

**PROPOSED AMENDMENTS TO
HOUSE BILL 3508**

1 On page 1 of the printed bill, line 2, delete “657.167” and insert “341.547,
2 657.010, 657.167 and 657.173”.

3 Delete lines 4 through 30 and delete page 2 and insert:

4 **“SECTION 1. (1) The Legislative Assembly finds and declares that:**

5 **“(a) The interests of the state and its citizens are best served by a**
6 **strong community college system.**

7 **“(b) As described by their establishing legislation, these two-year**
8 **institutions are an independent, unique and vital section of our state’s**
9 **higher education system, separate from both the common school sys-**
10 **tem and other institutions of higher education.**

11 **“(c) Paramount to the success of the community college system is**
12 **the attraction and retention of qualified instructors.**

13 **“(d) In order to attract and retain instructors, those instructors**
14 **who are subject to uncertainties of employment must be provided as-**
15 **surance that their economic needs will be addressed.**

16 **“(e) Over time, a change in hiring patterns has occurred, and for**
17 **the last decade a substantial portion of community college faculty**
18 **have been hired on a contingent, as-needed basis.**

19 **“(f) That contingent basis distinguishes the employment of those**
20 **instructors from the more stable employment of instructors in the**
21 **common school system and in the other institutions of higher educa-**
22 **tion.**

1 “(g) Contingent assurances of future employment are often specu-
2 lative and do not rise to the level of other forms of assurance.

3 “(h) Thus, assurances conditioned on forecasts of enrollment,
4 funding or program decisions are typically not reasonable assurances
5 of employment.

6 “(2) It is the intent of the Legislative Assembly that the standard
7 of reasonable assurance continue to apply to all employees of educa-
8 tional institutions as required by federal law and ORS 341.547.

9 “SECTION 2. ORS 341.547 is amended to read:

10 “341.547. (1)(a) Each community college board shall give an individual,
11 written notice of reasonable assurance of continued employment to all em-
12 ployees who are to perform services in the same or a similar capacity during
13 a subsequent academic year or term or in the period immediately following
14 a recess period. The notice shall be given by May 30 of each year for em-
15 ployees employed as of that date and as of the date of hire for employees
16 employed subsequent to May 30.

17 “(b) For purposes of this subsection, individuals who perform ser-
18 vices in an instructional capacity are presumed not to have a reason-
19 able assurance of continued employment under an offer of employment
20 that is conditioned in whole or in part on enrollment, funding or pro-
21 gram changes.

22 “(2)(a) No liability shall accrue from failure to give the notice required
23 by subsection (1) of this section, or from the timing or contents [*thereof*] of
24 the notice, on the part of the community college board. [*However*]

25 “(b) Notwithstanding paragraph (a) of this subsection, the Higher
26 Education Coordinating Commission shall enforce the provisions of sub-
27 section (1) of this section.

28 “(3) Faculty members on annual or indefinite tenure, classified staff
29 members on regular status and management service employees are considered
30 to have been given notice for the purposes of this section.

1 **“SECTION 3.** ORS 657.167 is amended to read:

2 “657.167. (1)(a) Benefits based on [*service*] **services performed** in an in-
3 structional, research or principal administrative capacity for an educational
4 institution or institution of higher education shall be payable to an individ-
5 ual in the same amount, on the same terms and subject to the same condi-
6 tions as benefits payable on the basis of other [*service*] **services** subject to
7 this chapter[, *except that*].

8 **“(b) Notwithstanding paragraph (a) of this subsection,** benefits [*shall*
9 *not be paid based on such services*] **are not payable on services described**
10 **in paragraph (a) of this subsection** for any week of unemployment com-
11 mencing during the period between two successive academic years or, when
12 an agreement provides instead for a similar period between two regular
13 terms whether or not successive or during a period of paid sabbatical leave
14 provided for in the individual’s contract and if [*such*] **the** individual performs
15 [*such*] **the** services in the first of [*such*] **the** academic years or terms and if
16 there is a contract or a reasonable assurance that [*such*] **the** individual will
17 perform services in [*any*] such capacity for any institution in the second of
18 [*such*] **the** academic years or terms.

19 **“(c)** All services by an individual for an institution shall be deemed in
20 instructional, research or principal administrative capacity if at least 50
21 percent of the individual’s time is spent in such activities.

22 **“(d)(A) An individual who performs services in an instructional ca-**
23 **capacity for a community college that is assigned the Standard Indus-**
24 **trial Classification code 8222 or the North American Industry**
25 **Classification System code 611210 is presumed not to have a reasonable**
26 **assurance of performing the services in the second of the academic**
27 **years or terms if the individual has an offer of employment that is**
28 **conditioned in whole or in part on enrollment, funding or program**
29 **changes.**

30 **“(B) A community college may overcome the presumption described**

1 **in subparagraph (A) of this paragraph by providing clear and con-**
2 **vincing evidence that the individual has received reasonable assurance**
3 **of employment.**

4 (2) With respect to any services described in subsection (1) of this section,
5 [compensation] **benefits** payable on the basis of such services shall be denied
6 to any individual for any week that commences during an established and
7 customary vacation period or holiday recess if [such] **the** individual performs
8 [such] **the** services in the period immediately before [such] **the** vacation pe-
9 riod or holiday recess, and there is reasonable assurance that [such] **the** in-
10 dividual will perform [such] **the** services or any services described in ORS
11 657.221 (1) in the period immediately following [such] **the** vacation period
12 or holiday recess.

13 “(3)(a) With respect to any services described in subsection (1) of this
14 section, benefits based on such services shall be denied as specified in sub-
15 sections (1) and (2) of this section to any individual who performed [such
16 service] **the services** in an institution while in the employ of an education
17 service district established by ORS chapter 334, providing 50 percent or more
18 of the individual’s time is spent in instructional, research or principal ad-
19 ministrative capacity in [such] **the** institution.

20 “(b) **If benefits are denied under this subsection to an individual**
21 **who was not offered employment performing such services for the ed-**
22 **ucational institution for the second of the academic years or terms,**
23 **benefits shall be payable retroactively to the individual for each week**
24 **for which the individual filed a timely claim for benefits and for which**
25 **the benefits were denied solely because of this subsection.**

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

28 [(a)] an educational institution or institution of higher education operated
29 by:

30 “(a) A nonprofit employing unit;

- 1 “(b) This state;
2 “(c) A political subdivision of this state; or
3 “(d) An Indian tribe.

4 **“(5) If the United States Secretary of Labor serves notice that any
5 provisions of this section, or rules adopted under this section, fail to
6 meet the requirements of the Social Security Act or the Federal Un-
7 employment Tax Act, the nonconforming provisions or rules shall no
8 longer be of any force or effect.**

9 **“SECTION 4.** ORS 657.010, as amended by section 29, chapter 52, Oregon
10 Laws 2014, is amended to read:

11 “657.010. As used in this chapter, unless the context requires otherwise:

12 **“(1) ‘Academic year’ means one sequence of fall, winter, spring and
13 summer quarters or a comparable sequence of semesters, or a shorter
14 sequence if, based upon objective criteria, including enrollment and
15 staffing, a quarter or semester is not part of an institution’s academic
16 year.**

17 **“[(1)] (2) ‘Base year’ means the first four of the last five completed cal-
18 endar quarters preceding the benefit year.**

19 **“[(2)] (3) ‘Benefits’ means the money allowances payable to unemployed
20 persons under this chapter.**

21 **“[(3)] (4) ‘Benefit year’ means a period of 52 consecutive weeks com-
22 mencing with the first week with respect to which an individual files an
23 initial valid claim for benefits, and thereafter the 52 consecutive weeks pe-
24 riod beginning with the first week with respect to which the individual next
25 files an initial valid claim after the termination of the individual’s last pre-
26 ceding benefit year except that the benefit year shall be 53 weeks if the filing
27 of an initial valid claim would result in overlapping any quarter of the base
28 year of a previously filed initial valid claim.**

29 **“[(4)] (5) ‘Calendar quarter’ means the period of three consecutive calen-
30 dar months ending on March 31, June 30, September 30 or December 31, or**

1 the approximate equivalent [*thereof*], as the Director of the Employment De-
2 partment may, by [*regulation*] **rule**, prescribe.

3 “[~~(5)~~] **(6)** ‘Contribution’ or ‘contributions’ means the taxes[, *as defined in*
4 *subsection (13) of this section,*] that are the money payments required by this
5 chapter, or voluntary payments permitted, to be made to the Unemployment
6 Compensation Trust Fund.

7 “[~~(6)~~] **(7)** ‘Educational institution,’ including an institution of higher ed-
8 ucation [*as defined in subsection (9) of this section*], means an institution:

9 “(a) In which participants, trainees or students are offered an organized
10 course of study or training designed to transfer to them knowledge, skills,
11 information, doctrines, attitudes or abilities from, by or under the guidance
12 of an instructor or teacher;

13 “(b) That is accredited, registered, approved, licensed or issued a permit
14 to operate as a school by the Department of Education or other government
15 agency, or that offers courses for credit that are transferable to an approved,
16 registered or accredited school;

17 “(c) In which the course or courses of study or training that it offers may
18 be academic, technical, trade or preparation for gainful employment in a re-
19 cognized occupation; and

20 “(d) In which the course or courses of study or training are offered on a
21 regular and continuing basis.

22 “[~~(7)~~] **(8)** ‘Employment office’ means a free public employment office or
23 branch [*thereof*] **of an employment office**, operated by this state or main-
24 tained as a part of a state-controlled system of public employment offices.

25 “[~~(8)~~] **(9)** ‘Hospital’ means an organization that has been licensed[, *certi-*
26 *fied or approved*] by the Oregon Health Authority as a hospital.

27 “[~~(9)~~] **(10)** ‘Institution of higher education’ means an educational institu-
28 tion that:

29 “(a) Admits as regular students only individuals having a certificate of
30 graduation from a high school, or the recognized equivalent of such a cer-

1 tificate;

2 “(b) Is legally authorized in this state to provide a program of education
3 beyond high school;

4 “(c) Provides an educational program for which it awards a bachelor’s or
5 higher degree, or provides a program that is acceptable for full credit toward
6 such a degree, a program of post-graduate or post-doctoral studies, or a pro-
7 gram of training to prepare students for gainful employment in a recognized
8 occupation; and

9 “(d) Is a public or other nonprofit institution.

10 “[~~(10)~~] (11) ‘Internal Revenue Code’ means the federal Internal Revenue
11 Code, as amended and in effect on December 31, 2013.

12 “[~~(11)~~] (12) ‘Nonprofit employing unit’ means an organization, or group
13 of organizations, described in section 501(c)(3) of the Internal Revenue Code
14 that is exempt from income tax under section 501(a) of the Internal Revenue
15 Code.

16 “[~~(12)~~] (13) ‘State’ includes, in addition to the states of the United States
17 of America, the District of Columbia and Puerto Rico. However, for all pur-
18 poses of this chapter the Virgin Islands shall be considered a state on and
19 after the day on which the United States Secretary of Labor first approves
20 the Virgin Islands’ law under section 3304(a) of the Federal Unemployment
21 Tax Act as amended by Public Law 94-566.

22 “[~~(13)~~] (14) ‘Taxes’ means the money payments to the Unemployment
23 Compensation Trust Fund required, or voluntary payments permitted, by this
24 chapter.

25 “[~~(14)~~] (15) ‘Valid claim’ means any claim for benefits made in accordance
26 with ORS 657.260 if the individual meets the wages-paid-for-employment re-
27 quirements of ORS 657.150.

28 “[~~(15)~~] (16) ‘Week’ means any period of seven consecutive calendar days
29 ending at midnight, as the director may, by [*regulation*] **rule**, prescribe. The
30 director may by [*regulation*] **rule** prescribe that a ‘week’ shall be ‘in,’

1 'within,' or 'during' the calendar quarter that includes the greater part of
2 such week.

3 **SECTION 5.** ORS 657.173 is amended to read:

4 "657.173. (1)(a) Notwithstanding ORS 657.010 [(1)], in the case of an indi-
5 vidual who is not eligible for benefits under ORS 657.150 (2) using the defi-
6 nition in ORS 657.010 [(1)], 'base year' means the last four completed
7 calendar quarters preceding the benefit year, if use of this alternate defi-
8 nition of 'base year' makes the individual eligible for benefits under ORS
9 657.150 (2).

10 "(b) Notwithstanding paragraph (a) of this subsection, a determination of
11 eligibility under ORS 657.150 (2) may not be made using paragraph (a) of this
12 subsection if the individual qualifies or would qualify for regular benefits
13 under the unemployment law of another governmental jurisdiction using that
14 jurisdiction's standard base year.

15 "(c) Work and earnings in a calendar quarter that is included in a claim
16 determined to be eligible using the base year as defined in paragraph (a) of
17 this subsection cannot be included in the base year of a subsequent claim
18 unless the subsequent claim's base year is extended under ORS 657.170 to
19 include the calendar quarter.

20 "(2)(a) Except as provided in paragraph (b) of this subsection, the defi-
21 nition of 'base year' that applies for the purposes of determining an
22 individual's eligibility for benefits under ORS 657.150 applies for all purposes
23 under this chapter related to that individual's claim.

24 "(b) When making a finding under ORS 657.170 (1), 'base year' has the
25 meaning given that term in ORS 657.010 [(1)].

26 "(3) The Director of the Employment Department shall adopt rules nec-
27 essary to carry out the provisions of this section.

28 **SECTION 6.** Section 1 of this 2015 Act is repealed on January 2,
29 2020.

30 **SECTION 7.** (1) The amendments to ORS 341.547 and 657.167 by

1 sections 2 and 3 of this 2015 Act do not become operative until the date
2 on which the federal government approves the standards imposed on
3 community colleges to provide reasonable assurance with respect to
4 the payment or denial of unemployment insurance benefits.

5 “(2) The Director of the Employment Department shall notify the
6 Legislative Counsel as soon as practicable after receiving notice of the
7 federal government’s approval.

8 “SECTION 8. The amendments to ORS 341.547 and 657.167 by
9 sections 2 and 3 of this 2015 Act apply to offers of employment made
10 or services performed, as applicable, on or after the later of the ef-
11 fective date of this 2015 Act or the operative date specified in section
12 6 of this 2015 Act.”.

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