

Enrolled House Bill 3227

Sponsored by Representative NOSSE; Representative NELSON

CHAPTER

AN ACT

Relating to the Custodians' Civil Service Law; amending ORS 242.330, 242.340, 242.360, 242.370, 242.390, 242.410, 242.420, 242.520, 242.530, 242.540, 242.550, 242.560, 242.570, 242.590, 242.635 and 242.640; and declaring an emergency.

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

SECTION 1. ORS 242.330 is amended to read:

242.330. (1) In all school districts having a population of [300,000] **475,000** or more persons according to the last federal census, there is created a civil service board with jurisdiction over the appointment, employment, classification and discharge of custodians and assistant custodians in the employ of the school district.

(2) The board shall be composed of three commissioners. An alternate for each commissioner may be appointed to serve in the commissioner's absence. The commissioners and alternates shall be appointed by the school board of the district.

SECTION 2. ORS 242.340 is amended to read:

242.340. To be eligible for appointment to the board, a commissioner shall:

[1] *Be an elector of the school district.*

[2] (1) Be a resident of [*the school district for at least five years immediately preceding appointment*] **Oregon.**

[3] (2) Be known to be devoted to the principles of civil service.

[4] (3) Not be a member or employee of the school board.

SECTION 3. ORS 242.360 is amended to read:

242.360. (1) The school board may remove any commissioner for just cause at any time.

(2) In the event of removal or of a vacancy caused by death or resignation, the vacancy shall be filled by the school board [*within 10 days from the time of the vacancy*]. Such appointment shall be for the unexpired term of the commissioner whose place is vacated.

SECTION 4. ORS 242.370 is amended to read:

242.370. The civil service board shall appoint a secretary, who shall keep a record of its proceedings, preserve all reports made to it, superintend and keep a record of all [*examinations*] **assessments** held under its direction and perform such other duties as it may prescribe. The secretary shall hold office during the pleasure of the board, and shall receive a salary of not less than \$50 per month, to be paid by the school district.

SECTION 5. ORS 242.390 is amended to read:

242.390. The civil service board may make appropriate rules and regulations to carry out the provisions of the Custodians' Civil Service Law. The rules shall provide in detail the manner in which [*examinations*] **assessments** are to be held and appointments and removals made. The board

may, from time to time, change its rules. Any rules or regulations shall be printed for distribution by the board, and 10 days' notice of same must be given by publication in a daily newspaper printed in the district not less than 10 days before the rules or regulations go into effect.

SECTION 6. ORS 242.410 is amended to read:

242.410. The board shall keep on file all [*examination papers and markings thereof*] **documents related to an assessment held by the board** for a period of at least five years and all other papers and documents and communications received by it. All records shall be public and, as such, accessible at convenient times.

SECTION 7. ORS 242.420 is amended to read:

242.420. The board may make any appropriate investigation to carry out the purposes of the Custodians' Civil Service Law. In connection therewith, any member of the board may administer oaths, issue subpoenas to witnesses and compel their attendance at [*examinations*] **assessments**, and examine books, papers and records and compel their production by witnesses in the same manner as if the subpoenas had been issued from a court of record in this state.

SECTION 8. ORS 242.520 is amended to read:

242.520. (1) No appointment or promotion to any position shall be made except as provided in the Custodians' Civil Service Law. All appointments to beginning employment positions in the classified civil service shall be made according to fitness, to be ascertained by open competitive [*examinations*] **assessments**. All promotions in the classified civil service shall be made according to merit in service, fidelity in service and seniority in service.

(2) No person shall be appointed or employed by a school board under any title not appropriate to the duties to be performed.

(3) The appointing authority shall immediately notify the board of any appointment or discharge.

SECTION 9. ORS 242.530 is amended to read:

242.530. The board shall, from time to time, hold public competitive [*examinations*] **assessments** to ascertain the fitness of applicants for beginning employment positions of the classified civil service. The board shall control those [*examinations*] **assessments** and may designate any person to act as [*examiner*] **assessor** without compensation.

SECTION 10. ORS 242.540 is amended to read:

242.540. [*Examinations*] **Assessments** shall be practical in character and relate only to those matters [*which test*] **that consider** the relative fitness of the persons [*examined*] **assessed** to discharge the duties for the respective positions for which they are applicants. The [*examinations shall include a test for physical qualifications, health and manual or*] **assessments must consider** professional skill, **prior experience and bona fide factors that are related to the position**. Nothing relating to an applicant's political or religious opinion or affiliation shall be asked or given.

SECTION 11. ORS 242.550 is amended to read:

242.550. Subject to rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, the civil service board may require an applicant for a custodial position to furnish evidence satisfactory to the board of good character[, *mental and physical health,*] and such other evidence as the civil service board deems necessary to establish the applicant's fitness.

SECTION 12. ORS 242.560 is amended to read:

242.560. (1) The board shall prepare and keep a register for each grade or class of positions of the persons whose average standing, upon [*examination*] **assessment** for such grade or class, is not less than the minimum fixed by the rules of the board, and who otherwise are eligible. Such persons shall take rank upon the register as candidates for beginning employment positions in order of their relative excellence, as determined by the [*examination*] **assessment**. Candidates of equal standing shall take rank upon the register according to the order in which their applications are filed. The board may, by rule, provide for striking candidates from the register, after they have remained thereon for a specified time.

(2) The board shall prepare and keep a register for each grade or class of positions of the persons eligible for promotion. Such register shall contain information concerning merit in service, fidelity in service and seniority in service. Such persons shall take rank upon the register as

candidates for promotion in order of their relative excellence, as determined by merit in service, fidelity in service and seniority in service. Candidates of equal standing shall take rank upon the register according to the order in which their applications are filed.

SECTION 13. ORS 242.570 is amended to read:

242.570. (1) Whenever there is a vacancy in any position in the classified civil service, the school board, or its designated representative, immediately shall notify the civil service board thereof.

(2) The civil service board thereupon shall certify to the appointing authority the names and addresses of the three eligible candidates standing highest upon the register for the class or grade to which such position belongs. If there are fewer than three, the board shall certify all remaining candidates upon the register. When vacancies exist in two or more positions of the same class in the same department at the same time, the board may certify a smaller number than three candidates for each position, but those certified must be eligible candidates standing highest upon the register.

(3) The board may, by rule, limit the number of times the same candidate is certified to the appointing authorities.

(4) The appointing authority may require the candidates certified to come before the appointing authority for interview. When the candidates are applicants for beginning employment, the appointing authority shall be entitled to inspect [*their examination papers*] **the candidates' assessment-related documents.**

SECTION 14. ORS 242.590 is amended to read:

242.590. (1) The appointing authority must make a permanent appointment from the list of candidates certified by the board, unless, upon reasons signed in writing by the appointing authority, the board consents to and certifies a new list of candidates. If a person on probation is not dismissed during the probationary period the appointment is deemed permanent.

(2) All persons employed as custodians and assistant custodians in a school district on the date the Custodians' Civil Service Law becomes effective as to such school district shall be permanent employees without [*examination*] **assessment** and shall be so appointed by the board.

SECTION 15. ORS 242.635 is amended to read:

242.635. An employee in the classified civil service who has been duly dismissed for cause shall not be eligible for [*examination*] **an assessment** for appointment without the approval of the civil service board. Approval shall not be granted unless the board on evidence presented by applicant finds that the condition resulting in dismissal has been corrected and is unlikely to recur.

SECTION 16. ORS 242.640 is amended to read:

242.640. No person shall:

(1) Willfully or corruptly or in cooperation with one or more persons, defeat, deceive or obstruct any person with respect to the right of the individual to [*examination*] **assessment** or registration according to the regulations prescribed by the civil service board pursuant to the Custodians' Civil Service Law.

(2) Willfully or corruptly [*falsely mark, grade, estimate or report on an examination*] **make any false representations with respect to** the proper standing of any person [*examined*] **assessed,** registered or certified according to any regulation prescribed pursuant to the Custodians' Civil Service Law, or aid in so doing.

(3) Willfully or corruptly make any false representations concerning the [*examination*] **assessment,** certification and registration or concerning the persons [*examined*] **assessed,** registered or certified.

(4) Willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so [*examined*] **assessed,** registered or certified, or to be [*examined*] **assessed,** registered or certified.

(5) Permit any other person or permit or aid in any other manner, any other person to impersonate the individual in connection with any [*examination*] **assessment,** registration or application, or request to be [*examined*] **assessed** or registered.

(6) Make an appointment to any position contrary to the Custodians' Civil Service Law, or refuse or neglect to comply therewith.

SECTION 17. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by House April 13, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 22, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State