

**SENATE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3021
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON JUDICIARY

June 8

1 On page 1 of the printed A-engrossed bill, line 2, delete “30.270,”.

2 In line 5, after “480.347” insert “, 656.031” and before the semicolon insert “and section 2,
3 chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311)”.

4 On page 4, delete lines 40 through 45 and insert:

5 “**SECTION 14. Workers’ compensation coverage.** (1) Any county in which a qualified search and
6 rescue volunteer performs search and rescue activities under the direction of the sheriff of the
7 county or the designee of the sheriff is conclusively deemed to have filed an election under ORS
8 656.031 to provide workers’ compensation coverage for the qualified search and rescue volunteer.

9 “(2) An insurer or self-insured employer may fix assumed wage rates for qualified search and
10 rescue volunteers, which may be used only for purposes of computations under ORS chapter 656, and
11 shall require the regular payment of premiums or assessments based on the hours of service by
12 qualified search and rescue volunteers. A self-insured employer shall submit the assumed wage rates
13 to the Director of the Department of Consumer and Business Services. If the director finds that the
14 rates are unreasonable, the director may fix appropriate rates to be used for purposes of this sec-
15 tion.

16 “(3) A county that is a self-insured employer under ORS chapter 656 may apply to an insurer for
17 workers’ compensation coverage for qualified search and rescue volunteers only, while continuing
18 to self-insure the other subject workers of the county. If an insurer decides not to provide workers’
19 compensation coverage for qualified search and rescue volunteers of the county, coverage shall be
20 provided through the assigned risk pool.”.

21 On page 5, delete line 1.

22 In line 2, delete “(3)” and insert “(4)”.

23 After line 5, insert:

24 “**SECTION 14a.** ORS 656.031 is amended to read:

25 “656.031. (1) **Except as provided in section 14 of this 2009 Act**, all municipal personnel, other
26 than those employed full-time, part-time, or substitutes therefor, shall, for the purpose of this chap-
27 ter, be known as volunteer personnel and shall not be considered as workers unless the municipality
28 has filed the election provided by this section.

29 “(2) The county, city or other municipality utilizing volunteer personnel as specified in sub-
30 section (1) of this section may elect to have such personnel considered as subject workers for pur-
31 poses of this chapter. Such election shall be made by filing a written application to the insurer, or
32 in the case of a self-insured employer, the Director of the Department of Consumer and Business
33 Services, that includes a resolution of the governing body declaring its intent to cover volunteer
34 personnel as provided in subsection (1) of this section and a description of the work to be performed

1 by such personnel. The application shall also state the estimated total number of volunteer person-
2 nel on a roster for each separate category for which coverage is elected. The county, city or other
3 municipality shall notify the insurer, or in the case of self-insurers, the director, of changes in the
4 estimated total number of volunteers.

5 “(3) Upon receiving the written application the insurer or self-insured employer may fix assumed
6 wage rates for the volunteer personnel, which may be used only for purposes of computations under
7 this chapter, and shall require the regular payment of premiums or assessments based upon the es-
8 timated total numbers of such volunteers carried on the roster for each category being covered. The
9 self-insured employer shall submit such assumed wage rates to the director. If the director finds that
10 the rates are unreasonable, the director may fix appropriate rates to be used for purposes of this
11 section.

12 “(4) The county, city or municipality shall maintain separate official membership rosters for
13 each category of volunteers. A certified copy of the official membership roster shall be furnished the
14 insurer or director upon request. Persons covered under this section are entitled to the benefits of
15 this chapter and they are entitled to such benefits if injured as provided in ORS 656.202 while per-
16 forming any duties arising out of and in the course of their employment as volunteer personnel, if
17 the duties being performed are among those:

18 “(a) Described on the application of the county, city or municipality; and

19 “(b) Required of similar full-time paid employees.

20 “(5) The filing of claims for benefits under this section is the exclusive remedy of a volunteer
21 or a beneficiary of the volunteer for injuries compensable under this chapter against the state, its
22 political subdivisions, their officers, employees, or any employer, regardless of negligence.”.

23 Delete lines 9 through 38 and insert:

24 “**SECTION 15.** Section 2, chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311), is amended
25 to read:

26 “**Sec. 2.** (1) Punitive damages may not be awarded on any claim subject to ORS 30.260 to 30.300.

27 “(2) Claims subject to ORS 30.260 to 30.300 are not subject to the limitation imposed by ORS
28 31.710.

29 “(3) A court may not apply the limitations imposed on recovery under sections 3, 4 and 5,
30 **chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311)**, [of this 2009 Act] until after the entry
31 of a verdict or a stipulation by the parties to the amount of the damages.

32 “(4) The limitations imposed under sections 3 (2) and 4 (2), **chapter 67, Oregon Laws 2009**
33 **(Enrolled Senate Bill 311)**, [of this 2009 Act] on single claimants include damages claimed for loss
34 of services or loss of support arising out of the same tort.

35 “(5) If two or more claimants recover on a claim that arises out of a single accident or occur-
36 rence, and the recovery is subject to a limitation imposed by section 3 (3), 4 (3) or 5 (2)(b), **chapter**
37 **67, Oregon Laws 2009 (Enrolled Senate Bill 311)** [of this 2009 Act], any party to the action in
38 which the claim is made may apply to the court to apportion to each claimant the proper share of
39 the amount allowed by section 3 (3), 4 (3) or 5 (2)(b), **chapter 67, Oregon Laws 2009 (Enrolled**
40 **Senate Bill 311)** [of this 2009 Act]. The share apportioned to each claimant shall be in the propor-
41 tion that the ratio of the award or settlement made to the claimant bears to the aggregate awards
42 and settlements for all claims arising out of the accident or occurrence.

43 “(6) Liability of any public body and one or more of its officers, employees or agents, or two or
44 more officers, employees or agents of a public body, on claims arising out of a single accident or
45 occurrence, may not exceed in the aggregate the amounts allowed by sections 3, 4 and 5, **chapter**

1 **67, Oregon Laws 2009 (Enrolled Senate Bill 311)** [*of this 2009 Act*].

2 “(7) Sections 3, 4 and 5, **chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311)**, [*of this*
3 *2009 Act*] do not apply to a claim arising in connection with a nuclear incident covered by an in-
4 surance or indemnity agreement under 42 U.S.C. 2210.

5 “(8) **For the purposes of the limitations imposed by sections 3, 4 and 5, chapter 67, Oregon**
6 **Laws 2009 (Enrolled Senate Bill 311), events giving rise to a proclamation of a state of**
7 **emergency under ORS 401.055, or a proclamation of a public health emergency under ORS**
8 **433.441, do not constitute a single accident or occurrence.”.**

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