

Senate Bill 434

Sponsored by Senator EDWARDS (Presession filed.)

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**.

Specifies that management service employees serve at pleasure of appointing authority and may be terminated at will. Eliminates trial service period for management service employees.

A BILL FOR AN ACT

1
2 Relating to management service positions in state service; creating new provisions; and amending
3 ORS 240.316, 240.560 and 240.570.

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

5 **SECTION 1.** ORS 240.570 is amended to read:

6 240.570. (1) Positions in the unclassified, **exempt and** management [*and exempt*] services may
7 be filled by classified employees. After an employee is terminated from the unclassified or exempt
8 service [*or removed from the management service,*] for reasons other than those specified in ORS
9 240.555[,] **or is removed or terminated from the management service**, the state agency that
10 employed the employee before the appointment to the unclassified, exempt or management service
11 may, at the agency's sole discretion, restore the employee to a position held in the agency before
12 the appointment if the employee meets the position requirements. If an employee is restored to a
13 former position, the employee is subject to any applicable agency collective bargaining agreement.

14 (2) [*An appointing authority may assign, reassign and transfer management service employees for*
15 *the good of the service and may remove employees from the management service due to reorganization*
16 *or lack of work.*] **A management service employee serves at the pleasure of the appointing**
17 **authority and may be removed or terminated at any time without cause.**

18 [(3) *A management service employee is subject to a trial service period established pursuant to*
19 *rules of the Personnel Division under ORS 240.250. Thereafter, the management service employee may*
20 *be disciplined by reprimand, salary reduction, suspension or demotion or removed from the manage-*
21 *ment service if the employee is unable or unwilling to fully and faithfully perform the duties of the*
22 *position satisfactorily.*]

23 [(4) *Employees who are assigned, reassigned, transferred or removed, as provided in subsection (2)*
24 *of this section, and employees who are disciplined or removed from the management service for the*
25 *reasons specified in subsection (3) of this section may appeal to the Employment Relations Board in the*
26 *manner provided by ORS 240.560.*]

27 [(5) *Management service employees with immediate prior former regular status in the classified*
28 *service may be dismissed from state service only for reasons specified by ORS 240.555 and pursuant*
29 *to the appeal procedures provided by ORS 240.560.*]

30 **SECTION 2.** ORS 240.560 is amended to read:

31 240.560. (1) A [*regular*] **classified, unrepresented** employee who is reduced, dismissed, sus-

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 pended or demoted[, *shall have*] **has** the right to appeal to the Employment Relations Board not later
 2 than 30 days after the effective date of the reduction, dismissal, suspension or demotion. The appeal
 3 must be in writing. The appeal is timely if it is received by the board or postmarked, if mailed
 4 postpaid and properly addressed, not later than 30 days after the effective date of the reduction,
 5 dismissal, suspension or demotion. The board shall hear the appeal within 30 days after the board
 6 receives the appeal, unless the parties to the hearing agree to a postponement. The board shall
 7 furnish the division of the service concerned with a copy of the appeal in advance of the hearing.

8 (2) The hearing shall be conducted as provided for a contested case in ORS chapter 183.

9 (3) If the board finds that the action complained of was taken by the appointing authority for
 10 any political, religious or racial reasons, or because of sex, marital status or age, the employee shall
 11 be reinstated to the position and shall not suffer any loss in pay.

12 (4) In all other cases, if the board finds that the action was not taken in good faith for cause,
 13 it shall order the immediate reinstatement and the reemployment of the employee in the position
 14 without the loss of pay. In lieu of affirming the action, the board may modify the action by directing
 15 a suspension without pay for a given period, and a subsequent restoration to duty, or a demotion in
 16 classification, grade or pay. The findings and order of the board shall be certified in writing to the
 17 appointing authority and shall be forthwith put into effect by the appointing authority.

18 **SECTION 3.** ORS 240.316 is amended to read:

19 240.316. (1)(a) **Except for persons in the management service**, persons initially appointed to
 20 or promoted to a permanent or seasonal position in state service shall be subject to a trial service
 21 period.

22 (b) An appointing authority has the discretion to subject an employee to a trial service period
 23 when:

24 (A) A [*management service employee or a*] classified, unrepresented employee transfers to a dif-
 25 ferent agency;

26 (B) A [*management service employee or a*] classified, unrepresented employee transfers back to
 27 the same agency after an absence of more than one year;

28 (C) A [*former management service employee or*] former classified, unrepresented employee is re-
 29 employed by the same agency after an absence of more than one year; or

30 (D) A [*former management service employee or*] former classified, unrepresented employee is re-
 31 employed by a different agency.

32 (c) Any employee who serves the trial service period designated by the Personnel Division or
 33 a delegated operating agency for a given classification or as described in paragraph (b) of this sub-
 34 section shall be given regular employee status.

35 (2) **Except for employees in the management service**, employees who have acquired regular
 36 status will not be subject to separation except for cause as defined by ORS 240.555 or lack of work,
 37 curtailment of funds, or reorganization requiring a reduction in force.

38 (3) Procedures shall be established by the division to provide for the layoff and opportunity for
 39 reemployment of employees separated for reasons other than cause, which shall take into account
 40 the needs of the service, qualifications, quality of performance, relative merit and length of service.

41 (4) Procedures shall also be established by the division for the transfer, discipline or demotion
 42 of employees for the good of the service or separation of employees whose conduct or performance
 43 continues to be improper or inadequate after reasonable attempts have been made to correct it,
 44 where appropriate.

45 **(5) Subsections (3) and (4) of this section do not apply to employees appointed to positions**

1 in the management service.

2 **SECTION 4. The amendments to ORS 240.316, 240.560 and 240.570 by sections 1 to 3 of this**
3 **2013 Act apply to persons appointed to management service positions on or after the effective**
4 **date of this 2013 Act.**

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