

# Chapter 243

## 1961 REPLACEMENT PART

### Insurance and Legal Counsel for Public Employes

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#### CROSS REFERENCES

- County officers and employes, insurance covering, 203.122
- Insurance for irrigation or drainage district employes, 548.050
- Klamath River Basin Compact Commission, insurance and legal counsel for officers and employes of, 542.620
- Membership in mutual life and disability insurance companies, 739.160 to 739.170
- Public Employes' Retirement System, medical and hospital insurance for retired members of, 237.320
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- Unemployment compensation, 657.020, 657.065, 657.097, 657.505
- 243.060 Deduction of insurance premiums from salary and wages, 292.060
- 243.110 Immunity of the state against suit, Const. Art. IV, § 24
- Insurance for protection of employes of State Department of Agriculture against certain claims, 586.525
- Insurance for protection of supervisors, officials and employes of soil conservation districts against claims, 568.550 (16)
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- Insurance for state employes operating state vehicles, 278.090
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- 243.510 Attorney General defending members of State Police in criminal proceedings, 180.120
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- 243.610 District attorney defending county officers or employes in action involving performance of duty, 8.690
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**INSURANCE**

**243.010 Group life insurance for State Police force and penitentiary or correctional institution employes.** The Oregon State Board of Control shall enter into a contract with an insurance company licensed to do business in Oregon to purchase group insurance on the lives of all members of the Oregon State Police and employes at the Oregon State Penitentiary and the Oregon State Correctional Institution

[Amended by 1955 c 203 §1, 1959 c 162 §1]

**243.020 Issuance of \$10,000 policy.** Every member of the Oregon State Police now or hereafter employed and every person now or hereafter in the regular employ of the Oregon State Penitentiary or the Oregon State Correctional Institution shall be issued, pursuant to the contract provided for in ORS 243.010, a term group life insurance certificate in the face amount of \$10,000 on his life. The insurance certificate shall set forth the names of any beneficiaries whom the insured may designate.

[Amended by 1955 c 203 §2, 1955 c 503 §1; 1957 c.204 §1, 1959 c 162 §2]

**243.030** [Amended by 1955 c 203 §3, repealed by 1955 c 503 §2]

**243.040 Surrender or conversion on separation.** Every police officer or person in the regular employ of the Oregon State Penitentiary or the Oregon State Correctional Institution, upon termination of active duty or permanent release, may surrender the certificate to the head of the department or, at his option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on the policy by the state.

[Amended by 1955 c 203 §4; 1959 c.162 §3]

**243.050 Department contribution to be included in the budget.** The Superintendent of the Oregon State Police, the Warden of the Oregon State Penitentiary and the Superintendent of the Oregon State Correctional Institution shall include in the biennial budget of their respective departments amounts sufficient to pay the annual premiums accruing on policies of insurance, covering police officers and persons in the regular employ of the Oregon State Penitentiary and the Oregon State Correctional Institution, purchased under ORS 243.010 to 243.070.

[Amended by 1955 c.203 §5, 1959 c.162 §4]

**243.060 Premium payments; payroll deduction.** (1) The premiums on the insurance

provided for in ORS 243.010 to 243.070 are to be paid one-half by the employe and one-half by the state department affected, with a maximum on the department's contribution of \$3 per month for each person in the regular employ of the Oregon State Penitentiary or the Oregon State Correctional Institution or police officer covered. All additional charges for premiums above the \$3 per month to be paid by the department are to be paid by the employe.

(2) The Superintendent of the Oregon State Police, the Warden of the Oregon State Penitentiary and the Superintendent of the Oregon State Correctional Institution may make a monthly deduction on the payroll of the amount due from each employe under subsection (1) of this section and remit the same, with the department's contribution, to the insurance company holding the contract for the insurance.

[Amended by 1955 c 203 §6, 1957 c 204 §2, 1959 c 162 §5]

**243.070 Insurance in lieu of claims against state.** The term group life insurance provided for in ORS 243.010 to 243.070 is to be in lieu of any and all claims against the State of Oregon other than claims coming under the jurisdiction of the State Industrial Accident Commission.

243.080 to 243.100 [Reserved for expansion]

**243.110 Liability insurance for state and county officers and employes.** (1) Any county and any state agency, including any state officer, board, commission, department, institution or branch of the state government, may purchase liability insurance, in such amounts and containing such terms and conditions as it may deem necessary, for the protection of its members, officers and employes against claims against them incurred by such members, officers and employes in the performance of their official duties. The premiums for such insurance shall be paid out of appropriations or funds available for expenditure by the state agency or county purchasing the insurance.

(2) No state agency shall purchase or renew liability insurance under this section unless the policy or contract of insurance provides that the insurer will not, in any proceeding brought on the policy or contract, assert as a defense the immunity of this state against suit.

(3) Nothing in this section shall be construed as a waiver by the State of Oregon of any immunity against suit  
[1955 c 313 §1, 1959 c 540 §1]

243.120 to 243.500 [Reserved for expansion]

### DEFENSE OF PUBLIC EMPLOYEES

**243.510 Attorney General as counsel in defense of state officer or employe.** Subject to the provisions of ORS 243.520 and 243.530, the Attorney General shall act as counsel for the defendant in any civil action, suit or proceeding brought against any state officer or employe in his official or individual capacity on account of:

(1) Any action taken, work done or omission in his official capacity or in the course of his employment.

(2) Any injuries to persons or property resulting from the dangerous or defective condition of any public property.

(3) The dangerous or defective condition of any public property alleged to be the result of the negligence or carelessness of the officer or employe.

(4) The negligence or carelessness of the officer or employe occurring in the course of his official duties or employment.  
[1955 c 368 §1]

**243.520 When Attorney General required to defend.** (1) If any civil action, suit or proceeding listed in ORS 243.510 is brought against any state officer or employe, the officer or employe may file a written request for counsel with the Attorney General.

(2) If the Attorney General upon investigation, after receipt of the request, finds that the officer or employe was acting in the course of his official capacity, duties or employment in good faith and without malice, the Attorney General shall appear and defend the officer or employe; provided, however, the Attorney General shall not appear or act as counsel for any officer or employe in any action or cause of action with respect to which provision has been made for legal counsel and representation for such officer or employe under the terms of any policy of insurance.  
[1955 c 368 §2]

**243.530 Certificate of agency required in action concerning motor vehicle.** If the request filed under ORS 243.520 relates to a civil action, suit or proceeding concerning a motor vehicle, the request shall be accom-

panied by a certificate from the agency by which the officer or employe is employed certifying that use of the motor vehicle for state purposes was duly authorized at the time and place the event complained of occurred.

[1955 c 368 §3]

### 243.540 Payment of expense of defense.

(1) All expenses, including court costs, disbursements and compensation of attorneys, in accordance with minimum fees established by the Oregon State Bar but not including the amount of any judgment, involved in the defense under ORS 243.510 to 243.540, of any civil action, suit or proceeding against a state officer or employe, shall be paid by the agency by which the state officer or employe was employed at the time the event complained of occurred.

(2) If after final adjudication it is found that the officer or employe acted in bad faith or with malice and was not acting in the course of his official duties or employment, the officer or employe shall reimburse the agency for any amount paid out by it under the provisions of subsection (1) of this section, and such amount shall constitute a debt due the State of Oregon, and may be collected together with interests, costs and disbursements by appropriate judicial proceedings  
[1955 c 368 §4]

243.550 to 243 600 [Reserved for expansion]

**243.610 Public body providing for defense of public officer or employe.** Any county, city, town, district, board or other public body may, at its own expense, provide a defense for the defendant in any civil action, suit or proceeding brought against any officer or employe thereof in his official or individual capacity on account of:

(1) Any action taken, work done or omission in his official capacity or in the course of his employment.

(2) Any injuries to persons or property resulting from the dangerous or defective condition of any public property.

(3) The dangerous or defective condition of any public property alleged to be the result of the negligence or carelessness of the officer or employe.

(4) The negligence or carelessness of the officer or employe occurring in the course of his official duties or employment.

[1955 c 382 §1]

**243.620 Payment of expense of defense.**

(1) In providing said defense, the county, city, town, district, board or other public body may, but is not obliged to, pay all expenses involved therein, or any part thereof, including court costs, disbursements, compensation of attorneys and the amount of any judgment. This subsection shall not be construed to deprive the county, city, town, district, board or other public body of its governmental immunity

(2) If, after final adjudication, it is found, after appropriate judicial proceeding,

that the officer or employe acted in bad faith or with malice or was not acting in the course of his official duties or employment, the officer or employe shall reimburse the county, city, town, district, board or other public body for any amount paid out by it under the provisions of ORS 243.610 and 243.620, and such amount shall constitute a debt due such county, city, town, district, board or other public body, and may be collected, together with interest, costs and disbursements

[1955 c 382 §2; 1961 c 507 §1]

**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.  
Done at Salem, Oregon,  
on December 1, 1961

Sam R. Haley  
Legislative Counsel

**CHAPTERS 244 AND 245**

**[Reserved for expansion]**