

Requested by Representative DEXTER

**PROPOSED AMENDMENTS TO
HOUSE BILL 2888**

1 On page 1 of the printed bill, delete lines 5 through 26 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. As used in ORS 171.120 to 171.125:**

4 **“(1) ‘Legislative duties’:**

5 **“(a) Means:**

6 **“(A) Attending legislative sessions when the Legislative Assembly**
7 **is in regular or special session;**

8 **“(B) Attending legislative committee meetings during interim peri-**
9 **ods, including attending by virtual or remote means if virtual or re-**
10 **mote attendance is permitted by legislative rule or statute;**

11 **“(C) Attending in an ex officio capacity a meeting of an interstate**
12 **body, commission, advisory committee or other entity for which a**
13 **member may receive a per diem under ORS 171.072 or may receive re-**
14 **imbursement for out-of-state travel; and**

15 **“(D) Using telephone, videoconferencing or other remote commu-**
16 **nication technology to participate in meetings described in subpara-**
17 **graph (C) of this paragraph.**

18 **“(b) Does not include:**

19 **“(A) Attending campaign or partisan events;**

20 **“(B) Attending private events; or**

21 **“(C) Participating in events described in this paragraph using tele-**

1 **phone, videoconferencing or other remote communication technology.**

2 **“(c) May be further defined by rule by the Commissioner of the**
3 **Bureau of Labor and Industries consistently with paragraphs (a) and**
4 **(b) of this subsection.**

5 **“(2) ‘Member’ means a member of the Legislative Assembly.**

6 **“(3) ‘Prospective member’ means a person who is certified or ap-**
7 **pointed to serve in the Legislative Assembly but who has not taken**
8 **the oath of office.**

9 **“SECTION 2. ORS 171.120 is amended to read:**

10 **“171.120. (1) The people of Oregon, from the founding of the state to**
11 **contemporary times, have always entrusted the legislative power to a**
12 **citizen legislature in which members of the Legislative Assembly are**
13 **expected to perform legislative duties not as full-time occupations but**
14 **in tandem with other pursuits. Accordingly, it is the policy of the**
15 **State of Oregon that members and prospective members of the Legis-**
16 **lative Assembly be accorded employment protections that are suffi-**
17 **cient to allow members and prospective members to attend to**
18 **legislative duties without negative impact to the outside employment**
19 **relationships that members and prospective members may maintain.**

20 **It is the purpose and intent of the Legislative Assembly in enacting [this**
21 **section and ORS 171.122 and 171.125] ORS 171.120 to 171.125 that, subject**
22 **to the conditions set forth in these sections, any member [of the Legislative**
23 **Assembly] whose employment is interrupted because of attendance at regular**
24 **or special sessions of the Legislative Assembly or the performance of official**
25 **duties as a member [of the Legislative Assembly] shall be restored to the**
26 **employment status the member would have enjoyed if the member had con-**
27 **tinued in employment during any such attendance or performance of duties.**

28 **“(2) As a part of the public policy to encourage public service, an em-**
29 **ployer may not discharge or threaten to discharge, intimidate or coerce any**
30 **employee by reason of the employee’s service or scheduled service as a**

1 member or prospective member [*of the Legislative Assembly*].

2 “(3) The member or prospective member may not be subject to discipline
3 or harassment or placed at any employment disadvantage as a consequence
4 of the leave of absence **or grant of time off to perform legislative**
5 **duties**. It is an unlawful employment practice under ORS chapter 659A for
6 a member or prospective member to be subject to discipline or harassment
7 or placed at any employment disadvantage as a consequence of any leave of
8 absence **described in ORS 171.122** related to regular or special session at-
9 tendance or **any leave of absence or time off granted for the perform-**
10 **ance of legislative duties as described in section 3 of this 2023 Act**. A
11 member or prospective member may file a complaint with the Commissioner
12 of the Bureau of Labor and Industries under ORS 659A.820, or a civil action
13 under ORS 659A.885, alleging violation of [*this subsection*] **ORS 171.120 to**
14 **171.125**.

15 **“SECTION 3. (1) Any member or prospective member of the Legis-**
16 **lative Assembly shall be granted time off during an employer’s work**
17 **day during which the member or prospective member is on duty and**
18 **performing work for the employer to:**

19 **“(a) Attend virtual committee meetings using online, telephonic or**
20 **videoconferencing technology; or**

21 **“(b) Place or receive telephone calls or use other communicative**
22 **technology to perform legislative duties.**

23 **“(2) An employer of a member or prospective member that also has**
24 **furnished the member or prospective member with an office or other**
25 **workspace that permits private conversation shall allow the member**
26 **or prospective member to perform legislative duties at that office or**
27 **workspace. An employer of a member or prospective member shall**
28 **allow a member or prospective member to temporarily leave the**
29 **employer’s premises to perform legislative duties and then return to**
30 **the employer’s premises to continue work on behalf of the employer.**

1 **“(3) An employer:**

2 **“(a) Is not required to compensate the member or prospective**
3 **member for time spent performing legislative duties described in this**
4 **section, but may not withhold from compensation amounts that ex-**
5 **ceed the hourly rate of compensation, as computed in 15-minute in-**
6 **crements, for time that the member or prospective member spends**
7 **performing legislative duties; and**

8 **“(b) May seek compensation from the Legislative Administrator for**
9 **the reasonable market value of the use of the office or other work-**
10 **space for the duration of time that the member or prospective member**
11 **actually uses the office or other workspace in order to perform legis-**
12 **lative duties described in this section. The Legislative Administrator**
13 **may establish procedures for an employer to submit claims for com-**
14 **penetration under this paragraph and for ascertaining the reasonable**
15 **market value, on an hourly basis, for the use of an employer’s office**
16 **or workspace for the performance of legislative duties.**

17 **“(4) This section is not applicable if:**

18 **“(a) The member or prospective member was employed by the em-**
19 **ployer for a period of less than 90 days immediately prior to the first**
20 **day in which time is granted to the member or prospective member**
21 **to perform legislative duties;**

22 **“(b) The regular employment position of the member or prospective**
23 **member or the character, terms, conditions or activities of the posi-**
24 **tion are incompatible under the Constitution and laws of this state**
25 **with the office of member of the Legislative Assembly;**

26 **“(c) Employment is on a temporary basis; or**

27 **“(d) The employer employs fewer than 10 persons immediately prior**
28 **to the first day for which time off is sought by the member or pro-**
29 **spective member under subsection (1) of this section to perform legis-**
30 **lative duties.**

1 **“SECTION 4.** ORS 171.122 is amended to read:

2 “171.122. (1) Any member or prospective member of the Legislative As-
3 sembly who leaves regular employment in order to attend upon any regular
4 or special session of the Legislative Assembly or to perform [*official*] **legis-**
5 **lative** duties [*as a member or prospective member of the Legislative Assembly*
6 *for which the member or prospective member may receive a per diem under*
7 *ORS 171.072 or may receive reimbursements for out-of-state travel*], shall be
8 granted a leave of absence from such regular employment position for
9 [*such*] **the** period of time as is reasonably necessary to permit [*such*] **that**
10 attendance or performance of duties.

11 “(2) A member or prospective member [*of the Legislative Assembly*] shall
12 give notice to the employer when the leave of absence described in sub-
13 section (1) of this section is anticipated or is to be taken:

14 “(a) At least 30 days before a regular session; and

15 “(b) As soon as it is reasonably apparent that:

16 “(A) A special or emergency session is to be called; **or**

17 “(B) **The member or prospective member is expected to perform**
18 **legislative duties.**

19 “(3) The regular employment position of a member or prospective member
20 on leave of absence under this section shall only be deemed vacant for the
21 period of such leave of absence, and the member or prospective member shall
22 not be subject to removal or discharge from such position as a consequence
23 of such leave of absence.

24 “(4) Upon the termination of the leave of absence of the member or pro-
25 spective member under this section, a member or prospective member shall
26 be restored to the regular employment position the member or prospective
27 member held immediately prior to the first day of the leave of absence if such
28 position still exists, or, if such position does not still exist, to as similar a
29 position as possible, without loss of seniority, the right to participate in in-
30 surance or any other employment benefits, other than wages for services not

1 rendered during the leave of absence, as a consequence of the leave of ab-
2 sence of the member or prospective member. Such seniority, right to partic-
3 ipate in insurance or other employment benefits shall continue to accumulate
4 during the leave of absence as though the member or prospective member
5 had continued in employment continuously in the regular employment posi-
6 tion the member or prospective member held immediately prior to the first
7 day of the leave of absence of the member or prospective member.

8 “(5) This section is not applicable if:

9 “(a) The member or prospective member was employed by the employer for
10 a period of less than 90 days immediately prior to the first day of the leave
11 of absence.

12 “(b) The circumstances of the employer have so changed during the leave
13 of absence of the member or prospective member as to make restoration of
14 the member or prospective member to employment impossible or unreason-
15 able.

16 “(c) The member or prospective member fails to apply for restoration to
17 employment within:

18 “(A) Fifteen days after adjournment sine die of the Legislative Assembly
19 following a regular session; or

20 “(B) If the leave was for a lesser period for another legislative assign-
21 ment, five days after the assignment is completed.

22 “(d) The regular employment position of the member or prospective mem-
23 ber immediately prior to the first day of the leave of absence or the charac-
24 ter, terms, conditions or activities of such position are incompatible under
25 the Constitution and laws of this state with the office of member of the
26 Legislative Assembly.

27 “(e) Employment is on a temporary basis.

28 “(f) The employer employs fewer than 10 persons immediately prior to the
29 first day of the leave of absence.

30 “[6] *As used in this section, ‘prospective member’ means a person who is*

1 *certified or appointed to serve in the Legislative Assembly but who has not*
2 *taken the oath of office.]*

3 **“SECTION 5. The Commissioner of the Bureau of Labor and In-**
4 **dustries:**

5 **“(1) May adopt rules to implement the provisions of ORS 171.120 to**
6 **171.125.**

7 **“(2) Shall provide technical advice and guidance to employers to**
8 **facilitate employer compliance with ORS 171.120 to 171.125.**

9 **“SECTION 6. ORS 171.125 is amended to read:**

10 **“171.125. (1) If any employer fails to comply with the provisions of ORS**
11 **171.120 [and 171.122] to 171.125, the circuit court for any county in which**
12 **[such] the employer maintains a place of business has jurisdiction, upon the**
13 **filing of a petition by the Attorney General on behalf of [the person] a**
14 **member or prospective member, [entitled to such benefits by reason of**
15 **noncompliance of the employer, specifically] to require the employer to comply**
16 **with the provisions of ORS 171.120 [and 171.122] to 171.125.**

17 **“(2) If any employer fails to comply with ORS 171.120 [and 171.122] to**
18 **171.125, the member or prospective member may bring an action under ORS**
19 **chapter 659A employing counsel of the member’s or prospective member’s**
20 **own choosing.**

21 **“SECTION 7. Sections 1, 3 and 5 of this 2023 Act are added to and**
22 **made a part of ORS 171.120 to 171.125.**

23 **“SECTION 8. This 2023 Act takes effect on the 91st day after the**
24 **date on which the 2023 regular session of the Eighty-second Legislative**
25 **Assembly adjourns sine die.”.**

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