

# Chapter 657

## 1965 REPLACEMENT PART

### Unemployment Insurance

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**DEFINITIONS**

**657.005 Short title.** This chapter shall be known and may be cited as the Department of Employment Law.  
[Amended by 1959 c.583 §14]

**657.010 General definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Base year" means the first four of the last five completed calendar quarters preceding the benefit year.

(2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

(3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consecutive weeks period beginning with the first week with respect to which the individual next files an initial valid claim after the termination of his last preceding benefit year except that the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping any quarter of the base year of a previously filed initial valid claim.

(4) "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the commissioner may, by regulation, prescribe.

(5) "Commissioner" means the Department of Employment Commissioner.

(6) "Taxes" means the money payments to the Unemployment Compensation Trust Fund required, or voluntary payments permitted, by this chapter.

(7) "Employment office" means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

(8) "Fund" means the Unemployment Compensation Trust Fund.

(9) "State" includes, in addition to the states of the United States of America, the District of Columbia and Puerto Rico.

(10) "Week" means any period of seven consecutive calendar days ending at midnight, as the commissioner may, by regulation, prescribe. The commissioner may by regulation prescribe that a "week" shall be "in," "within," or "during" that calendar quarter which includes the greater part of such week.

(11) "Contribution" or "contributions" means the taxes, as defined in subsection (6) of this section, which are the money payments required by this chapter, or voluntary payments permitted, to be made to the Unemployment Compensation Trust Fund.

(12) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the individual meets the wages-paid-for-employment requirements of ORS 657.150.

(13) "Unemployment compensation" means unemployment insurance wherever such term is used in this chapter.

[Amended by 1959 c.642 §1; 1961 c.252 §1; 1963 c.13 §1]

**657.015 Employee.** As used in this chapter, unless the context requires otherwise, "employee" means any person, including aliens and minors, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer subject to this chapter in an employment subject to this chapter.

**657.020 Employing unit.** (1) As used in this chapter, unless the context requires otherwise, "employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or successor thereof, or the legal representative of a deceased person, who has or subsequent to January 1, 1937, had in its employ one or more individuals performing services for it within this state. After December 31, 1957, "employing unit" also means this state, including every state officer, board, commission, department, institution, branch and agency of the state government. Upon July 1, 1959, people's utility districts shall, notwithstanding any provision of this chapter to the contrary, be deemed an employing unit to the same extent and in the same manner as any agency of this state. After December 31, 1957, "employing unit" also means any political subdivision which files with the commissioner its written election to become subject to the provisions of this chapter as provided in ORS 657.425.

(2) All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state are deemed to be employed by a single employing unit for all the purposes of this chapter, except

that for the purposes of this chapter each of the various agencies, boards, commissions, departments, institutions and political subdivisions of this state shall be deemed separate employing units.

[Amended by 1955 c.655 §1; 1957 c.682 §1; 1959 c.398 §1]

**657.025 Employer.** (1) As used in this chapter, unless the context requires otherwise, "employer" means any employing unit which after December 31, 1959, employs one or more individuals in an employment subject to this chapter during any calendar quarter in which its total payroll amounts to \$225 or more. For periods prior to January 1, 1960, and subsequent to December 31, 1955, "employer" means any employing unit which employs two or more individuals in an employment subject to this chapter in any one day in each of six separate weeks during any calendar quarter in any calendar year during which its total payroll amounts to \$1,800 or more for such year. For periods prior to January 1, 1956, "employer" means any employing unit which during any calendar quarter has a total payroll of \$500 or more, and which employs in any one day in each of six separate weeks during such period four or more persons in an employment subject to this chapter.

(2) Whenever any helper, assistant or employe of an employer engages any other person in the work which said helper, assistant or employe is doing for the employer, with the employer's actual, constructive or implied knowledge, such employer shall, for all purposes of this chapter, be deemed the employer of such other person, whether such person is paid by the said helper, assistant or employe, or by the employer. All persons employed by an employer in all of his several places of employment maintained within the state shall be treated as employed by a single employer for the purposes of this chapter.

[Amended by 1953 c.494 §1; 1955 c.655 §2; 1959 c.405 §1]

**657.030 Employment; generally.** As used in this chapter, unless the context requires otherwise, and subject to ORS 657.035 to 657.045, 657.050, 657.060, 657.065, 657.070 to 657.085 and 657.090, "employment" means service for an employer, including service in interstate commerce within the United States, performed for remuneration or under any contract of hire, written or oral, express or implied. After December 31, 1959, employment

shall also mean any service which is employment under the Federal Unemployment Tax Act.

[Amended by 1959 c.405 §2]

**657.035 Employment; effect of place of performance of services.** (1) The term "employment" includes an individual's entire service, performed within or both within and without this state if:

(a) The service is localized in this state; or

(b) The service is not localized in any state but some of the service is performed in this state and (A) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (B) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(2) Service performed within this state but not covered under subsection (1) of this section is deemed to be employment subject to this chapter if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the Federal Government.

(3) Services not covered under subsection (1) of this section, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal Government, are deemed to be employment subject to this chapter if the commissioner approves the election of the employer for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter. Such an election may be canceled by the employer by filing a written notice with the commissioner between January 1 and January 15 of any year stating his desire to cancel such election or at any time by submitting to the commissioner satisfactory proof that the services designated in such election are covered by an unemployment compensation law of another state or of the Federal Government.

(4) Service is deemed to be localized within this state if:

(a) The service is performed entirely within this state; or

(b) The service is performed both within and without this state, but the service performed without the state is incidental to the individual's service within the state.

**657.040 Employment; when service for pay excluded.** Services performed by an individual for remuneration are deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the commissioner that:

(1) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(2) Such individual customarily is engaged in an independently established business of the same nature as that involved in the contract of service.

**657.045 Employment; agricultural labor excluded.** (1) "Employment" does not include agricultural labor.

(2) "Agricultural labor" includes all services performed:

(a) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such services is performed on a farm.

(c) In connection with the production or harvesting of maple syrup or maple sugar or any commodity defined as an agricultural commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes.

(d) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to

market or to a carrier for transportation to market, any agricultural or horticultural commodity, but only if such service is performed as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. This paragraph does not apply to service performed in connection with commercial canning or commercial freezing or brining of cherries or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(3) "Farms," as used in this section, includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

[Amended by 1955 c.655 §3; 1957 c.395 §1]

**657.047 Employment; transportation of logs, poles and piling excluded.** (1) As used in this chapter, "employment" does not include transportation by motor vehicle of logs, poles and piling by any person who both furnishes and maintains the vehicle used in such transportation.

(2) For the purposes of this chapter, services performed in the operation of a motor vehicle specified in subsection (1) of this section shall be deemed to be performed for the person furnishing and maintaining the motor vehicle.

[1963 c.469 §2]

**657.050 Employment; domestic service and casual labor excluded.** "Employment" does not include:

(1) Domestic service in a private home and service performed after January 1, 1941, in the employ of a local college club, or local chapter of a college fraternity or sorority.

(2) Casual labor not in the course of the employer's trade or business or any labor which does not promote or advance the trade or business of the employer. Temporary labor in the usual course of an employer's trade or business shall not be deemed to be casual labor.

[Amended by 1959 c.405 §3]

**657.055** [Amended by 1959 c.405 §4; repealed by 1961 c.349 §3]

**657.056 Employment; maritime service.**

(1) "Employment" includes an individual's entire service as an officer or member of a

crew of an American vessel wherever performed and whether in intrastate or interstate or foreign commerce, if the employer maintains within this state at the beginning of the pay period an operating office from which the operations of the vessel are ordinarily and regularly supervised, managed, directed and controlled.

(2) The term "employment" shall not include services performed as an officer or member of the crew of a vessel not an American vessel and services on or in connection with an American vessel under a contract of service which is not entered into within the United States and during the performance of which the vessel does not touch at a port of the United States.

(3) "American vessel" means any vessel documented or numbered under the law of the United States and includes any vessel which is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

(4) "Employment" shall not include services performed by an individual as an officer or member of the crew of a vessel under an employment contract by the terms of which such individual's compensation or losses depend upon the value of the catch of the vessel upon which such individual serves.

[1961 c.349 §2]

**657.060 Employment; family service excluded.** "Employment" does not include service performed by a person in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother.

**657.065 Employment; governmental service.** (1) "Employment" does not include service performed in the employ of the United States Government or any instrumentality of the United States, except that if the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, then, to the extent permitted by Congress, and after the date such permission becomes effective, this chapter shall be effective as to such instrumentalities and as to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as

to all other employers, employing units, individuals and services. However, if this state is not certified by the Secretary of Labor under section 3304(c) of title 26, United States Code, for any year, then the payments required of such instrumentalities with respect to such year shall be deemed to have been erroneously collected within the meaning of ORS 657.510 and shall be refunded by the commissioner from the fund in accordance with ORS 657.510.

(2) "Employment" does not include, and nothing in this chapter shall be construed to authorize the state or any political subdivision to elect to have services deemed to constitute employment which are performed in the employ of the state or of any political subdivision or instrumentality of the state by:

(a) Elected or appointed public officials.

(b) Officials paid on a fee or per diem basis.

(c) Members of the faculties of state and public schools, colleges or universities.

(d) Persons employed in emergency work such as fire fighting, flood work, snow removal or other public disaster relief work.

(e) Physicians, dentists, student nurses or other professional specialists in institutions or attached to departments of the government or employes of the State Department of Agriculture, the Fish Commission of the State of Oregon, the State Board of Forestry or the State Game Commission, who are employed on a part-time or irregular basis, or employes of the Legislative Assembly, or of any of its committees other than statutory or interim committees who would not be eligible for benefits if unemployed on January 1 of the year a session of the Legislative Assembly convenes.

(f) Individuals in the military service or under the military control of the state.

(g) Persons in the unclassified service employed by the State System of Higher Education pursuant to the provisions of ORS 240.205.

(3) In the case of a person who retires under ORS 237.001 to 237.315, "employment" does not include services performed in the employ of this state before his retirement.

[Amended by 1955 c.655 §4; 1957 c.682 §2; subsection (2) enacted as 1957 c.682 §4; 1959 c.398 §2; 1959 c.665 §1; 1961 c.452 §1]

**657.067 Employment; work relief programs.** As used in this chapter, "employment" does not include labor or services performed by an individual without compensation under supervision or control provided by any public entity pursuant to a work relief program, as defined in ORS 411.855.

[1961 c.631 §6; 1965 c.291 §4]

**657.070 Employment; eleemosynary services excluded.** "Employment" does not include service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

**657.075 Employment; service under Railroad Unemployment Insurance Act excluded.** "Employment" does not include service performed under the Railroad Unemployment Insurance Act (52 Stat. 1094).

**657.080 Employment; news delivery service.** "Employment" does not include service performed by an individual in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution or service performed by an individual in the delivery or distribution of newspapers whose remuneration primarily consists of the difference between the amount he pays or is obligated to pay for the newspapers and the amount he receives or is entitled to receive on distribution or resale thereof.

**657.085 Employment; service by real estate, insurance and securities agents.** "Employment" does not include service performed by a real estate broker, real estate salesman, real estate agent, insurance agent, insurance solicitor or securities salesman or agent to the extent that he is compensated by commission.

[Amended by 1965 c.131 §1]

**657.087 Employment; service by individuals soliciting contracts for home improvements.** "Employment" does not include service performed by individuals soliciting contracts for home improvements including roofing, siding and alterations of private homes to the extent that the remuneration for such services primarily consists of commissions or

a share of the profit realized on each contract.  
[1961 c.320 §2]

**657.090 Employment; petroleum products distributors.** "Employment" does not include service performed by an individual or partnership in the wholesale distribution of petroleum products whose remuneration for such service primarily consists of the difference between the amount he pays or is obligated to pay for the petroleum products and the amount he receives or is entitled to receive from the sale thereof or whose remuneration for such service primarily consists of commissions.

[Amended by 1961 c.252 §7]

**657.095 Payroll.** (1) As used in this chapter, unless the context requires otherwise, "payroll" means and includes all wages paid to employes in any employment subject to this chapter; provided, for payroll contribution purposes pursuant to this chapter, "wages" excludes remuneration earned by an employe from each employer as follows:

(a) In any calendar year prior to January 1, 1956, remuneration which is in excess of \$3,000.

(b) In any calendar year after December 31, 1955, remuneration which is in excess of \$3,600.

(2) The remuneration paid by an employer located in this state for work performed in other states by an employe who works part of the time in a calendar year in this and other states shall be included in computing:

(a) The first \$3,000 of wages paid in any calendar year prior to January 1, 1956,

(b) The first \$3,600 of wages paid in any calendar year after December 31, 1955, when the work in said other states is covered by unemployment compensation laws. Proof of the payment of payroll contributions on the wages of the employe while working in such other states shall be in such manner as the commissioner shall prescribe.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, if upon August 31, 1959, and upon August 31 of each year thereafter until August 31, 1964, the fund reserve ratio is less than six percent, as determined by the provisions of ORS 657.451, "payroll," for contribution purposes, for the next calendar year shall mean all wages paid to employes in any employment subject to this chapter to and including the first \$3,800.

[Amended by 1955 c.655 §6; 1959 c.606 §1; 1965 c.205 §1]

**657.097 Political subdivision.** As used in this chapter, "political subdivision" means any county, city, district organized for public purposes, or any other political subdivision or public corporation.

[1957 c.682 §5]

**657.100 Unemployment.** An individual is deemed "unemployed" in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The commissioner shall prescribe such regulations as he deems necessary with respect to the various types of unemployment.

**657.105 Wages; generally.** As used in this chapter, unless the context requires otherwise, and subject to ORS 657.110 to 657.135, "wages" means all remuneration for employment, including the cash value, as determined by the commissioner under his regulations, of all remuneration paid in any medium other than cash.

**657.110 Wages; fringe benefits prior to 1951.** "Wages" does not include the amount of any payment made before January 1, 1951, to, or on behalf of, an employe under a plan or system established by an employer which makes provision for his employes generally or for a class or classes of his employes (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of retirement, sickness or accident disability, medical and hospitalization expenses in connection with sickness or accident disability or death, if the employe:

(1) Has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contribution to premiums) paid by his employer; and

(2) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his service with such employer.

**657.115 Wages; fringe benefits after 1950.** "Wages" does not include the amount

of any payment made after 1950, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, to, or on behalf of, an individual or any of his dependents under a plan or system established by an employing unit which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of:

- (1) Retirement.
- (2) Sickness or accident disability.
- (3) Medical or hospitalization expenses in connection with sickness or accident disability.
- (4) Death.

**657.120 Wages; retirement benefits.** "Wages" does not include the amount of any payment made by an employing unit after 1950 to an individual performing service for it, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of retirement.

**657.125 Wages; disability benefits.** "Wages" does not include the amount of any payment made on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, after 1950 by an employing unit to, or on behalf of, an individual performing service for it after the expiration of six calendar months following the last calendar month in which the individual worked for such employing unit.

**657.130 Wages; payments from certain trusts and annuities.** "Wages" does not include the amount of any payment made after 1950 by an employing unit to, or on behalf of, an individual performing service for it, or his beneficiary:

(1) From or to a trust exempt from tax under section 165(a) of the United States Internal Revenue Code at the time of such payment unless such payment is made to an individual performing service for the trust as remuneration for such service and not as a beneficiary of the trust; or

(2) Under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a) (3), (4), (5) and (6) of the United States Internal Revenue Code.

Note: The reference in ORS 657.130 is to the Internal Revenue Code of 1939, repealed in 1954. 26 U.S.C. §401 now deals with employes' trusts and annuity plans.

**657.135 Wages; payments to persons over 65.** "Wages" does not include the amount of any payment, other than vacation or sick pay, made after 1950 to an individual after the month in which he attains the age of 65 years, if he did not work for the employing unit in the period for which such payment is made.

**657.140 Wages; assistance to individuals under work relief programs.** As used in this chapter, "wages" or "remuneration" does not include the amount or value of public assistance provided in cash or in kind in consequence of labor or services performed by any individual under supervision or control provided by a public entity pursuant to a work relief program, as defined in ORS 411.855. [1961 c.631 §7; 1965 c.291 §5]

**657.145** [Reserved for expansion]

### BENEFITS AND CLAIMS

**657.150 Amount of benefits; length of employment and wages necessary to qualify for benefits.** (1) After June 30, 1959, an individual shall be paid benefits during his benefit year in an amount which is to be determined by taking into account his weeks of work in subject employment in his base year as provided in this section.

(2) To qualify for benefits an individual must have had at least 20 weeks of work with an average of \$20 per week in subject employment in his base year. However, to qualify for benefits, his total base year wages must be \$700 or more.

(3) If the wages paid to an individual are not based upon a fixed period of time or if his wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, for the purposes of subsections (2) to (5) of this section, his wages shall be allocated in accordance with regulations prescribed by the commissioner. Such regulations shall, in so far as possible, produce results the same as those which would exist if the individual had been paid his wages at regular intervals.

(4) An eligible individual's weekly benefit amount shall be 1.25 percent of the total wages paid him in his base year. However, such weekly benefit amount shall not be more than \$44, nor less than \$20. If the resulting weekly benefit amount is not a multi-

ple of \$1, it shall be computed to the nearest multiple of \$1.

(5) Benefits paid to an eligible individual in a benefit year shall not exceed 26 times his weekly benefit amount, or one-third of his base year's earnings, whichever is the lesser. If such amount is not a multiple of \$1, it shall be computed to the next lower multiple of \$1.

(6) An eligible individual who is employed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the remuneration, if any, payable to him with respect to such week which is in excess of one-third of his weekly benefit amount. If the resulting amount is not a multiple of \$1, it shall be computed to the nearest multiple of \$1.

[1955 c.655 §15; 1957 c.699 §1; 1959 c.567 §1; 1961 c.211 §1; 1963 c.441 §1]

**657.155 Benefit eligibility conditions.** An unemployed individual shall be eligible to receive benefits with respect to any week only if the commissioner finds that:

(1) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the commissioner may prescribe. However, the commissioner may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this chapter; provided, that no such regulation conflicts with ORS 657.255.

(2) He has made a claim for benefits with respect to such week in accordance with ORS 657.260.

(3) He is able to work, is available for work, and is actively seeking and unable to obtain suitable work. No individual performing labor or services under supervision or control provided by a county or city pursuant to a work relief program, as defined in ORS 411.855, shall, solely by reason thereof, be deemed unavailable for work within the meaning of this section.

(4) He has been unemployed for a waiting period of one week.

[Amended by 1955 c.655 §7; 1961 c.631 §8]

**657.160 Eligibility of individual leaving work because of marriage or pregnancy.** In

addition to other individuals who may suffer disqualification:

(1) An individual who leaves work to be married or to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment or whose marital status or domestic duties cause him or her to leave his or her employment shall not be eligible for unemployment insurance benefits for the duration of the ensuing period of unemployment and until he or she has secured bona fide employment subsequent to the date of such leaving.

(2) Notwithstanding the provisions of subsection (1), an individual who is pregnant and leaves work shall be disqualified commencing with the week in which she left work and ending six weeks after the date her pregnancy was terminated.

[Amended by 1959 c.643 §1; 1961 c.209 §1; 1965 c.213 §1]

**657.165 Waiting period eligibility condition, limitation on.** No week shall be counted as a week of unemployment for the purposes of subsection (4) of ORS 657.155:

(1) Unless it occurs within the benefit year that includes the week for which the unemployed individual claims payment of benefits; provided, this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment.

(2) If benefits have been paid with respect thereto.

(3) Unless the unemployed individual was eligible for benefits with respect thereto as provided in ORS 657.150 to 657.176 and 657.190 to 657.215, except for the requirements of subsection (4) of ORS 657.155.

[Amended by 1959 c.642 §2]

**657.170 Extending base year; limitation.** If the commissioner finds that during his base year any individual has been incapable of work during the greater part of his working time in any calendar quarter, such base year shall be extended a calendar quarter. No such extension of an individual's base year shall exceed four calendar quarters. Notwithstanding the provisions of this section, benefits payable as a result of the use of wages paid in a calendar quarter prior to the individual's current base year as defined in subsection (1) of ORS 657.010 shall not exceed one-third of such wages less benefits paid previously as a result of the use of such wages in computing a previous benefit determination.

[Amended by 1953 c.646 §2; 1961 c.208 §1]

**657.175** [Repealed by 1955 c.655 §8 (ORS 657.176 and 657.181 enacted in lieu of ORS 657.175, 657.180 and 657.185)]

**657.176 Grounds for disqualification.** An individual whose unemployment is due to:

(1) Having been discharged for misconduct connected with his work, or

(2) Having left work voluntarily without good cause, or

(3) Having failed without good cause, either to apply for available suitable work when so directed by the employment office or the commissioner, or to accept suitable work when offered to him, or to return to his customary self-employment, if any, when so directed by the commissioner,

shall, when so found by the commissioner, be disqualified from the receipt of benefits until he has performed service for which remuneration is received equal to or in excess of his weekly benefit amount in four separate weeks subsequent to the week in which the act causing the disqualification occurred.

[1955 c.655 §9 (ORS 657.176 and 657.181 enacted in lieu of ORS 657.175, 657.180 and 657.185); 1957 c.699 §2; 1959 c.643 §2]

**657.178 Benefit eligibility notwithstanding disqualification under ORS 657.176.** Notwithstanding the provisions of ORS 657.176, if an individual who has been so disqualified establishes to the satisfaction of the commissioner that he has, in not less than eight separate weeks subsequent to the week in which the cause for disqualification occurred, been able to work, available for work, actively seeking and unable to obtain suitable work, and was registered for work at an employment office as provided in subsection (1) of ORS 657.155, the commissioner in that event may find him eligible for benefits subsequent to such eight separate weeks.

[1959 c.643 §4]

**657.180** [Repealed by 1955 c.655 §8 (ORS 657.176 and 657.181 enacted in lieu of ORS 657.175, 657.180 and 657.185)]

**657.181** [1955 c.655 §10 (ORS 657.176 and 657.181 enacted in lieu of ORS 657.175, 657.180 and 657.185); 1957 c.699 §3; repealed by 1959 c.643 §5]

**657.182 Disqualification for commission of felony in connection with work.** Notwithstanding the provisions of ORS 657.176 and 657.178, if an individual is discharged for misconduct because of the commission of a felony in connection with his work, or because of larceny or embezzlement in connection with his work, all benefit rights based on wages paid prior to the date of such discharge shall be canceled; provided that such individual's employer notifies the commissioner of such possible disqualification within the time

limits specified by subsection (4) of ORS 657.265 and that the individual has admitted his commission of the felony, larceny or embezzlement to a representative of the commissioner, or has signed a written admission of such act and such written admission has been presented to a representative of the commissioner, or such act has resulted in a conviction by a court of competent jurisdiction; and provided further, that if by reason of such act, he is in legal custody, held on bail or is a fugitive from justice, the determination of his benefit rights shall be held in abeyance pending the result of any legal proceedings arising therefrom.

[1961 c.207 §1]

Note: ORS 657.182 was not added to and made a part of ORS chapter 657 by legislative action.

657.185 [Repealed by 1955 c.655 §8 (ORS 657.176 and 657.181 enacted in lieu of ORS 657.175, 657.180 and 657.185)]

**657.190 Suitable work factors.** In determining whether or not any work is suitable for an individual, the commissioner shall consider, among other factors, the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation and the distance of the available work from his residence.

**657.195 Suitable work exceptions.** (1) Notwithstanding any other provisions of this chapter, no work is deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout or other labor dispute.

(b) If the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(2) On and after November 8, 1938, and for the purposes of this chapter only, this section shall have the same meaning as the provisions of section 1603(a) (5) of the Federal Unemployment Tax Act.

Note: Section 1603 of the Federal Unemployment Tax Act has been repealed. For the corresponding provision under the Internal Revenue Code of 1954, see 26 U.S.C. §3304.

**657.200 Labor dispute disqualification.**

(1) An individual is disqualified for benefits for any week with respect to which the commissioner finds that his unemployment is due to a labor dispute which is in active progress at the factory, establishment or other premises at which he is or was last employed or at which he claims employment rights by union agreement or otherwise.

(2) When an employer operates two or more premises in the conduct of his business they shall be considered one premises for the purposes of this chapter if the labor dispute at one makes it impossible or impractical to conduct work at the others or in a normal manner.

(3) This section does not apply if it is shown to the satisfaction of the commissioner that the individual:

(a) Is not participating in or financing or directly interested in the labor dispute which caused his unemployment; and

(b) Does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises at which the labor dispute occurs, any of whom are participating in or financing or directly interested in the dispute.

**657.205 Deduction of guaranteed wage and vacation, retirement, dismissal or separation pay; withdrawal from labor force.**

(1) Subject to the provisions of subsections (2) and (3) of this section, an individual is disqualified for benefits for any week with respect to which he is receiving, will receive, or has received:

(a) Remuneration as a dismissal or separation allowance, as vacation pay or as a guaranteed wage; or

(b) Any payment under a retirement plan sponsored or participated in by an employer other than payments of old age insurance benefits under Title II of the Federal Social Security Act.

(2) In determining disqualification for any week under subsection (1) of this section, if the remuneration and payments referred to in paragraphs (a) and (b) of subsection (1) of this section cover a period greater than and include such week, a pro rata share of such remuneration and payments shall be apportioned to such week.

(3) If under this section the remuneration and payments, or the pro rata share thereof, in any week are less than the benefits which would otherwise be due under this chapter for such week, such individual is entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration and payments.

(4) In addition to other individuals who may suffer disqualification, an individual who is unemployed and eligible to receive old age insurance benefits under Title II of the federal Social Security Act is presumed to have withdrawn from the labor force and shall be ineligible for unemployment compensation benefits unless and until it is demonstrated to the commissioner's satisfaction that such individual has not voluntarily withdrawn from the labor force. In making such determination the commissioner shall consider, among other things, the circumstances under which the individual left his employment, subsequent reemployment or other evidence of bona fide labor force attachment.

[Amended by 1955 c.655 §13; 1957 c.699 §4; 1963 c.468 §1]

**657.210 Disqualification for compensation in other jurisdictions.** An individual is disqualified for benefits for any week with respect to which or a part of which he has received unemployment benefits under an unemployment compensation law of another state or of the United States. However, if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.

**657.213 Ineligibility for benefits upon conviction of fraud in obtaining benefits.** (1) Upon conviction of any person by a court of competent jurisdiction of wilfully making a false statement or misrepresentation, or wilfully failing to report a material fact, to obtain any benefits under this chapter, in addition to any penalties imposed by the court under subsection (3) of ORS 657.990, such person shall:

(a) Be ineligible for benefits based upon wages paid to him in the calendar quarter in which he was convicted and in all prior calendar quarters; and

(b) Be ineligible for benefits after such conviction until he has reimbursed the fund for the full amount he received as a result of the false statement or misrepresentations or of the failure to report a material fact.

(2) The provisions of this section are in addition and supplemental to the provisions of ORS 657.215 and 657.310.

[1955 c.655 §12]

**657.215 Disqualification for misrepresentation.** An individual is disqualified for benefits for a period not to exceed 26 weeks whenever the commissioner finds that he has wilfully made a false statement or misrepresentation, or wilfully failed to report a material fact to obtain any benefits under this chapter. The length of such period of disqualification and the time when such period begins shall be determined by the commissioner in his discretion, according to the circumstances in each case. The commissioner may cancel such disqualification wholly or in part as he deems proper and equitable.

657.220 [Repealed by 1955 c.655 §25]

657.225 [Repealed by 1955 c.655 §25]

657.230 [Repealed by 1955 c.655 §25]

657.235 [Repealed by 1955 c.655 §25]

657.240 [Repealed by 1955 c.655 §25]

657.245 [Repealed by 1955 c.655 §25]

657.250 [Repealed by 1957 c.699 §12]

**657.255 Method of payment of benefits; payment of benefits due deceased person.** (1) Benefits shall be payable from the fund and shall be paid through employment offices, in accordance with such regulations as the commissioner may prescribe.

(2) In the event of the death of any person to whom benefits are due under this chapter, but which benefits remain unpaid in whole or in part, such benefits may be paid to any person or persons designated by the commissioner in the following order:

(a) Surviving spouse.

(b) Surviving children, including adopted children.

(c) Mother or father of the deceased.

**657.260 Filing claims for benefits; employer to post statements concerning claim regulations.** (1) Claims for benefits shall be filed in accordance with such regulations as the commissioner may prescribe.

(2) Each employer shall post and maintain printed statements concerning such regulations or such other matters as the commissioner may by regulation prescribe in places readily accessible to individuals in his service and shall make available to each such

individual copies of printed statements or materials relating to claims for benefits as the commissioner may by regulation prescribe. Such printed statements shall be supplied by the commissioner to each employer without cost to him.

(3) Every person making a claim shall certify that he has not, during the week with respect to which benefits are claimed, received wages or compensation for any employment, whether subject to this chapter or not, otherwise than as specified in his claim.

**657.265 Initial determination of claim; request for a hearing.** (1) A deputy designated by the commissioner shall promptly notify the claimant's most recent employing unit of the filing of an initial claim and, on the basis of information available, shall determine the total amount of wages paid to the claimant during his base year and whether or not such amount is sufficient to qualify for benefits and, if so, the weekly benefit amount payable to the claimant, the maximum amount payable with respect to such benefit year and the maximum duration thereof; and shall promptly notify the claimant and all employing units who have paid wages to the claimant in excess of \$100 during his base year of such initial determination and likewise give notice of the potential charge to the employer's account pursuant to ORS 657.471. The initial determination shall be applicable to all weeks of the benefit year respecting which the claim was filed and may, for good cause, be amended with respect to unpaid benefits for any such week of the benefit year.

(2) Unless the claimant or one of the employing units entitled to be so notified, within 10 days after delivery of such initial determination or amended determination, or, if mailed, within 10 days after the same was mailed to his last-known address, files with the commissioner a request for hearing upon the initial or amended determination, such initial or amended determination shall be final and benefits shall be paid or denied in accordance therewith.

(3) A deputy designated by the commissioner shall promptly examine each claim for waiting week credit or claim for benefits and on the basis of the facts available to him make a decision to allow or deny waiting week credit or benefits for such week. Notice of such decision need not be given to the claimant if waiting week credit or benefits are allowed, but if either is denied, notice of such denial

shall be given in writing to the claimant stating the reasons therefor. Notice of a decision to allow or deny waiting week credit or benefits for a week shall be given to any employing unit which has filed with the department information in writing raising a question of eligibility of the claimant for any week for any reason other than his failure to comply with the provisions of ORS 657.150.

(4) Unless the claimant or one of the employing units entitled to be so notified, within 10 days after delivery of such notification, or, if mailed, within 10 days after the same was mailed to his last-known address, files with the commissioner a request for a hearing upon the claim, such decision shall be final and benefits shall be paid or denied in accordance therewith. However, if upon any such decision benefits are allowable irrespective of issues upon which a hearing is requested, the commissioner may pay such benefits regardless of any pending hearing on the claim.

[Amended by 1961 c.252 §3; 1965 c.210 §1]

**657.270 Hearing before referee; application for review.** (1) When a request for hearing upon the claim has been filed, as provided in ORS 657.265, the commissioner shall designate a referee to conduct such hearing.

(2) After the referee has afforded all parties reasonable opportunity for a fair hearing, he shall affirm promptly or modify the decision of the deputy with respect to the claim and promptly shall notify all parties entitled to notice of the decision of the deputy, as set forth in ORS 657.265, of his decision and reasons therefor.

(3) Unless the commissioner or any other party to the hearing, within 10 days after the delivery of such notification, or if mailed, within 10 days after the same was mailed to the last-known address, files with the Appeals Board an application for review, such decision shall be final and benefits shall be paid or denied in accordance therewith.

[Amended by 1965 c.210 §2]

**657.275 Review by Appeals Board.** (1) Whenever the commissioner or any interested party files with the Appeals Board an application for review and the Appeals Board requires additional evidence to reach its decision it may refer the matter to the commissioner who shall designate a referee to secure such additional evidence. If no additional evidence is required the Appeals Board shall promptly and not later than 30 days from the receipt of the application for review, affirm, modify or set aside the findings of the

referee and promptly notify the claimant and any other interested party of its decision.

(2) The decision of the Appeals Board shall become final 10 days after the date of notification or mailing thereof.

[Amended by 1959 c.583 §18; 1965 c.210 §3]

**657.280 General procedure and records concerning disputed claims.** (1) The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from the employers and the conduct of hearings and appeals shall be in accordance with the regulations prescribed by the commissioner for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure.

(2) A full and complete record shall be kept of all proceedings in connection with the disputed claim. All testimony at any hearing upon a disputed claim shall be recorded but need not be transcribed unless the disputed claim is appealed further.

**657.285 Judicial review.** (1) A judicial review, as provided in this section, shall be permitted only after any party claiming to be aggrieved by a decision has exhausted his remedies under ORS 657.265 to 657.275.

(2) Within 20 days after the decision of the Appeals Board has become final, any party aggrieved thereby including the commissioner may secure judicial review thereof by commencing an action in the circuit court of the district of which the county in which the claim was filed is a part. In such action any other party to the hearing before the referee, or the review of such claim before the Appeals Board, shall be made a defendant. If an appeal is filed in the wrong county the court shall enter an order transferring it to the proper county.

(3) In such action, a petition which need not be verified but which shall state the grounds upon which a review is sought shall be served upon the commissioner or upon such person as he may designate and such service is deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants. The commissioner forthwith shall mail one such copy to each such defendant. If the commissioner files such petition he shall serve all other parties by mailing a copy of the petition to each of the parties at his last-known address.

(4) With his petition or answer, the commissioner shall certify and file with said court all documents and papers and a transcript of all testimony taken in the matter, together with the Appeals Board's findings of fact and decisions therein.

(5) In any judicial proceeding under this section, the findings of the Appeals Board as to the facts if supported by evidence, in the absence of fraud, are conclusive, and the jurisdiction of said court shall be confined to questions of law. Such actions shall be heard in a summary manner and shall be given precedence over all other civil cases, except cases arising under the workmen's compensation law of this state.

(6) In case of the modification or reversal of the decision of the Appeals Board, the circuit court shall refer the claim back to the commissioner with an order directing him to fix the benefits in accordance with the decision of the court.

(7) An appeal may be taken from the judgment of the circuit court to the Supreme Court as in other cases, regardless of the amount of the benefits involved. The cost of such proceedings shall be taxed against the unsuccessful party.

[Amended by 1959 c.583 §19]

**657.290 Continuous jurisdiction of commissioner; reconsideration, by Appeals Board, of its previous decisions.** (1) Upon his own motion or upon application of any party to a claim for benefits, the commissioner may in his discretion at any time after the same was made and irrespective of whether it has become final under this chapter, reconsider any previous decision as to clerical errors and errors of computation in the claim and may, with respect to allowing or disallowing in whole or in part a claim for benefits, enter a new decision either upon any grounds or issues not previously ruled upon or in any case where new facts not previously known to the commissioner become available.

(2) Such reconsideration shall be accomplished by the commissioner or any employe he may designate for the purpose, in accordance with such regulations as the commissioner may prescribe, and may include the making of a new decision which, if made, shall award, deny, terminate, continue, increase or decrease benefits to the extent found necessary and appropriate for the correction of previous error respecting such benefits. However, any such new decision

shall be subject to hearing, review and appeal in accordance with ORS 657.265 to 657.285.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section the Appeals Board upon its own motion or upon application of any party in interest may in its discretion at any time after the same was made and irrespective of whether it has become final under this chapter, reconsider any previous decision of the Appeals Board. Such reconsideration shall be accomplished by the Appeals Board or special referee designated for the purpose, in accordance with regulations prescribed by the commissioner, and may include the making of a new decision to the extent necessary and appropriate for the correction of previous error. Such new decision shall be subject to judicial review in accordance with ORS 657.265 to 657.285.

[Amended by 1959 c.583 §20; 1961 c.252 §4; 1965 c.210 §4]

**657.295 Witness fees; disputed claim expenses; counsel fees.** (1) Witnesses other than parties subpoenaed pursuant to ORS 657.265 to 657.280 or 657.290 shall be allowed fees at a rate fixed by the commissioner. Such fees and all expenses of proceedings before the commissioner or the Appeals Board involving disputed claims, excepting charge for services rendered by counsel or other agent representing the claimant, employer or other interested person, are deemed a part of the expense of administering this chapter, and no individual claiming benefits shall be charged fees of any kind in any proceedings under this chapter by the commissioner or his representatives.

(2) Any individual claiming benefits in any proceeding before the commissioner, Appeals Board or a court may be represented by counsel or other duly authorized agent but no such counsel or agent shall charge or receive for such services more than an amount approved by the commissioner.  
[Amended by 1959 c.583 §21]

**657.300 False statements by employer.** No employer shall intentionally and wilfully make or cause to be made false or untrue statements regarding the claim of a claimant or regarding a claimant or claimant's eligibility for benefits under this chapter

**657.305 Fraud in obtaining benefits.** No person shall wilfully make a false statement or misrepresentation or wilfully fail to re-

port a material fact to obtain any benefit or payment under the unemployment compensation law of this state or of any other state or of the United States, either for himself or for any other person.

[Amended by 1955 c.655 §16]

**657.310 Recovery or deduction of benefits paid because of misrepresentation of recipient.** (1) Any person who makes, or causes to be made, a false statement or representation of, or fails to disclose, a material fact, and as a result thereof has received any amount as benefits under this chapter to which he was not entitled shall, irrespective of his knowledge or intent, if the existence of such nondisclosure or misrepresentation has been found in connection with a decision which was made and has become final pursuant to this chapter, be liable to repay such amount to the commissioner for the fund or to have such amount deducted from any future benefits payable to him under this chapter.

(2) No decision shall be construed to authorize the recovery of the amount of any benefits paid to a claimant unless such decision specifies that the claimant is liable to repay the same to the fund by reason of the nondisclosure or misrepresentation of a material fact, the nature of such nondisclosure or misrepresentation, and the week or weeks for which such benefits were paid, nor until such decision has become final.

(3) In any case in which a claimant is liable to repay to the commissioner any amount for the fund, such amount shall be collectible without interest by civil action brought in the name of the commissioner.

[Amended by 1963 c.14 §1]

**657.315 Recovery or deduction of benefits paid erroneously.** If any person, because of any error not due to the misrepresentation or nondisclosure of a material fact by him, is paid as benefits under this chapter any amount to which he was not entitled, he shall not be liable to repay the same, but he shall be liable to have such amount deducted from any benefits payable to him with respect to the benefit year within which such amount was so paid and the benefit year immediately subsequent thereto.

**657.320 Cancellation of unrecoverable benefits.** If any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from benefits

payable to him, has neither been repaid nor so deducted within a period of three years following the last day of the benefit year within which it was paid, and is deemed by the commissioner to be uncollectible, the same together with the record thereof and the resulting shortage, shall be canceled, and such amount shall be permanently charged to the fund.

657.325 to 657.400 [Reserved for expansion]

#### CONTRIBUTIONS BY EMPLOYERS; COVERAGE; RATE

**657.405 Definitions for ORS 657.430 to 657.457 and 657.471 to 657.485.** As used in ORS 657.430 to 657.457 and 657.471 to 657.485:

(1) "Average annual payroll" means the average taxable payroll of an employer during the three years immediately preceding the computation date, except that for an employer whose account has been chargeable with benefits throughout at least one year but less than three years ending on the computation date, it means one-third of the sum of his cumulative taxable payrolls for the period in which he has been subject to this chapter, but not more than the three years ending on the computation date.

(2) "Computation date" means the December 31 preceding each calendar year for contribution rates effective prior to January 1, 1948, and means the June 30 preceding each calendar year for contribution rates effective thereafter.

[Amended by 1955 c.655 §17; 1957 c.699 §5; 1961 c.252 §2]

**657.410 Minimum wage for employe without fixed wage.** For the purpose of determining the contribution of an employer, if a workman is not employed at a fixed wage, after a fair hearing, the commissioner may establish a minimum wage at which such workman shall be carried on the payroll of the employer.

**657.415 When employer ceases to be subject to this chapter.** No employer subject to this chapter shall cease to be subject to it except upon a written application by him and after a finding by the commissioner that he was not, during and since the preceding calendar year, an employer as defined in ORS 657.025.

[Amended by 1955 c.655 §18]

**657.420 Election of coverage by employers not otherwise subject.** (1) An employing unit, not otherwise subject to this

chapter, which files with the commissioner its written election to become an employer subject to this chapter for not less than two calendar years, shall, with the written approval of such election by the commissioner, become an employer subject to this chapter to the same extent as all other employers, as of the date stated in such approval.

(2) Such employing unit shall cease to be subject to this chapter as of January 1 of any calendar year subsequent to such two calendar years, only if at least 30 days prior to such January 1 it has filed with the commissioner a written notice of its intention to cancel such election.

(3) The election of any employing unit to become an employer subject to this chapter, as provided in this section, may be canceled by the commissioner at any time while such employing unit is in default in payment of contributions.

**657.425 Election of coverage for services that do not constitute employment as defined in this chapter.** (1) Any employing unit, for which services that do not constitute employment as defined in this chapter are performed, may file with the commissioner a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter for not less than two calendar years, or if services performed for an employing unit do not constitute employment as defined by this chapter but such services are subject to the Federal Unemployment Tax Act, such employing unit may file with the commissioner a written election that such services shall be deemed to constitute employment for all the purposes of this chapter for not less than two calendar years.

(2) Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval.

(3) Such services shall cease to be deemed employment subject to this chapter as of January 1 of any calendar year subsequent to such two calendar years, only if at least 30 days prior to such January 1, such employing unit has filed with the commissioner a written notice of its intention to cancel such election.

**657.430 Contribution rates based on experience.** The commissioner shall, for the calendar year beginning January 1, 1948, and for each calendar year thereafter, determine the contribution rate applicable to each employer on the basis of his actual experience in the payment of contributions on his own behalf and with respect to benefits paid to unemployed individuals on account of wages for services performed in the employ of such employer during the base years of such unemployed individuals subject to the conditions and exceptions contained in this chapter. Such rate shall be based upon the experience of such employer from the time he first became an employer subject to this chapter to and including June 30 immediately preceding such calendar year and shall be in accordance with the requirements, conditions and exceptions in ORS 657.435 to 657.460.

**657.435 Base rate for first year.** For calendar years prior to January 1, 1956, each employer's rate shall be two and seven-tenths percent unless and until there have been 36 consecutive months immediately preceding the computation date, except as otherwise provided, throughout which his account has been chargeable with benefits. For calendar years after December 31, 1955, each employer's rate shall be two and seven-tenths percent unless and until there have been 12 consecutive months immediately preceding the computation date, except as otherwise provided, throughout which his account has been chargeable with benefits.

[Amended by 1955 c.655 §5]

**657.440** [Repealed by 1957 c.699 §12]

**657.445** [Repealed by 1957 c.699 §12]

**657.450** [Repealed by 1957 c.699 §12]

**657.451 Rates for calendar years 1960 through 1963.** (1) As used in this section:

(a) "Employer's reserve ratio" means the percentage ratio of the amount of each employer's reserve balance to the amount of his average annual payroll.

(b) "Employer's reserve balance" means the amount by which each employer's contributions to the fund from the time he first became an employer subject to this chapter to and including June 30 of the year preceding the calendar year for which his rates are determined exceeds benefits paid during such period based upon services performed by his employes.

(c) "Fund reserve ratio" means the percentage ratio of the amount in the Unemployment Compensation Trust Fund as of August 31 of the year preceding the calendar year for which the employer's rates are determined to the average total annual taxable payroll of all employers for the last eight completed calendar years as reported to the commissioner.

(2) Each employer's rate for the calendar year beginning January 1, 1960, and for each calendar year thereafter, shall be based upon the employer's reserve ratio and the fund reserve ratio in accordance with the percentages set forth in Table A:

**Table A**

Employer's Reserve Ratio	Fund Reserve Ratio	
	5% or More	Under 5%
Less than 7%	2.7%	2.7%
7% or more but less than 9%	2.3%	2.7%
9% or more but less than 11%	1.9%	2.7%
11% or more but less than 13%	1.5%	2.7%
13% or over	1.2%	2.7%

[1955 c.655 §20; 1957 c.699 §6; 1959 c.606 §2]

**657.455** [Amended by 1955 c.655 §21; 1959 c.606 §3; repealed by 1963 c.302 §4]

**657.457 Rate where employer fails to file contribution reports and pay contributions when due.** (1) Notwithstanding the provisions of ORS 657.451 and subject to subsection (2) of this section, no employer's contribution rate for any rating period after December 31, 1957, shall be less than two and seven-tenths percent of his taxable payroll if he has failed prior to September 1 to:

(a) File all contribution reports as required by the commissioner; or

(b) Pay all contributions due.

(2) If prior to September 15 immediately following the computation date the employer establishes to the satisfaction of the commissioner good cause for his failure, the commissioner may waive the requirement of subsection (1) of this section and compute the employer's contribution rate under the provisions of ORS 657.451.

[1957 c.699 §8(1), (2)]

**657.460** [Repealed by 1959 c.606 §4]

**657.462 Computation of benefit ratio; grouping employers within cumulative taxable payroll percentage limits; assignment of rates for calendar year 1964 and thereafter.**

(1) Notwithstanding the provisions of ORS 657.430, the commissioner or his authorized representative shall, for the calendar year 1964 and for each calendar year thereafter,

compute a benefit ratio for each employer who meets the requirements of this section. For an employer whose record has been chargeable with benefits throughout the 12 preceding calendar quarters ending on the computation date, the benefit ratio shall be a quotient obtained by dividing the total benefit charges to his record in such 12 calendar quarters by the total of his taxable payrolls for the same 12 calendar quarters. For an employer whose record has been chargeable with benefits for at least four or more consecutive calendar quarters but less than 12 consecutive calendar quarters and ending on the computation date, the benefit ratio shall be the quotient obtained by dividing the total benefits charged to his record for such consecutive calendar quarters by the total of his taxable payrolls for the same period. Benefit ratios shall be carried out to the sixth decimal place.

(2) A listing shall be prepared of all employers meeting the requirements of this section and whose account is open according to Department of Employment records as of August 31 following the computation date. This listing shall start with the employer having the lowest benefit ratio and progress through the employer having the highest benefit ratio. The listing shall show for each employer (a) the benefit ratio, (b) his taxable payroll for the four calendar quarters immediately preceding the computation date,

and (c) a cumulative total consisting of the sum of such employer's taxable payroll and the taxable payroll of all other employers preceding him on the list.

(3) The department shall group all employers in accordance with the cumulative taxable payroll percentage limits for the schedule in effect under Table A. All employers who fall within the same group will be assigned the tax rate for that group. However, if this grouping results in the taxable payroll of an employer falling in two groups, such employer and any other employer with the same benefit ratio shall be assigned the lower of the two applicable rates. Fractions of a cent will be dropped in computing taxable payroll limits used in Table A. The schedule in effect shall be in accordance with the Fund Reserve Ratio percentages set forth in Table A.

[1963 c.302 §2]

**657.464 Rates for calendar year 1964 and thereafter.** Notwithstanding the provisions of ORS 657.451, "fund reserve ratio" shall, for the purpose of computing tax rates for the calendar year 1964 and each year thereafter, mean the percentage ratio of the amount in the Unemployment Compensation Trust Fund as of August 31 of the year preceding the calendar year for which the employer's rates are determined to the average total annual taxable payroll of all employers for the last three completed calendar years as reported to the commissioner:

**TABLE A**  
(Taxable Payroll referred to is the total for all eligible firms for the four calendar quarters preceding and ending on the computation date)

Fund Reserve Ratio	I	II	III	IV
	5.5 and Over	5.00 but less than 5.5	4.5 but less than 5.0	Under 4.5
Tax Rate	Cumulative Taxable Payroll Limits (% of Total Taxable Payroll)	Cumulative Taxable Payroll Limits (% of Total Taxable Payroll)	Cumulative Taxable Payroll Limits (% of Total Taxable Payroll)	Cumulative Taxable Payroll Limits (% of Total Taxable Payroll)
1.2.....	0% but less than 20%	0% but less than 20%	0% but less than 20%	
1.5.....	20% but less than 40%	20% but less than 40%	20% but less than 40%	
1.8.....	40% but less than 50%	40% but less than 50%	40% but less than 50%	
2.0.....	50% but less than 60%	50% but less than 60%	50% but less than 60%	
2.2.....	60% but less than 70%	60% but less than 70%	60% but less than 70%	
2.4.....	70% but less than 80%	70% but less than 80%	70% but less than 80%	
2.6.....	80% but less than 90%	80% but less than 90%	80% but less than 90%	
2.7.....	90% to 100%	85% to 100%	80% to 100%	0% to 100%

[1963 c.302 §3]

**657.465** [Repealed by 1955 c.655 §22 (657.466 enacted in lieu of 657.465)]

**657.466** [1955 c.655 §23 (enacted in lieu of 657.465); 1957 c.699 §9; renumbered 657.471]

**657.467 Computation of fund reserve ratio to include unobligated balance in Special Administrative Fund.** The unobligated balance in the Department of Employment Special Administrative Fund shall be included with the balance in the Unemployment Compensation Trust Fund in any computation of a fund reserve ratio under this chapter. The inclusion provided by this section shall apply only for purposes of such fund ratio computations.

[1965 c.359 §3]

**657.470** [Repealed by 1963 c.302 §4]

**657.471 Manner of charging benefits to employer.** (1) Subject to the provisions of subsections (2) to (5) of this section, benefits paid to an eligible individual shall be charged to each of his employers during the base year in the same proportion that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that year.

(2) An employer's account shall not be charged with benefits paid an unemployed individual in excess of one-third of the wages paid that individual while in the employ of such employer during any base year after 1949.

(3) Benefits paid to an individual for unemployment immediately after the expiration of a period of disqualification for having left work of an employer voluntarily without good cause shall not be charged to that employer.

(4) Benefits paid to an individual for unemployment immediately after the expiration of a period of disqualification for having been discharged by an employer for misconduct shall not be charged to that employer.

(5) Benefits paid without any disqualification to an individual who has left work of an employer voluntarily for good cause not attributable to the employer shall not be charged to that employer for the immediate period of unemployment.

[Formerly 657.466]

**657.472** [1957 c.699 §8(3); repealed by 1963 c.354 §1 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.475 Where a number of the same workers are normally employed by several employers; records; contributions; charging benefits.** (1) Where a number of workers are normally employed in employment in the

course of a year by several employers, such employers, with the approval of the commissioner, may appoint an agent who shall maintain such records and prepare and file such returns and reports as are required under this chapter in respect to such workers, including returns and reports of wages paid and payable to such workers, and may pay the employers' contributions levied under this chapter in respect to wages paid and payable to such workers and shall perform such other acts on behalf of such employers as the commissioner may authorize, all in the same manner as though such agent were the employer of such workers.

(2) The commissioner may, by regulation, provide for the manner of crediting to each such employer the employment experience of such group of employers who have appointed such agent with respect to such workers, for the purpose of any classification of employers made pursuant to this chapter for the determination of future rates of employers' contributions.

(3) Any of such employers who operate or do business in more than one place may, with the approval of the commissioner, appoint a separate agent in each such place.

(4) This section shall not be construed to make such agent the employer of such workers, or relieve any employer of his obligations to comply with the terms of this chapter, except to the extent that such obligations are discharged by such agent.

**657.480 Effect of transfer of employing unit.** If, on or after January 1, 1936, the organization, trade or business, including the entire employing enterprise and all its incidents for all purposes of this chapter, of any employer is by purchase or otherwise transferred to an employing unit, whether or not such acquiring employing unit was an employing unit within the meaning of ORS 657.020 prior to such acquisition, the employing unit to which the transfer is made shall assume the position of such employer with respect to such employer's experience, payrolls and otherwise the same as if there had been no change in ownership and shall be required to assume and continue the experience of such employer pursuant to ORS 657.430 to 657.457 and 657.471 to 657.485. However, no employing unit to which the organization, trade or business of an employer has been transferred is entitled to a rate of contributions of less than two and seven-tenths percent until such

employing unit, based upon its experience and the experience of the organization, trade or business transferred, would be entitled under the Federal Unemployment Tax Act to additional tax credit offset for good experience under this chapter.

**657.485 Notice of rate; procedure for redetermination; judicial review.** (1) The commissioner shall promptly notify each employer not later than November 15 of each year of his rate of contributions as determined pursuant to this chapter.

(2) Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to his last address as shown by the records of the commissioner or, in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application in writing for review and redetermination with the commissioner, setting forth his reasons therefor.

(3) If a valid application is filed within the time provided in subsection (2) of this section, a referee designated by the commissioner shall review the determination and, if requested by the employer, shall grant a hearing unless a hearing previously has been afforded the employer on the same grounds as set forth in the application. The referee shall give notice of the time and place of hearing to the commissioner or his authorized representative and shall also give notice to the employer by mail directed to the last address of the employer of record with the commissioner. Hearings under this subsection shall be conducted in accordance with this chapter and the rules and regulations of the commissioner. The filing of an application for hearing with respect to a disputed determination of tax rate shall not affect the right of the commissioner or his authorized representative to perfect any liens provided by this chapter.

(4) After hearing, the referee shall enter his findings of fact and decision either affirming, modifying or setting aside the determination of the commissioner or his authorized representative. The employer and the commissioner shall be promptly notified of the decision of the referee. All testimony at any hearing held before a referee under this section shall be recorded but need not be transcribed unless an application for review from the decision of the referee is filed with the Appeals Board in the manner and within

the time prescribed in subsection (5) of this section.

(5) A decision of the referee shall become final 10 days after the date of notification or the mailing thereof to the commissioner and to the employer at his last address of record with the commissioner, and shall become conclusive and binding upon the employer and the commissioner, unless within 15 days after the decision of the referee has become final an application for review and redetermination of the referee's decision is filed with the Appeals Board, setting forth the reasons therefor. If a valid application for review and redetermination is filed with the Appeals Board, the employer and the commissioner shall promptly be notified thereof and shall be granted an opportunity to appear and be heard upon review of the referee's decision. The Appeals Board may remand the case to the referee for additional evidence. Upon review of the referee's findings of fact and decision and the record of proceedings before the referee, the Appeals Board shall enter its own findings of fact and decision or adopt the findings of fact and decision of the referee.

(6) No employer shall have any standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to ORS 657.265 to 657.295, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision or to any other proceeding under this chapter in which the character of such service was determined. At any hearing under this section the tax rate determined by the commissioner or his authorized representative shall be prima facie correct and the burden shall be upon the protesting employer to prove it is incorrect.

(7) The decision of the Appeals Board after review or an order dismissing the application for review and redetermination shall become final 10 days after the mailing of notice thereof to the commissioner and to the employer at his last address as shown by the records of the commissioner, and shall become binding and conclusive upon

the commissioner and the employer unless, within 20 days after the decision of the Appeals Board or order dismissing the application for review and redetermination has become final, a petition for judicial review thereof is filed by the commissioner or the employer in the Circuit Court for Marion County or the county in which the employer resides or has his principal place of business. Judicial review of a tax rate determination of the commissioner or his authorized representative shall be permitted only after the aggrieved party has exhausted his administrative remedies.

(8) With his petition for judicial review, or his answer, as the case may be, the commissioner shall certify and file with such court the original or certified copy of all documents and papers and transcript of all testimony taken in the matter, together with the Appeals Board's findings of fact and decision thereon. Petitions for judicial review need not be verified but shall state the grounds upon which the review is sought.

(9) In any proceeding under this section, the findings of the Appeals Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. No additional evidence shall be received by the court. Such proceeding shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under ORS 657.285, and the Workmen's Compensation Law of this state.

(10) An appeal may be taken from the decision of the circuit court to the Supreme Court as in other cases, regardless of the amount in controversy. Costs and disbursements of such proceedings shall be taxed against the unsuccessful party.

[Amended by 1959 c.583 §22; 1965 c.210 §5]

**657.490 Employer or his employe has no prior right to employer's contributions.** This chapter shall not be construed to grant any employer or any individual in his service prior claims or rights to the amount paid by the employer into the fund.

**657.495 Fraud in lowering contributions.** No person shall wilfully make a false statement or misrepresentation to lower contributions paid to the fund.

**657.500** [Reserved for expansion]

## COLLECTION OF CONTRIBUTIONS

**657.505 Payment of and liability for contributions.** (1) On and after January 1, 1936, contributions shall be payable by each employer then subject to this chapter. Contributions shall become payable by any other employer on and after the date on which he becomes subject to this chapter.

(2) An employer shall be liable for contributions on all wages paid for services performed on or after the first day of a calendar quarter.

(3) Contributions of an employer shall not become payable until this chapter has been approved by the Secretary of Labor, and notice of such approval has been given to the Governor as provided in section 1603 of the Federal Unemployment Tax Act.

(4) All contributions shall be paid to and collected by the commissioner at such times and in such manner as the commissioner may prescribe and upon collection, shall be deposited in the Unemployment Compensation Trust Fund.

(5) In lieu of contributions required of all other employers subject to this chapter, the state shall pay into the Unemployment Compensation Trust Fund an amount equivalent to the amounts in benefits paid out to claimants who during the applicable base year were paid wages by the state. If a claimant during his base year was employed by both the state and other employers subject to the provisions of this chapter, the amount to be paid into the trust fund shall be prorated between the state and such other employers. The amount of payments required under this section to be paid into the trust fund shall be ascertained by the commissioner as soon as practicable after the end of each calendar quarter and shall be payable from the General Fund of the state, except as provided in this section. If a claimant to whom benefits were paid was paid wages by the state during the base year from a special or administrative fund provided for by law, the payment into the Unemployment Compensation Trust Fund shall be made from such special or administrative fund with the approval of the Department of Finance and Administration.

(6) Any political subdivision subject to this chapter, as provided in ORS 657.425 and subsection (1) of ORS 657.020, shall pay into the Unemployment Compensation Trust Fund an amount equivalent to the amount

of benefits paid out to claimants who during the applicable base year were paid wages by such political subdivision. If a claimant during such base year was employed by both such political subdivision and other employers subject to the provisions of this chapter, the amount to be paid into the fund shall be prorated between such political subdivision and such other employers. The amount of payments required under this section to be paid into the trust fund shall be ascertained by the commissioner as soon as practicable after the end of each calendar quarter. The payments by such political subdivision into the trust fund shall be made quarterly or at such times and in such manner as the commissioner may determine and prescribe.

[Amended by 1957 c.682 §6]

Note: See note under ORS 657.195.

**657.506 When leader of musicians' group responsible for contributions.** If services are performed by a musician as a member of a group which has a written contract between the leader of the group and a person or organization by whom the group is engaged, the terms of which provide that the leader of the group shall be deemed the responsible party of the members of the group, then such written contract shall be accepted by the Department of Employment as conclusive evidence that the leader is such responsible party and is wholly responsible for all employment taxes due based upon the wages or earnings of the musicians performing services under the written contract.

[1965 c.392 §2]

**657.507 Employer's deposit or bond as security for payment of contributions.** (1) If upon satisfactory evidence the commissioner finds it necessary for the protection of the Unemployment Compensation Trust Fund, he may require any employer subject to this chapter, except the state, including every state officer, board, commission, department, institution, branch, agency or political subdivision, to deposit and keep on deposit, with the commissioner, a sum equal to the contributions due the commissioner upon his payroll or estimated payroll covering a period of three calendar quarters.

(2) The commissioner may, in his discretion and in lieu of such deposit, accept a bond in a form acceptable to the commissioner to secure payment of contributions to become due the fund. The deposit or posting

of the bond shall not relieve the employer from making contributions to the fund based on his payroll as provided by this chapter.

(3) If an employer ceases to be an employer subject to this chapter, the commissioner shall, upon receipt of all payments due the fund based on his payroll, refund to the employer all deposits remaining to the employer's credit and shall cancel any bond given under this section.

[1959 c.598 §7]

**657.508 Failure to comply with ORS 657.507.** (1) If an employer fails to comply with ORS 657.507, the circuit court of the county in which the employer resides or in which he employs workmen shall, upon the commencement of a suit by the commissioner for that purpose, enjoin the employer from further employing workmen in this state or continuing in business therein until the employer has complied with ORS 657.507.

(2) Upon filing of a suit for such purpose by the commissioner, the court shall set a day for hearing and shall cause notice thereof to be served upon the employer. The hearing shall be not less than five nor more than 15 days from the service of the notice.

[1959 c.598 §8]

**657.510 Refunds.** If not later than three years after the date on which any contributions, interest, fines or penalties were paid pursuant to this 1965 Act, an employer who has paid such contributions, interest, fines or penalties makes application for an adjustment thereof in connection with subsequent contributions, interest, fine or penalty payments, or for a refund thereof because such adjustment cannot be made, and the commissioner determines that such contributions, interest, fines or penalties, or any portion thereof were collected erroneously, the commissioner shall allow such employer to make an adjustment of the amount erroneously paid, without interest, in connection with subsequent contributions, interest, fine or penalty payments by him or, if such adjustment cannot be made, the commissioner shall refund said amount, without interest, from the Unemployment Compensation Trust Fund or from the Department of Employment Special Administrative Fund, as applicable; provided that the commissioner shall not allow any adjustment in connection with subsequent contributions for amounts of interest, fines or penalty payments collected or received subsequent to July 1, 1965, nor

shall he refund any such payment from the fund except that he may refund any such payment from the interest, fine and penalty collected after such date which are temporarily in the fund for clearance pending transfer to the Department of Employment Special Administrative Fund. For like cause and within the same period, adjustment or refund from the Unemployment Compensation Trust Fund and the Department of Employment Special Administrative Fund, as appropriate, may be so made on the commissioner's own initiative. Refunds of contributions pursuant to subsection (1) of ORS 657.065 shall be refunded by the commissioner from the fund without application. When refunds of contributions are made pursuant to subsection (1) of ORS 657.065, refunds of fines, penalties and interest, if any, shall be made from the Department of Employment Special Administrative Fund without application.

[Amended by 1965 c.359 §4]

**Note:** The Legislative Counsel has not, pursuant to ORS 173.160, substituted ORS numbers for the words "this 1965 Act" in ORS 657.510. 1965 c.359 enacted ORS 293.707, 657.467 and 657.822, and amended ORS 657.510, 657.515, 657.540, 657.805 and 657.830.

**657.512** [1959 c.598 §4; repealed by 1963 c.354 §1 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.515 Delinquent contributions; interest; civil penalties; collection by civil action; settlement.** (1) If an employer defaults with respect to any payment required to be made by him to the Unemployment Compensation Trust Fund, the contributions at any time due, together with interest thereon and penalties, shall be collected by the commissioner in a civil action against such employer brought in the name of the commissioner and judgment rendered thereon shall bear interest at the rate provided in subsection (2) of this section. Such employer's compliance with this chapter, requiring payments to be made to the Unemployment Compensation Trust Fund, shall date from the time said money was collected. The amount of contributions collected shall be paid into the Unemployment Compensation Trust Fund. The amount of interest, penalties and fines collected pursuant to this subsection shall be paid to the Department of Employment Special Administrative Fund in accordance with the provisions of subsection (3) of ORS 657.830.

(2) Interest upon the amount due from an employer shall be paid and shall be collected, at the same time payment of contributions is required to be made by such employer to the Unemployment Compensation Trust Fund at the rate of one percent per month or fraction of a month from the date prescribed for the payment to the Unemployment Compensation Trust Fund.

(3) If any employer fails to make payment of contributions required by this chapter at the time prescribed by the commissioner for the payment thereof, such employer shall be in default.

(4) If any employer who is in default with respect to payment of any contributions fails to make payment thereof within 10 days after written demand therefor has been made by the commissioner, such employer shall be subject, in the discretion of the commissioner, to a penalty of 10 percent of the amount of such contributions. A demand for payment shall be deemed to have been made when deposited in the mail addressed to such employer at his last-known address as shown by the records of the commissioner.

(5) If any part of any deficiency is due to fraud with intent to avoid payment of contributions to the Unemployment Compensation Trust Fund, then 50 percent of the total amount of the deficiency, in addition to such deficiency, shall be assessed, collected and paid in the same manner as if it were a deficiency and shall be paid into the Department of Employment Special Administrative Fund pursuant to this section and ORS 657.822.

(6) Civil actions brought in the name of the commissioner under this section to collect contributions, interest or penalties from an employer, shall be entitled to preference upon the calendar over all civil cases which involve only private parties.

(7) Notwithstanding the provisions of this section, if the commissioner finds that the total interest collectible on any delinquent account is in excess of 25 percent of the principal and that an employer or former employer, who no longer conducts an active business, has insufficient net assets to pay the full amount of all taxes, interest or penalties that may be due and where such employer or former employer can pay some but not all of such amount, the commissioner may agree to accept any amount he finds reasonable under the circumstances, as consideration for the settlement of the full a-

mount of taxes, interest or penalties due. Whenever such an agreement is made a written record signed by the commissioner shall be maintained in the files of the commissioner. Such records shall set forth:

(a) The name of the taxpayer against whom the liability was assessed;

(b) The amount of the assessed liability;

(c) The amount of the liability paid;

(d) The amount of the liability canceled or waived;

(e) A sworn statement of the taxpayer or his personal representative setting forth the complete financial responsibility of the taxpayer or his estate, and containing a full disclosure of all matters bearing upon the ability of the taxpayer or his estate to pay the full amount of the liability assessed; and

(f) The written recommendation of an assistant to the Attorney General assigned to the commissioner that the liability be reduced in the amount shown by the record.

(8) A full and true copy of the record of each such agreement and settlement as provided in subsection (7) of this section shall be filed by the commissioner with the Secretary of State as a public record.

(9) The amount of any settlement reached pursuant to this section shall be first credited to the contributions due from such employer until the principal amount of contributions due has been satisfied and shall be deposited in the Unemployment Compensation Trust Fund.

[Amended by 1959 c.598 §1; 1963 c.390 §1; 1965 c.359 §5]

**657.520 Claims for contribution are preferred.** All contributions, interest charges, penalties or amounts due the Unemployment Compensation Trust Fund from any employer under this chapter and all judgments recovered by the commissioner against any employer under this chapter shall be given the same priority as taxes and shall be deemed preferred to all general claims in all bankruptcy proceedings, trustee proceedings, proceedings for the administration of estates, receiverships and assignments for the benefits of creditors involving the employer liable therefor or the property of such employer.

**657.525 Lien on subjects and products of labor for which contributions are due.** A lien is created in favor of the commissioner upon all real property within this state and any structure or improvement thereon and

upon any mine, lode, deposit, mining claim, road, tramway, trail, flume, ditch, pipeline, building or other structure or equipment on or pertaining thereto, and upon all lumber, sawlogs, spars, piles, ties or other timber, and upon all other manufactured articles of whatsoever kind or nature upon which labor is performed by the workmen of any employer subject to this chapter, in a sum equal to the amount at any time due from such employer to the commissioner on account of labor performed thereon by the workmen of such employer, together with interest and penalties.

**657.530 Lien on property used in connection with employment on which contributions are due.** The commissioner also shall have a lien upon all real or personal property of the employer used in connection with the employment on which contributions are due, in a sum equal to the amount at any time due from any employer subject to this chapter on account of labor performed by the workmen of such employer, together with interest and penalty.

**657.535 Liens under ORS 657.525 or 657.530; priority; filing statement of lien; foreclosure.** (1) The liens created by ORS 657.525 and 657.530 shall be prior to all other liens and encumbrances, except labor liens and taxes, and they shall have equal priority with other tax liens.

(2) In order to avail himself of such liens, the commissioner shall, within 60 days after the employer is in default, as provided in subsection (3) of ORS 657.515, file with the county clerk of the county within which such property is then situated, a statement in writing describing the property upon which a lien is claimed and stating the amount of the lien claimed by the commissioner. If a lien is claimed on real property not then owned by the employer, such statement must be filed within 60 days from the completion of the work.

(3) When a lien is claimed on real property, the commissioner shall, within one year from the filing of the statement, commence a suit to cause such lien to be foreclosed in the manner provided by law for the foreclosure of other liens on real or personal property. If the lien is claimed on personal property, the commissioner may, within one year from the filing of the statement, commence foreclosure proceedings as provided in ORS 87.110 and 87.115.

**657.540 Lien on all property of defaulting employer; recording; priority; foreclosure.** (1) If an employer liable for the payment of contributions to the Unemployment Compensation Trust Fund is in default, as provided in subsection (3) of ORS 657.515, the amount of contributions, interest and penalties due shall be a lien in favor of the commissioner upon all property, whether real or personal, belonging to such employer and shall attach upon the filing of a notice of claim of lien with the county clerk of the county in which the property is located.

(2) The notice of lien claim shall contain a true statement of the demand, after deducting all just credits and offsets, and the default of such employer. The county clerk shall record said claim of lien in a book kept for that purpose, which record shall be indexed as deeds and other instruments.

(3) The lien created by this section is prior to all liens and encumbrances recorded subsequent to the filing of notice of claim of lien, except taxes and labor liens.

(4) The lien created by this section may be foreclosed by a suit in the circuit court in the manner provided by law for the foreclosure of other liens on real or personal property.

[Amended by 1965 c.359 §6]

**657.542 Filing liens with Secretary of State.** (1) Any lien filed as provided in ORS 657.535 and 657.540 may also be filed in the office of the Secretary of State. Filing in the office of the Secretary of State shall be of no effect, however, until the lien or copy thereof shall have been filed with the county clerk in the county where the property is situated at the time of the execution of the lien.

(2) When a lien is filed in compliance herewith and with the Secretary of State, such filing shall have the same effect as if the lien had been duly filed for record with the county clerk in each county of this state.

(3) A lien so filed with the Secretary of State shall be filed and indexed by the Secretary of State in the same manner as is provided in ORS 79.4010 for the filing and indexing of financing statements.

[1959 c.598 §9; 1961 c.726 §425]

**657.545 Release of lien of ORS 657.540 by bond.** (1) The employer against whose property a lien has been filed under ORS 657.540 may cause his property to be re-

leased by filing with the county clerk of the county wherein such lien is recorded a bond in a sum double the amount claimed in said lien, executed by a surety company licensed to do business in Oregon or by two freeholders of this state, having the qualifications of bail upon arrest, to be approved by the circuit judge of the district in which said lien is filed, or, in the event of his absence from the county in which said lien is filed, then by the county judge of said county, running to the commissioner and conditioned for the payment of all damages, costs, charges and disbursements that may be recovered by the commissioner against such employer or that may be found to be a lien upon or against the property of such employer.

(2) The clerk shall issue to such employer a certificate stating that the bond is substituted in lieu of the property of said employer and that the lien on said property is forever released and discharged. A marginal entry of said release and bond shall be made in the lien docket containing the original record of statement of claim.

(3) If the commissioner establishes the validity of his lien by a suit to foreclose the same, he is entitled to judgment or decree against the sureties upon said bond.

**657.550** [Amended by 1959 c.598 §2; repealed by 1963 c.354 §1 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.552 Limitations on notices of assessment and on actions to collect contributions, interest and penalties.** (1) Except in the case of failure without good cause to file a return, fraud or intent to evade any provision of this chapter or authorized regulations, every notice of assessment shall be given within four years after the last day of the month following the close of the calendar quarter during which the contribution liability included in the assessment accrued. An employer may waive this limitation period or may consent to its extension.

(2) In case of failure without good cause to file a return, every notice of assessment shall be given within eight years after the last day of the month following the close of the calendar quarter during which the contribution liability included in the assessment accrued. An employer may waive this limitation period or may consent to its extension.

(3) No action or suit shall be commenced to collect any amount of contributions, interest or penalties due under assessment unless

such action or suit is commenced within three years from the date of the assessment, except in the case of fraud or intent to evade any provision of this chapter or authorized regulations, an action or suit may be commenced at any time.

(4) If the cause of action or suit accrues or has accrued against any employer who is out of the state or concealed therein, such action or suit may be commenced within three years after the return of such employer into the state, or the time of his concealment has ended; provided, however, actions to collect contributions, interest or penalties thereon which became due and payable prior to July 5, 1947, and suits to foreclose any lien therefor which is in existence on July 5, 1947, shall be commenced within three years after July 1, 1947.

[1963 c.354 §5 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.555 Authority of commissioner to release, compromise or satisfy liens.** Any lien provided for in ORS 657.525 to 657.540 may be released, compromised or satisfied by the commissioner, and the property against which a lien is claimed shall be released therefrom by filing a notice of such release or satisfaction with the county clerk of the county in which the notice of lien claim was filed.

**657.557 Remedies for collection of contributions not exclusive.** Remedies given to the commissioner under this chapter for the collection of contributions, interest and penalties shall be cumulative and no action taken by the commissioner or his duly authorized representative, the Attorney General, or any other officer, shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other.

[1959 c.598 §5]

**657.560 Joining commissioner in actions involving title of property subject to commissioner's lien.** The commissioner may be made a party to any suit or action involving the title to real or personal property against which the commissioner has or may claim a lien under this chapter.

**657.565 Unlawful practices of employer.**

(1) No employer or agent of any employer shall wilfully refuse or fail to pay a contribution to the fund or to furnish any report, audit

or information duly required by the commissioner under this chapter.

(2) No employer shall make a deduction from the wages or salary of any employe to pay any portion of the contribution which the employer is required to make.

**657.570 to 657.600** [Reserved for expansion]

### **DEPARTMENT OF EMPLOYMENT; ADMINISTRATION GENERALLY**

**657.605** [Repealed by 1959 c.583 §24]

**657.606 Department of Employment.** The name of the State Unemployment Compensation Commission hereby is changed to "Department of Employment."  
[1959 c.583 §2]

**657.608 Department of Employment Commissioner.** (1) The office of Department of Employment Commissioner hereby is created. The Governor shall appoint the commissioner who shall be responsible to and hold his office at the pleasure of the Governor. The appointment of the commissioner is subject to confirmation by the Senate by the affirmative vote of two-thirds of the Senate voting on the confirmation, a quorum being present. A person appointed in the interim between legislative sessions to be commissioner shall serve until the next regular or special session of the legislature, at which time his name or the name of some other appointee shall be submitted to the Senate by the Governor. If an appointment is not confirmed by the Senate, the appointee shall cease to be commissioner and the Governor shall make another appointment subject to confirmation by the Senate as provided in this subsection.

(2) The commissioner shall administer the provisions of this chapter and exercise all the powers, duties and functions exercised before July 1, 1959, by the State Unemployment Compensation Commission.

(3) The annual salary of the commissioner shall be paid out of the Unemployment Compensation Administration Fund.  
[1959 c.583 §3]

**657.610 Powers and duties generally; rules and regulations.** (1) The commissioner shall determine all questions of general policy and promulgate rules and regulations and be responsible for the administration of this chapter.

(2) The commissioner in his name may sue and be sued, and shall have a seal which

shall bear the name of the Department of Employment.

(3) The commissioner may adopt proper rules to govern his proceedings and to regulate the mode and manner of all investigations and hearings before commission referees or the Appeals Board.

(4) The commissioner may prescribe the time, place and manner of making claims for benefits under this chapter, the kind and character of notices required thereunder and the procedure for investigation, hearing and deciding claims.

[Amended by 1959 c.583 §23]

**657.615 Investigations and recommendations to the legislature.** The commissioner may:

(1) Carry on investigations of the operation of unemployment compensation in Oregon, including related subjects and publish the results thereof.

(2) Investigate the operations of the fund, the relation of contribution rates to the risks of unemployment, the adequacy of contribution rates.

(3) Recommend to the legislature from time to time any advisable changes in the contribution rates or benefits and any other changes in the state laws relating to unemployment compensation.

**657.620 Determination of adequate fund reserve; modification of benefits and eligibility regulations in case of emergency.** (1) The commissioner shall, from time to time, after investigation, reasonable public notice, and a public hearing at which any interested party is afforded an opportunity to be heard, determine or redetermine what amount of reserve reasonably is needed in the fund to assure the payment of benefits under this chapter.

(2) In the event of general and extended unemployment, such that the reserve of the fund is reduced below the amount of reserve so determined, the commissioner may declare an emergency and announce a modified scale of benefits, an increased waiting period or other changes in the rules and regulations regarding eligibility for a receipt of benefits which he considers necessary to maintain the reserves of the fund.

**657.625 Publication of rules; annual and special reports.** (1) The commissioner shall cause to be printed in proper form for distribution his classification, rates, rules, regulations and rules of procedure and furnish the

same to any person upon application therefor. The fact that such classifications, rates, rules, regulations and rules of procedure are printed ready for distribution to all who apply for the same, shall be a sufficient publication of the same as required by this chapter.

(2) The commissioner shall submit to the Governor an annual report of his operations.

(3) The commissioner may also publish from time to time any special reports of the results of any investigation which he may have conducted.

(4) The commissioner shall publish in suitable form information concerning the rights of employes under this chapter and such other information concerning this chapter and the regulations pursuant thereto as he considers suitable and proper, and require every employer to post such publications at his place of employment.

**657.630 Quasi-judicial powers in administrative hearings.** The commissioner may act in his own behalf or by any of his duly authorized agents or assistants in the following:

(1) To hold sessions at any place within the state.

(2) To administer oaths.

(3) To issue and serve by the commissioner's representative, or by any sheriff, subpoenas for the attendance of witnesses and the production of papers, contracts, books, accounts, documents and testimony. The commissioner may require the attendance and testimony of employers, their officers and representatives before any hearing of the commissioner, and the production by employers of books, records, papers and documents without payment or tender of witness fees on account of that attendance.

(4) Generally to provide for the taking of testimony and for the recording of proceedings held in accordance with this chapter. [Amended by 1957 c.699 §10]

**657.635 Circuit court to enforce obedience to subpoenas.** The circuit court for any county or the judge thereof, on application of the commissioner or any of his assistants, shall compel obedience to subpoenas issued and served pursuant to ORS 657.630 and punish disobedience of any such subpoena or any refusal to testify at any session authorized in this chapter, or to answer any lawful inquiry of said commissioner or any of

his assistants, in the same manner as a refusal to testify in the circuit court or the disobedience of the requirements of a subpoena issued from said court is punished.

**657.640 Attorney General to represent commissioner.** (1) The Attorney General shall be the legal adviser of the commissioner.

(2) Upon request of the commissioner, the Attorney General or, under his direction, the district attorney of any county, shall institute or prosecute actions or proceedings for the enforcement of this chapter, when such actions or proceedings are within the county in which such district attorney was elected, and shall defend in like manner all suits, actions and proceedings brought against the commissioner in his official capacity.

(3) The salaries of such assistants requested of the Attorney General by the commissioner shall be paid out of the Unemployment Compensation Administration Fund as the salaries of employes of said commissioner are paid.

**657.645** [Repealed by 1959 c.583 §24]

**657.650 Appointment of officers and employes.** (1) The commissioner may appoint such officers and employes as are required for the administration of this chapter, selection to be on a merit basis, determine their salaries and duties and, in his discretion, require a bond of any of his employes engaged in carrying out this chapter. The commissioner shall not employ any person who is serving as an officer or committee member of any political party.

(2) The commissioner is authorized to employ an attorney to represent him in making collection of delinquent contributions to the Unemployment Compensation Trust Fund and the interest and penalties accruing, and to conduct on behalf of the commissioner any and all suits, actions and proceedings whatsoever for such purpose. Such attorney or the commissioner may call upon the district attorney of any county in which such proceedings are instituted or pending for any service or assistance in connection therewith. The commissioner shall fix the compensation of such attorney, which shall be paid from the Unemployment Compensation Administration Fund as the salaries of other employes of the commissioner are paid.

**657.652 Certificate of commissioner as evidence in proceeding.** In any action, suit or proceeding brought by or against the commissioner a certificate attested to by the commissioner or his authorized representative showing the amount of contributions, interest and penalties due from an employing unit shall be prima facie evidence of the payment by the employing unit of the amount of wages for employment set forth therein, of the levy of assessment, of the delinquency, and of the compliance by the commissioner or his authorized representative with all the provisions of this chapter relating to the computation and assessment of the contributions, interest and penalties specified in the certificate.

[1963 c.354 §6 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.655 Certified copies of commissioner's records as evidence.** If the original of any record, file, order, proceeding, decision, award or other document on file with the commissioner is competent and admissible in evidence, a certified copy thereof furnished by the commissioner under the seal of the commissioner shall be received in evidence before the Appeals Board or any deputy or officer thereof and in all courts.

[Amended by 1959 c.583 §16]

**657.657 Acquisition of land and offices.** (1) Subject to the approval of the Director of the Department of Finance and Administration, the commissioner may acquire by purchase office buildings, make alterations, modifications or additions thereto, and purchase land and construct thereon office buildings suitable for use as local offices of the commissioner. The commissioner, with the approval of the Department of Finance and Administration, may acquire by purchase office space for the central offices of the Department of Employment and may expend such funds as may be necessary for the administration of such offices.

(2) Any agreement made for the purchase of property pursuant to this section shall be further subject to the approval of the Governor and shall not subject the state to liability for payment of the purchase price or any part or portion thereof except from moneys allocated to the state by the United States Department of Labor for the administration of this chapter.

(3) If the premises are purchased pursuant to this section, the commissioner shall

be housed therein, or if it is desirable to move a local employment service office so housed, other substantially similar space will be furnished by the state to the commissioner without further payment therefor by the United States.

[1957 c.609 §5; 1959 c.597 §1; 1961 c.490 §5]

**657.660 Records and reports of employing units.** (1) Every employing unit shall keep true and accurate records of all persons employed by it and such records of hours worked, wages paid and other statistics as prescribed by the commissioner for the administration of this chapter.

(2) Such records shall be open to inspection by the commissioner or his authorized representative at any reasonable time. No person shall refuse to allow the commissioner or his authorized representative to inspect his payroll or other records or documents relative to the enforcement of this chapter.

(3) The commissioner may require from any employing unit such reports on the wages, hours, employment, unemployment and related matters concerning its employes as the commissioner deems necessary to the effective administration of this chapter.

(4) Every employing unit shall fully, correctly and promptly furnish the commissioner all information required by him to carry out the purposes and provisions of this chapter.

**657.662 Penalty for employer's failure to file statement of wages; demand for statement.** Any employer who, without good cause, fails to file within 10 days after service of a written demand therefor, a written statement of the wages paid to each of his workers required by this chapter or regulation of the commissioner, may be required, in the discretion of the commissioner, to pay in addition to any other amounts due from such employer, an additional penalty equal to \$1 multiplied by the number of employes on the payroll of such employer during each calendar quarter for which no wage reports have been filed. Such additional penalty with respect to any calendar quarter shall be no less than \$5 nor more than \$250. The demand required by this section may be served by personal delivery or by mailing to the last-known address of such employer as shown by the records of the commissioner. Service is complete at the time of deposit in the United States mail.

[1959 c.598 §6; 1961 c.252 §5]

**657.665 Information from employing unit records confidential.** (1) Information secured from employing units, employes or other individuals pursuant to this chapter:

(a) Shall be confidential and for the exclusive use and information of the commissioner in the discharge of his duties and shall not be open to the public (other than to public employes in the performance of their public duties under state or federal laws for the payment of unemployment compensation benefits and to public employes in the performance of their public duties under the recognized compensation and relief or welfare laws of this state), except to the extent necessary for the presentation of a claim.

(b) Shall not be used in any court in any action or proceeding pending therein unless the commissioner or the state is a party to such action or proceedings.

(2) However, any claimant or his legal representative, at a hearing before a referee or the commissioner, shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

(3) Any officer or employe of the commissioner, who, except with authority of the commissioner or pursuant to his regulations, or as otherwise required by law, shall disclose confidential information under this section, thereafter is disqualified from holding any appointment or employment by the commissioner.

**657.670 Disclosure of information to federal agencies permitted.** Notwithstanding ORS 657.665, the commissioner shall:

(1) Upon request, submit such reports, in such form and containing such information as the Secretary of Labor may, from time to time, require, and shall comply with such provisions as the Secretary of Labor may, from time to time, find necessary to assure the correctness and verification of such reports.

(2) Make available, upon request, to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation benefits and a statement of such recipient's right to further compensation under this chapter.

657.672 [1959 c.405 §6; 1961 c.252 §6; repealed by 1963 c.354 §1 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.675** [Amended by 1959 c.376 §1; renumbered 657.695]

**657.678** [1959 c.376 §3; renumbered 657.700]

**657.679 Commissioner's determination that employing unit is subject to chapter; notice; application for hearing.** A determination of the commissioner or his authorized representative that an employing unit is an employer subject to this chapter shall become final 20 days after written notice of the determination is mailed to the last-known address of the employing unit of record with the commissioner unless within such time the employing unit files an application with the commissioner for a hearing with respect thereto as provided in ORS 657.683.

[1963 c.354 §2 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.680** [Repealed by 1959 c.376 §4]

**657.681 Computation and assessment by commissioner of employer contributions and interest; jeopardy assessments; application for hearing.** (1) If an employer files a report for the purpose of determining the amount of contributions due under this chapter but fails to pay contributions or interest, the commissioner or his authorized representative may assess the amount of contributions or interest due on the basis of the information submitted and shall give written notice of the assessment to the employer mailed to his last-known address of record with the commissioner. In the event that such report is subsequently found to be incorrect additional assessments may be made, subsection (5) of this section to the contrary notwithstanding.

(2) If an employer fails to file a report when required by the commissioner for the purpose of determining the amount of his contribution due under this chapter, the commissioner or his authorized representative may make an estimate based upon any information in his possession of the amount of wages paid for employment in the period or periods for which no report was filed and upon the basis of such estimate shall compute and assess the amount of employer contributions payable by the employer. Written notice of the assessment shall be mailed to the last-known address of the employer of record with the commissioner.

(3) If the commissioner or his authorized representative is not satisfied with a report made by an employer for the purpose of determining the amount of contribution due

under this chapter, he may compute the amount required to be paid upon the basis of facts contained in the report or upon the basis of any information he may be able to obtain and make an assessment of the amount of the deficiency. Written notice of such deficiency assessment shall be mailed to the last-known address of the employer of record with the commissioner.

(4) If the commissioner or his authorized representative has reason to believe that an employer is insolvent, or that the collection of any contributions will be jeopardized by delaying collection, he may thereupon make an immediate assessment of the estimated amount of accrued contributions, noting upon the assessment that it is a jeopardy assessment levied under this subsection, and may proceed to enforce collection immediately, but interest shall not begin to accrue upon such contributions until the due date nor shall court costs be taxed against such employer on any action to enforce collection commenced prior to the due date. The commissioner or his authorized representative may, in levying the assessment, demand a bond or deposit of such security as he deems necessary to insure collection of the amount of such assessment. Written notice of the assessment shall be mailed to the last-known address of the employer of record with the commissioner.

(5) All assessments provided for in this section shall finally fix the amount of contributions due and payable unless the employer shall within 20 days after the mailing of the notice of assessment by certified or registered mail apply to the commissioner for a hearing, or unless the commissioner or his authorized representative on his own motion reviews the same prior to a decision of the referee thereon pursuant to hearing. An employer who fails to apply for a hearing upon an assessment within the time provided or, having applied, fails to appear and be heard after due notice of such hearing, shall be precluded from raising any defense to any action, suit or proceeding brought by the commissioner for the recovery of contributions based upon such assessment which could have been raised in the hearing. The amount of contributions so assessed under this section shall be subject to the penalties and interest provided by ORS 657.515 and 657.662.

[1963 c.354 §3 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.683 Hearings on commissioner's actions under ORS 657.679 and 657.681; decision of referee; amendment of decision; judicial review; appeal.** (1) An application for hearing under ORS 657.679 and 657.681 shall be in writing and shall state that such determination or assessment of the commissioner or his authorized representative is unjust or incorrect and that the employing unit requests a hearing thereon. The application shall set forth the objections of the employing unit to the determination or assessment and the amount of contributions, if any, which the applicant admits to be due to the Department of Employment. An application for a hearing to review an assessment made under subsection (4) of ORS 657.681 which was accompanied by a demand for a bond or deposit shall not be valid unless such bond or deposit is filed with the application in a form acceptable to the commissioner or his authorized representative.

(2) If a valid application for hearing is filed within the time provided by ORS 657.679 and 657.681, a referee designated by the commissioner shall review the determination or assessment and if requested by the employing unit shall grant a hearing unless a hearing has previously been afforded the employing unit on the same grounds as set forth in the application. The referee shall give notice of the time and place of the hearing to the commissioner or his authorized representative and shall also give notice to the employing unit by mail directed to the last-known address of the employing unit of record with the commissioner.

(3) Hearings under ORS 657.679 and 657.681 shall be conducted in accordance with this chapter and the rules and regulations of the commissioner. The filing of an application for hearing with respect to a disputed assessment shall not affect the right of the commissioner or his authorized representative to perfect any liens provided by this chapter.

(4) All testimony at any hearing held under ORS 657.679 and 657.681 shall be recorded but need not be transcribed unless a petition for judicial review from the decision of the referee is filed in the manner and within the time prescribed in subsection (6) of this section. At any hearing held as provided in ORS 657.679 and 657.681 the determination or assessment of the commissioner or his authorized representative shall be prima facie correct and the burden shall be upon the protesting employing unit to prove

that it is incorrect. Thereafter the referee shall enter his findings of fact and decision, either affirming, modifying, or setting aside the determination or assessment of the commissioner or his authorized representative and in the case of an assessment, the referee may increase or decrease the amount of the assessment. The employing unit and the commissioner shall be promptly notified of the decision of the referee.

(5) A decision of the referee shall become final 20 days after the date of notification or the mailing thereof to the commissioner and to the employing unit at his last-known address of record with the commissioner unless within such time the referee upon his own motion reviews the same and issues an amended decision in which case the amended decision shall become final 10 days after the date of notification or the mailing thereof.

(6) Judicial review of any final order or decision of the referee shall be permitted only after the party aggrieved has exhausted his administrative remedies and if within 20 days after the date of notification or mailing of a final order or within 20 days after a decision of the referee has become final, a petition for judicial review is filed in the Circuit Court for Marion County or the county in which the employing unit maintains his principal place of business.

(7) If the petition for judicial review is filed by the employing unit, the petitioner shall furnish the commissioner a bond with one or more sureties satisfactory to the commissioner, conditioned that the petitioner will pay all contributions and penalties due to the date of the filing of such petition for review, plus interest and court costs assessed against the petitioner. The original of such bond shall be filed with the petition for review and a certified true copy thereof together with a certified true copy of the petition for review shall be served upon the commissioner or upon such person as he may designate.

(8) With his petition for judicial review or his answer, as the case may be, the commissioner shall certify and file with such court the original or certified copies of all documents and papers and a transcript of all testimony taken in the matter, together with the referee's findings of fact and decision or final order therein.

(9) Petitions for judicial review need not be verified but shall state the grounds upon which a review is sought.

(10) In any judicial review under this section the findings of fact of the referee if supported by evidence in the absence of fraud are conclusive and binding upon the court and the jurisdiction of the court shall be confined to questions of law. No additional evidence shall be received by the court but the court may order additional evidence to be taken before the referee. The referee may, after hearing such additional evidence, modify his decision and file such modified decision, together with a transcript of the additional record, with the court. Proceedings under this section shall be heard by the court without a jury and in a summary manner and shall be given precedence over all other civil cases, except cases arising under the workmen's compensation law of this state and criminal cases.

(11) An appeal may be taken from the judgment of the circuit court to the Supreme Court as in other cases, regardless of the monetary amount involved. The cost of judicial proceedings under this section shall be taxed against the unsuccessful party.

(12) Witnesses other than parties to administrative hearings conducted under this section shall be allowed fees at a rate fixed by the commissioner. Such fees and all expenses of proceedings before a referee, except charge for services rendered by counsel or other agent representing an interested party, are deemed a part of the expense of administering this chapter.

[1963 c.354 §4 (ORS 657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of ORS 657.472, 657.512, 657.550 and 657.672)]

**657.685 Appeals Board.** (1) There hereby is created an Appeals Board consisting of three members who shall be appointed by and serve at the pleasure of the Governor. In the selection of the members of the Appeals Board, the Governor shall give due consideration to the interests of labor, industry and the public. Not more than two of the members of said board shall belong to the same political party. The Governor shall designate one of the members of the Appeals Board to serve as its chairman.

(2) A majority of the Appeals Board constitutes a quorum for the transaction of business.

(3) The members of the Appeals Board shall be paid on a per diem basis at the rate of not more than \$50 for each day during which they are actually engaged in the performance of their official duties, includ-

ing necessary travel time. In addition, subject to any other applicable law regulating travel and other expenses of state officers, they shall receive their actual and necessary travel and other expenses incurred in the performance of their official duties.

(4) The Appeals Board shall meet at such times and places as specified by the chairman.

(5) The Appeals Board may, subject to budgetary limitations, employ a review officer, stenographers and clerical aides necessary to the discharge of the duties of the Appeals Board. All such employes shall be in the classified service and any promotion or increase in compensation is subject to the approval of the State Civil Service Commission. The board shall prepare and submit a budget covering the necessary administrative costs of the board, and such budget shall be included in the budget of the commissioner for the administration of the Department of Employment.

[1959 c.583 §12]

**657.690 Quasi-judicial powers of Appeals Board.** The Appeals Board may act in its own behalf or by any of its designated agents, referees or assistants in the following:

(1) To hold sessions any place within the state.

(2) To administer oaths.

(3) To issue and serve, or by any sheriff, subpoenas for the attendance of employers or claimants and the production of papers, contracts, books, accounts, documents and testimony. The Appeals Board may require the attendance and testimony of claimants or employers, their officers and representatives before any hearing or review before the Appeals Board without payment or tender or witness fees on account of such attendance.

[1959 c.583 §13]

**657.695 State Advisory Council; members; expenses.** (1) To assist the commissioner in the effective development of policies and programs with respect to unemployment compensation and employment service and in securing to this state the benefits of the Wagner-Peyser Act, and particularly with respect to carrying out ORS 657.615, there hereby is created an advisory council to be known as the State Advisory Council on Unemployment Compensation.

(2) The members of the State Advisory Council on Unemployment Compensation shall be appointed by the Governor and shall

be composed of men and women representing employers and employes in equal numbers, and representatives of the public who shall elect their chairman. The commissioner of the Department of Employment shall serve as an ex officio member of the State Advisory Council.

(3) The members of the State Advisory Council shall be appointed for a term of two years and shall serve without compensation. Members of the State Advisory Council or other committees appointed pursuant to this section and ORS 657.700 shall be reimbursed from the Unemployment Compensation Administration Fund for any necessary expenses.

[Formerly 657.675]

**657.700 Special councils for program development.** The commissioner may also appoint committees, and industrial or other special councils, to perform appropriate services in connection with the development of unemployment compensation and employment service programs who shall serve without compensation.

[Formerly 657.678]

### OREGON STATE EMPLOYMENT SERVICE

**657.705 Oregon State Employment Service.** There is created under the commissioner a division, to be known as the Oregon State Employment Service, which shall be affiliated with the United States Employment Service. Such division shall be administered by a director to be appointed by the commissioner subject to the provisions of ORS 657.650.

[Amended by 1959 c.583 §17]

**657.710 Free public employment offices.** The commissioner shall establish and maintain such free public employment offices, subject to any contract, agreements or obligations entered into or assumed under chapter 135, Oregon Laws 1935, including such branch offices as may be necessary for the proper administration of this chapter. The commissioner shall maintain a division for this purpose. All moneys made available by or received by the state for the Oregon State Employment Service shall be paid to and expended from the Unemployment Compensation Administration Fund.

**657.715 Wagner-Peyser Act accepted.** The State of Oregon hereby accepts the provisions of the Act of Congress approved

June 6, 1933, entitled "An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes."

**657.720 Cooperation with federal agencies, political subdivisions or private organizations in maintaining public employment service.** (1) The commissioner is designated and constituted the agency of this state for the purpose of the Wagner-Peyser Act. The commissioner shall cooperate with all authorities of the United States having powers and duties under the Wagner-Peyser Act and do and perform all things necessary to secure to this state the benefits of the Wagner-Peyser Act in the promotion and maintenance of a system of public employment offices.

(2) The commissioner may cooperate with or enter into agreements with the Railroad Retirement Board with respect to the establishment, maintenance and use of free public employment service facilities. For the purpose of establishing and maintaining free public employment service the commissioner may enter into agreements with the Railroad Retirement Board or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this state, or with any private nonprofit organization, and as a part of any such agreement may accept moneys, services or quarters as a contribution to the Unemployment Compensation Administration Fund.

**657.725 Employment districts.** The commissioner may divide the state into such number of employment districts as he finds necessary and maintain a district office in each of said districts.

657.730 to 657.750 [Reserved for expansion]

### RECIPROCAL AND COOPERATION AGREEMENTS

**657.755 Cooperation with federal agencies administering unemployment compensation laws.** The commissioner shall:

(1) Cooperate in all necessary respects with the appropriate agencies and departments of the Federal Government in the administration of this chapter and of free public employment offices.

(2) Make the state's records relating to the administration of this chapter available

to the Railroad Retirement Board and furnish to the Railroad Retirement Board, at the expense of such board, copies thereof as that board deems necessary for its purposes.

(3) Afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment compensation insurance law and make all reports thereon requested by any directly interested federal agency or department.

(4) Accept any sums allotted or apportioned to the state for such administration and comply with all reasonable federal regulations governing the expenditures of such sums.

**657.757 Cooperation with federal agencies administering training or retraining programs and other assistance.** (1) The Department of Employment is authorized to cooperate with or enter into agreements with appropriate agencies of the Federal Government whereby:

(a) The commissioner may act as agent of the Federal Government, in the payment of subsistence or other cash allowances provided in programs adopted by the Federal Government, including training and retraining programs or other assistance to individuals in this state.

(b) In performing services incidental to such programs the commissioner may make such reports, surveys and analyses as may be required and comply with all reasonable rules and regulations in connection with such programs.

(c) The commissioner may accept any sums allotted or apportioned to the state for administrative purposes and maintain separate accounting of all subsistence or cash allowances deposited with the state for payment to qualified individuals.

(2) Nothing in this section shall in any way affect the validity of any agreements entered into with any federal agency prior to July 1, 1963.

[1963 c.216 §2]

**657.760 Reciprocal agreements on coverage and collection of contributions.** The commissioner may enter into agreements with the appropriate agencies of other states or the Federal Government whereby:

(1) Potential rights to benefits accumulated under the unemployment compensation laws of the several states or under such a law of the Federal Government, or both, may constitute the basis for the payment of

benefits through a single appropriate agency under terms which the commissioner finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

(2) Individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in subsection (2) of ORS 657.035 or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the Federal Government, or both, may constitute the basis for the payment of benefits.

(3) The collection and payment of contributions by employers with respect to employment not localized within this state is adjusted.

**657.765 Reciprocal agreements concerning payroll contributions for out-of-state work.** Whenever the unemployment compensation laws of other states provide for inclusion of out-of-state payment of wages in computing wages paid in like manner as provided in subsection (2) of ORS 657.095, the commissioner may enter into agreements with those empowered to administer the unemployment compensation laws of such other states for the purpose of:

(1) Waiving the further collection of payroll contributions in all the states when the aggregate amount of said wages is in excess of \$3,000 for calendar years prior to January 1, 1956, and is in excess of \$3,600 for calendar years after December 31, 1955; and

(2) Securing uniformity for payroll reporting on such out-of-state work.  
[Amended by 1955 c.655 §24]

**657.770 Reciprocal agreements concerning wages used as basis for benefits.** (1) The commissioner may enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the Federal Government, or both, whereby wages, upon the basis of which an individual may become entitled to benefits under an employment security law of another state or of the Federal Government, shall be deemed

to be wages for insured work for the purpose of determining his benefits under this chapter; and wages for insured work, on the basis of which an individual may become entitled to benefits under this chapter shall be deemed to be wages on the basis of which unemployment insurance is payable under such law of another state or of the Federal Government.

(2) No such arrangement shall be entered into unless it contains provision for reimbursement to the fund for such of the benefits paid under this chapter on the basis of such wages and provision for reimbursement from the fund for such benefits paid under such other law on the basis of wages for insured work, as the commissioner finds will be fair and reasonable to all affected interests.

(3) Reimbursements paid from the fund pursuant to this section are deemed to be benefits for the purposes of this chapter; except that no charge shall be made to an employer's account under ORS 657.471 in excess of the maximum benefits payable under ORS 657.150 or when no benefits would have been payable to an individual but for this section, because of the lack of wages for insured work necessary to qualify for benefits.

[Amended by 1957 c.699 §11]

**657.775 Cooperation with other states on reciprocal basis for collection of contributions.** (1) The courts of the State of Oregon shall recognize and enforce the liability for unemployment insurance contributions imposed by other states which extend a like comity to this state, and officials of such other states may initiate civil proceedings in the courts of this state to enforce the collection of such contributions. The certificate of the Secretary of State of such other states that such officials have the authority to collect the contributions is conclusive evidence of such authority.

(2) The Attorney General is empowered to initiate and prosecute civil proceedings in the courts of other states by and in the name of the commissioner to enforce the liability for unemployment insurance contributions imposed by the State of Oregon, and he may also initiate and prosecute civil proceedings in this state as agent for and on behalf of any other state to enforce liability for unemployment insurance contributions due such state if the state extends a like comity to the State of Oregon. The compensation for the

services of the Attorney General rendered on behalf of other states under this section shall be paid from moneys appropriated to the Department of Employment for administrative expenditures. The compensation for similar officers of other states for services rendered on behalf of this state under this section shall be paid by such other state. However, all other expenses of civil proceedings under this section shall be paid by the state, officer or agency thereof at whose request such proceedings were initiated.

(3) The Attorney General, with the approval of the commissioner, may employ a special assistant under subsection (2) of ORS 180.230 to initiate and prosecute civil proceedings in other states to enforce liability for unemployment contributions imposed by the State of Oregon and nothing in this section shall be deemed to prevent the officials of other states from employing any member of the Oregon State Bar to initiate and prosecute civil proceedings in this state to enforce liability for unemployment insurance imposed by such other states.

(4) As used in this section, "contributions" includes interest and penalties imposed pursuant to an unemployment insurance statute.

[1963 c.453 §2]

657.780 to 657.800 [Reserved for expansion]

## FUNDS

**657.805 Unemployment Compensation Trust Fund.** There hereby is created the Unemployment Compensation Trust Fund. Such fund shall consist of:

(1) All contributions received and collected under this chapter.

(2) Interest earned upon any moneys in the fund.

(3) Any property or securities acquired through the use of moneys belonging to the fund and all earnings of such property or securities.

(4) All other moneys received for the fund from any other source.

(5) All moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the Social Security Act, as amended.

[Amended by 1957 c.609 §1; 1965 c.359 §7]

**657.807 Advances, under title XII of Social Security Act, to Unemployment Compensation Trust Fund.** (1) The Governor of the State of Oregon is hereby authorized in his discretion to make necessary application

to the Secretary of Labor of the United States to obtain an advance or advances pursuant to title XII of the Social Security Act, as amended.

(2) The commissioner shall notify the Governor whenever he determines that the conditions specified in section 1201 of the Social Security Act, as amended, or under any other Act of Congress extending such authority, have been met.

(3) Any amount transferred to the Unemployment Compensation Trust Fund by the Secretary of the Treasury of the United States under the terms of any agreement entered into in accordance with the authority extended in this section, shall be repaid from the Unemployment Compensation Trust Fund and as further provided in section 1202 of the Social Security Act, as amended.

[1959 c.373 §1, 2, 3]

**657.810 Deposit and use of fund.** (1) All moneys received for the Unemployment Compensation Trust Fund under ORS 657.805 shall be deposited with the State Treasurer subject to ORS 657.830.

(2) All moneys in the fund shall be mingled and undivided and shall be administered by the commissioner for the purpose of this chapter.

**657.812 Use of moneys credited to Unemployment Trust Fund by the Secretary of the Treasury pursuant to section 903 of Social Security Act.** (1) Money credited to the account of this state in the Unemployment Trust Fund by the Secretary of the Treasury of the United States of America pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) Specifies the purposes for which the money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during any 12-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (A) the aggregate of the amounts

credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, during the same 12-month period and the four preceding 12-month periods, exceeds (B) the aggregate of the amounts obligated pursuant to this section and paid out for benefits, and charged against the amounts credited to the account of this state during any of such five 12-month periods. For the purposes of this section, amounts obligated during any such 12-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during any such 12-month period may be charged against any amount credited during such a 12-month period earlier than the fourth preceding such period.

(2) Money requisitioned for the payment of expenses of administration pursuant to this section shall be deposited in the Unemployment Compensation Administration Fund but, until expended, shall remain a part of the Unemployment Trust Fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited. If any money so deposited is, for any reason, not to be obligated for the purpose for which it was appropriated, or, if it remains unobligated at the end of the period specified by the law appropriating such money, or, if any money which has been obligated within the period specified in the appropriation measure will not be expended for the purpose for which appropriated, it shall be promptly returned to this state's account in the Unemployment Trust Fund.

[1957 c.609 §7; 1959 c.604 §1]

**657.815 Unemployment Compensation Benefit Fund.** (1) There hereby is created the Unemployment Compensation Benefit Fund. Such fund shall consist of all amounts withdrawn from the Federal Unemployment Trust Fund, upon requisition of the commissioner, except as provided in ORS 657.812.

(2) This fund shall be used solely in the payment of benefits under this chapter, exclusive of administration, and in the payment of unemployment compensation under any agreement with another governmental agency whereby the latter will reimburse the fund for such expenditure; provided that such use shall be consistent with the Federal Unemployment Tax Act.

(3) The Unemployment Compensation Benefit Fund shall be the sole and exclusive source for the payment of benefits payable under this chapter. Such benefits shall be deemed to be due and payable only to the extent that contributions, with increments thereon, actually collected and credited to the fund are available therefor.

[Amended by 1957 c.609 §2; 1959 c.604 §2]

**657.820 Unemployment Compensation Administration Fund.** (1) There hereby is created the Unemployment Compensation Administration Fund, to consist of all moneys received by the state or the commissioner for the expenses of administration of this chapter, including such proportion of total expenses of maintaining public employment offices incurred for the purposes of this chapter.

(2) Such fund shall be handled by the State Treasurer as other state moneys are handled, but it shall be expended solely for the purposes specified in this section, and its balances shall not lapse at any time but shall remain continuously available to the commissioner for expenditures consistent with this section.

(3) All federal moneys allotted or apportioned to the state by the Secretary of Labor, the Railroad Retirement Board or other federal agency, for the administration of this chapter shall be paid into such fund.

(4) All moneys made available by or received by this state under the Wagner-Peyser Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," approved June 6, 1933, (48 Statutes 113; United States Code, title 29, sec. 49 (c) as amended) shall be paid into the Unemployment Compensation Administration Fund and said moneys hereby are appropriated and made available to the commissioner to be expended as provided by this chapter and by the Wagner-Peyser Act.

(5) All moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said board shall be paid into the Unemployment Compensation Administration Fund.

(6) Notwithstanding any provisions of this section, all moneys requisitioned and deposited in this fund pursuant to the provisions of ORS 657.657 and 657.805 to 657.820 shall remain part of the Federal Unemployment Trust Fund and shall be used

only in accordance with conditions specified in ORS 657.657 and 657.805 to 657.820. [Amended by 1957 c.609 §3; 1959 c.604 §3]

**657.822 Department of Employment Special Administrative Fund.** (1) There hereby is created the Department of Employment Special Administrative Fund. Such fund shall consist of moneys collected or received by the Department of Employment subsequent to July 1, 1965, as follows:

(a) All interest collected under ORS 657.515.

(b) All fines and penalties collected pursuant to this chapter.

(c) All gifts to or interest on or profits earned by the said Special Administrative Fund.

(2) The moneys in the Department of Employment Special Administrative Fund are continuously appropriated to the Department of Employment to pay the expenses of the Secretary of State incurred in performing the audit of the Department of Employment pursuant to ORS 297.220 and such other expenses as may be included in the biennial budget of the Department of Employment and approved by the Legislative Assembly for payment from the Department of Employment Special Administrative Fund. The moneys in this fund shall be deposited as provided in ORS 657.830.

[1965 c.359 §2]

**Note:** 1965 c.361 §2 provides:

**Sec. 2.** In addition to and not in lieu of expenditures authorized under section 1 of this Act, the sum of \$75,000 may be paid out of the Department of Employment Special Administrative Fund created by section 2, chapter 359, Oregon Laws 1965 (Enrolled House Bill 1485) [ORS 657.822], for administrative expenses for the biennium beginning July 1, 1965, incurred in carrying out the following:

(1) A review of and report on employment skills in areas of employment of social and economic concern to Oregon, including but not limited to anticipated employment requirements and present and projected shortages and surpluses in such employment skills.

(2) A study of and report on the effect of technological changes on employment opportunities in areas of employment that are of social and economic concern to Oregon.

**657.825 Expenditure of federal funds; restitution of moneys lost or improperly expended.** (1) All moneys in the Unemployment Compensation Administration Fund which are received from the Federal Government or any agency thereof or which are appropriated by this state for the purposes described in ORS 657.820 shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor

for the proper and efficient administration of this chapter.

(2) If any moneys received after June 30, 1941, from the Secretary of Labor under title III of the Social Security Act, or any unencumbered balances in the Unemployment Compensation Administration Fund as of that date, or any moneys granted after that date to this state pursuant to the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the Wagner-Peyser Act, are found by the Secretary of Labor, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of this chapter, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the General Fund of this state to the Unemployment Compensation Administration Fund for expenditure as provided in ORS 657.820. Upon receipt of notice of such a finding by the Secretary of Labor, the commissioner promptly shall report the amount required for such replacement to the Governor. The Governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of such amount. This section shall not be construed to relieve this state of its obligations with respect to funds received prior to July 1, 1941, pursuant to title III of the Social Security Act.

**657.830 State Treasurer as custodian of funds.** (1) The State Treasurer shall be the custodian of the Unemployment Compensation Trust Fund, the Unemployment Compensation Benefit Fund, the Unemployment Compensation Administration Fund and the Department of Employment Special Administrative Fund and shall carry those funds in separate deposit accounts with the active depository of state funds. The security required by law to protect the moneys in the active depository account shall be of sufficient market value to protect also the separate deposit accounts, and shall be available for said purpose in like manner as for the active account.

(2) After clearance thereof the State Treasurer immediately shall deposit all moneys specified in ORS 657.805 which are received from all sources as an accretion to the Unemployment Compensation Trust

Fund, with the Secretary of the Treasury of the United States as custodian of the trust fund created by the Federal Social Security Act.

(3) All moneys specified in ORS 657.822 shall be deposited in the Unemployment Compensation Trust Fund only for purposes of clearance. After clearance thereof the State Treasurer immediately shall deposit all such moneys, less refunds made pursuant to the provisions of ORS 657.510, in the Department of Employment Special Administrative Fund.

(4) Refunds payable pursuant to ORS 657.510 may be paid upon warrants issued by the State Treasurer under direction of the commissioner from the Unemployment Compensation Trust Fund or the Department of Employment Special Administrative Fund, as appropriate.

[Amended by 1965 c.359 §8]

**657.835 to 657.850** [Reserved for expansion]

#### MISCELLANEOUS PROVISIONS

**657.855 Assignment of benefits; exemption; waiver of rights.** Benefits due under this chapter shall not be assigned, pledged, encumbered, released or commuted and shall, except as otherwise provided, be exempt from all claims of creditors and from levy, execution and attachment or remedy for recovery or collection of a debt, which exemption may not be waived. No agreement by an individual to waive his rights under this chapter is valid.

**657.860 Agreement of employe to pay contributions void.** No agreement by an employe to pay any portion of the contribution required of his employer by this chapter is valid and no employers shall make a deduction for such purpose from the wages or salary of an employe.

**657.865 No vested rights.** All the rights, privileges or immunities conferred by this chapter or by acts deemed pursuant thereto shall exist subject to the powers of the legislature to amend or repeal this chapter at any time, and there shall be no vested private right of any kind against such amendment or repeal.

**657.870 When operation of chapter ceases.** If title IX of the Federal Social Security Act becomes inoperative by Act of Congress or by decision of the United States

Supreme Court, payments of contributions and payment of benefits provided in this chapter shall cease.

657.875 to 657.985 [Reserved for expansion]

### PENALTIES

**657.990 Penalties.** (1) Violation of ORS 657.295 is punishable for each offense, upon conviction, by a fine of not less than \$50 nor more than \$500, or by imprisonment for not more than six months, or both.

(2) Violation of ORS 657.300 is a misdemeanor.

(3) In addition to any penalties otherwise prescribed in this chapter, violation of ORS 657.305, 657.495, 657.565, subsection (2) of ORS 657.660 or any other provision of this chapter is a misdemeanor and, upon conviction, is punishable by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 90 days, or both. If an offending employer or the em-

ployer of an offending agent is a corporation, the president, secretary and the treasurer, or officers exercising corresponding functions, shall be subject to the penalties in this subsection in respect to any duties, of which they respectively had or, in the proper exercise of their duties, ought to have had knowledge.

(4) Wilful violation of this chapter or of any order, rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under this chapter, and for which a penalty neither is prescribed in this section nor provided by any other applicable statute, is punishable, upon conviction, by a fine of not less than \$20 nor more than \$200, or by imprisonment for not more than 60 days, or both. Each day such violation continues is considered a separate offense.

(5) Circuit courts, justice courts and district courts have concurrent jurisdiction of any offense under this section.

### 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 November 15, 1965.

Sam R. Haley  
Legislative Counsel