

House Bill 2406

LC 1874
2019 Regular Session
10/10/18 (TSB/ps)

D R A F T

SUMMARY

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

A BILL FOR 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, **including a transition service, as defined in ORS 343.035, 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 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* **the trainees'** resident school district as the training employer *shall be* **are** subject workers under this section *when* **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

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 enrolled.

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

10 (4) The school district shall furnish the insurer, or in the case of self-
11 insurers, the director, with an estimate of the total number of persons en-
12 rolled in [*its*] **the school district's** work experience program or school
13 directed professional education project and shall notify the insurer or direc-
14 tor of any significant changes [*therein*] **in the program or project**. Persons
15 covered under this section are entitled to the benefits of this chapter. How-
16 ever, such persons are not entitled to benefits under ORS 656.210 or 656.212.
17 [*They*] **The persons** are entitled to such benefits if injured as provided in
18 ORS 656.156 and 656.202 while performing any duties arising out of and in
19 the course of [*their participation*] **participating** in the work experience pro-
20 gram or school directed professional education project, provided the duties
21 being performed are among those:

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

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

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

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

31 (7) As used in this section, "school directed professional education

1 project” means an on-campus or off-campus project supervised by school
2 personnel [*and which*] **that** is an assigned activity of a local professional
3 education program approved pursuant to operating procedures of the State
4 Board of Education. A school directed professional education project must
5 be of a practicum experience nature, performed outside of a classroom envi-
6 ronment and extending beyond initial instruction or demonstration activities.
7 Such projects are limited to logging, silvicultural thinning, slash burning,
8 fire fighting, stream enhancement, woodcutting, reforestation, tree surgery,
9 construction, printing and manufacturing involving formed metals.

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

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