Chapter 179

1963 REPLACEMENT PART

State Board of Control; Supervision of State Institutions

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DEFINITIONS

179.010 Definitions. (1) As used in this chapter, unless the context requires otherwise:

(a) "Board" means the Oregon State Board of Control.

(b) "Secretary" means the Secretary of the Oregon State Board of Control.

(2) As used in ORS 179.020 to 179.150, unless the context requires otherwise, "institutions" means the institutions governed by the provisions of this chapter and includes the capitol buildings and grounds as defined in ORS 276.010.

OREGON STATE BOARD OF CONTROL

179.020 Oregon State Board of Control; members; compensation. There is established the Oregon State Board of Control. The board shall consist of the Governor, who is ex officio chairman, the Secretary of State and the State Treasurer. No member of the board shall receive any salary, fee or other compensation for services rendered as a member of the board; but each member shall receive all necessary traveling expenses when traveling on tours of inspection of the institutions.

179.030 Meetings of board. The board shall meet at the State Capitol at least monthly, and shall hold such other meetings as, in the judgment of its members, are necessary. A majority of the members of the board constitutes a quorum. All meetings of the board shall be open to the public. The board shall cause to be kept a full and correct record of all proceedings. The record of the proceedings shall always be open to public inspection.
[Amended by 1961 c.271 §1]

179.040 General powers and duties of board. (1) The board shall:

(a) Have an official seal which shall bear the name of the board.

(b) Govern, manage and administer the affairs of the public institutions, buildings and works that may, from time to time, be created by law and come within the jurisdiction of the board.

(c) Enter into contracts for the erection, completion and furnishings of all new buildings or additions at the institutions.

(d) Subject to any applicable provisions of ORS 279.710 to 279.746 and 291.652 to 291.726, enter into contracts for the purchase of supplies for the institutions, as well as for fuel, heat, light, water, telephone, equipment, repairs, improvements and betterments.

(e) Make and adopt bylaws, not inconsistent with law, for the guidance of the board and for the government of the institutions.

(2) The board may:

(a) Condemn land and rights of way for water pipes, sewers, telegraph, telephone and transmission lines.

(b) Sue and plead in all courts of law and equity.

(c) Perform all legal and peaceful acts requisite and necessary for the successful management and maintenance of the institutions.

179.050 Board may take, assign and convey property. (1) Subject to subsection (2) of this section, the board may receive, take and hold property, both real and personal, in trust for the state or for any institution within the jurisdiction of the board, and may sell, transfer, assign, allot, set over or convey the property pursuant to legislative authority.

(2) When the board has assigned or allotted land for the use of a state department and the department has taken possession thereof and made lasting and valuable improvements thereon, the land shall not be reassigned or reallotted to another state department or sold without specific legislative authority, and then only upon payment for the value of the improvements. If the cost of the improvements has been paid for from funds derived from any source other than a direct property tax, the consideration paid shall be returned to the funds of the department from which the cost was paid; otherwise, it shall be returned to the General Fund.

179.055 Income from property under control of board; disposition; maintenance of property. (1) The revenue from the rental or lease of property owned or administered by the board, or owned or administered by an institution governed or managed by the board, except dormitory and housing rentals at state institutions governed by the board, and property located within the capitol area as defined in ORS 276.060, shall be deposited in the State Treasury to the credit of the revolving fund established by ORS 179.160.

(2) The board may make necessary repairs and improvements on the property described in subsection (1) of this section. The proceeds derived from the rental or lease of the property shall be used to pay for the cost of administration, taxes, repairs and improvements.
[1961 c.652 §2(1), (2)]

179.060 Assignment of property for use of institutions. All real and personal property owned by the state and devoted to the uses of any of the institutions located at or near the state capital shall be treated by the board as if held in common for the use and benefit of all institutions. In the apportionment and assignment of lands for the future use of the institutions the needs of each, the proximity of the lands and ability to cultivate shall be given due consideration.

179.070 Members of board to visit institutions. The members of the board shall:

(1) Visit each institution, except the Eastern Oregon State Hospital and the Columbia Park State Home, at least once every three months.

(2) Visit the Eastern Oregon State Hospital at least once every year.

(3) Keep themselves constantly advised as to the condition of all the institutions.

179.080 Secretary of Oregon State Board of Control; appointment; oath; bond; compensation; clerical assistance. (1) The Secretary of the Oregon State Board of Control shall be selected and may be removed at the pleasure of the board. Before assuming the duties of his position he shall take and subscribe to an oath that he will support the Constitution and laws of the United States and the State of Oregon and shall furnish to the State of Oregon, subject to the approval of the board, a bond in such reasonable amount as the board may designate, conditioned upon the faithful performance of his duties.

(2) Unless otherwise provided in ORS 292.555, the annual salary of the secretary shall be fixed and determined by the board within the respective appropriations therefor and the limitations otherwise fixed by law.

(3) The secretary shall receive no fees, emoluments or compensation, other than his salary as fixed under subsection (2) of this section, but he shall receive his actual traveling expenses when traveling in the service of the state.

(4) The secretary shall be allowed such clerical assistance as in the judgment of the board may be necessary.

179.090 Duties of secretary. (1) The secretary shall:

(a) Maintain an office at the State Capitol.

(b) Keep an accurate record of all the transactions of the board.

(c) Visit all the institutions at stated intervals or when directed to do so by the board.

(d) Keep the seal of the board and affix the seal to all contracts and instruments executed by the authority and in the name of the board.

(e) Prepare all estimates and reports.

(f) Attend to all correspondence of the board.

(g) Preserve the records of the several boards that existed before June 3, 1913, for the government of the institutions and were abolished by section 2, chapter 78, Laws of Oregon 1913.

(h) Do and perform such other duties as naturally attach themselves to this position, or as may be prescribed by law, or as the board may direct.

(2) Subject to any applicable provisions of ORS 279.710 to 279.746 and 291.652 to 291.726, the secretary shall:

(a) Advertise for and receive bids for furnishings, repairs, improvements or betterments.

(b) Assist the board in contracts.

(c) Approve all claims.

179.100 Secretary to furnish and certify copies of records and files. The secretary shall furnish to anyone upon application therefor copies of the records and files of his office, upon the payment of the fee therefor, and shall certify the copies under the seal of his office. The fee for making and furnishing the copies shall be 25 cents per folio, including the certificate of the secretary. All fees shall be paid by the secretary to the State Treasurer and become a part of the General Fund.

179.105 Board of Control may accept federal or other assistance to carry out general powers and duties; Emergency Board approval prior to expenditure. For any of the purposes contemplated by ORS 179.040, the board may in its discretion accept from the United States or any of its agencies financial assistance and grants in the form of

money or labor, or from any other source any donation or grant of land or gift of money or any other thing. Any funds accepted in accordance with the provisions of this 1961 Act are appropriated to the board and may be expended by it according to the conditions and terms of the grant or donation, except that if such funds are part of a grant or donation of more than $100,000 they may be expended only after specific legislative authorization in addition to that granted by this section or after Emergency Board approval.
[1961 c.651 §4]

Note: The Legislative Counsel has not, pursuant to ORS 173.160, undertaken to substitute specific ORS references for the words "this 1961 Act" in ORS 179.105. Chapter 651, Oregon Laws 1961, enacted ORS 179.105 and amended ORS 179.110 and 179.120.

179.110 Acceptance of federal grant of funds; cooperation with federal agencies; disposition of balances of appropriations. The board may accept and receive grants of funds from the United States or any of its agencies for the construction, equipment and betterment of any of the state institutions under the control of the board and may cooperate with the United States or its agencies in such construction, equipment and betterment. Any balances of appropriations for capital outlay for any institution under the control of the board resulting from the use of funds so received shall be placed in a common fund. The board is authorized and empowered in its discretion to expend such common fund or any portion thereof in the construction, equipment or betterment of any state institution under its control.
[Amended by 1961 c.651 §1]

179.115 Acceptance of federal assistance in preparing for construction of public buildings and works. The Oregon State Board of Control may, in its discretion, accept financial assistance and grants and (to the extent that moneys have been appropriated for the repayment thereof) advances, from the United States or any of its agencies, subject to the terms and conditions thereof, regardless of any laws of this state in conflict with the regulations of the Federal Government with respect thereto, to aid in financing the cost of engineering and architectural surveys, designs, plans, working drawings, specifications or other action preliminary to and in preparation for the construction of public buildings and works.
[1957 c.602 §2]

179.120 Deposit and disbursement of funds received for aid of institutions. All funds received by the state from the Federal Government or other sources for the aid and support of or research in any of the institutions shall be paid into the State Treasury but, except for such funds received as part of a grant of $100,000 or less, may be disbursed by the board for the uses intended only after specific legislative authorization or Emergency Board approval. Such funds received as part of a grant of $100,000 or less are appropriated to and may be disbursed by the board for the uses intended without such authorization or approval.
[Amended by 1961 c.651 §2]

179.122 Deposit and disbursement of funds received under Western Interstate Corrections Compact. All funds received by this state or by the board for this state under a lawful contract with another party to the Western Interstate Corrections Compact made in compliance with Article III thereof, shall be paid into the State Treasury. The board shall expend these funds in compliance with the contract.
[1959 c.290 §13]

179.130 Institutional petty cash fund; creation; reimbursement from appropriation for institution. (1) The executive head of each state institution under the supervision of the board may execute a claim voucher against the Institutional Betterment Fund to the credit of his institution, in favor of himself, in such amount as shall be approved by the board, for use by the institution as a cash revolving fund in paying the petty claims and incidental expenses arising in the proper conduct of the institution. The Secretary of State shall issue a warrant upon the State Treasurer for such amount, to be paid from such fund.

(2) The executive head shall present his claims on the first of each month, with proper vouchers attached, showing the expenditures from the revolving fund during the preceding month. The claims, when approved by the board, shall be paid by warrant upon the State Treasurer against the appropriation for that institution, and when so paid shall be used to reimburse the revolving fund of such institution created under subsection (1) of this section.

179.140 Auditing and paying claims; approval of vouchers. Subject to any applicable provision of ORS 279.710 to 279.746, 291.232 to 291.260 and 291.652 to 291.726,

the Secretary of State shall audit and pay all claims for supplies or materials furnished or services rendered to institutions upon the presentation of duly verified vouchers therefor, approved in writing by the executive head of the institution affected and the secretary and at least two members of the board.

179.150 Interest in contracts by board or officers, employes or other persons connected with institution prohibited. No member or officer of the board or officer, employe or other person connected with an institution shall be pecuniarily interested in any contract for supplies or services furnished or rendered to an institution, other than the services of his regular employment.

179.160 Board of Control revolving fund. (1) There hereby is appropriated to the Oregon State Board of Control out of the General Fund in the State Treasury the sum of $10,000, which sum shall be credited to the revolving fund. Such funds hereby are continuously appropriated for the payment of the film service for state institutions and of other purchases or advances as required from time to time.

(2) At the end of each fiscal year the board shall transfer from its revolving fund to the General Fund all revenue from the rental or lease of property described in subsection (1) of ORS 179.055 not expended for administration, taxes, repairs or improvements.

[1955 c.242 §1; subsection (2) enacted as 1961 c.652 §2 (3)]

179.170 to 179.300 [Reserved for expansion]

SUPERVISION OF STATE INSTITUTIONS

179.310 "Superintendent" defined. When used in ORS 179.010 to 179.500, unless the context otherwise requires, "superintendents" means the executive heads of the institutions listed in ORS 179.320.

179.320 Board of Control to direct and supervise state institutions. The Oregon State Board of Control shall govern, manage and administer the affairs of the following state institutions:

(1) Oregon State Hospital.
(2) Eastern Oregon State Hospital.
(3) Oregon State Penitentiary.
(4) Oregon Fairview Home.
(5) MacLaren School for Boys.
(6) Columbia Park State Home.
(7) Oregon State School for the Blind.
(8) Oregon State School for the Deaf.
(9) Hillcrest School of Oregon.
(10) F. H. Dammasch State Hospital.
(11) Oregon State Correctional Institution.

[Amended by 1955 c.651 §2; 1955 c.660 §25; 1959 c.588 §17; 1963 c.632 §5]

179.330 Appointment, suspension and removal of superintendents; status of superintendents of state mental institutions. (1) The administrator of the Division of Mental Health, with the approval of the board, shall appoint the superintendents of the institutions listed in ORS 430.020. The board shall appoint the superintendents for all other institutions listed in ORS 179.320. The administrator, with the approval of the board, may remove, suspend or discharge the superintendents of institutions listed in ORS 430.020. The board may remove the other superintendents at its pleasure. The board shall suspend or discharge a superintendent appointed by the board whenever the public service requires such action.

(2) The superintendents of state mental institutions listed in ORS 430.020 are unclassified administrative officers.

[Amended by 1963 c.471 §1]

179.340 Salaries of superintendents. (1) Unless otherwise provided in ORS 292.505 to 292.790, the administrator of the Division of Mental Health for the superintendents of institutions listed in ORS 430.020 with the approval of the board, and the board for the other superintendents shall fix and determine the annual salaries of the superintendents within the respective appropriations therefor and the limitations otherwise fixed by law.

(2) The superintendents shall receive no fees, emoluments or compensation other than salaries fixed by the board or the administrator but shall receive their actual traveling expenses when traveling in the service of the state.

[Amended by 1963 c.471 §2]

179.350 Oath and bond of superintendents. (1) Before assuming the duties of his position, each superintendent shall take and subscribe to an oath that he will support the Constitution and laws of the United States and the State of Oregon.

(2) Each superintendent shall give an official bond running to the State of Oregon, for the faithful performance of his duties

as superintendent and the accounting of all property coming into his hands in that capacity, in the amount fixed in each instance by the board, with a surety company authorized to do business in this state, as surety. The premium on the bond shall be paid by the state from the appropriation for the maintenance of each institution, respectively.

179.360 Powers and duties of superintendents. (1) Each superintendent shall:

(a) Have control of the wards of the state at the institution under his jurisdiction.

(b) Prescribe or direct the treatment, care, custody and discipline of such wards unless otherwise directed by law or by rule of the board.

(c) Adopt sanitary measures for the health and comfort of such wards.

(d) Promote the mental, moral and physical welfare and development of such wards.

(e) Enjoy the other powers and privileges and perform the other duties that are prescribed by law or by rule of the board or that naturally attach themselves to his position.

(2) The board shall prescribe:

(a) The duties of the superintendents where the duties are not prescribed by law.

(b) The additional duties, beyond those prescribed by law, that the board considers necessary for the good of the public service.

179.370 Residence of superintendents at institutions. The Board of Control may require that a superintendent reside at the institution under his jurisdiction. Any superintendent who is required to reside at an institution under his jurisdiction shall be furnished, at such rates of payment therefor as the board from time to time may prescribe, a residence or housekeeping room or rooms for himself and his immediate family and household furniture, provisions, heat and light from the supplies of the institution.
[Amended by 1959 c.80 §1]

179.375 Board to insure adequate chaplaincy services. (1) The Board of Control shall insure that adequate chaplaincy services, including but not limited to Protestant and Roman Catholic, are available at all state institutions administered by the board.

(2) Chaplains serving the various institutions shall, with respect to the inmates or patients at such institutions:

(a) Provide for and attend to their spiritual needs.

(b) Visit them for the purpose of giving religious and moral instruction.

(c) Participate in the rehabilitation programs affecting them.
[1963 c.554 §2]

179.380 Board to authorize employment of officers and employes; oaths and bonds. (1) The board shall authorize the employment of all necessary physicians, matrons, attendants, nurses, engineers, watchmen, messengers, clerks, guards, cooks, waiters and other officers and employes not specifically authorized by law and necessary to the successful maintenance of the institutions, excluding the capitol buildings and grounds. The amounts expended for the services of such officers and employes shall not exceed the amounts provided therefor in the biennial appropriations for the institution.

(2) The board shall designate in its bylaws which employes shall be officers, and shall require all officers to take and subscribe to an oath of office and, if the circumstances require it, to furnish bonds.

179.385 Scholarship programs to train personnel for institutions. The board may establish scholarship programs to provide assistance in securing qualified personnel at state institutions governed by the board. Scholarships authorized by this section shall be granted in accordance with rules and regulations adopted by the board.
[1961 c.363 §2]

179.390 Appointment, suspension, removal and salaries of assistants, officers and employes. The superintendent shall, subject to the approval of the board, appoint in the manner provided by law all assistants, officers and other employes at the institution under his jurisdiction. The superintendent may suspend or remove an assistant, officer or other employe in the manner provided by law, reporting all acts of suspension or removal to the board for approval or disapproval. The board shall fix the salaries of assistants, officers and employes where their salary is not fixed by law. The board shall, subject to any applicable provisions of the State Civil Service Law, suspend or discharge any subordinate of a superintendent when public service requires such action.

179.400 Officers and employes may be furnished board and lodging at institution. Unless the superintendent of the institution

permits the officer or employe to maintain his own establishment or to reside elsewhere, a regular officer or employe of an institution may be furnished board, lodging, heat and light at the institution to which he is attached at the rate of payment therefor that the board from time to time prescribes.

179.410 Monthly reports of superintendents to the board. The board shall require the superintendent of each institution to file monthly reports that:

(1) Show fully the financial and other transactions of the institution and its existing population, conditions and other information.

(2) Contain recommendations or suggestions that, in the opinion of the superintendent, will tend to promote the best interests of the institution.

179.420 Biennial report of superintendents to the board. (1) Each superintendent shall submit a biennial report to the board showing:

(a) An itemized statement of all receipts and disbursements.

(b) The general condition of the institution.

(c) A list of all improvements and needed improvements.

(d) The number of patients, inmates or wards.

(e) The number of officers and employes and the salaries thereof.

(f) Other information that may be of use to the board.

(2) The report shall:

(a) Represent the condition of the institution on June 30 preceding the biennial session of the Legislative Assembly.

(b) Be typewritten and submitted in triplicate.

(c) Not be printed unless the Legislative Assembly, by resolution, so decrees.

179.430 Comprehensive report of board to the legislature. (1) Based on the reports required by ORS 179.420, the board shall forthwith prepare and cause to be printed a comprehensive report showing the condition of each institution, including the capitol buildings and grounds, together with:

(a) A complete list of receipts and disbursements.

(b) An estimate or budget showing the financial needs for the following biennial period.

(c) Other information and recommendations that, in the opinion of the board, will be of value to the members of the Legislative Assembly.

(2) In the preparation of this report, plain and intelligible language should be used and technical terms avoided, as far as possible. Every institution shall be treated separately.

(3) The board shall cause a copy of the report to be mailed to every member of the incoming Legislative Assembly not less than 30 days before it convenes.

179.440 Work in production of articles and performance of labor for state. In order to minimize the cost of maintaining the institutions, all wards of the state who are capable of a reasonable amount of work without physical or mental injury to themselves shall be used as fully as possible in the production and manufacture of articles for the use of the state and in the performance of labor for the state.

179.450 Work on state-owned land. The board may, as it considers proper, direct and require the employment of able-bodied persons who are confined in the state penitentiary or the Oregon State Correctional Institution, or who are inmates of state institutions for the insane or feeble-minded in the performance of useful work upon land owned by the state if it does not compete with free labor. No work shall be performed upon any such land except by consent and approval of the agency of the state having management of the land.

[Amended by 1955 c.660 §26]

179.460 Sale and exchange of surplus products of institutions; State Institutional Betterment Fund. (1) In order to encourage industry and thereby increase productiveness in the institutions, the board shall prescribe rules and regulations for the sale and exchange of surplus products of each.

(2) The funds derived from the sale of the surplus products shall be paid into the State Treasury and become a part of a fund to be known as the State Institutional Betterment Fund, which fund shall be expended by the board for the benefit of the institutions in proportion to the amount earned by each.

179.470 Compensation for service or product from other institutions. The board

shall require that any state institution receiving any service or product from any other state institution shall pay a reasonable compensation therefor to the institution that furnishes it.

179.474 Transfer of inmates from institution to institution. The Board of Control may, subject to the provisions of ORS 179.476, make a permanent or nonpermanent transfer of an inmate of any institution listed in ORS 179.320 to any other such institution or to the University of Oregon Medical School whenever, in the judgment of the board, the welfare of the inmate and the efficient administration of the state institutions require the transfer.
[1957 c.160 §1]

179.476 Duration of transfers; limitations on transfers to or between certain institutions; rules of board. (1) A transfer may be made for such period as is necessary in each case. No nonpermanent transfer may be made for a period of longer than one year, but the board may renew a nonpermanent transfer for additional one year period or periods whenever, in its judgment, renewal is in the best interest of the inmate and the state.

(2) No inmate of an institution mentioned in ORS 179.320, unless he has been committed to an institution for the mentally ill or mentally deficient, may be permanently transferred to an institution for the mentally ill or mentally deficient except in the manner provided in this subsection.

(a) The inmate whose transfer is proposed shall be examined by one or more physicians of the institution to which transfer is proposed. If the examining physician finds the inmate mentally ill or mentally deficient, as the case may be, he shall so certify on oath and in writing.

(b) The physician's certificate shall be transmitted to the circuit court of the district in which is located the institution to which transfer is sought. The inmate may have legal counsel as provided in ORS 426.100 and the court may require examination of the inmate as provided in ORS 426.110.

(c) If upon the certificate provided in paragraph (a) of this subsection and such other evidence as may be submitted to the court, the court finds the inmate mentally ill or mentally deficient, as the case may be, it shall order the transfer made permanent. The court's decision shall be appealable as in other proceedings for the commitment of the mentally ill or mentally deficient.

(3) The board may make transfers between penal and correctional institutions only on the basis of the recommendations of the Correctional Classification Board and subject to the limitations of ORS 421.265.

(4) An inmate who has been transferred from one of the institutions listed in ORS 179.320 may be retransferred to that institution or to any other institution listed in ORS 179.320.

(5) The board may prescribe rules and regulations governing the manner and basis of making transfers as provided in this section.
[1957 c.160 §2]

179.479 Conveyance of inmates from institution to physician or hospital for treatment; rules of board. (1) The superintendent, warden or other chief executive officer of an institution listed in ORS 179.320 may, when authorized by regulation or direction of the board, convey an inmate to a physician, clinic or hospital, including the University of Oregon Medical and Dental Schools, for medical, surgical or dental treatment when such treatment cannot satisfactorily be provided at the institution. An inmate conveyed for treatment pursuant to this section shall be kept in the custody of the institution from which he is conveyed.

(2) The board shall prescribe rules and regulations governing conveyances authorized by this section.
[1957 c.160 §3]

179.480 [Amended by 1955 c.86 §1; repealed by 1957 c.160 §6]

179.483 Time spent pursuant to transfer or conveyance counted as part of sentence. Any time spent by an inmate of a penal or correctional institution pursuant to a transfer or conveyance shall be counted as part of the sentence being served by him.
[1957 c.160 §4]

179.486 Payment of costs in connection with transfers and conveyances; medical reports to accompany certain inmates. (1) The institution from which a transfer or conveyance is made shall pay from its appropriation the cost of such of the following items as may be incurred in a particular case:

(a) Transportation and other expenses incidental to the transfer or conveyance, including the expenses of attendants where an

attendant is directed to accompany the inmate.

(b) Hospital expenses incurred at the University of Oregon Medical or Dental Schools.

(c) Examination, treatment and hospital expenses incurred in favor of a physician, clinic or hospital, other than the University of Oregon Medical or Dental Schools.

(2) An inmate transferred or conveyed to the University of Oregon Medical or Dental Schools shall be accompanied by a report made by the physician in charge of the institution from which the transfer or conveyance is made, or by another physician designated by him. The report shall contain the history of the case and the information required by blanks prepared by the medical or dental school, as the case may be.
[1957 c.160 §5]

179.490 Authorization and payment of cost of emergency and necessary operations. In the case of a necessary or emergency operation, requiring the services of a specialist, and where the relatives or guardians, in the judgment of the board, are unable to pay a part or the whole cost of the operation, the board, in its discretion, may have the operation performed, the cost of the operation to be payable from the funds of the institution concerned.

179.495 Inspection of medical records. Medical case histories, clinical records, treatment charts, progress reports and other similar written accounts of the inmates or patients of any state institution governed and managed by the Oregon State Board of Control, made and maintained in such institution by the officers or employes thereof, shall not be subject to inspection except upon permission given by the board, within its discretion and for good cause, or upon order of a court of competent jurisdiction. The foregoing limitation shall not apply to inspection of records made with the consent of the individual concerned, or in case of his incompetence, by his legal guardian.
[1955 c.452 §1]

179.500 Transfer of funds to credit of institution to which inmates are transferred. Whenever five or more patients or other inmates of any state, eleemosynary, or corrective institution are transferred to another state institution for care or treatment, the board may make an order for the transfer of funds appropriated or available for the payment of the expenses of the institution from which the inmates are transferred to the credit of the account of the institution to which they are transferred, in an amount proportioned to the number of inmates so transferred. A copy of the order shall be filed with the Secretary of State and State Treasurer, who shall make the transfer of credit on their books of account in accordance therewith.

179.510 Definitions; deposit of funds of wards of institutions with State Treasurer. The superintendent of each state hospital, home, penal or corrective institution, or institution for the deaf or the blind, hereinafter designated "institution," that has in his possession or under his control in a bank account or otherwise, funds that are the property of the wards of such institutions or that have been deposited for their use or for expenditure in their behalf shall deposit such funds, as they are received, together with any such funds as heretofore have accumulated, with the State Treasurer as a trust account. The word "funds" as used in ORS 179.510 to 179.530 shall include, but shall not be limited to, moneys deposited with the said superintendents for medical care or assistance of wards, moneys derived from athletic activities, contributions for athletic, health, or recreation projects, and any other moneys received by the said superintendents that are not required by law to be credited to other state funds or accounts.
[Formerly 179.710]

179.520 Superintendents authorized to receive funds of wards; separate accounts. The said superintendents are authorized to receive any of the funds referred to in ORS 179.510 to 179.530. The State Treasurer shall carry such funds in separate accounts for such institutions, but he shall not credit such funds or any part thereof to any state fund for governmental purposes.
[Formerly 179.720]

179.530 Disbursements from accounts; superintendents accountable. Disbursements from the said accounts for the purposes for which the contributions or payments were made, and for payment to persons lawfully entitled thereto, may be made by the superintendent of the institution by which the funds were deposited, by checks or orders drawn upon the State Treasurer. The said

superintendents shall be accountable for the proper handling of said account.
[Formerly 179.730]

179.540 to 179.600 [Reserved for expansion]

RESPONSIBILITY FOR COST OF CARE OF PERSONS IN STATE INSTITUTIONS

179.610 Definitions for ORS 179.610 to 179.770. As used in ORS 179.610 to 179.770, unless the context requires otherwise:

(1) "Board" means the Oregon State Board of Control.

(2) "Person in a state institution" or "person at a state institution," or any similar phrase, means:

(a) A patient at a state institution for the mentally ill.

(b) A resident at a state institution for the mentally deficient.

(c) A patient at a state tuberculosis hospital.

(d) A student at MacLaren School for Boys or Hillcrest School of Oregon, including a child placed in a foster home under ORS 420.810 to 420.840 who for the purposes of ORS 179.610 to 179.770 shall be considered as being at such institution.

(e) A patient at the Columbia Park State Home.

(3) Ability to pay, for the purposes of ORS 179.610 to 179.770, means that the responsible persons are possessed of means sufficient to pay the amount determined by the Board of Control or the court after allowing for the current living expenses and other reasonable necessary obligations of the responsible persons and all their dependents.
[Subsections (1) and (2) enacted as 1959 c.652 §1; subsection (3) enacted as 1959 c.652 §3 (2)]

179.620 Charge for care of persons in state institutions; liability of person or his estate for payment; limitation. (1) If a person at a state institution or a responsible relative of such person is possessed of an estate or income sufficient so that he has the ability to pay the expenses of the care and maintenance of such person, the person at the state institution or the guardian or responsible relative of such person is required to reimburse the State of Oregon for the cost of the care and maintenance of such person during his stay at such state institution.

(2) A person at a state institution, and his estate or responsible relatives, or both, as their respective responsibility may appear, are liable for the payment of the monthly charge fixed as provided in ORS 179.700 for care and maintenance of persons at such institution, according to their ability to pay determined as provided in ORS 179.610 to 179.770.

(3) Upon the death of any person who is or has been a person at a state institution, his estate is liable for the total amount of the cost of care and maintenance of such person as computed under ORS 179.700 and under the laws applicable to prior years, less the total amount of all payments previously received by the board for the cost of care and maintenance of such person at the state institution.

(4) Liability of a responsible relative arising under ORS 179.610 to 179.770 is limited to that portion of the actual monthly cost which the responsible relative has been determined able to pay under ORS 179.640 and shall continue until that portion is paid in full.
[1959 c.652 §2; 1961 c.501 §1]

179.630 Relatives' liability for payment. (1) Relatives of a person at a state institution are liable for the care and maintenance of such person under ORS 179.620, according to their respective abilities to pay, as follows:

(a) The husband for the wife.

(b) The wife for the husband.

(c) The parents for their children.

(d) The children for their parents.

(2) No liability for the support of a person at a state institution shall be imposed under the provisions of ORS 179.610 to 179.770 upon that person's child if, for a period amounting to 25 percent of the minority of the child, such person wilfully deserted or abandoned the child, or, by expulsion or cruelty, drove the child from the parental home, or, without good cause, was responsible for the child's being "dependent" as defined by ORS 418.205.

(3) If a circuit court of this state imposes liability upon a relative for the support of any person at a state institution, and fixes the amount thereof, the amount so fixed shall be prima facie evidence of the maximum limit of the relative's ability to pay under the provisions of ORS 179.610 to 179.770.
[1959 c.652 §3 (1); 1963 c.598 §1]

179.640 Determination of ability to pay. (1) At the time of admission of a person to a state institution, the Board of Control shall determine whether or not the person at the state institution or his estate or responsible relatives are financially able to pay for the care and maintenance of such person at the state institution as required by ORS 179.610 to 179.770. If the board determines at the time of admission or at some later time while the person remains at the state institution that such person, his estate or responsible relatives are able to pay, in whole or in part, for the care and maintenance of such person at the state institution, the board shall make its order against the proper persons or estate found responsible, fixing the extent of the liability. Thereafter, from time to time while the person remains in the state institution, the board shall modify its order to recognize a change in the ability of the persons to pay as specified in the order of the board; but, in any case where a court order has been made, the court order may be modified only as provided in ORS 179.650 and 179.680.

(2) In any case where the person is discharged from the institution before the determination of the extent of liability can be made by the board, the board may make its determination after the person's discharge. However, the determination shall be based on the ability to pay of the person, his estate or his responsible relatives during the time the person was in the institution.

(3) If the board is unable to determine to its satisfaction whether or not the person at the state institution, his estate or responsible relatives are financially able to and will contribute towards the care and maintenance of such person, the board may request a court determination of the question in the manner provided in subsection (4) of this section. If any person against whom the board has made an order under subsection (1) of this section desires to obtain a court review of the determination of the board, he shall proceed in the manner provided in subsection (4) of this section.

(4) (a) Subject to paragraphs (b) and (c) of this subsection, upon request of the board or the person against whom the board order was made, the probate court of the county from which the person was committed or the probate court of the county of which such person was a resident when admitted to the state institution or the probate court of the county in which the responsible person resides shall cause a citation to be issued by the clerk of the court and served by the sheriff of the county, citing the person at the state institution and any guardian, husband, wife, parents and children of such person to appear in court before such judge at a time and place designated in the citation and show cause why a court order should not be entered adjudging that the person or his estate or responsible relatives, or any combination of them, are financially able to pay for the care and maintenance of such person at the state institution.

(b) Notwithstanding any other provision of this section, if the person at the state institution was committed to the state institution, the probate court for the county where the commitment was made has exclusive jurisdiction under this section.

(c) Subject to paragraph (b) of this subsection, if two or more courts are entitled to exercise jurisdiction under this section, the court first taking jurisdiction shall retain jurisdiction to the exclusion of every other court.

(5) The court may direct subpenas to be issued to any witness to appear and adduce evidence upon the trial of the matter for the purpose of determining the financial ability of the person at the state institution, his estate or his responsible relatives to pay. If a person is in a state institution for the mentally ill or mentally defective and does not have a guardian and it is necessary that he have a guardian for the purposes of the proceeding, the court shall appoint some competent, disinterested person, at the expense of the county, as guardian ad litem to appear for and who shall have full authority to represent such person. All such persons shall be examined as witnesses under oath for the purpose of determining the financial ability of the person at the state institution, his estate or responsible relatives, to pay for his care and maintenance in the state institution.

(6) Findings of fact shall be made by the court as to the ability to pay for such care and maintenance as provided in this section and an order entered against the proper persons or estate found responsible, fixing the extent of the liability.

[1959 c.652 §4; 1961 c.501 §2]

179.650 Appeal from order declaring financial ability; order effective until modified. (1) An appeal may be taken from the

determination of the court under ORS 179.640 to the circuit court within 30 days in the ordinary manner for taking appeals from orders of the probate court and, within 30 days from the entry of the order of the circuit court, to the Supreme Court.

(2) An order declaring the financial ability of the person at the state institution, his estate or his responsible relatives to pay for care and maintenance of such person under ORS 179.640 shall remain in full force and effect, unless modified or appealed.

(3) Any order or modified order and appeal shall only be altered upon a new hearing upon citation to all persons interested. Where there has been a change in the ability of the persons to pay as specified in the order, and, upon a change of ability to pay, the order shall be modified accordingly. [1959 c.652 §5]

179.660 Guardians for estates of persons in certain institutions. If no guardian has been appointed for the estate of the person mentioned in ORS 179.640 who has been committed or who has been admitted to an institution for the mentally ill or mentally deficient, the Board of Control shall request, and the district attorney of the county of which such person is a resident, or was a resident at the time of commitment or admittance, shall institute proper proceedings in the court having probate jurisdiction, for the appointment of a guardian for the estate of such person if necessary. [1959 c.652 §6]

179.670 District attorney's duties in proceedings under ORS 179.640. (1) The district attorney, on request of the Board of Control or on request of the probate court, shall appear in the probate court proceedings under ORS 179.640 and present evidence with respect to the ability of the person at the state institution or his estate or responsible relatives to pay the cost of his care and maintenance in the state institution.

(2) If the Board of Control feels aggrieved by the order of the probate court under ORS 179.640, the district attorney on request of the board shall appeal such cause to the circuit court and the Supreme Court, or either, as directed.
[1959 c.652 §7]

179.680 Rehearing to redetermine liability. The decision of the court under ORS 179.640 to 179.670 and the amount payable under the court order are not permanent; but the court having jurisdiction under ORS 179.640 shall, upon petition by the Board of Control or by any person against whom such order has been entered under the provisions of ORS 179.640 to 179.670 or his guardian, or upon the court's own initiative, at any time by citation summon the person at the state institution, or his guardian or any relatives or interested persons, or all of them, in order to redetermine the facts and the amount, if any, to be paid and by whom. Notice of each proposed rehearing shall be given to the Secretary of the Board of Control who shall also receive notice from the court of the decision based on each hearing. [1959 c.652 §8]

179.690 Rights of subrogation and contribution of relatives making payments. If any husband or wife, parent or parents, child or children are required to pay for care and maintenance as specified in ORS 179.610 to 179.770, they have the right to subrogation to the extent of the amounts so paid with interest at six percent a year and contribution against the estate of such person at a state institution and other persons mentioned in subsection (3) of ORS 179.610, ORS 179.620 and 179.630 who are liable therefor for their pro rata share.
[1959 c.652 §9]

179.700 Monthly charge computed. (1) Each person at a state institution, his estate or responsible relatives found to have the financial ability to pay for care and maintenance as specified in ORS 179.610 to 179.690, shall pay therefor the cost per month as provided in ORS 179.610 to 179.770, or such portion thereof as the Board of Control or the court may find them able to pay. The payments as determined by the Board of Control or by the court as provided in ORS 179.610 to 179.770 shall, in all cases, apply from the day the person is received at the institution.

(2) Except as otherwise provided in subsection (4) of this section for the Columbia Park State Home, the yearly operating cost of institutions for the care and maintenance of the mentally ill shall be determined by the board in the manner prescribed in this subsection and in subsection (7) of this section. The board shall, as of June 30 each year, compute all the costs chargeable to the maintenance and operation of the state institutions for the care of mentally ill for the fiscal year ending on that day. In computing these costs there shall be included all net

expenses of operating the institutions (excluding the cost of operating outpatient clinics).

(3) Except as otherwise provided in subsection (4) of this section for the Columbia Park State Home, the yearly operating cost of institutions for the care and maintenance of the mentally deficient shall be determined by the board in the manner prescribed in this subsection and in subsection (7) of this section. The board shall, as of June 30 of each year, compute all the costs chargeable to the maintenance and operation of the state institutions for the care of the mentally deficient for the fiscal year ending on that day. In computing these costs there shall be included all net expenses of that portion of the program at the institutions which consists primarily of the care and maintenance of residents as distinguished from that portion of the program which is primarily concerned with their education. The expenses of upkeep of buildings and grounds used primarily for the care and maintenance of residents shall be included in computing the yearly operating cost, but the cost of additional or replacement buildings and grounds and equipment and the cost of that portion of the program which is primarily concerned with the education of the residents shall be excluded in determining the yearly operating cost.

(4) The monthly cost chargeable for the care and maintenance of a person at the Columbia Park State Home shall be determined as provided in subsection (9) of this section.

(5) The yearly operating cost of the state institutions for delinquent children shall be determined by the board in the manner prescribed in this subsection and in subsection (7) of this section. The board shall, as of June 30 each year, compute all the costs chargeable to the maintenance and operation of state institutions to which delinquent children are committed, for the fiscal year ending on that day. In computing these costs, there shall be included all net expenses of operating these institutions and related camps and the expenses in connection with children placed under ORS 420.810 to 420.840 and the expenses of supervising inmates on parole.

(6) The yearly operation cost of the state tuberculosis hospitals shall be determined by the board in the manner prescribed in this subsection and in subsection (7) of this section. The board shall, as of June 30 each year, compute all the costs chargeable to the operation of the state tuberculosis hospitals, for the fiscal year ending on that day. In computing these costs, there shall be included all the net expenses of operating these institutions (excluding the cost of operating outpatient clinics).

(7) Except as provided in subsection (3) of this section, in computing the yearly operating cost of each institution, the expenses of upkeep of buildings and grounds shall be included, but the cost of additional or replacement buildings and grounds and equipment shall be excluded.

(8) The yearly operating cost of each type of institution shall be divided by the number 12; and the result, expressed in dollars and cents, shall be established as the cost per month of operating that type of institution. This cost shall be divided by the ascertained average number of persons (including, in the case of the institutions for delinquent children, children placed in foster homes under ORS 420.810 to 420.840) per month cared for in that type of institution; and, except as otherwise provided in this section, the number of dollars of the quotient so determined, without regard to any odd cents, shall be the monthly cost chargeable for the care and maintenance of each person at that type of state institution for 12 months commencing September 1 each year.

(9) The monthly cost chargeable for the care and maintenance of a person at the Columbia Park State Home shall be the same as the monthly cost determined under this section for a person at the institution from which the patient was transferred.

(10) Except as otherwise provided in this subsection, the monthly cost chargeable for the care and maintenance of a patient in a state tuberculosis hospital shall not exceed $100. If the board determines that a patient in a state tuberculosis hospital is the beneficiary of a policy of hospitalization, health or accident insurance, or other contract, which provides total benefits, exclusive of disability benefits, at a rate of more than $100 a month for his care or maintenance, or both, in a tuberculosis hospital, the monthly cost chargeable for his care and maintenance is the monthly rate of those benefits, exclusive of disability benefits, or the monthly cost determined without regard to this subsection to be chargeable under subsection (8) of this section, whichever is less.

[1959 c.652 §10; 1961 c.639 §1]

179.710 [1955 c.5 §1; renumbered 179.510]

179.711 Remittance of amounts due; refunds. (1) Remittance of amounts due for care and maintenance of persons at state institutions as provided in ORS 179.610 to 179.700 shall be made to the Secretary of the Board of Control in accordance with rules and regulations established by the Board of Control.

(2) The board shall authorize the refund of any unearned advance payments for the care and maintenance of persons at any of the state institutions in those cases where payments have been made in advance and the person has died or is discharged or paroled before the end of the month for which such payment is made. The Secretary of State shall audit all claims for refunds approved by the board and shall draw his warrant on the State Treasurer in payment thereof in favor of the person entitled thereto, payable from the General Fund of the State Treasury. Such amounts as are determined to be necessary for the payment of such refunds hereby are appropriated from the money collected under the provisions of ORS 179.610 to 179.770.

[1959 c.652 §11; 1963 c.193 §1]

179.720 [1955 c.5 §2; renumbered 179.520]

179.721 Collection of delinquent amounts due. In all cases where an order is entered by the board or the court against the estate, guardian or relatives of a person at a state institution under the provisions of ORS 179.610 to 179.770, and delinquency in the payment of any amounts due the State of Oregon under such order continues for a period of more than 30 days, upon notification of any such delinquency, by the board, the district attorney of the county wherein the judgment is entered or, in the case of a board order, the district attorney of the county where the responsible person resides shall proceed to collect the amounts due by appropriate proceedings. The funds so collected by the district attorney shall be forwarded by him at once to the Secretary of the Board of Control, together with a statement showing by whom paid and for what person at a state institution.

[1959 c.652 §13]

179.730 [1955 c.5 §3; renumbered 179.530]

179.731 Waiver of collection of amounts payable. In any case where the Board of Control determines that collection of the amounts payable under ORS 179.610 to 179.770 for the care and maintenance of a person at a state institution would be detrimental to the best interests of the person, the board, in its discretion, may waive the collection in whole or in part of the amount otherwise payable under ORS 179.610 to 179.770. The board shall waive all liability of responsible relatives for any amount accruing after July 1, 1959, which is in excess of the amount determined by their ability to pay under ORS 179.640.

[1959 c.652 §§16, 17, 18; 1961 c.501 §3]

179.740 Collection of amounts due from estates. (1) The board may present and file a claim for any support money under subsection (3) of ORS 179.620 in a proceeding upon the administration of the estate of any deceased person who was at a state institution in like manner as other claims of creditors are filed and with such priorities as are provided in ORS 117.110.

(2) The board may petition any court of competent jurisdiction for the issuance of letters of administration or testamentary in the estate of any such person who was at a state institution who did not pay or for whom was not paid the full amount of cost of his care and maintenance as determined by ORS 179.700 and under the laws applicable to prior years. However, the board shall not file a petition under this subsection until at least 90 days after the death of the person who was at the state institution and then only in the event that the person's estate is not otherwise being probated.

(3) The board may compromise any claim against the estate of a deceased person who was at a state institution during the pendency of the probate proceeding by accepting other security therefor or in any other manner deemed equitable. The board may waive payment of any such claim in a case in which it finds that the enforcement thereof in whole or in part would be inequitable.

(4) The recovery under subsections (1) to (3) of this section of any claim against the estate of any deceased person who was at a state institution does not relieve any responsible relative from making payments delinquent at the time of the person's release from or death in the institution in accordance with a determination of ability to pay under ORS 179.610 to 179.770 nor does it prevent the board from recovering such payments by appropriate action. However, the board is not entitled under ORS 179.610 to 179.770 to recover amounts which exceed, in

the aggregate, the total cost of care and maintenance of the deceased person as computed under ORS 179.700 and under the laws applicable to prior years.
[1959 c.652 §§16, 17, 18; 1961 c.501 §4]

179.750 Equal care and treatment for persons in state institutions. No discrimination shall be made in the admission, accommodation, care, education or treatment of any person in a state institution because of the fact that the person or his relatives do or do not contribute to the cost of his care and maintenance in whole or in part.
[1959 c.652 §19]

179.760 Clothing, when furnished by institution for mentally deficient. When relatives are paying for care and maintenance as required by ORS 179.610 to 179.770 for a resident at the institution for mentally deficient, they are not required to furnish clothing, but the institution shall provide such clothing.
[1959 c.652 §15]

179.770 Adoption of rules; employment of personnel; deposit of moneys. (1) In accordance with any applicable provisions of ORS chapter 183, the board may make such rules and regulations as are necessary to carry out the provisions of ORS 179.610 to 179.770.

(2) Subject to any applicable provision of the State Civil Service Law, the board may employ such persons as are necessary to carry out the provisions of ORS 179.610 to 179.770.

(3) All money received by the Secretary of the Board of Control under the provisions of ORS 179.610 to 179.770 shall be deposited daily with the State Treasurer for credit to the General Fund.
[Subsections (1) and (2) enacted as 1959 c.652 §20 and subsection (3) as 1959 c.652 §12]

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, 1963.

Sam R. Haley
Legislative Counsel