENTIAL AVAILABILITY OF EARNED INCOME TAX CREDIT

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Effective: October 6, 2017

# SB 398 – NOTICE OF POTENTIAL AVAILABILITY OF EARNED INCOME TAX CREDIT

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- Requires Labor Commissioner to adopt rules requiring employers to provide annual, written notice to employees about earned income tax credit (EITC). Specifies notice be provided in English and language employer typically uses to communicate with employee.
- Requires Bureau of Labor and Industries (BOLI) to provide notice to employees in state minimum wage posters about EITC.
- Requires Employment Department to provide information about EITC to unemployment insurance benefits recipients.



# SB 828 – PREDICTIVE SCHEDULING

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Effective: July 1, 2018 and July 1, 2020

# SB 828 – PREDICTIVE SCHEDULING

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- Establishes employee work scheduling standards for employers in certain retail, hospitality and food service industries with at least 500 employees worldwide.
- Beginning July 1, 2018, retail, hospitality and food service employers with 500 or more employees worldwide must provide good faith estimates of employees' work schedules at the time of hire and provide current employee with 7 days' notice of work schedule.
- Beginning July 1, 2020, extends advance notice requirements to 14 days.

# SB 828 - CONTINUED

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- Stipulates that employee may decline work hours not included in schedule; request not to be scheduled during specific times or at certain locations; and request additional work shifts.
- Prohibits scheduling work shifts that do not allow 10 hours break time in between shifts unless employee earns 1.5 times scheduled rate of pay.

# SB 828 - CONTINUED

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- Permits employers to maintain standby list of employees who have agreed to work additional hours; provides criteria for use of standby list and penalties for violation of criteria.
- Employer is required to maintain records relating to compliance for three (3) years.
- Makes it unlawful employment practice to interfere with employee rights or to retaliate against employee for exercising rights granted to employees in the Act.

# SB 828 - CONTINUED

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- Employer is required to compensate employees for schedule changes without seven-days advanced notice. (Penalty Period changes to 14 days in 1/1/2020)

Employer pays one (1) additional hour when:


- Adds more than 30 minutes of work to the employee's work shift;
  - Changes the date or start or end time of the employee's work shift with no loss of hours; or
  - Schedules the employee for an additional work shift or on-call shift.
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# SB 828 - CONTINUED

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- Employer is required to compensate employees for schedule changes without seven-days advanced notice. (Penalty Period changes to 14 days in 1/1/2020)

Employer pays one-half (1/2) times the regular rate of pay per hour for each scheduled hour that the employee does not work when the employer:

- Subtracts hours from the employee's work shift before or after the employee reports for duty;
  - Changes the date or start or end time of the employee's work shift, resulting in a loss of work shift hours;
  - Cancels the employee's work shift; or,
  - Does not ask the employee to perform work when the employee is scheduled for an on-call shift.
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# SB 828 - CONTINUED

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Employers are not required to provide additional compensation when:

- Start or end time of the employee's work shift is changed by 30 minutes or less;
- Employee initiated and mutually agreed to shift swap or coverage;
- Employee requested changes;
- Disciplinary reasons meeting just cause with supporting documentation of incidents leading to discipline;
- Delays or cancellation due to threats to employees or property and recommended by public officials;
- Operations cannot begin or continue because of public utility failure;
- Operations cannot begin or continue because of natural disaster or similar cause outside the employer's control;
- Operations hours change or are substantially altered because a ticketed event is cancelled, rescheduled or changes in duration due to factors outside the employer's control; or,
- Employer requests additional hours be worked to address unanticipated customer needs or unexpected employee absence.

# SB 1040 – UNION SECURITY AGREEMENTS

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Effective: June 14, 2017



# SB 1040 – UNION SECURITY AGREEMENTS

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- This law ensures that private sector labor organizations and employers throughout Oregon may enter into union security agreements to the full extent allowed by federal law.
  - An employer or labor organization anywhere in this state may execute and apply an agreement **requiring** membership in a labor organization as a condition of employment to the full extent allowed by federal law.

# HB 2005 – OREGON EQUAL PAY ACT

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Part I

Effective: October 6, 2017

# HB 2005 – OREGON EQUAL PAY ACT – PART I

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- This law prohibits employers from asking:
  - An applicant about their previous/past pay history; or
  - An employee of the applicant's prior employer about the applicant's previous/past pay history without having first made an offer of employment *including* an amount of compensation.
- Employers may ask what the applicants compensation expectations are.

# HB 2005 – OREGON EQUAL PAY ACT

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Part II

Effective: January 1, 2019

# HB 2005 – OREGON EQUAL PAY ACT – PART II

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- The law expands the protections of the equal pay provision beyond gender to prohibit discrimination on the basis of a “protected class,” defined as “a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.”
- It also expands the law to apply to compensation beyond payment of wages or salary to *include* bonuses, benefits, fringe benefits and equity-based compensation.

# HB 2005 – PART II CONTINUED

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- Defines work of Comparable Character as the basis for equitable pay.
  - Comparable character: means work that requires substantially similar knowledge, skill, effort, responsibility, and working conditions.

# HB 2005 – PART II CONTINUED

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- Allows pay differences when any of the following bona fide factors exist:
  - a seniority system;
  - a merit system;
  - a system that measures earnings by quantity or quality of production, including piece-rate work;
  - workplace locations;
  - travel, if travel is necessary and regular for the employee;
  - education;
  - training;
  - experience; or
  - any combination of factors if the combination of factors accounts for the entire compensation differential.

# HB 2005 – PART II CONTINUED

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- Prohibits screening applicants based on their current or past pay.
- Prohibits employers from determining compensation for a position based on current or past compensation of the perspective employee (not applicable to internal hiring).
- Mandates that employers post a notice of the new requirements in their workplaces.
- Prohibits the correction of pay inequity by reducing the rates of the higher compensated individual(s).



# HB 3008 – FALSIFIED PAY RECORDS

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Effective: January 1, 2019

# HB 3008 – FALSIFIED PAY RECORDS

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- Prohibits employer from requiring employee to submit information related to hours worked or pay received when employer knows information is false.
- Provides that each pay period in which violation occurs or continues is a separate violation.
- Establishes private right of action. Allows court to award actual damages or \$1,000 per violation, whichever is greater, as well as injunctive relief, attorney fees and costs.
- Allows Commissioner of Bureau of Labor and Industries to assess civil penalty not to exceed \$1,000 per violation.

# HB 3458 – CLARIFICATION OF MANUFACTURING OVERTIME

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Effective: January 1, 2019

# HB 3008 – CLARIFICATION OF MANUFACTURING OVERTIME

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- Requires most manufacturing employers to pay employees THE GREATER of either daily or weekly overtime.
  - Daily, if over 10 hours in one shift.
  - Weekly, if over 40 hours in one work week.

NOTE: both must be calculated to determine which is the greater.

- Sets a firm 55 hour work week limit for most manufacturing employers.
- Allows employees to elect in writing to work up to 60 hours weekly.

NOTE: This clarification also added additional exceptions (most short term) for consideration in certain manufacturing instances.

# THANK YOU

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