

# Senate Bill 1567

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## 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**.

Modifies reinstatement rights of management service employees who have immediate prior former regular status in classified service. Establishes process for management service employees to appeal employment decisions to Director of Oregon Department of Administrative Services.

## A BILL FOR AN ACT

1  
2 Relating to management service employees; amending ORS 240.316, 240.560, 240.570, 659A.215 and  
3 756.032.

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

5 **SECTION 1.** ORS 240.316 is amended to read:

6 240.316. (1)(a) Persons initially appointed to or promoted to a permanent or seasonal position in  
7 state service shall be subject to a trial service period.

8 (b) An appointing authority has the discretion to subject an employee to a trial service period  
9 when:

10 (A) A management service employee or a classified, unrepresented employee transfers to a dif-  
11 ferent agency;

12 (B) A management service employee or a classified, unrepresented employee transfers back to  
13 the same agency after an absence of more than one year;

14 (C) A former management service employee or former classified, unrepresented employee is re-  
15 employed by the same agency after an absence of more than one year; or

16 (D) A former management service employee or former classified, unrepresented employee is re-  
17 employed by a different agency.

18 (c) Any employee who serves the trial service period designated by the Personnel Division or  
19 a delegated operating agency for a given classification or as described in paragraph (b) of this sub-  
20 section shall be given regular employee status.

21 (2) Employees who have acquired regular status [*will not be*] **are not** subject to separation ex-  
22 cept for cause as defined by ORS 240.555 or lack of work, curtailment of funds, or reorganization  
23 requiring a reduction in force.

24 (3) [*Procedures shall be established by*] The division **shall establish procedures:**

25 (a) To provide for the layoff and opportunity for reemployment of employees separated for rea-  
26 sons other than cause, which shall take into account the needs of the service, qualifications, quality  
27 of performance, relative merit and length of service.

28 [(4)] (b) [*Procedures shall also be established by the division*] For the transfer, discipline or de-  
29 motion of employees for the good of the service or separation of employees whose conduct or per-  
30 formance continues to be improper or inadequate after reasonable attempts have been made to

**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 correct it, where appropriate.

2 (c) **By which a management service employee who has acquired regular status and who**  
 3 **is reduced, dismissed, suspended, demoted or removed from the management service may**  
 4 **appeal the decision to the Director of the Oregon Department of Administrative Services.**  
 5 **The jurisdiction of the director under this paragraph is exclusive and not subject to review.**

6 (4) **A management service employee who has acquired regular status and who is reduced,**  
 7 **dismissed, suspended, demoted or removed from the management service may appeal the**  
 8 **decision to the Director of the Oregon Department of Administrative Services in accordance**  
 9 **with subsection (3)(c) of this section.**

10 **SECTION 2.** ORS 240.560 is amended to read:

11 240.560. (1) A regular employee who **is not in the management service and who** is reduced,  
 12 dismissed, suspended or demoted[,] shall have the right to appeal to the Employment Relations Board  
 13 not later than 30 days after the effective date of the reduction, dismissal, suspension or demotion.  
 14 The appeal must be in writing. The appeal is timely if it is received by the board or postmarked,  
 15 if mailed postpaid and properly addressed, not later than 30 days after the effective date of the re-  
 16 duction, dismissal, suspension or demotion. The board shall hear the appeal within 30 days after the  
 17 board receives the appeal, unless the parties to the hearing agree to a postponement. The board  
 18 shall furnish the division of the service concerned with a copy of the appeal in advance of the  
 19 hearing.

20 (2) The hearing shall be conducted as provided for a contested case in ORS chapter 183.

21 (3) If the board finds that the action complained of was taken by the appointing authority for  
 22 any political, religious or racial reasons, or because of sex, marital status or age, the employee shall  
 23 be reinstated to the position and shall not suffer any loss in pay.

24 (4) In all other cases, if the board finds that the action was not taken in good faith for cause,  
 25 it shall order the immediate reinstatement and the reemployment of the employee in the position  
 26 without the loss of pay. In lieu of affirming the action, the board may modify the action by directing  
 27 a suspension without pay for a given period, and a subsequent restoration to duty, or a demotion in  
 28 classification, grade or pay. The findings and order of the board shall be certified in writing to the  
 29 appointing authority and shall be forthwith put into effect by the appointing authority.

30 **SECTION 3.** ORS 240.570 is amended to read:

31 240.570. (1) Positions in the unclassified, management and exempt services may be filled by  
 32 classified employees. After an employee is terminated from the unclassified or exempt service or  
 33 removed from the management service, for reasons other than those specified in ORS 240.555, the  
 34 state agency that employed the employee before the appointment to the unclassified, exempt or  
 35 management service may, at the agency's sole discretion, restore the employee to a position held in  
 36 the agency before the appointment if the employee meets the position requirements. If an employee  
 37 is restored to a former position, the employee is subject to any applicable agency collective bar-  
 38 gaining agreement.

39 (2) An appointing authority may assign, reassign and transfer management service employees for  
 40 the good of the service and may remove employees from the management service due to reorgan-  
 41 ization or lack of work.

42 (3) A management service employee is subject to a trial service period established pursuant to  
 43 rules of the Personnel Division under ORS 240.250. Thereafter, the management service employee  
 44 may be disciplined by reprimand, salary reduction, suspension or demotion or **may be removed or**  
 45 **dismissed** from the management service if the employee is unable or unwilling to fully and faithfully

1 perform the duties of the position satisfactorily.

2 (4) *[Employees]* **Management service employees** who are assigned, reassigned, transferred or  
 3 removed, as provided in subsection (2) of this section, and employees who are disciplined, *[or]* re-  
 4 moved **or dismissed** from the management service *[for the reasons specified]* **as authorized** in sub-  
 5 section (3) of this section may appeal *[to the Employment Relations Board in the manner provided*  
 6 *by ORS 240.560]* **the decision to the Director of the Oregon Department of Administrative**  
 7 **Services in the manner provided in ORS 240.316.**

8 (5)(a) Management service employees with immediate prior former regular status in the classi-  
 9 fied service *[may be dismissed from state service only for reasons specified by ORS 240.555 and pur-*  
 10 *suant to the appeal procedures provided by ORS 240.560.]* **who are removed from trial service**  
 11 **pursuant to ORS 240.410 have a right to be restored to their former positions.**

12 (b) **Except as provided in paragraph (a) of this subsection, management service employ-**  
 13 **ees with immediate prior former regular status in the classified service who are appointed**  
 14 **to the management service:**

15 (A) **Prior to January 1, 2015, have the right to restoration to the classified service for**  
 16 **three years from the date of appointment to the management service.**

17 (B) **After December 31, 2014, have no right to restoration to the classified service.**

18 **SECTION 4.** ORS 659A.215 is amended to read:

19 659A.215. The remedies provided for violations of ORS 659A.203 and 659A.218 under this chapter  
 20 are in addition to any appeal proceeding available under ORS 240.560 **or 240.570** for a state em-  
 21 ployee or under any comparable provisions for employees of political subdivisions.

22 **SECTION 5.** ORS 756.032 is amended to read:

23 756.032. (1) The Public Utility Commission shall dismiss an employee:

24 (a) Who fails to file the statement required by ORS 756.028 before the 11th day after the date  
 25 of employment.

26 (b) Who fails to file the supplementary statement required by ORS 756.028 before the 11th day  
 27 after the acquisition of a pecuniary interest.

28 (c) Who fails to cause divestiture of a pecuniary interest within the time specified in an order  
 29 issued pursuant to ORS 756.028.

30 (2) Dismissal of an employee under subsection (1) of this section is subject to the procedure and  
 31 appeal provided in ORS 240.555, *[and]* 240.560 **and 240.570**. An employee so dismissed is eligible for  
 32 reemployment.

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