

HB 3130

Chairman Holvey and Members of the Business and Labor Committee:

Substitute teachers MUST be able to work freely with their colleagues and school principal without the threat of being fired by a temp agency. The present situation is untenable for nearly 3,000 substitute teachers in 47 districts who have been outsourced through no choice of their own. You can restore their professional relationship in the educational process by declaring through HB 3130 that substitute teachers who are in service to the public schools, following schools' lesson plans, and using school equipment are employees of the school districts. Independent contractors would bring their own equipment and follow their own routine apart from school supervision—an impossibility for teachers.

Because of the present substitute teacher shortage, many school districts have turned to temp agencies to supply teachers and manage their hours and payroll. The fact that school districts can direct the temp agency to bar a substitute teacher from certain schools shows that the school districts are the real employers, regardless of a 2019 Oregon Supreme Court ruling that the entity supplying the paycheck is the employer. HB 3130 clarifies that the school districts—not the temp agencies—are the rightful employers and supervisors of the substitute teachers. The school districts can still use the temp agencies for their convenience.

HB 3130 requires no new money. We have learned that the school districts have already supplied enough money to the temp agencies to cover PERS for all of the substitute teachers who might qualify. But the temp agencies have not reported the substitute teachers' hours to PERS, forwarded the districts' contributions, nor deducted employees' contributions from paychecks. Through HB 3130 you can now direct them to do so retroactively. PERS would bill the qualifying teachers for their employee contributions. PERS has no rule that retirement money must come directly from a school district.

Our research shows that 8% of substitute teachers in Albany qualified for PERS and 9% in Tillamook. We estimate the percentage to be similar for the outsourced districts. The teachers who qualify are the long-term and career substitute teachers who work nearly every day and are essential to the schools. Most of them were PERS members before the outsourcing. HB 3130 clarifies that these dedicated professionals can earn retirement security regardless of their district, negating the incentive for them to move to districts that do not outsource their substitute teachers.

ORS 342.610 is the minimum salary law for all Oregon substitute teachers who do not have collective bargaining. (Only Eugene, Portland and Beaverton have collective bargaining for substitute teachers.) Because most substitute teachers only negotiate at the legislature, ORS 342.610 is their employment contract. Substitute teachers have been able to earn PERS under the 600-hour membership laws since 1971. HB 3130 affirms again, under the substitute teacher law, that all substitute teachers not having collective bargaining are in this public employee group, with the same salary and ability to earn benefits.

The valuable educational work that substitute teachers perform is the same in all school districts; they work as a team with other teachers and their school principal. Outsourcing should not interfere with that relationship or control which substitute teachers are able to get benefits. Thank you very much for your thoughtful consideration of HB 3130.

Phyllis Kirkwood
Founding President, Oregon Substitute Teachers Association
Retired after 35 years of substitute teaching