

Enrolled
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)

CHAPTER

AN ACT

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

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

SECTION 1. ORS 656.033 is amended to read:

656.033. (1) *[All persons participating as trainees in a work experience program or school directed professional education project of a school district as defined in ORS 332.002 in which such persons are enrolled, including persons with mental retardation in training programs, are considered as workers of the district subject to this chapter for purposes of this section. Trainees placed in a work experience program with their resident school district as the training employer shall be subject workers under this section when the training and supervision are performed by noninstructional personnel.]*

All persons participating as trainees in a work experience program or a school directed professional education project of a school district, as defined in ORS 332.002, in which such persons are enrolled, including persons with intellectual disabilities in training programs, are workers of the district subject to this chapter for purposes of this section. Trainees placed in a work experience program with the trainees' resident school district as the training employer are subject workers under this section if the training and supervision are performed by noninstructional personnel.

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

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

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

ticipation] **participating** in the work experience program or school directed professional education project, provided the duties being performed are among those:

- (a) Described on the application of the school district; and
- (b) Required of similar full-time paid employees.

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

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

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

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

Passed by House February 26, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 19, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Secretary of State