TITLE 22

PUBLIC OFFICERS AND EMPLOYES

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Chapter 236

1985 REPLACEMENT PART

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VACANCIES AND ELIGIBILITY GENERALLY

236.010 Causes for vacancies in office. (1) An office shall become vacant before the expiration of the term if

(a) The incumbent dies, resigns or is removed

(b) The incumbent ceases to be an inhabitant of the district, county or city for which the incumbent was elected or appointed, or within which the duties of the office of the incumbent are required to be discharged

(c) The incumbent is convicted of an infamous crime, or any offense involving the violation of the oath of the incumbent

(d) The incumbent refuses or neglects to take the oath of office, or to give or renew the official bond of the incumbent, or to deposit such oath or bond within the time prescribed by law

(e) The election or appointment of the incumbent is declared void by a competent tribunal

(f) The incumbent is found to be a mentally diseased person by the decision of a competent tribunal

(g) The incumbent ceases to possess any other qualification required for election or appointment to such office

(h) Appointment of the incumbent is subject to Senate confirmation under section 4, Article III of the Oregon Constitution and the appointment is not confirmed

(2) The provisions of paragraph (b) of subsection (1) of this section shall not apply where residence within the district, county or city for which the incumbent was elected or appointed is not required for such election or appointment [Amended by 1969 c 669 §3, 1979 c 351 §3]

236.020 Vacancy for breach of official bond. The Governor shall declare vacant the office of every officer required by law to execute an official bond whenever a judgment is obtained against such officer for a breach of the conditions of the bond

236.030 Persons ineligible for office because of membership in certain organizations. (1) No person who is a member of, or affiliated with, any organization which teaches the doctrine of, or advocates, the overthrow of the Government of the United States by force or violence shall be a candidate for public office or eligible for appointment to a public office

(2) The name of a person defined in subsection (1) of this section shall not be placed upon any ballot in connection with any election

236.040 Leave of absence for Peace Corps volunteer; reinstatement. (1) As used in this section.

(a) "Public officer or employe" means any person who renders service to and is paid therefor by a public employer

(b) "Public employer" means the state or a county, city, school district or other public corporation, commission, agency, board or entity organized for a public purpose

(2) Public employers shall grant leaves of absence without pay for at least two years to any full-time salaried public officer or employe who serves, and while the public officer or employe serves, as a volunteer in the Peace Corps Upon expiration of the leave the public officer or employe shall have the right to be reinstated to the position held before the leave was granted and at the salary rates prevailing for such positions on the date of resumption of duty, without loss of seniority or other employment rights, if any Failure of the officer or employe to report within 90 days after termination of service shall be cause for dismissal [1963 c 199 §§1, 2]

236.100 Political affiliation of person appointed to fill vacancy in partisan elective office. (1) Except as provided in subsection (2) of this section, whenever a vacancy occurs in any partisan elective office in this state and is to be filled by appointment, including the office of United States Senator, no person shall be eligible for such appointment unless the person is affiliated, as determined by the appropriate entry on the person's official election registration card with the same political party

(a) As that by which the elected predecessor in the office was designated on the election ballot, if the name of the predecessor was printed on the election ballot

(b) As that by which the elected predecessor in the office was designated on the elector registration card of the predecessor on the date of the election at which the predecessor was elected, if the name of the predecessor was not printed on the ballot

(2) Under either of the following circumstances, a person who is otherwise eligible for appointment to fill a vacancy described in subsection (1) of this section may be appointed to fill the vacancy regardless of the person's affiliation or lack of affiliation with a political party

(a) If the name of the elected predecessor in the office was printed on the ballot and the

predecessor was not designated on the election ballot as affiliated with a political party

(b) If the name of the elected predecessor in the office was not printed on the ballot and the predecessor was not designated as affiliated with a political party on the elector registration card of the predecessor on the date of the election at which the predecessor was elected [Formerly 236 135, 1985 c 808 §74]

VACANCIES IN AND REMOVAL FROM STATE AND FEDERAL OFFICES

236 110 [Repealed by 1957 c 608 §231]

236.120 Manner of filling vacancy of United States Representative. Whenever a vacancy occurs in the office of Representative in Congress, the Governor shall issue a writ of election to fill such vacancy The writ shall be directed to the county clerk of each county wholly or partly within the congressional district in which the vacancy occurs, commanding the county clerk to hold a special election to fill the vacancy at the time appointed by the Governor [Amended by 1957 c 608 §229, 1965 s s c 1 §2]

236.130 Manner of filling vacancy of United States Senator. Whenever there is a vacancy in the office of Senator of the United States, the Governor shall fill the vacancy by appointment until such time as the vacancy is filled by a Senator of the United States regularly elected and qualified

236 135 [1953 c 473 §1, renumbered 236 100]

236 137 [1955 c 210 §1, repealed by 1971 c 302 §1]

236.140 Term, removal, vacancy in appointive offices. Any person holding an appointive office in any of the offices, departments or institutions of this state, shall hold the same for an indefinite term, not exceeding four years, and shall at all times be subject to removal by the appointive power which made the appointment The appointive power may in all cases appoint a successor

236.145 State board or commission members prohibited from accepting certain positions. No person who has been appointed by the Governor to serve on a state board or commission shall accept a salaried position with such body during the tenure of the person on, or within one year after resignation or retirement from, such board or commission [1953 c 594 §1]

236.147 Exception to ORS 236.145. ORS 236 145 does not apply to any appointee to the position of executive director of a board who serves in that capacity as an ex officio member of the board making the appointment [1983 c 402 §6]

236 150 [Repealed by 1985 c 565 §35]

236 160 [Repealed by 1985 c 565 §36]

VACANCIES IN AND REMOVAL FROM COUNTY OFFICES

236.210 Filling vacancies in county offices; qualification. (1) When there is a vacancy in any elective county office other than the office of county judge or county commissioner, the county court or board of county commissioners shall appoint a person to perform the duties of the office until the vacancy is filled by election

(2) Except as provided in subsection (3) of this section, when a vacancy occurs in the office of county judge or county commissioner, the remaining members of the county court or board of county commissioners shall appoint a person to perform the duties of the office until the vacancy is filled by election

(3) When a vacancy occurs in the office of a county judge who exercises judicial functions, the Governor shall fill the vacancy by appointment as provided in section 16, Article V of the Oregon Constitution

(4) Before a person appointed under subsection (1) or (2) of this section takes office, the person shall qualify in the same manner as required by law of the officer in whose place the person is appointed [Amended by 1965 c 221 §24, 1983 c 327 §6, 1985 c 17 §1]

236.220 Deputy to fill vacancy in certain offices until person appointed qualifies. (1) During the interval between the time when a vacancy occurs in any county office, except the office of county commissioner, and the time when the person appointed by the county court or board of county commissioners to fill the vacant office qualifies therefor, the chief deputy of the affected office shall perform all the official acts and duties of such office

(2) During the period the chief deputy serves as provided in subsection (1) of this section, the chief deputy shall be deemed to continue to occupy the position of chief deputy for the purpose of determining the status and rights of the chief deputy under the civil service law and Public Employes' Retirement System, and such service shall in no respect affect the status or rights of the chief deputy under those systems [Amended by 1963 c 161 §1]

236.225 Filling vacancies in offices of county governing body. (1) If vacancies exist at the same time in all of the offices of members of a county governing body, two qualified persons

shall be appointed by the Governor, and one by the appointees of the Governor, to perform the duties of the offices until the vacancies are filled as provided by law If vacancies exist at the same time in all but one of such offices, the Governor shall appoint one qualified person who, with the incumbent serving in office, shall appoint another, each to perform the duties of the offices until the vacancies are filled. If county judge is one of the offices vacant, one of the appointments made by the Governor under this section shall be to the office of county judge

(2) When a county charter establishes a county governing body with more than three members, if a number of vacancies exist at the same time in the offices of members of that governing body so that all the remaining members do not constitute a quorum for the conduct of county business, the Governor shall appoint to the vacant offices the minimum number of qualified persons sufficient, with the incumbent members of the county governing body, to form a quorum Persons appointed by the Governor under this subsection, together with the incumbent members serving in office, shall appoint qualified persons to the remaining vacant offices All persons appointed under this subsection shall perform the duties of the office of member of the county governing body until the vacancies are filled as provided by law

(3) ORS 236 100 applies to appointments under this section [1967 s s c 6 §1, 1983 c 327 §7]

236 230 [Repealed by 1983 c 327 §16]

236.240 Removal of county treasurer from office. Whenever suit has been commenced on the official bond of any delinquent treasurer, the delinquent treasurer may be removed by the county court of the county

236 250 [Repealed by 1983 c 310 §21 and 1983 c 327 §16]

RESIGNATIONS

236.310 Right of county commissioner to resign. Any person who receives a certificate of election as a commissioner of the county court is at liberty to resign the office, though the person may not have entered upon the execution of its duties or taken the requisite oath of office [Amended by 1965 c 221 §25, 1981 c 517 §25]

236.320 Recipient of resignation. Resignation shall be made as follows

(1) By the Secretary of State, State Treasurer and all officers elected by the legislature, to the Governor

(2) By all officers who hold their offices by election, to the officer authorized by law to order a special election to fill the resulting vacancy

(3) By all other officers holding their offices by appointment, to the body, board or officer that appointed them

DISCIPLINARY ACTIONS AGAINST POLICE OFFICERS

236.350 Definitions for ORS 236.350 to 236.370. As used in ORS 236 350 to 236 370

(1) "Police officer" has the meaning given that term in ORS 181 610 (6)

(2) "Disciplinary action" means any action taken against a police officer by a public employer for the purpose of punishing the officer, including dismissal, demotion, suspension without pay, reduction in salary, written reprimand or transfer

(3) "Just cause" means a cause reasonably related to the employe's ability to perform required work The term includes any wilful violation of reasonable work rules, regulations or written policies [1979 c 618 §2]

236.360 Disciplinary actions; just cause; notice; procedures. (1) No disciplinary action shall be taken against a police officer without just cause

(2) A public employer that intends to take disciplinary action shall

(a) Notify the police officer in writing of the charges against the officer and the proposed disciplinary action, and

(b) Provide the police officer with an opportunity to respond to the charges at an informal hearing which may be recorded, with the person or persons having authority to impose the proposed disciplinary action

(3) Public employers of police officers shall prepare and maintain written procedures to implement the provisions of ORS 236 350 to 236 370 [1979 c 618 §3]

236.370 ORS 236.350 to 236.370 not applicable to certain police officers. ORS 236 350 to 236 370 does not apply to disciplinary action taken against police officers who are

(1) In an initial probationary period of employment that does not exceed 12 months or in a probationary period under a collective bargaining agreement which is in excess of 12 months,

(2) Under a collective bargaining agreement requiring just cause for disciplinary action,

(3) Under a county civil service system adopted pursuant to ORS 241 002 to 241 009,

(4) Under a county or municipal civil service system which provides police officers with disciplinary action protections at least equivalent to those provided under ORS 236 350 and 236 360,

(5) The chief executive officers of law enforcement units, as defined in ORS 181 610 (4), or

(6) Supervisory employes, as defined under ORS 243 650 (14), where a collective bargaining agreement is in effect with their public employer [1979 c 618 §4]

236 405 [1961 c 287 §1, repealed by 1979 c 59 §1]

236 415 [1961 c 287 §2, repealed by 1979 c 59 §1]

236 420 [1961 c 287 §3, repealed by 1979 c 59 §1]

236 425 [1961 c 287 §4, repealed by 1979 c 59 §1]

236 430 [1961 c 287 §23, repealed by 1979 c 59 §1]

236 435 [1961 c 287 §24, repealed by 1979 c 59 §1]

236 440 [1961 c 287 §5, repealed by 1979 c 59 §1]

236 445 [1961 c 287 §6, repealed by 1979 c 59 §1]

236 450 [1961 c 287 §25, repealed by 1979 c 59 §1]

236 455 [1961 c 287 §26, repealed by 1979 c 59 §1]

236 460 [1961 c 287 §7, repealed by 1979 c 59 §1]

236 465 [1961 c 287 §8, repealed by 1979 c 59 §1]

236 470 [1961 c 287 §9, repealed by 1979 c 59 §1]

236 475 [1961 c 287 §10, repealed by 1979 c 59 §1]

236 485 [1961 c 287 §11, repealed by 1979 c 59 §1]

236 490 [1961 c 287 §12, repealed by 1979 c 59 §1]

236 495 [1961 c 287 §13, repealed by 1979 c 59 §1]

236 500 [1961 c 287 §14, 1973 c 773 §3, repealed by 1979 c 59 §1]

236 505 [1961 c 287 §15, 1973 c 773 §4, repealed by 1979 c 59 §1]

236 510 [1961 c 287 §16, repealed by 1979 c 59 §1]

236 515 [1961 c 287 §17, repealed by 1979 c 59 §1]

236 520 [1961 c 287 §19, repealed by 1979 c 59 §1]

236 525 [1961 c 287 §18, repealed by 1979 c 59 §1]

236 530 [1961 c 287 §20, repealed by 1979 c 59 §1]

236 535 [1961 c 287 §21, repealed by 1979 c 59 §1]

236 540 [1961 c 287 §22, repealed by 1979 c 59 §1]

TRANSFER OF PUBLIC EMPLOYES

236.610 Rights of employe when duties assumed by different public employer. (1) No public employe shall be deprived of employment solely because the duties of employment have been assumed or acquired by another public employer, whether or not an agreement, annexation or consolidation with the present employer is involved Notwithstanding any statute, charter, ordinance or resolution, but subject to ORS 236 610 to 236 650, the public employe shall be transferred to the employment of the public employer who assumed or acquired the duties of the public employe, without further civil service examination

(2) As used in subsection (1) of this section, "public employe" means an employe whose salary or wages is paid from public funds and "public employer" includes an Oregon nonprofit corporation that has accepted, by agreement, the transfer of a public facility from a political subdivision of this state for maintenance and operation

(3) In transferring a public employe under subsection (1) of this section, the employer shall furnish the employment records of that employe to the transferee employer at the time of transfer The time of transfer shall be by written agreement between the public employers involved [1963 c 204 §§1, 2, 1971 c 500 §1]

236.620 Status of transferred employe. A public employer who receives a transferred employe under ORS 236 610 (1), including an employe whose transfer is provided for by an agreement under ORS 190 010, shall place that employe on its employe roster, subject to the following

(1) If the employe was serving a probationary period with the employer at the time of transfer, the past service of the employe on probation shall apply on the regular probation requirements of the transferee employer

(2) Notwithstanding any other provision of law applicable to a retirement system for employes of the prior employer or of the transferee employer, the employe at the option of the employe may elect to continue under any retirement system in which the employe was participating prior to transfer or, if the employe meets the qualifications therefor, the employe may elect to participate in the retirement system available to employes of the transferee employer The employe's election shall be in writing and made within 30 days after the date of transfer If the employe elects to continue under the retirement system in which the employe was participating prior to transfer, the employe shall retain all rights and be entitled to all benefits under that system, the employe shall continue to make contributions to that system and the transferee employer shall make contributions on behalf of the employe to that system as required of employers participating in that system, as if the transfer had not occurred

(3) The employe shall retain the seniority the employe accrued under prior employment, but no

regular employe of the transferee employer shall be demoted or laid off by reason of that seniority

(4) The employe otherwise shall enjoy the same privileges and be subject to the same regulations as other employes of the transferee employer [1963 c 204 §3, 1967 c 550 §10]

236.630 Authority of new employer over transferred employe. A public employer who receives a transferred employe under ORS 236 610 (1) shall place that employe in a position comparable to the position the employe enjoyed under prior employment, subject to the following

(1) The transferee employer, in determining a comparable position, shall consider the employe's educational and physical qualifications, experience, and the salary, duties and responsibilities of prior employment

(2) If the transferee employer finds that no comparable position exists under subsection (1) of this section, the employe shall be offered a lesser position, if such position is available, according to the qualifications of the employe, by the transferee employer The finding and action of such employer under this subsection, and subsection (3) of this section shall be subject to a hearing upon the employe's request and subject to review under ORS 34 010 to 34 100

(3) If the transferee employer finds that no position exists, the employe shall be listed as a regular laid-off employe and shall have priority to appointment over other persons eligible for any position for which the employe is qualified [1963 c 204 §4]

236.640 Reemployment right of employe at end of cooperation agreement. At the end of a cooperation agreement the employe transferred shall be entitled to the position of the employe with the transferring employer prior to transfer, if the employe has remained an employe of the transferee employer in good standing to the termination of the agreement [1963 c 204 §5]

236.650 Construction of ORS 236.610 to 236.650. The provisions of ORS 236.610 to 236 650 shall be liberally construed [1967 c 550 §9]

PENALTIES

236.990 Penalties. Violation of ORS 236 145 is punishable, upon conviction, by a fine not to exceed $1,000 [1953 c 594 §2]