

Enrolled
House Bill 2763

Sponsored by Representative FAGAN, Senators MONNES ANDERSON, BOQUIST, Representative EVANS; Representatives CLEM, DOHERTY, HOYLE, KENY-GUYER, MCKEOWN, PILUSO, REARDON, SMITH WARNER, VEGA PEDERSON, Senator KNOPP (Presession filed.)

CHAPTER

AN ACT

Relating to compensation received during performance of military duty; amending ORS 408.240; and declaring an emergency.

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

SECTION 1. ORS 408.240 is amended to read:

408.240. (1)(a) Whenever *[any]* a public officer or employee leaves a position, whether voluntarily or involuntarily, in order to perform military duty, *[such]* **the office or position** may not become vacant, nor shall the officer or employee be subject to removal as a consequence *[thereof]* **of leaving the position**. Unless the officer or employee dies, resigns or is relieved or discharged from such duty under other than honorable conditions, during the term for which the officer or employee was elected, appointed or employed, *[such]* **the officer or employee** shall be *[deemed]* **considered** absent on leave until release from *[such]* active service has permitted the officer or employee to resume the duties of the office or position.

(b) While *[so]* absent on leave, *[the]* a public officer or employee may *[not]*, **but is not absolutely entitled to**, receive the pay or other emolument of *[such]* **the office or position**, *[nor]* **and shall not** become liable, as *[such]* an officer or employee, on an official bond or otherwise, for the acts or omissions of any other person.

(2) Subsection (1)(a) of this section does not apply unless the officer or employee, upon the termination of *[such]* military duty, is qualified to perform the duties of *[such]* **the office or position**, and makes application within 90 days after the officer or employee is relieved from *[such]* military duty, or from hospitalization continuing after discharge for a period of not more than one year. If the officer or employee is not qualified to perform the duties of *[such]* **the office or position** by reason of *[such]* **the officer's or employee's** service, but is qualified to perform the duties of any other public position, the officer or employee shall be restored to *[such]* **the other position**, the duties of which the officer or employee is qualified to perform, as will provide the officer or employee like seniority, status and pay, or the nearest approximation thereof, consistent with the circumstances in the case.

(3) Except as otherwise provided in this subsection, subsection (1) of this section does not apply if the total of *[such]* **the officer's or employee's** military duty exceeds five years. Subsection (1) of this section is applicable with regard to military duty that exceeds five years if the period of additional duty was imposed by law or resulted from inability of the officer or employee to obtain orders relieving the officer or employee from active duty.

(4) Notwithstanding subsection (1) of this section:

(a) The State of Oregon shall continue coverage under an employer-sponsored health plan to a public officer or employee of the State of Oregon and any other individual provided coverage under the officer's or employee's plan on the day before the date the officer or employee goes on leave for a period not exceeding a total of 24 months while the public officer or employee is absent on leave.

(b) An employer other than the State of Oregon may provide coverage under an employer-sponsored health plan to an officer or employee and any other individual provided coverage under the officer's or employee's plan on the day before the date the officer or employee goes on leave for the period during which the officer or employee is absent on leave.

(5)(a) *[Notwithstanding subsection (1) of this section,]* The State of Oregon, a county, a municipality or *[other]* **another** political subdivision of the state may establish and administer a donated leave program that:

(A) Allows an officer or employee who is absent on leave to receive donated leave; and

(B) Allows an officer or employee to voluntarily donate vacation time to an eligible officer or employee who is absent on leave.

(b) An officer or employee who is absent on leave and who receives donated leave under paragraph (a) of this subsection may receive an amount of donated leave that supplements any compensation received for performing military duty, but may not receive more than the amount of base salary the officer or employee was earning on the date the officer or employee began the leave of absence.

(c) This subsection does not apply to a leave of absence under ORS 408.290.

(6) The State of Oregon, a county, a municipality or another political subdivision of the state may establish and administer a program that allows an officer or employee who is absent on leave to receive an amount of pay or other emolument that supplements and exceeds any compensation received for performing military duty, provided the amount received by the officer or employee under this subsection does not exceed the amount of base salary the officer or employee was earning on the date the officer or employee began the leave of absence.

SECTION 2. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House February 18, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate April 15, 2015

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State