

Talking Points – PFMLI Rules, Batch 1

Small Employers

- Counting employees issue 1
 - 'HOW' OED counts to 25 is important, because it could potentially disqualify employers from accessing small business grants.
 - OED is proposing to count all of an employer's employees, both within Oregon and outside of Oregon, for the purposes of determining whether they are small employers, despite the benefit applying ONLY to Oregon employees.
 - Labor argues that these employers (for example someone with 15 employees in Washington and 12 employees in Oregon) are big and thus it isn't equitable to allow them access to small business grants.
 - Employers argue that that was never the intent and unnecessarily harms small Oregon employers who were counting on this assistance when the bill was negotiated.
 - Washington only counts employees located within the state and Oregon should follow suit, so as to not inadvertently disadvantage small employers who operate across state lines (convenience stores, restaurants, farms, etc.) and who were counting on being able to access small business grants when employees take PFMLI grants.
- Counting employees issue 2
 - Legislators indicated an intent that employees be counted based on a 52-week average
 - Previously, the division presented a plan that employees be counted based on the average of the previous 12 months, now it is proposing counting based on four quarters. This is moving us farther away from legislative intent and could artificially inflate employee counts.
 - Counting employees by quarter simply doesn't make sense and could result in a truly small employer being considered a "large employer" simply because they had a heavy workload in one quarter.
- Assistance Grants
 - The criteria for eligibility for small employer assistance grants makes it virtually impossible or cost effective for an employer to participate.
 - The requirement that the employer pay contributions for eight quarters if they take advantage of a very small grant makes the grant program in itself meaningless
 - The application requirements for grants are also far too complicated – most small employers simply will not the time or staff to complete them.
 - The point of the assistance grant program was to help small employers who would be financially hit by PFMLI and the loss of employees and to incentivize them to pay into PFMLI – as currently written in these rules it fails on both counts.

Contributions/Wages

- Lots of definitions around what is and is not considered wages – these rules should clarify whether they are consistent with how wages are addressed for Unemployment Insurance (UI) tax purposes.
- Bonuses – says that bonuses are wages if they are paid as “compensation, reward, or added remuneration for services” but what if they are just incentives to stay with a company? Again, need clarity that this is the same as how UI is handled and that most payroll services, accountants or payroll staff will understand how to address these.
- Says tips and gratuities are considered wages – this may be problematic for food service employers and employees when it comes time to calculate the PFMLI tax amounts.

Outreach

- The division must prioritize communication with small and rural employers who have limited resources and will need assistance to implement PFMLI.
- Division should hire an employer ombudsman to answer questions and provide resources.