

Paid Leave Oregon Advisory Committee

November 2, 2022

1:00pm – 3:00pm

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

Agenda

Members
 Karen Humelbaugh
 David Gerstenfeld
 Jeannine Beatrice
 Amanda Dalton
 Jenny Dresler
 Linda Herrera
 Eric Hunter
 Andrea Paluso
 Eva Rippeteau
 Paloma Sparks
 Jessica Giannettino

Docket #	Topic	Purpose	Presenter
1.0	Welcome	Inform	Karen Madden Humelbaugh &
1.1	Member Roundtable		David Gerstenfeld
1.2	Agency Updates		
1.3	Approval of October Meeting Notes		
2.0	Policy & Rules Update	Inform	Shannon Ball
3.0	Benefits Update	Inform	Danielle Willey
4.0	Customer Care & Outreach	Inform	Michele Schwartz
5.0	Communications Update	Inform	Angela Yeager
6.0	Additional Program Updates	Inform	Karen Madden Humelbaugh



Paid Leave Oregon Advisory Committee Docket

Docket Item:

1.3 – Approval of October Meeting Notes

Docket Summary:

Karen Madden Humelbaugh asks committee members if they have any edits to the notes from the previous meeting. After feedback is addressed, the committee will vote on whether to approve the notes.

Docket Materials:

PDF – Paid Leave Oregon Advisory Committee Notes 10-2022

Staff Recommendation:

Approve notes.

Meeting:	Paid Leave Oregon Advisory Committee				
Date/time:	October 5, 2022				
Location:	Microsoft Teams				
Attendees:	P (Present) A (Absent) S (sent sub)				
	Facilitator: Karen Madden Humelbaugh Scribe: Mackenzie Jones				
Members		Staff		Guest	
P	Karen Madden Humelbaugh	P	Mackenzie Jones		
P	David Gerstenfeld	P	Shannon Ball		
P	Jeannine Beatrice	P	Juan Serratos		
A	Amanda Dalton (employers)	A	Danielle Willey		
P	Jenny Dresler (employers)	P	Michele Roland-Schwartz		
P	Linda Herrera (employees)	P	Angela Yeager		
P	Eric Hunter (employers)	P	Layla Hatoum		
P	Andrea Paluso (employees)				
P	Eva Rippeteau (employees)				
A	Paloma Sparks (employers)				
P	Jessica Giannettino (employees)				

Agenda

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1.0	Welcome	Inform	Karen Madden Humelbaugh &
1.1	Member Roundtable		David Gerstenfeld
1.2	Agency & Program Updates		
1.3	Approval of September Meeting Notes		

No comments from committee members, September notes approved.

David Gerstenfeld shared agency updates. The first rollout of the new Frances technology went very well and the agency is already working diligently preparing for the second rollout. There have been no unexpected issues.

Through the National Association of State Workforce Agencies (NASWA), other states are asking questions about Oregon's approach due to its success. Some states are also asking questions about Oregon's combined contribution approach, with interest in possibly using the same process.

Due to a decrease in federal funding, the agency unfortunately had to lose a couple hundred limited duration employees. The agency worked creatively with the union to find every possible way to try to find good positions for as many people as possible. Fortunately, 16 of those employees are rejoining the agency to work in the Paid Leave Oregon division in December.

The agency is also preparing for the upcoming legislative session early next year which will include the budget process. There is also preparation for the pending transition in the Governor's office to help prepare the new administration.

2.0	Forecast Update	Inform	Ayesha Khalid
<p>Ayesha Khalid shared a quarterly forecast update with the committee. The program is still on track to meet solvency requirements.</p>			
3.0	Operations Updates	Inform	Layla Hatoum
<p>Layla Hatoum shared updates from the Paid Leave operations team, including some statistics regarding the submitted equivalent plans and declarations.</p>			
4.0	Policy Updates	Inform	Shannon Ball
<p>Shannon Ball shared policy updates. Paid Leave Oregon is working with Modernization to begin configuring the software for benefits. There are many discussions taking place to determine what the process will be once a benefit application is received, what additional information the program needs to ask for, what information should be sent to employees/employers, payment of benefits, grants, as well as the recovery and appeal process.</p>			
<p>The team is also working on drafting letters and forms. The Employer Guidebook and the Model Notice are now posted on the website.</p>			
<p>Administrative Rules are in final stages. Batch 4 which included rules on appeals, contributions, equivalent plans, and tribal government. The equivalent plan rules were finalized August 22. The contribution rules will be final sometime this week or next. The team is still waiting for approval from the Attorney General for the requested exemption. Benefit rules should be final by the end of October.</p>			
<p>The team has also worked with Washington to create a joint letter to explain how place of performance or localization will work the same for Washington and Oregon. That letter is almost finalized and will be shared with the Advisory Committee once it's ready.</p>			
5.0	Outreach & Communications Updates	Inform	Michele Schwartz Angela Yeager
<p>Michele Schwartz shared outreach and engagement updates. The team is in the process of interviewing for an Outreach Program Analyst who will be focused on connecting outreach and engagement with our worker advocacy and labor unions. The team continues to stay busy with a variety of presentations, door-to-door contacts, virtual sessions and tabling events. They have reached about 7,500 Oregonians through these different types of engagements and are planning additional ways to reach the community through Facebook Live and Town Halls. The team is getting closer to having non-competitive procurements with culturally specific and community based organizations.</p>			
<p>Angela Yeager shared communication updates. The statewide outreach campaign is underway, the team has started to approve designs for the advertising and materials. This week there are scheduled photoshoots with four real Oregon employers who will be featured in the advertising material. Ads will go out starting in November.</p>			
<p>The Paid Leave Oregon website has been updated to include a solvency webpage as well as an OFLA/FMLA comparison chart. The communications team is continuing to work on the comprehensive website development. They have also just launched a LinkedIn page.</p>			
<p>Andrea Paluso asked if/where/how she can provide feedback on language for the Model Notice. The team implemented much of the Advisory Committee's suggestions in the creation of this poster. While this is the final version of this document, the team appreciates any feedback to address moving forward so they can make adjustments along the way.</p>			

Action Items

Action	Assigned	Due Date	Completed

Decisions

- September Advisory Committee meeting notes were approved.

Paid Leave Oregon Advisory Committee Docket

Docket Item:

2.0 – Policy & Rule Updates

Docket Summary:

The Paid Leave Oregon program is constantly reviewing our administrative rules and statutes as we know more now than we did a month ago, six months ago, or a year ago. The program also takes into consideration questions and comments we receive from our community engagement sessions to see if items need to be reevaluated or considered. One topic that has been brought to us numerous ways is how the program determines employer size by administrative rule (OAR 471-070-3150 and 471-070-3160).

Discuss the attached recommendation for a change to the employer size determination.

Docket Materials:

PDF - Proposal for Revised Method to Determine Employer Size

Staff Recommendation:

Recommend to amend OAR 471-070-3150 and OAR 471-070-3160 through temporary rulemaking to change the employer size determination to calculating an average of the monthly employee count on the 12th of each month for the previous calendar year.

Proposal for Revised Method to Determine Employer Size

To: Paid Leave Oregon Advisory Committee
 From: Kelley Ofoni, Paid Leave Oregon, Policy and Program Support Manager
 Date: 10/31/2022

Employee Counts:

There is a monthly 'snapshot' count of employees. Employers count the number of employees on their payroll for the pay period that includes the 12th of the month. It is a total headcount. This is the same 'snapshot' monthly count included on quarterly payroll reports for Unemployment Insurance (UI), so it aligns with an existing process.

For many employers, it would be the same employee count for Paid Leave and UI. However, for Paid Leave this includes *all* employees (including out-of-state and those not covered by UI), so it could be a higher count than UI.

➔ Example: ABC Construction has weekly pay periods covering Sunday to Saturday. For October 2022, the 12th of the month falls within the pay period covering 10/9 to 10/15. ABC Construction paid 23 employees for that pay period, including full-time, part-time, temporary, and out-of-state employees. The employee count for October 2022 is 23.

Employer Size Determinations:

Employer size for a calendar year is calculated by averaging the monthly employee counts on the 12th of each month for the previous calendar year. Employers add together their employee counts for the 12 months in the previous calendar year and then divide the total by 12. If the result is 25 or higher, then the employer is a large employer for Paid Leave Oregon purposes. If the result is less than 25, then the employer is a small employer.

Employers are responsible for calculating their employer size and paying employer contributions as required. The Employment Department does not make the determination or send notices on employer size to employers.

➔ Example: Abraham's Furniture Depot has the following employee counts for 2025:

Month	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Count	24	26	26	24	23	22	24	25	26	26	26	24

Employer size for 2026 is calculated as follows:

- 1) Add monthly employee counts: $24+26+26+24+23+22+24+25+26+26+26+24=296$
- 2) Divide total by 12: $296/12=24.66$
- 3) Result is less than 25. Abraham's Furniture Depot is a small employer for 2026.
- 4) Abraham's Furniture Depot does not pay employer contributes with its quarterly reports during all of 2026.

Reporting:

Beginning with 2023, employers report out-of-state employees and replacement workers quarterly on the quarterly payroll reports, but do not report monthly Paid Leave employee counts or their employer size calculations. Employers continue to report monthly counts for UI.

If the department identifies that an employer may not be accurately paying employer contributions, then it may request details on employee counts and size determination calculations. The department will review the information provided and it could lead to an audit to review records or assessment of employer contributions, penalties, and interest.

New Employers:

New employers use the same method to calculate their size. For businesses that are new in Oregon but operate out of state, their monthly out-of-state employee counts would determine their size because the Paid Leave employee counts would be 0. For a brand-new employer without out-of-state employees, the employee counts would be 0 for the first calculation so the employer would be a small employer.

Sample Employer Size Calculator for Employers for 2023

Instructions to employer

Employee counts for each month are based on the number of employees on your payroll records for the pay period that includes the 12th of the month. No employee should be counted more than once. If you did not have employees on your payroll for that pay period, enter a 0. This includes any periods before your business was in operation.

Step one: Complete the employee counts in columns A, B, C, and D for each month.

If you do not have employees working outside of Oregon and all your employees are covered by Unemployment Insurance (you report wages for them for UI on your Form 132) then you can skip B and C.

- A. Enter the number of employees that are covered by UI – this is the monthly employee count reported on Form OQ.
- B. Enter the number of any additional employees in Oregon that are covered by Paid Leave, but not included in the UI count – this could be agricultural employees or employees working in employment excluded from UI. This would be any employees that you report Paid Leave wages for, but not UI wages.
- C. Enter the number employees that work outside of Oregon – including out-of-state and international.
- D. Enter the number of workers you hired to replace workers while taking leave through the Paid Leave Oregon program. These will be deducted from your employee count (not until September 2023).

Step 2: Add the employee counts for A, B, and C and subtract the employee count in D to get the total for each row in E.

Step 3: Add the 12 monthly employee counts in E to get the total employee count in F.

Step 4: Divide the total employee count in F by 12 to get the annual average employee count in G.

Step 5: Determine your employer size: If the annual average employee count in G is 25 or greater, you are a large employer. If the annual average employee count in G is less than 25, you are a small employer. The annual average does not round - if your total in G is 24.8, for example, you are a small employer. Your employer size applies for all of 2023.

2022 Employee Count

Month	(A) UI Employee Count	Add	(B) Additional Paid Leave Employee Count	Add	(C) Out-of- State Employees	Subtract	(D) Paid Leave Replacem ent Workers	=	(E) Monthly Count
January		+		+		-	0	=	
February		+		+		-	0	=	
March		+		+		-	0	=	
April		+		+		-	0	=	
May		+		+		-	0	=	
June		+		+		-	0	=	
July		+		+		-	0	=	
August		+		+		-	0	=	
September		+		+		-	0	=	
October		+		+		-	0	=	
November		+		+		-	0	=	
December		+		+		-	0	=	
(F) Total Employee Count									
Divide by 12									/12
(G) Annual Average Employee Count									



Paid Leave Oregon Advisory Committee Docket

Docket Item:

3.0 – Benefits Updates

Docket Summary:

Paid Leave Oregon’s Benefits team is working in tandem with the Policy & Operations team on definition sessions to configure Frances for benefits roll out next September. Subject matter experts participate in these sessions with the software vendor to configure the system to meet our identified business needs. Sessions will continue through December.

We are in the process of recruiting and hiring a Benefits Eligibility manager and Claims manager for the Benefits team. We will be interviewing candidates in November and expect to have the successful applicants onboard in December.

Docket Materials:

N/A

Staff Recommendation:

None, this is an informational item only.



Paid Leave Oregon Advisory Committee Docket

Docket Item:

4.0 – Customer Care & Outreach Updates

Docket Summary:

Updates will be provided at the meeting.

Docket Materials:

No materials

Staff Recommendation:

None, will be informational



Paid Leave Oregon Advisory Committee Docket

Docket Item:

5.0 – Communications Updates

Docket Summary:

Our advertising campaign launches in November. Social media ads, mostly aimed at employers, along with digital and TV ads, will appear statewide. Spanish radio ads also have been recorded and will play on every major station. We also are adding digital ads on Oregon Live, Portland Skanner and the Portland Observer. We finished photo shoot with four employers in Keizer, Independence, Albany and Portland areas. We also continue hard work on the new website, set to launch in our top 5 languages in winter 2022-2023. We reviewed and edited about 150 pages of web copy and final website designs. Now the development team is building the actual site.

Docket Materials:

No materials

Staff Recommendation:

None, this is an informational item only.