

A-Engrossed
House Bill 2406

Ordered by the House February 21
Including House Amendments dated February 21

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor for Disability Rights Oregon)

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.

Clarifies scope of workers' compensation coverage for trainees who participate in certain work experience programs or school directed professional education projects.

A BILL FOR AN ACT

1
2 Relating to workers' compensation coverage for certain trainees; amending ORS 656.033.

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

4 **SECTION 1.** ORS 656.033 is amended to read:

5 656.033. (1) *[All persons participating as trainees in a work experience program or school directed*
6 *professional education project of a school district as defined in ORS 332.002 in which such persons are*
7 *enrolled, including persons with mental retardation in training programs, are considered as workers*
8 *of the district subject to this chapter for purposes of this section. Trainees placed in a work experience*
9 *program with their resident school district as the training employer shall be subject workers under this*
10 *section when the training and supervision are performed by noninstructional personnel.]* **All persons**
11 **participating as trainees in a work experience program or a school directed professional ed-**
12 **ucation project of a school district, as defined in ORS 332.002, in which such persons are**
13 **enrolled, including persons with intellectual disabilities in training programs, are workers**
14 **of the district subject to this chapter for purposes of this section. Trainees placed in a work**
15 **experience program with the trainees' resident school district as the training employer are**
16 **subject workers under this section if the training and supervision are performed by nonin-**
17 **structional personnel.**

18 (2) A school district conducting a work experience program or school directed professional ed-
19 ucation project shall submit a written statement to the insurer, or in the case of self-insurers, the
20 Director of the Department of Consumer and Business Services, that includes a description of the
21 work to be performed by such persons and an estimate of the total number of persons enrolled.

22 (3) The premium cost for coverage under this section *[shall be]* **is** based on an assumed hourly
23 wage which is approved by the Director of the Department of Consumer and Business Services. Such
24 assumed wage is to be used only for calculation purposes under this chapter and without regard to
25 ORS chapter 652 or ORS 653.010 to 653.565 and 653.991. A self-insured district shall submit such
26 assumed wage rates to the director. If the director finds that the rates are unreasonable, the direc-
27 tor may fix appropriate rates to be used for purposes of this section.

28 (4) The school district shall furnish the insurer, or in the case of self-insurers, the director, with

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 an estimate of the total number of persons enrolled in *[its]* **the school district's** work experience
2 program or school directed professional education project and shall notify the insurer or director
3 of any significant changes *[therein]* **in the program or project**. Persons covered under this section
4 are entitled to the benefits of this chapter. However, such persons are not entitled to benefits under
5 ORS 656.210 or 656.212. *[They]* **The persons** are entitled to such benefits if injured as provided in
6 ORS 656.156 and 656.202 while performing any duties arising out of and in the course of *[their par-*
7 *ticipation]* **participating** in the work experience program or school directed professional education
8 project, provided the duties being performed are among those:

9 (a) Described on the application of the school district; and

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

11 (5) *[The]* Filing *[of]* claims for benefits under this section is the exclusive remedy of a trainee
12 or a beneficiary of the trainee for injuries compensable under this chapter against the state, *[its]*
13 **the state's** political subdivisions, the school district board, *[its]* **the** members, officers and employ-
14 **ees of the school district board**,] or any employer, regardless of negligence.

15 (6) The provisions of this section *[shall be inapplicable]* **do not apply** to any trainee who has
16 earned wages for such employment.

17 (7) As used in this section, "school directed professional education project" means an on-campus
18 or off-campus project supervised by school personnel *[and which]* **that** is an assigned activity of a
19 local professional education program approved pursuant to operating procedures of the State Board
20 of Education. A school directed professional education project must be of a practicum experience
21 nature, performed outside of a classroom environment and extending beyond initial instruction or
22 demonstration activities. Such projects are limited to logging, silvicultural thinning, slash burning,
23 fire fighting, stream enhancement, woodcutting, reforestation, tree surgery, construction, printing
24 and manufacturing involving formed metals.

25 (8) Notwithstanding subsection (1) of this section, a school district may elect to make trainees
26 subject workers under this chapter for school directed professional education projects not enumer-
27 ated in subsection (7) of this section by making written request to the district's insurer, or in the
28 case of a self-insured district, the director, with coverage to begin no sooner than the date the re-
29 quest is received by the insurer or director. The request for coverage *[shall]* **must** include a de-
30 scription of the work to be performed under the project and an estimate of the number of
31 participating trainees. The insurer or director shall accept a request that meets the criteria of this
32 section.

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