

Testimony before the House Committee on Business and Labor Senate Bill 42

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Introduction

Senate Bill (SB) 42 reverses amendments to the Oregon Revised Statutes made by SB 1534, which passed during the 2016 Legislative Session, and was subsequently determined to be out of conformity with federal law. SB 1534 (2016) enabled individuals who perform services in other than an instructional, research, or principal administrative capacity for an educational institution, and who voluntarily leave work for good cause, to receive unemployment insurance (UI) benefits under ORS 657.221 during customary school break or recess periods. Historically, these employees were not eligible for UI benefits because, as required by state and federal law, they were still considered to have “reasonable assurance” to return to work after a break.

However, SB 1534 (2016) included a provision that if the change failed to conform to federal guidelines, any nonconforming provisions would have no force or effect. On February 29, 2016, the Employment Department received notice from the U.S. Department of Labor (U.S. DOL) that the law did not conform with the federal guidelines to administer the UI program. Consequently, SB 1534 did not become effective and rather than leave the confusing language from the law in statute, the Employment Department submitted a legislative concept for SB 42 in order to repeal the law.

Ultimately, the U.S. DOL issued new guidance in December 2016, Unemployment Insurance Program Letter 5-17, which not only requires states to make the changes made by SB 1534 (2016), but also to apply the same changes for individuals that perform instructional, research, or principal administrative work for educational institutions. Therefore, SB 42 is still necessary to repeal SB 1534 and remove the confusing language from statute. If SB 1534 remains in effect, people looking at the statutes would incorrectly assume those changes apply only to people who performed non-instructional work.

The Employment Department can implement the federally required changes through rulemaking, and has already promulgated a temporary rule so the changes were in effect for this spring break period. Prior to that temporary rule expiring, the department will go through the permanent rulemaking process so it is clear that people who worked for educational institutions and who are receiving UI benefits after voluntarily leaving their job for good cause, may continue to receive those benefits during school breaks.

The Employment Department has been, and will remain, actively engaged in with stakeholders on this issue.

Recommendation

The Oregon Employment Department recommends passage of SB 42 to minimize confusion for the citizens of Oregon.

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