

HB 3130

A History of Substitute Teachers and PERS

ORS 238.005 (22) “Qualifying position” means one or more jobs with one or more participating public employers in which an employee performs 600 or more hours of service in a calendar year.”

PERS has no way of knowing when an employee working in multiple districts has accrued the 600 hours in a calendar year. The employee must establish an account with PERS when they have reached their first 600 hours by documenting to PERS their hours and employers. PERS will contact the employers to verify hours. If the employee qualifies as a PERS member, each employer will be notified, and those employers will continue submitting hours and contributions for that employee. Each employer becomes liable only for a portion of the employee’s retirement.

History

1971: A group of substitute teachers brought to the legislature a list of substitute teachers in Washington County who had worked more than 600 hours. From that time, substitute teachers have been able to earn retirement benefits.

1993: PERS requested the legislature to repeal multiple employers and require that the 600 hours must be met in a single district. The legislature determined that, with the advent of computers, PERS would be able to keep track of the various employers. The legislators wanted employees in the smaller districts to be able to continue earning the benefit.

1998: OSTA worked with PERS to assure that substitute teachers who may work less in some months will not be dropped if they have worked the 600 hours in the past four quarters (the “rolling window”).

2018: Following the outsourcing of many substitute teachers, OSTA asked PERS to review the cases of two outsourced substitute teachers who submitted to PERS documentation of the hours and wages worked in outsourced districts, proving that, had the work in the outsourced districts been counted, the employees would have exceeded the 600 hours. PERS has never replied to OSTA’s request for review.

2019: An Oregon Supreme Court ruling in *EWEB v the PERS Board* changed the definition of “in service to a public employer” to mean that the entity providing the paycheck is the employer. Mr. Wigle, the complainant, (not a substitute teacher) lost two years of PERS credit for his early work at the Eugene Water and Electric Board, a public employer, via Kelly Services, a staffing agency.

2020: Debbie Fery, a member of OSTA, in consultation with PERS leadership, embarked on the same process as Mr. Wigle, a data verification process for 2018, 2019 and 2020. She is presently in the first level appeal of a PERS ruling that EDUStaff is not a PERS- covered employer.

2021: OSTA, after reviewing its legal options, decided to pursue a legislative process.

Government Affairs Committee
Oregon Substitute Teachers Association