

(To Resolve Conflicts)

B-Engrossed Senate Bill 201

Ordered by the House July 1
Including Senate Amendments dated April 12 and House Amendments
dated July 1 to resolve conflicts

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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.

Provides that remuneration paid to certain employee of university with governing board who resides and performs service in United States is deemed includable in employee's taxable income during continuous period of employment with university.

A BILL FOR AN ACT

1
2 Relating to salary of employees of universities with a governing board under the Oregon Public
3 Service Retirement Plan; amending ORS 352.138.

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

5 **SECTION 1.** ORS 352.138, as amended by section 8, chapter 31, Oregon Laws 2016, is amended
6 to read:

7 352.138. (1) The following entities are not subject to any provision of law enacted after January
8 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

9 (a) A university with a governing board; and

10 (b) Any not-for-profit organization or other entity if the equity of the entity is owned or con-
11 trolled exclusively by a university with a governing board and if the organization or entity is cre-
12 ated by the university to advance any of the university's statutory missions.

13 (2) Notwithstanding subsection (1) of this section and ORS 352.033, the provisions of ORS 30.260
14 to 30.460, 33.710, 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 279.835, 279.840,
15 279.850 and 297.040 and ORS chapters 35, 190, 192 and 244 apply to a university with a governing
16 board under the same terms as they apply to public bodies other than the state.

17 (3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210
18 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035, 243.696, 357.805 to 357.895 and 656.017 (2)
19 and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295
20 and 297 do not apply to a university with a governing board.

21 (4)(a) Notwithstanding subsections (1) and (3) of this section and ORS 352.033, ORS 240.167,
22 279C.600 to 279C.625, 279C.800, 279C.810, 279C.825, 279C.827, 279C.830, 279C.835, 279C.836, 279C.838,
23 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and 292.043 apply to a univer-
24 sity with a governing board under the same terms as they apply to public bodies other than the
25 state.

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) Notwithstanding subsections (1) and (3) of this section, ORS 279C.800 to 279C.870 apply to
2 an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints
3 an improvement on real property owned by a university with a governing board or by a not-for-profit
4 organization or other entity that a university with a governing board owns or controls exclusively.

5 (5) Notwithstanding subsection (2) of this section, ORS 190.430 and 192.105 do not apply to a
6 university with a governing board or any organization or other entity described in subsection (1)
7 of this section.

8 (6)(a) Notwithstanding ORS 352.033, except as set forth in subsection (3) of this section, ORS
9 243.650 to 243.782 and 276.073 to 276.090 and ORS chapters 238 and 238A apply to a university with
10 a governing board under the same terms as they apply to the state.

11 **(b) For purposes of determining the salary of an active member of the Public Employees
12 Retirement System under ORS 238A.005 (17), remuneration paid to a member in return for
13 services to a university with a governing board is deemed includable in the member's taxable
14 income under Oregon law during a period of continuous employment with any university with
15 a governing board if:**

16 **(A) The member was hired in a qualifying position by a university with a governing board
17 on or after August 29, 2003, and on or before December 31, 2016; and**

18 **(B) The member resided and performed services in the United States during the period
19 of continuous employment.**

20 (7) ORS 350.285, 350.290, 352.198, 352.226, 352.232, 352.293, 352.296, 352.303, 352.309 and 352.313
21 apply to a university with a governing board.

22 (8) Notwithstanding ORS 352.033, a university with a governing board and its agents and em-
23 ployees remain subject to all statutes and administrative rules of this state that create rights, ben-
24 efits or protections in favor of military veterans, service members and families of service members
25 to the same extent as an agency of this state would be subject to such statutes and administrative
26 rules.

27 (9) Notwithstanding ORS 352.033, ORS 350.540, 350.545 and 350.550 apply to a university with
28 a governing board. A university with a governing board may not issue a tax credit certificate under
29 ORS 350.540, 350.545 and 350.550 that will cause the General Fund to be owed more than \$8.4 million
30 at any one time under ORS 350.540, 350.545 and 350.550.

31 (10) If state bonds are issued for the benefit of a university with a governing board under Article
32 XI-Q of the Oregon Constitution:

33 (a) The Higher Education Coordinating Commission shall have the powers and duties of a
34 project agency, as defined in ORS 286A.816, to the extent necessary for the issuance of the state
35 bonds and the administration of the proceeds of the state bonds; and

36 (b) The university and the Higher Education Coordinating Commission shall enter into grant
37 contracts or loan agreements that comply with rules adopted by the Oregon Department of Admin-
38 istrative Services relating to:

39 (A) Disbursement of project funds by a project agency through grant contracts or loan agree-
40 ments;

41 (B) Submission of a request for project funds to the commission under ORS 350.095; and

42 (C) Any other matters determined by the Oregon Department of Administrative Services to be
43 necessary for the administration of the Article XI-Q bond program.

44 (11) Nothing in this section may be construed so that statutory provisions that are not set forth
45 in this section apply to a university with a governing board.

1 **SECTION 2. If Senate Bill 54 becomes law, section 1 of this 2017 Act (amending ORS**
2 **352.138) is repealed and ORS 352.138, as amended by section 8, chapter 31, Oregon Laws 2016,**
3 **and section 23, chapter ___, Oregon Laws 2017 (Enrolled Senate Bill 54), is amended to read:**

4 352.138. (1) The following entities are not subject to any provision of law enacted after January
5 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

6 (a) A public university listed in ORS 352.002; and

7 (b) Any not-for-profit organization or other entity if the equity of the entity is owned or con-
8 trolled exclusively by a public university and if the organization or entity is created by the univer-
9 sity to advance any of the university's statutory missions.

10 (2) Notwithstanding subsection (1) of this section and ORS 352.033, the provisions of ORS 30.260
11 to 30.460, 33.710, 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 279.835, 279.840,
12 279.850 and 297.040 and ORS chapters 35, 190, 192 and 244 apply to a public university listed in ORS
13 352.002 under the same terms as they apply to public bodies other than the state.

14 (3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210
15 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035, 243.696, 357.805 to 357.895 and 656.017 (2)
16 and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295
17 and 297 do not apply to a public university listed in ORS 352.002.

18 (4)(a) Notwithstanding subsections (1) and (3) of this section and ORS 352.033, ORS 240.167,
19 279C.600 to 279C.625, 279C.800, 279C.810, 279C.825, 279C.827, 279C.830, 279C.835, 279C.836, 279C.838,
20 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and 292.043 apply to a public
21 university listed in ORS 352.002 under the same terms as they apply to public bodies other than the
22 state.

23 (b) Notwithstanding subsections (1) and (3) of this section, ORS 279C.800 to 279C.870 apply to
24 an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints
25 an improvement on real property owned by a public university listed in ORS 352.002 or by a not-
26 for-profit organization or other entity that a public university owns or controls exclusively.

27 (5) Notwithstanding subsection (2) of this section, ORS 190.430 and 192.105 do not apply to a
28 public university listed in ORS 352.002 or any organization or other entity described in subsection
29 (1) of this section.

30 (6)(a) Notwithstanding ORS 352.033, except as set forth in subsection (3) of this section, ORS
31 243.650 to 243.782 and 276.073 to 276.090 and ORS chapters 238 and 238A apply to a public univer-
32 sity listed in ORS 352.002 under the same terms as they apply to the state.

33 **(b) For purposes of determining the salary of an active member of the Public Employees**
34 **Retirement System under ORS 238A.005 (17), remuneration paid to a member in return for**
35 **services to a public university listed in ORS 352.002 is deemed includable in the member's**
36 **taxable income under Oregon law during a period of continuous employment with any public**
37 **university listed in ORS 352.002 if:**

38 **(A) The member was hired in a qualifying position by a public university listed in ORS**
39 **352.002 on or after August 29, 2003, and on or before December 31, 2016; and**

40 **(B) The member resided and performed services in the United States during the period**
41 **of continuous employment.**

42 (7) ORS 350.285, 350.290, 352.198, 352.226, 352.232, 352.293, 352.296, 352.303, 352.309 and 352.313
43 apply to a public university listed in ORS 352.002.

44 (8) Notwithstanding ORS 352.033, a public university listed in ORS 352.002 and its agents and
45 employees remain subject to all statutes and administrative rules of this state that create rights,

1 benefits or protections in favor of military veterans, service members and families of service mem-
2 bers to the same extent as an agency of this state would be subject to such statutes and adminis-
3 trative rules.

4 (9) Notwithstanding ORS 352.033, ORS 350.540, 350.545 and 350.550 apply to a public university
5 listed in ORS 352.002. A public university may not issue a tax credit certificate under ORS 350.540,
6 350.545 and 350.550 that will cause the General Fund to be owed more than \$8.4 million at any one
7 time under ORS 350.540, 350.545 and 350.550.

8 (10) If state bonds are issued for the benefit of a public university listed in ORS 352.002 under
9 Article XI-Q of the Oregon Constitution:

10 (a) The Higher Education Coordinating Commission shall have the powers and duties of a
11 project agency, as defined in ORS 286A.816, to the extent necessary for the issuance of the state
12 bonds and the administration of the proceeds of the state bonds; and

13 (b) The university and the Higher Education Coordinating Commission shall enter into grant
14 contracts or loan agreements that comply with rules adopted by the Oregon Department of Admin-
15 istrative Services relating to:

16 (A) Disbursement of project funds by a project agency through grant contracts or loan agree-
17 ments;

18 (B) Submission of a request for project funds to the commission under ORS 350.095; and

19 (C) Any other matters determined by the Oregon Department of Administrative Services to be
20 necessary for the administration of the Article XI-Q bond program.

21 (11) Nothing in this section may be construed so that statutory provisions that are not set forth
22 in this section apply to a public university listed in ORS 352.002.

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