

SB 495 A STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Jan Nordlund, LPRO Analyst

Meeting Dates: 4/26, 5/3

WHAT THE MEASURE DOES:

Defines "instructional capacity" to exclude services performed as instructional assistant from scope of statutes prohibiting payment of unemployment insurance benefits to those who provide services in an instructional capacity for weeks of unemployment that begin during breaks between academic terms and years. Declares emergency, effective on September 1, 2021.

Revenue: No impact

Fiscal: Minimal impact

Senate vote: 21-7 (Nays: Anderson, Findley, Girod, Linthicum, Robinson, Thatcher, Thomsen)

ISSUES DISCUSSED:

- Adjudication of claims to determine if employees has reasonable assurance of returning to work
- Distinction between instructors and instructional assistants
- Ability for non-instructional employees to receive unemployment insurance benefits retroactively if they ultimately are not brought back to work

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The unemployment insurance (UI) program has special provisions that apply to people who work for educational institutions, generally restricting employees from receiving UI benefits during school breaks, including summer break. Federal law affords little flexibility to states in applying those laws to employees performing instructional, research, or principal administrative work, but provides greater flexibility on their application to people who perform other types of services, such as bus drivers, janitorial workers, and school nurses. Failure to maintain conformity with federal UI laws may lead to a denial of federal UI administrative grants and federal tax credits for businesses that pay Oregon's unemployment insurance tax.

Oregon law currently prohibits a person who engages in instructional work on behalf of an educational institution for at least 50 percent of their work time from receiving UI benefits for any week of unemployment commencing during the period of two successive academic years or terms if the employee has reasonable assurance of resuming services in the period immediately following the vacation period or holiday recess.

An instructional assistant, as defined in ORS 342.120, is a classified school employee who does not require a license to teach, who is employed by a school district or education service district and whose assignment consists of and is limited to assisting a licensed teacher in accordance with rules established by the Teacher Standards and Practices Commission.

Senate Bill 495-A seeks to provide consistent treatment of instructional assistants who apply for UI benefits by clarifying that performing services in an instructional capacity does not include work performed as an instructional assistant. The measure retains the "reasonable assurance" test, meaning instructional assistants who seek UI benefits for weeks that begin during two successive academic years or terms will still need to show they do not

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have a reasonable assurance that their work will resume at the end of the vacation period or holiday recess in order to be eligible to receive those benefits.

PRELIMINARY