

A-Engrossed
House Bill 2888

Ordered by the House April 4
Including House Amendments dated April 4

Sponsored by Representatives DEXTER, GRAYBER, REYNOLDS; Representatives ANDERSEN, EVANS, HUDSON, NELSON, NGUYEN D, NGUYEN H, NOSSE, SANCHEZ, Senators CAMPOS, FREDERICK, GELSER BLOUIN, JAMA, SOLLMAN, STEINER (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.

Expands regular employment protections afforded for performance of legislative duties by members [*or prospective members*] of Legislative Assembly by requiring employers, at option of member [*or prospective member*], to grant time off **for** less than full-day absence to member [*or prospective member*] to perform legislative duties. Continues alternative requirement, at option of member or prospective member **of Legislative Assembly**, for regular employer to grant leave of absence to member or prospective member to attend legislative session, interim committee meetings or other specified official functions.

[Grants rulemaking authority to Commissioner of Bureau of Labor and Industries to implement statutory provisions and directs commissioner to provide technical advice and guidance to employers to facilitate compliance with statutory requirements.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to required employment leave for the performance of legislative duties; creating new pro-
3 visions; amending ORS 171.120, 171.122 and 171.125; and prescribing an effective date.

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

5 **SECTION 1. As used in ORS 171.120 to 171.125:**

6 **(1) "Legislative duties":**

7 **(a) Means:**

8 **(A) Attending legislative sessions when the Legislative Assembly is in regular or special**
9 **session;**

10 **(B) Attending legislative committee meetings during interim periods, including attending**
11 **by virtual or remote means if virtual or remote attendance is permitted by legislative rule**
12 **or statute;**

13 **(C) Attending a meeting of a task force that has been established by law or rule; and**

14 **(D) Using telephone, videoconferencing or other remote communication technology to**
15 **participate in meetings described in subparagraph (C) of this paragraph.**

16 **(b) Does not include:**

17 **(A) Attending campaign or partisan events;**

18 **(B) Attending private events; or**

19 **(C) Participating in events described in this paragraph using telephone, videoconferencing**
20 **or other remote communication technology.**

21 **(2) "Member" means a member of the Legislative Assembly.**

22 **(3) "Prospective member" means a person who is certified or appointed to serve in the**

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 **Legislative Assembly but who has not taken the oath of office.**

2 **SECTION 2.** ORS 171.120 is amended to read:

3 171.120. (1) **It is the policy of the State of Oregon that members and prospective members**
4 **of the Legislative Assembly be accorded employment protections that are sufficient to allow**
5 **members and prospective members to attend to legislative duties without negative impact**
6 **to the outside employment relationships that members and prospective members may main-**
7 **tain.** It is the purpose and intent of the Legislative Assembly in enacting [*this section and ORS*
8 *171.122 and 171.125*] **ORS 171.120 to 171.125** that, subject to the conditions set forth in these
9 sections, any member [*of the Legislative Assembly*] whose employment is interrupted because of at-
10 tendance at regular or special sessions of the Legislative Assembly or the performance of official
11 duties as a member [*of the Legislative Assembly*] shall be restored to the employment status the
12 member would have enjoyed if the member had continued in employment during any such attendance
13 or performance of duties.

14 (2) As a part of the public policy to encourage public service, an employer may not discharge
15 or threaten to discharge, intimidate or coerce any employee by reason of the employee's service or
16 scheduled service as a member or prospective member [*of the Legislative Assembly*].

17 (3) The member or prospective member may not be subject to discipline or harassment or placed
18 at any employment disadvantage as a consequence of the leave of absence **or grant of time off to**
19 **perform legislative duties.** It is an unlawful employment practice under ORS chapter 659A for a
20 member or prospective member to be subject to discipline or harassment or placed at any employ-
21 ment disadvantage as a consequence of any leave of absence **described in ORS 171.122** related to
22 regular or special session attendance or **any leave of absence or time off granted for the per-**
23 **formance of legislative duties as described in section 3 of this 2023 Act.** A member or prospec-
24 tive member may file a complaint with the Commissioner of the Bureau of Labor and Industries
25 under ORS 659A.820, or a civil action under ORS 659A.885, alleging violation of [*this subsection*]
26 **ORS 171.120 to 171.125.**

27 **SECTION 3.** (1) **Any member of the Legislative Assembly shall be granted time off during**
28 **an employer's work day during which the member is on duty and performing work for the**
29 **employer to:**

30 (a) **Attend virtual committee meetings subject to Article IV, section 14, of the Oregon**
31 **Constitution, or ORS 192.630 using online, telephonic or videoconferencing technology; or**

32 (b) **Place or receive telephone calls or use other communicative technology to perform**
33 **legislative duties.**

34 (2) **An employer of a member that also has furnished the member with an office or other**
35 **workspace that permits private conversation shall allow the member to perform legislative**
36 **duties at that office or workspace. An employer of a member shall allow a member to tem-**
37 **porarily leave the employer's premises to perform legislative duties and then return to the**
38 **employer's premises to continue work on behalf of the employer.**

39 (3) **An employer:**

40 (a) **Is not required to compensate the member for time spent performing legislative du-**
41 **ties described in this section, but may not withhold from compensation amounts that exceed**
42 **the hourly rate of compensation, as computed in 15-minute increments, for time that the**
43 **member spends performing legislative duties; and**

44 (b) **May seek compensation from the Legislative Administrator for the reasonable market**
45 **value of the use of the office or other workspace for the duration of time that the member**

1 actually uses the office or other workspace in order to perform legislative duties. The Leg-
2 islative Administrator may establish procedures for an employer to submit claims for com-
3 pensation under this paragraph and for ascertaining the reasonable market value, on an
4 hourly basis, for the use of an employer's office or workspace for the performance of legis-
5 lative duties.

6 (4)(a) Subsection (3) of this section does not apply if the employer is a business with
7 which the person or a relative of the person is associated.

8 (b) As used in this subsection:

9 (A) "Business with which the person is associated" has the meaning given that term in
10 ORS 244.020.

11 (B) "Person" means a member.

12 (C) "Relative" has the meaning given that term in ORS 244.020.

13 (5) This section is not applicable if:

14 (a) The member was employed by the employer for a period of less than 90 days imme-
15 diately prior to the first day in which time is granted to the member to perform legislative
16 duties;

17 (b) The regular employment position of the member or the character, terms, conditions
18 or activities of the position are incompatible under the Constitution and laws of this state
19 with the office of member of the Legislative Assembly;

20 (c) Employment is on a temporary basis; or

21 (d) The employer employs fewer than 10 persons immediately prior to the first day for
22 which time off is sought by the member under subsection (1) of this section to perform leg-
23 islative duties.

24 **SECTION 4.** ORS 171.122 is amended to read:

25 171.122. (1) Any member or prospective member of the Legislative Assembly who leaves regular
26 employment in order to attend upon any regular or special session of the Legislative Assembly or
27 to perform [official] legislative duties [as a member or prospective member of the Legislative Assembly
28 for which the member or prospective member may receive a per diem under ORS 171.072 or may receive
29 reimbursements for out-of-state travel], shall be granted a leave of absence from such regular em-
30 ployment position for [such] the period of time as is reasonably necessary to permit [such] that at-
31 tendance or performance of duties.

32 (2) A member or prospective member [of the Legislative Assembly] shall give notice to the em-
33 ployer when the leave of absence described in subsection (1) of this section is anticipated or is to
34 be taken:

35 (a) At least 30 days before a regular session; and

36 (b) As soon as it is reasonably apparent that:

37 (A) A special or emergency session is to be called; or

38 (B) The member or prospective member is expected to perform legislative duties.

39 (3) The regular employment position of a member or prospective member on leave of absence
40 under this section shall only be deemed vacant for the period of such leave of absence, and the
41 member or prospective member shall not be subject to removal or discharge from such position as
42 a consequence of such leave of absence.

43 (4) Upon the termination of the leave of absence of the member or prospective member under
44 this section, a member or prospective member shall be restored to the regular employment position
45 the member or prospective member held immediately prior to the first day of the leave of absence

1 if such position still exists, or, if such position does not still exist, to as similar a position as possible,
2 without loss of seniority, the right to participate in insurance or any other employment benefits,
3 other than wages for services not rendered during the leave of absence, as a consequence of the
4 leave of absence of the member or prospective member. Such seniority, right to participate in insurance
5 or other employment benefits shall continue to accumulate during the leave of absence as though
6 the member or prospective member had continued in employment continuously in the regular
7 employment position the member or prospective member held immediately prior to the first day of
8 the leave of absence of the member or prospective member.

9 (5) This section is not applicable if:

10 (a) The member or prospective member was employed by the employer for a period of less than
11 90 days immediately prior to the first day of the leave of absence.

12 (b) The circumstances of the employer have so changed during the leave of absence of the
13 member or prospective member as to make restoration of the member or prospective member to
14 employment impossible or unreasonable.

15 (c) The member or prospective member fails to apply for restoration to employment within:

16 (A) Fifteen days after adjournment sine die of the Legislative Assembly following a regular
17 session; or

18 (B) If the leave was for a lesser period for another legislative assignment, five days after the
19 assignment is completed.

20 (d) The regular employment position of the member or prospective member immediately prior to
21 the first day of the leave of absence or the character, terms, conditions or activities of such position
22 are incompatible under the Constitution and laws of this state with the office of member of the
23 Legislative Assembly.

24 (e) Employment is on a temporary basis.

25 (f) The employer employs fewer than 10 persons immediately prior to the first day of the leave
26 of absence.

27 *[(6) As used in this section, "prospective member" means a person who is certified or appointed to
28 serve in the Legislative Assembly but who has not taken the oath of office.]*

29 **SECTION 5.** ORS 171.125 is amended to read:

30 171.125. (1) If any employer fails to comply with the provisions of ORS 171.120 *[and 171.122]* **to**
31 **171.125**, the circuit court for any county in which *[such]* **the** employer maintains a place of business
32 has jurisdiction, upon the filing of a petition by the Attorney General on behalf of *[the person]* **a**
33 **member or prospective member**, *[entitled to such benefits by reason of noncompliance of the employer, specifically]*
34 to require the employer to comply with the provisions of ORS 171.120 *[and*
35 *171.122]* **to 171.125.**

36 (2) If any employer fails to comply with ORS 171.120 *[and 171.122]* **to 171.125**, the member or
37 prospective member may bring an action under ORS chapter 659A employing counsel of the
38 member's or prospective member's own choosing.

39 **SECTION 6.** Sections 1 and 3 of this 2023 Act are added to and made a part of ORS 171.120
40 to 171.125.

41 **SECTION 7.** This 2023 Act takes effect on the 91st day after the date on which the 2023
42 regular session of the Eighty-second Legislative Assembly adjourns sine die.