

House Bill 2810

Sponsored by Representative BERGER (at the request of Major Paul L. Evans)

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 **as introduced**.

Modifies requirements for public employers regarding continuation of health insurance benefits for public officers and employees on military leave.

Requires private employers to continue health insurance benefits for certain employees on military leave.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to active military duty; creating new provisions; amending ORS 408.240; and declaring an
3 emergency.

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

5 **SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 399.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Employee" means any individual, other than a copartner of the employer or an in-**
8 **dependent contractor, who renders personal services in this state to an employer who pays**
9 **or agrees to pay wages or other compensation to the individual for those services.**

10 (b) **"Employer" means a person who employs one or more employees in this state but**
11 **does not include the federal government, State of Oregon, any county, city, district, au-**
12 **thority, public corporation or entity or any of their instrumentalities organized and existing**
13 **under law or charter.**

14 (2) **When an employee who is a member of the Oregon National Guard is called into ac-**
15 **tive federal service, the employer of the employee shall continue coverage under an**
16 **employer-sponsored health plan to an employee and any other individual provided coverage**
17 **under the employee's plan on the day before the date the employee goes on military leave for**
18 **a period not exceeding a total of 12 months while the employee is absent on leave.**

19 **SECTION 3. ORS 408.240 is amended to read:**

20 408.240. (1) Whenever any public officer or employee leaves a position, whether voluntarily or
21 involuntarily, in order to perform military duty, such office or position may not become vacant, nor
22 shall the officer or employee be subject to removal as a consequence thereof. Unless the officer or
23 employee dies, resigns or is relieved or discharged from such duty under other than honorable con-
24 ditions, during the term for which the officer or employee was elected, appointed or employed, such
25 officer or employee shall be deemed absent on leave until release from such active service has per-
26 mitted the officer or employee to resume the duties of the office or position. While so absent on
27 leave, the officer or employee may not receive the pay or other emolument of such office or position,
28 nor become liable, as such officer or employee, on an official bond or otherwise, for the acts or
29 omissions of any other person.

30 (2) Subsection (1) of this section does not apply unless the officer or employee, upon the termi-

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 nation of such military duty, is qualified to perform the duties of such position, and makes applica-
 2 tion within 90 days after the officer or employee is relieved from such military duty, or from
 3 hospitalization continuing after discharge for a period of not more than one year. If the officer or
 4 employee is not qualified to perform the duties of such position by reason of such service, but is
 5 qualified to perform the duties of any other public position, the officer or employee shall be restored
 6 to such other position, the duties of which the officer or employee is qualified to perform, as will
 7 provide the officer or employee like seniority, status and pay, or the nearest approximation thereof,
 8 consistent with the circumstances in the case.

9 (3) Except as otherwise provided in this subsection, subsection (1) of this section does not apply
 10 if the total of such military duty exceeds five years. Subsection (1) of this section is applicable with
 11 regard to military duty that exceeds five years if the period of additional duty was imposed by law
 12 or resulted from inability of the officer or employee to obtain orders relieving the officer or em-
 13 ployee from active duty.

14 (4) Notwithstanding subsection (1) of this section[:],

15 [(a) *The State of Oregon*] **an employer** shall continue coverage under an employer-sponsored
 16 health plan to a public officer or employee [*of the State of Oregon*] and any other individual provided
 17 coverage under the officer's or employee's plan on the day before the date the officer or employee
 18 goes on leave for a period not exceeding a total of 12 months while the public officer or employee
 19 is absent on leave.

20 [(b) *An employer other than the State of Oregon may provide coverage under an employer-*
 21 *sponsored health plan to an officer or employee and any other individual provided coverage under the*
 22 *officer's or employee's plan on the day before the date the officer or employee goes on leave for the*
 23 *period during which the officer or employee is absent on leave.*]

24 (5)(a) Notwithstanding subsection (1) of this section, the State of Oregon, a county, a municipi-
 25 tality or other political subdivision of the state may establish and administer a donated leave pro-
 26 gram that:

27 (A) Allows an officer or employee who is absent on leave to receive donated leave; and

28 (B) Allows an officer or employee to voluntarily donate vacation time to an eligible officer or
 29 employee who is absent on leave.

30 (b) An officer or employee who is absent on leave and who receives donated leave under para-
 31 graph (a) of this subsection may receive an amount of donated leave that supplements any compen-
 32 sation received for performing military duty, but may not receive more than the amount of base
 33 salary the officer or employee was earning on the date the officer or employee began the leave of
 34 absence.

35 (c) This subsection does not apply to a leave of absence under ORS 408.290.

36 **SECTION 4. Section 2 of this 2005 Act and the amendments to ORS 408.240 by section 3**
 37 **of this 2005 Act apply to employees called into active federal service on or after the effective**
 38 **date of this 2005 Act.**

39 **SECTION 5. This 2005 Act being necessary for the immediate preservation of the public**
 40 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
 41 **on its passage.**