

**A-Engrossed**  
**Senate Bill 495**

Ordered by the Senate March 26  
Including Senate Amendments dated March 26

Sponsored by Senator GORSEK; Senator DEMBROW (Pre-session 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.

Defines "instructional capacity" to exclude instructional assistants from scope of statutes prohibiting payment of unemployment insurance benefits to professional employees of educational institution for weeks of unemployment commencing during period between two successive academic years or terms.

Declares emergency, effective [on passage] **September 1, 2021**.

**A BILL FOR AN ACT**

1  
2 Relating to eligibility for unemployment insurance benefits; creating new provisions; amending ORS  
3 657.010; and declaring an emergency.

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

5 **SECTION 1.** ORS 657.010 is amended to read:

6 657.010. As used in this chapter, unless the context requires otherwise:

7 (1) "Base year" means the first four of the last five completed calendar quarters preceding the  
8 benefit year.

9 (2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

10 (3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with  
11 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-  
12 utive weeks period beginning with the first week with respect to which the individual next files an  
13 initial valid claim after the termination of the individual's last preceding benefit year except that  
14 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping  
15 any quarter of the base year of a previously filed initial valid claim.

16 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March  
17 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director  
18 of the Employment Department may, by [regulation] **rule**, prescribe.

19 (5) "Contribution" or "contributions" means the taxes, *as defined in subsection (13) of this sec-*  
20 *tion,* that are the money payments required by this chapter, or voluntary payments permitted, to  
21 be made to the Unemployment Compensation Trust Fund.

22 (6) "Educational institution," including an institution of higher education *[as defined in sub-*  
23 *section (9) of this section]*, means an institution:

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

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

4 (c) In which the course or courses of study or training that it offers may be academic, technical,  
5 trade or preparation for gainful employment in a recognized occupation; and

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

8 (7) "Employment office" means a free public employment office or branch thereof, operated by  
9 this state or maintained as a part of a state-controlled system of public employment offices.

10 (8) "Hospital" [*means an organization that has been licensed, certified or approved by the Oregon*  
11 *Health Authority as a hospital*] **has the meaning given that term in ORS 442.015.**

12 (9) "Institution of higher education" means an educational institution that:

13 (a) Admits as regular students only individuals having a certificate of graduation from a high  
14 school, or the recognized equivalent of such a certificate;

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

16 (c) Provides an educational program for which it awards a bachelor's or higher degree, or pro-  
17 vides a program that is acceptable for full credit toward such a degree, a program of post-graduate  
18 or post-doctoral studies, or a program of training to prepare students for gainful employment in a  
19 recognized occupation; and

20 (d) Is a public or other nonprofit institution.

21 **(10) "Instructional capacity" does not include services performed as an instructional as-**  
22 **sistant as defined in ORS 342.120.**

23 [(10)] (11) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and  
24 in effect on December 31, 2018.

25 [(11)] (12) "Nonprofit employing unit" means an organization, or group of organizations, de-  
26 scribed in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under  
27 section 501(a) of the Internal Revenue Code.

28 [(12)] (13) "State" includes, in addition to the states of the United States of America, the District  
29 of Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be  
30 considered a state on and after the day on which the United States Secretary of Labor first approves  
31 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by  
32 Public Law 94-566.

33 [(13)] (14) "Taxes" means the money payments to the Unemployment Compensation Trust Fund  
34 required, or voluntary payments permitted, by this chapter.

35 [(14)] (15) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if  
36 the individual meets the wages-paid-for-employment requirements of ORS 657.150.

37 [(15)] (16) "Week" means any period of seven consecutive calendar days ending at midnight, as  
38 the director may[, *by regulation,*] prescribe **by rule**. [*The director may by regulation prescribe that a*  
39 *"week" shall be "in," "within," or "during" the calendar quarter that includes the greater part of such*  
40 *week.*]

41 **SECTION 2. Section 3 of this 2021 Act is added to and made a part of ORS chapter 657.**

42 **SECTION 3. The Director of the Employment Department may prescribe by rule that a**  
43 **week shall be in, within or during the calendar quarter that includes the greater part of the**  
44 **week.**

45 **SECTION 4. The amendments to ORS 657.010 by section 1 of this 2021 Act apply to weeks**

1 of unemployment beginning on or after the effective date of this 2021 Act.

2 **SECTION 5.** (1) If the United States Secretary of Labor serves notice that any provisions  
3 of ORS 657.010, as amended by section 1 of this 2021 Act, or rules adopted to reflect the  
4 amendments to ORS 657.010 by section 1 of this 2021 Act, fail to meet the requirements of  
5 the Social Security Act or the Federal Unemployment Tax Act, the nonconforming provisions  
6 or rules shall no longer be of any force or effect.

7 (2) The Director of the Employment Department shall notify the Legislative Counsel as  
8 soon as practicable after receipt of the notice described in subsection (1) of this section.

9 **SECTION 6.** This 2021 Act being necessary for the immediate preservation of the public  
10 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect  
11 September 1, 2021.

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