

House Bill 2763

Sponsored by Representative FAGAN, Senators MONNES ANDERSON, BOQUIST, Representative EVANS; Representatives CLEM, DOHERTY, HOYLE, KENY-GUYER, MCKEOWN, REARDON, SMITH WARNER, VEGA PEDERSON (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 **as introduced**.

Removes provision that public officer or employee who leaves position to perform military duty may not, while performing military duty, receive amount of pay entitled to before leave of absence. Permits state, county, municipality or political subdivision to establish program that allows public officer or employee to receive pay that supplements and exceeds compensation received for performing military duty, not to exceed base salary before leave of absence.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to compensation received during performance of military duty; amending ORS 408.240; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 408.240 is amended to read:

6 408.240. (1)(a) Whenever *[any]* a public officer or employee leaves a position, whether voluntar-
7 ily or involuntarily, in order to perform military duty, *[such]* **the** office or position may not become
8 vacant, nor shall the officer or employee be subject to removal as a consequence *[thereof]* **of leaving**
9 **the position**. Unless the officer or employee dies, resigns or is relieved or discharged from such
10 duty under other than honorable conditions, during the term for which the officer or employee was
11 elected, appointed or employed, *[such]* **the** officer or employee shall be *[deemed]* **considered** absent
12 on leave until release from *[such]* active service has permitted the officer or employee to resume the
13 duties of the office or position.

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

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

28 (3) Except as otherwise provided in this subsection, subsection (1) of this section does not apply

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 if the total of *[such]* **the officer's or employee's** military duty exceeds five years. Subsection (1)
 2 of this section is applicable with regard to military duty that exceeds five years if the period of
 3 additional duty was imposed by law or resulted from inability of the officer or employee to obtain
 4 orders relieving the officer or employee from active duty.

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

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

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

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

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

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

20 (b) An officer or employee who is absent on leave and who receives donated leave under para-
 21 graph (a) of this subsection may receive an amount of donated leave that supplements any compen-
 22 sation received for performing military duty, but may not receive more than the amount of base
 23 salary the officer or employee was earning on the date the officer or employee began the leave of
 24 absence.

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

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

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