

House Bill 2406

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 **as introduced**.

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, **including a**
6 **transition service, as defined in ORS 343.035,** or a school directed professional education project
7 of a school district, as defined in ORS 332.002, in which such persons are enrolled[, *including per-*
8 *sons with mental retardation in training programs,*] are [*considered as*] workers of the district subject
9 to this chapter for purposes of this section. Trainees placed in a work experience program with
10 [*their*] **the trainees'** resident school district as the training employer [*shall be*] **are** subject workers
11 under this section [*when*] **if** the training and supervision are performed by noninstructional person-
12 nel.

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

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

23 (4) The school district shall furnish the insurer, or in the case of self-insurers, the director, with
24 an estimate of the total number of persons enrolled in [*its*] **the school district's** work experience
25 program or school directed professional education project and shall notify the insurer or director
26 of any significant changes [*therein*] **in the program or project**. Persons covered under this section
27 are entitled to the benefits of this chapter. However, such persons are not entitled to benefits under
28 ORS 656.210 or 656.212. [*They*] **The persons** are entitled to such benefits if injured as provided in
29 ORS 656.156 and 656.202 while performing any duties arising out of and in the course of [*their par-*
30 *ticipation*] **participating** in the work experience program or school directed professional education
31 project, provided the duties being performed are among those:

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

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

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

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

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

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

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