

Enrolled
Senate Bill 496

Sponsored by Senator GORSEK; Senator DEMBROW, Representatives CAMPOS, DEXTER, GRAYBER, HOLVEY, HUDSON, KOTEK, MCLAIN, PRUSAK (Presession filed.)

CHAPTER

AN ACT

Relating to eligibility for unemployment insurance benefits; creating new provisions; amending ORS 657.221 and section 5, chapter 407, Oregon Laws 2019; and declaring an emergency.

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

SECTION 1. ORS 657.221 is amended to read:

657.221. (1)(a) Benefits based on services performed in other than an instructional, research or principal administrative capacity for an educational institution or institution of higher education shall be payable to an individual in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter.

(b) Notwithstanding paragraph (a) of this subsection, benefits shall not be paid on the basis of such services for any week of unemployment that commences during a period between two successive academic years or terms if the individual performs such services in the first academic year or term and there is a reasonable assurance that the individual will perform any such services in the second academic year or term for any institution.

(c) Notwithstanding paragraph (b) of this subsection, if benefits are denied to an individual for any week under paragraph (b) of this subsection and such individual was not offered an opportunity to perform such services for the institution for the second of such academic years or terms, such individual shall be entitled, if otherwise eligible, to payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of paragraph (b) of this subsection.

(2) With respect to the application of this section, the following shall apply:

(a) An employee who terminates an employee-employer relationship by electing not to accept an offer of work for a subsequent academic year or term, other than by reason of labor negotiations or a labor dispute in progress, shall be deemed to have voluntarily left work. The effective date of such leaving shall be the date on which the individual notifies the institution of the election not to accept the offer of work for the subsequent period, except that if such individual continues to work under the terms of a previously existing contract or agreement, the effective date of leaving shall be the last day worked for the institution.

(b) If the institution does not extend to the individual an offer of work or provide a reasonable assurance the individual is expected to return to work for the institution following the period between the academic years or terms, the separation from work shall be considered an involuntary leaving or layoff.

(3) With respect to any services described in subsection (1)(a) of this section, compensation payable on the basis of such services shall be denied to any individual for any week that commences

during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform such services or any services described in ORS 657.167 (1) in the period immediately following such vacation period or holiday recess.

(4) With respect to any services described in subsection (1)(a) of this section, benefits based on such services shall be denied as specified in subsections (1) and (3) of this section to any individual who performed such services in an institution while in the employ of an education service district established by ORS chapter 334, providing 50 percent or more of the individual's time is in the performance of services in such institution.

(5) Subsections (1)(b), (3) and (4) of this section do not apply to benefits that are otherwise payable based on services consisting of:

- (a) The operation or maintenance of facilities; *[or]*
- (b) Janitorial services;
- (c) **School food preparation and service;**
- (d) **Early intervention services and support for such services; or**
- (e) **Prekindergarten services and support for such services.**

(6) Subsections (1), (3) and (4) of this section apply only to service performed for an educational institution or institution of higher education operated by:

- (a) A nonprofit employing unit;
- (b) This state;
- (c) A political subdivision of this state; or
- (d) An Indian tribe.

SECTION 2. The amendments to ORS 657.221 by section 1 of this 2021 Act apply to weeks of unemployment beginning on or after the effective date of this 2021 Act.

SECTION 3. Section 5, chapter 407, Oregon Laws 2019, is amended to read:

Sec. 5. (1) If the United States Secretary of Labor serves notice that any provisions of ORS 657.221, as amended by section 1 *[of this 2019 Act]*, **chapter 407, Oregon Laws 2019, and section 1 of this 2021 Act**, or rules adopted under ORS 657.221, as amended by section 1 *[of this 2019 Act]*, **chapter 407, Oregon Laws 2019, and section 1 of this 2021 Act**, fail to meet the requirements of the Social Security Act or the Federal Unemployment Tax Act, the nonconforming provisions or rules shall no longer be of any force or effect.

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

SECTION 4. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect September 1, 2021.

Passed by Senate April 7, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 13, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State