

Senate Bill 495

Sponsored by Senator GORSEK (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**.

Defines "instructional capacity" to exclude instructional assistants from scope of statutes prohibiting payment of unemployment insurance benefits to professional employees of educational institution for weeks of unemployment commencing during period between two successive academic years or terms.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to eligibility for unemployment insurance benefits; creating new provisions; amending ORS
3 657.010; and declaring an emergency.

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

5 **SECTION 1.** ORS 657.010 is amended to read:

6 657.010. As used in this chapter, unless the context requires otherwise:

7 (1) "Base year" means the first four of the last five completed calendar quarters preceding the
8 benefit year.

9 (2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

10 (3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with
11 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-
12 utive weeks period beginning with the first week with respect to which the individual next files an
13 initial valid claim after the termination of the individual's last preceding benefit year except that
14 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping
15 any quarter of the base year of a previously filed initial valid claim.

16 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March
17 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director
18 of the Employment Department may, by [*regulation*] **rule**, prescribe.

19 (5) "Contribution" or "contributions" means the taxes[, *as defined in subsection (13) of this sec-*
20 *tion,*] that are the money payments required by this chapter, or voluntary payments permitted, to
21 be made to the Unemployment Compensation Trust Fund.

22 (6) "Educational institution," including an institution of higher education [*as defined in sub-*
23 *section (9) of this section*], means an institution:

24 (a) In which participants, trainees or students are offered an organized course of study or
25 training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities
26 from, by or under the guidance of an instructor or teacher;

27 (b) That is accredited, registered, approved, licensed or issued a permit to operate as a school
28 by the Department of Education or other government agency, or that offers courses for credit that
29 are transferable to an approved, registered or accredited school;

30 (c) In which the course or courses of study or training that it offers may be academic, technical,

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 trade or preparation for gainful employment in a recognized occupation; and

2 (d) In which the course or courses of study or training are offered on a regular and continuing
3 basis.

4 (7) "Employment office" means a free public employment office or branch thereof, operated by
5 this state or maintained as a part of a state-controlled system of public employment offices.

6 (8) "Hospital" [*means an organization that has been licensed, certified or approved by the Oregon*
7 *Health Authority as a hospital*] **has the meaning given that term in ORS 442.015.**

8 (9) "Institution of higher education" means an educational institution that:

9 (a) Admits as regular students only individuals having a certificate of graduation from a high
10 school, or the recognized equivalent of such a certificate;

11 (b) Is legally authorized in this state to provide a program of education beyond high school;

12 (c) Provides an educational program for which it awards a bachelor's or higher degree, or pro-
13 vides a program that is acceptable for full credit toward such a degree, a program of post-graduate
14 or post-doctoral studies, or a program of training to prepare students for gainful employment in a
15 recognized occupation; and

16 (d) Is a public or other nonprofit institution.

17 **(10) "Instructional capacity" does not include services performed as an instructional as-**
18 **sistant as defined in ORS 342.120.**

19 [(10)] **(11)** "Internal Revenue Code" means the federal Internal Revenue Code, as amended and
20 in effect on December 31, 2018.

21 [(11)] **(12)** "Nonprofit employing unit" means an organization, or group of organizations, de-
22 scribed in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under
23 section 501(a) of the Internal Revenue Code.

24 [(12)] **(13)** "State" includes, in addition to the states of the United States of America, the District
25 of Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be
26 considered a state on and after the day on which the United States Secretary of Labor first approves
27 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by
28 Public Law 94-566.

29 [(13)] **(14)** "Taxes" means the money payments to the Unemployment Compensation Trust Fund
30 required, or voluntary payments permitted, by this chapter.

31 [(14)] **(15)** "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if
32 the individual meets the wages-paid-for-employment requirements of ORS 657.150.

33 [(15)] **(16)** "Week" means any period of seven consecutive calendar days ending at midnight, as
34 the director may[, *by regulation,*] prescribe **by rule**. [*The director may by regulation prescribe that a*
35 *"week" shall be "in," "within," or "during" the calendar quarter that includes the greater part of such*
36 *week.*]

37 **SECTION 2.** Section 3 of this 2021 Act is added to and made a part of ORS chapter 657.

38 **SECTION 3.** The Director of the Employment Department may prescribe by rule that a
39 week shall be in, within or during the calendar quarter that includes the greater part of the
40 week.

41 **SECTION 4.** The amendments to ORS 657.010 by section 1 of this 2021 Act apply to weeks
42 of unemployment beginning on or after the effective date of this 2021 Act.

43 **SECTION 5.** (1) If the United States Secretary of Labor serves notice that any provisions
44 of ORS 657.010, as amended by section 1 of this 2021 Act, or rules adopted to reflect the
45 amendments to ORS 657.010 by section 1 of this 2021 Act, fail to meet the requirements of

1 **the Social Security Act or the Federal Unemployment Tax Act, the nonconforming provisions**
2 **or rules shall no longer be of any force or effect.**

3 **(2) The Director of the Employment Department shall notify the Legislative Counsel as**
4 **soon as practicable after receipt of the notice described in subsection (1) of this section.**

5 **SECTION 6. This 2021 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
7 **on its passage.**

8
