

# Senate Bill 35

Sponsored by Senator MONROE (Pre-session 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**.

Removes disqualifications for unemployment insurance benefits based on services performed in other than instructional, research or principal administrative capacity at educational institutions.

Codifies presumption that part-time instructor at state institution of higher education or community college does not have reasonable assurance of performing services for institution or community college in following academic term.

## A BILL FOR AN ACT

1  
2 Relating to unemployment insurance benefits for certain educational institution employees; creating  
3 new provisions; and amending ORS 657.167 and 657.221.

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

5 **SECTION 1.** ORS 657.221 is amended to read:

6 657.221. *[(1)]* Benefits based on services performed in other than an instructional, research or  
7 principal administrative capacity for an educational institution or institution of higher education  
8 *[shall be]* **are** payable to an individual in the same amount, on the same terms and subject to the  
9 same conditions as benefits payable on the basis of other service subject to this chapter.  
10 *[However:]*

11 *[(a) Benefits shall not be paid on the basis of such services for any week of unemployment that*  
12 *commences during a period between two successive academic years or terms if the individual performs*  
13 *such services in the first academic year or term and there is a reasonable assurance that the individual*  
14 *will perform any such services in the second academic year or term for any institution; except that]*

15 *[(b) If benefits are denied to an individual for any week under paragraph (a) of this subsection and*  
16 *such individual was not offered an opportunity to perform such services for the institution for the sec-*  
17 *ond of such academic years or terms, such individual shall be entitled, if otherwise eligible, to payment*  
18 *of benefits for each week for which the individual filed a timely claim for benefits and for which ben-*  
19 *efits were denied solely by reason of paragraph (a) of this subsection.]*

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

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

28 *[(b) In the event the institution does not extend to the individual an offer of work or provide a*  
29 *reasonable assurance the individual is expected to return to work for the institution following the pe-*  
30 *riod between the academic years or terms, the separation from work shall be considered an involuntary*

**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 *leaving or layoff.*]

2 [(3) *With respect to any services described in subsection (1) of this section, compensation payable*  
 3 *on the basis of such services shall be denied to any individual for any week that commences during*  
 4 *an established and customary vacation period or holiday recess if such individual performs such ser-*  
 5 *vices in the period immediately before such vacation period or holiday recess, and there is reasonable*  
 6 *assurance that such individual will perform such services or any services described in ORS 657.167 (1)*  
 7 *in the period immediately following such vacation period or holiday recess.*]

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

13 [(5) *The provisions of subsections (1), (3) and (4) of this section shall only apply to service per-*  
 14 *formed for an educational institution or institution of higher education operated by:*]

15 [(a) *A nonprofit employing unit;*]

16 [(b) *This state;*]

17 [(c) *A political subdivision; or*]

18 [(d) *An Indian tribe.*]

19 **SECTION 2.** ORS 657.167 is amended to read:

20 657.167. [(1)] (1)(a) Benefits based on service in an instructional, research or principal adminis-  
 21 trative capacity for an educational institution or institution of higher education [*shall be*] **are** pay-  
 22 able to an individual in the same amount, on the same terms and subject to the same conditions as  
 23 benefits payable on the basis of other service subject to this chapter[, *except that benefits shall not*  
 24 *be paid based on such services for any*].

25 (b) **Notwithstanding paragraph (a) of this subsection, benefits are not payable for a week**  
 26 **of unemployment commencing during the period between two successive academic years or, when**  
 27 **an agreement provides instead for a similar period between two regular terms whether or not suc-**  
 28 **cessive or during a period of paid sabbatical leave provided for in the individual's contract and if**  
 29 **[such] the individual performs [such] the services in the first of [such] the academic years or terms**  
 30 **and if there is a contract or a reasonable assurance that [such] the individual will perform services**  
 31 **in [any] such capacity for any institution in the second of [such] the academic years or terms.**

32 (c) All services by an individual for an institution shall be deemed in instructional, research or  
 33 principal administrative capacity if at least 50 percent of the individual's time is spent in such ac-  
 34 tivities.

35 (d) **For purposes of this subsection, a part-time instructor at a state institution of higher**  
 36 **education listed in ORS 352.002 or a community college as defined in ORS 341.005 is presumed**  
 37 **not to have a reasonable assurance that the instructor will perform services for the state**  
 38 **institution of higher education or community college in a second academic year or term.**

39 (2) [*With respect to any*] **Benefits based on** services described in subsection (1) of this section[,  
 40 *compensation payable on the basis of such services shall be denied to any*] **are not payable to an**  
 41 **individual for [any] a week that commences during an established and customary vacation period**  
 42 **or holiday recess if [such] the individual performs [such] the services in the period immediately**  
 43 **before [such] the vacation period or holiday recess, and there is reasonable assurance that [such]**  
 44 **the individual will perform [such] the services or any services described in ORS 657.221 [(1)] in the**  
 45 **period immediately following [such] the vacation period or holiday recess.**

1           (3) [*With respect to any*] **Benefits based on** services described in subsection (1) of this section,  
2 *benefits based on such services*] shall be denied as [*specified*] **provided** in subsections (1) and (2) of  
3 this section to [*any*] **an** individual who performed [*such*] **the** service in an institution while in the  
4 employ of an education service district [*established by ORS chapter 334*] **created under ORS**  
5 **334.010**, [*providing*] **provided that** 50 percent or more of the individual's time is spent in instruc-  
6 tional, research or principal administrative capacity in [*such*] **the** institution.

7           (4) The provisions of subsections (1), (2) and (3) of this section apply [*only*] to service performed  
8 for[:]

9           [*(a)*] an educational institution or institution of higher education operated by:

10          (a) A nonprofit employing unit;

11          (b) This state;

12          (c) A political subdivision of this state; or

13          (d) An Indian tribe.

14           **SECTION 3. The amendments to ORS 657.167 and 657.221 by sections 1 and 2 of this 2011**  
15 **Act apply to services performed on or after the effective date of this 2011 Act.**

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