

# Chapter 655

## 1973 REPLACEMENT PART

### Benefits for Injured Trainees and Inmates

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### CROSS REFERENCES

Administrative procedures governing state agencies, Ch. 183

655.405

Special educational programs for mentally retarded children, 343.410 to 343.490

655.410

Vocational education and training, Ch. 344

- 655.010 [Repealed by 1967 c.359 §704]  
 655.020 [Repealed by 1967 c.359 §704]  
 655.030 [Repealed by 1967 c.359 §704]  
 655.040 [Repealed by 1967 c.359 §704]  
 655.050 [Repealed by 1967 c.359 §704]  
 655.060 [Repealed by 1967 c.359 §704]  
 655.070 [Repealed by 1967 c.359 §704]  
 655.080 [Repealed by 1967 c.359 §704]  
 655.090 [Repealed by 1967 c.359 §704]  
 655.100 [Repealed by 1967 c.359 §704]  
 655.110 [Amended by 1965 c.285 §84; 1967 c.359 §696; renumbered 652.720]  
 655.120 [Repealed by 1967 c.359 §704]  
 655.130 [Amended by 1967 c.359 §697; renumbered 652.710]  
 655.140 [Repealed by 1967 c.359 §704]  
 655.150 [Amended by 1965 c.285 §85; repealed by 1967 c.359 §704]  
 655.160 [Repealed by 1967 c.359 §704]  
 655.170 [Repealed by 1965 c.285 §95]  
 655.210 [Repealed by 1965 c.285 §95]

#### **BENEFITS FOR MENTALLY RETARDED MINOR INJURED IN SPECIAL EDUCATIONAL TRAINING PROGRAM**

**655.405 Definitions for ORS 655.405 to 655.460.** As used in ORS 655.405 to 655.460:

(1) "Beneficiary" means a parent, guardian or other person who has paid expenses of a minor which are compensable under the provisions of ORS 655.405 to 655.460.

(2) "State Accident Insurance Fund" means the State Accident Insurance Fund created under ORS 656.752.

(3) "Employer" means any person who provides on-the-job training for trainees in cooperation with a school district even though no wages or salary is paid to the trainee.

(4) "Employment" means work experience through nonremunerative, on-the-job training as a part of a special education program of the school district occurring on the premises of school buildings of the district or at such other places as the school district and the employer may agree.

(5) "Injury" means any personal injury sustained by a trainee by accident, disease or infection arising out of and in the course of his employment, or death resulting proximately therefrom.

(6) "Trainee" means a mentally retarded minor who is participating in a special educational training program of the school dis-

trict in which the minor is enrolled, and who shall be considered sui juris for the purposes of ORS 655.405 to 655.460.  
 [1963 c.472 §1; 1969 c.247 §5]

#### **655.410 Trainees to receive benefits for injuries in employment; exclusive remedy.**

(1) Every trainee shall receive benefits as provided in ORS 655.405 to 655.460 for injury sustained in his employment:

(a) Where the injury is proximately caused by or received in the course of his employment, with or without negligence of the trainee.

(b) Where injury is not intentionally self-inflicted.

(2) The filing of claims for benefits under ORS 655.405 to 655.460 is the exclusive remedy of a trainee or his beneficiary for injuries compensable under ORS 655.405 to 655.460 against the state, its political subdivisions, the school district board, its members, officers and employees, or any employer, regardless of negligence.  
 [1963 c.472 §§2, 5]

**655.415 Payment of benefits under ORS 655.405 to 655.460.** If a trainee sustains an injury, benefits shall be paid in the same manner as provided for injured workmen under the workmen's compensation laws of this state, except that:

(1) If the injury results in a temporary partial disability, no benefits shall accrue to the trainee on account of loss of wages due to such disability.

(2) Costs of rehabilitation services to disabled trainees shall be paid out of the Special Injury Fund established under ORS 655.445 in an amount approved by the State Accident Insurance Fund which shall be the reasonable and necessary cost of such services, including services of a physician or rehabilitation facility specially qualified to render rehabilitation services. Expenses of rehabilitation may include travel, board and room, when necessary.

(3) The maximum amount payable for medical, surgical or hospital expenses, compensation and rehabilitation on any one claim shall not exceed \$7,500.  
 [1963 c.472 §4]

**655.420 Filing claim for benefits; limitations.** (1) Claims for benefits under ORS 655.405 to 655.460 shall be filed by application with the State Accident Insurance Fund in the manner provided for workmen's claims

in ORS 656.001 to 656.794 to the extent not inconsistent with ORS 655.405 to 655.460. The State Accident Insurance Fund may, before granting the claim, require further information for determination of eligibility under ORS 655.405 to 655.460.

(2) The rights to benefits under ORS 655.405 to 655.460 shall be barred unless written claim is filed with the State Accident Insurance Fund within 90 days after the injury, or if death results therefrom, within 90 days after death. However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the State Accident Insurance Fund on the ground that, for good and sufficient reason, the claim could not be filed on time.

[1963 c.472 §6; 1965 c.285 §79a]

**655.425 Judicial review under ORS 655.405 to 655.460.** If the trainee or his beneficiary is dissatisfied with the final decision of the State Accident Insurance Fund, he may appeal any question of law or fact to the circuit court of the county where the injury occurred within 30 days from the date of mailing of such decision by the State Accident Insurance Fund.

[1963 c.472 §9]

**655.430 Benefits under ORS 655.405 to 655.460 not assignable; exemption.** No benefits payable under ORS 655.405 to 655.460 are subject to assignment prior to their receipt by the person entitled thereto, nor shall they pass by operation of law. These benefits and the right to receive them are also exempt from seizure on execution, attachment or garnishment, or by the process of any court.

[1963 c.472 §7]

**655.435 Employers to keep records; evidentiary effect.** (1) Every employer of a trainee shall maintain a record of the name and address of the trainee and a description of the work performed by such trainee.

(2) Records shall be open for inspection during the usual business hours by members of the State Accident Insurance Fund or its authorized employes. The employer shall furnish the State Accident Insurance Fund on request such information in the records as is required for the administration of ORS 655.405 to 655.460.

(3) The information contained in such record shall be prima facie evidence of information on which the State Accident Insur-

ance Fund may rely in paying claims of trainees under ORS 655.405 to 655.460.  
[1963 c.472 §3]

**655.440 Agreement for administration of program; reimbursement.** (1) The Department of Education and the State Accident Insurance Fund shall enter into an agreement requiring the State Accident Insurance Fund, as adjusting agent, to adjust and process claims and benefits payable to trainees and their beneficiaries. The agreement shall authorize the State Accident Insurance Fund to make all expenditures necessary under ORS 655.405 to 655.460.

(2) The State Accident Insurance Fund shall be reimbursed for expenses of services rendered in the administration of ORS 655.405 to 655.460, but such expenses shall not exceed 13 percent of the total receipts under ORS 655.405 to 655.460.

[1963 c.472 §§8, 13]

**655.445 Special Injury Fund; federal contributions.** (1) There is created a Special Injury Fund, to be held by the State Treasurer and by him deposited in such banks as are authorized to receive deposits of the General Fund. All moneys received by the State Accident Insurance Fund pursuant to ORS 655.405 to 655.460 from the state or from the Federal Government shall be forthwith paid to the State Treasurer and shall become part of the Special Injury Fund. All payments of benefits under ORS 655.405 to 655.460 shall be made from the Special Injury Fund. Notwithstanding ORS 291.238, the moneys deposited in the Special Injury Fund are continuously appropriated for the purpose of paying benefits and administrative expenses of the State Accident Insurance Fund. All moneys in the Special Injury Fund may be invested as provided in ORS 293.701 to 293.776, and the earnings from such investment shall be credited to the Special Injury Fund.

(2) Funds credited to the Special Injury Fund for the purposes of ORS 655.405 to 655.460 may be used to effect insurance or reinsurance with any authority or instrumentality, public or private, or otherwise to distribute the liability for compensation payable to persons entitled to recover under ORS 655.405 to 655.460.

(3) The State Accident Insurance Fund may also accept and deposit to the credit of the Special Injury Fund contributions for premiums or compensation of persons entitled to recover under ORS 655.405 to 655.460 from

the Federal Government or any of its agencies.

[1963 c.472 §§10, 12, 14; 1967 c.335 §53; 1967 c.637 §§24, 24a.]

Note: 1967 c.637 §24a does not become operative until July 1, 1971.

**655.450 Liability for benefits contingent on reserves in fund; precedence of expenses; priority among claimants.** Liability of the State Accident Insurance Fund or the Special Injury Fund for the payment of benefits under ORS 655.405 to 655.460 is contingent upon and limited by the availability of reserves in the Special Injury Fund. In the event that the reserves in the Special Injury Fund are not sufficient to meet the benefit payments and administration cost for a given period, the expenses of the State Accident Insurance Fund shall have precedence over all other claims. Thereafter, priority among claimants is determined according to the time of filing of the claim.

[1963 c.472 §11]

**655.460 Assessment of Special Injury Fund.** The Workmen's Compensation Board may from time to time assess the Special Injury Fund for the reasonable cost of services provided by the board under ORS 655.405 to 655.460.

[1965 c.285 §79c]

### **BENEFITS FOR INJURED INMATES OF PENITENTIARY, CORRECTIONAL INSTITUTION OR WORK CAMP**

**655.505 Definitions for ORS 655.505 to 655.550.** As used in ORS 655.505 to 655.550:

(1) "Authorized employment" means the employment of an inmate on an industrial, institutional or other work project as authorized under ORS 421.305 to 421.480.

(2) "State Accident Insurance Fund" means the State Accident Insurance Fund created under ORS 656.752.

(3) "Injury" is defined as provided in ORS chapter 656.

(4) "Inmate" means a prisoner of the Oregon State Penitentiary or the Oregon State Correctional Institution or a local inmate employed at a forest work camp as authorized under ORS 421.455 to 421.480.

(5) The terms "beneficiary," "child" and "dependent" are defined as provided in ORS 656.002.

[1963 c.527 §1; 1967 c.504 §10; 1969 c.247 §6; 1969 c.597 §63]

**655.510 Inmates to receive benefits for injuries in authorized employment; exclusive remedy.** (1) Every inmate shall receive benefits as provided in ORS 655.505 to 655.550 for injury sustained in an authorized employment:

(a) Where the injury is proximately caused by or received in the course of the authorized employment, with or without negligence of the inmate;

(b) Where the injury is not intentionally self-inflicted; and

(c) Where the injury is not a result of a wilful violation of work rules.

(2) The filing of claims for benefits under ORS 655.505 to 655.550 is the exclusive remedy of an inmate or his beneficiary for injuries compensable under ORS 655.505 to 655.550 against the state or its political subdivisions, regardless of negligence.

[1963 c.527 §§2, 4]

**655.515 Payment of benefits under ORS 655.505 to 655.550.** If an inmate sustains an injury as described in subsection (1) of ORS 655.510, benefits shall be paid in the same manner as provided for injured workmen under the workmen's compensation laws of this state, except that:

(1) No benefits, except rehabilitation services, shall accrue to the inmate until the date of his release from confinement and shall be based upon his condition at that time.

(2) Benefits shall be discontinued during any subsequent period of reconfinement in a penal institution.

(3) Costs of rehabilitation services to disabled inmates shall be paid out of the Inmate Injury Fund established under subsection (1) of ORS 655.540 in an amount approved by the State Accident Insurance Fund which shall be the reasonable and necessary cost of such services, including services of a physician or rehabilitation facility specially qualified to render rehabilitation services. Expenses of rehabilitation may include travel, board and room, when necessary.

[1963 c.527 §3]

**655.520 Filing claim for benefits; initial award; limitations.** (1) Claims for entitlement to benefits under ORS 655.505 to 655.550 shall be filed by application with the State Accident Insurance Fund in the manner provided for workmen's claims in ORS 656.001 to 656.794, to the extent not inconsistent with ORS 655.405 to 655.550. Such claims shall be filed within the required

periods after the injury even though actual benefits may not accrue until release of the inmate from confinement. The State Accident Insurance Fund may, before acting upon a claim, require further information for determination of eligibility under ORS 655.505 to 655.550.

(2) When a claim is approved, the State Accident Insurance Fund shall make an initial award conditioned as provided in subsection (1) of ORS 655.515. Upon release of the inmate from confinement, the State Accident Insurance Fund shall reaffirm or modify its initial award in a manner appropriate to the condition of the inmate upon his release.

(3) The rights to benefits under ORS 655.505 to 655.550 shall be barred unless written claim is filed with the State Accident Insurance Fund within 90 days after the injury, or if death results therefrom, within 90 days after death. However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the State Accident Insurance Fund on the ground that, for good and sufficient reason, the claim could not be filed on time.  
[1963 c.527 §5; 1965 c.285 §79d]

**655.525 Judicial review under ORS 655.505 to 655.550.** An inmate or his beneficiary may obtain review of action taken on his claim as provided in ORS 656.283 to 656.304, except that appeal to the circuit court shall be to the circuit court of Marion County in all cases.

[1963 c.527 §6; 1965 c.285 §79e]

**655.530 Benefits under ORS 655.505 to 655.550 not assignable; exemption.** No benefits payable under ORS 655.505 to 655.550 are subject to assignment prior to their receipt by the person entitled thereto, nor shall they pass by operation of law. These benefits and the right to receive them are also exempt from seizure on execution, attachment or garnishment, or by the process of any court.  
[1963 c.527 §7]

**655.535 Agreement for administration of program; reimbursement.** (1) The Corrections Division and the State Accident Insurance Fund shall enter into an agreement requiring the fund as adjusting agent, to adjust and process claims and benefits payable to inmates and their beneficiaries. The agreement shall authorize the State Accident Insurance

Fund to make all expenditures necessary under ORS 655.505 to 655.550.

(2) The State Accident Insurance Fund shall be reimbursed for expenses of services rendered in the administration of ORS 655.505 to 655.550, but such expenses shall not exceed 12 percent of the total receipts under ORS 655.505 to 655.550.  
[1963 c.527 §§8, 12]

**655.540 Inmate Injury Fund.** (1) There is created an Inmate Injury Fund, to be held by the State Treasurer and to be deposited by him in such banks as are authorized to receive deposits of the General Fund. All payments of benefits under ORS 655.505 to 655.550 shall be made from the Inmate Injury Fund. Notwithstanding ORS 291.238 and 293.145, the moneys deposited in the Inmate Injury Fund are continuously appropriated for the purpose of paying benefits and administrative expenses of the State Accident Insurance Fund. All moneys in the Inmate Injury Fund may be invested as provided in ORS 293.701 to 293.776, and the earnings from such investment shall be credited to the Inmate Injury Fund.

(2) Funds credited to the Inmate Injury Fund for the purposes of ORS 655.505 to 655.550 may be used to effect insurance or reinsurance with any authority or instrumentality, public or private, or otherwise to distribute the liability for compensation payable to persons entitled to recover under ORS 655.505 to 655.550.  
[1963 c.527 §§9, 11; 1967 c.335 §54; 1967 c.637 §§25, 25a]

**655.545 Liability for benefits contingent on reserves in fund; precedence of expenses; priority among claimants.** Liability of the State Accident Insurance Fund or the Inmate Injury Fund for the payment of benefits under ORS 655.505 to 655.550 is contingent upon and limited by the availability of reserves in the Inmate Injury Fund. In the event that the reserves in the Inmate Injury Fund are not sufficient to meet the benefit payments and administration cost for a given period, the expenses of the State Accident Insurance Fund shall have precedence over all other claims. Thereafter, priority among claimants is determined according to the time of filing of the claim.  
[1963 c.527 §10]

**655.550 Assessment of Inmate Injury Fund.** The Workmen's Compensation Board may from time to time assess the Inmate

Injury Fund for the reasonable cost of services provided by the board under ORS 655.505 to 655.550.

[1965 c.285 §79g]

**BENEFITS FOR INJURED, OCCUPATIONALLY HANDICAPPED TRAINEES**

**655.605 Definitions for ORS 655.605 and 655.615.** As used in ORS 655.605 and 655.615:

(1) "State Accident Insurance Fund" means the State Accident Insurance Fund created under ORS 656.752.

(2) "Employer" means any person who provides on-the-job training for trainees in cooperation with the Vocational Rehabilitation Division or the Commission for the Blind even though no wages or salary is paid to the trainee.

(3) "Employment" means work experience through nonremunerative, on-the-job training as a part of a special training program of the Vocational Rehabilitation Division or the Commission for the Blind occurring on the premises of the employer or at such other places as the Vocational Rehabilitation Division or the Commission for the Blind and the employer may agree.

(4) "Injury" means any personal injury sustained by a trainee by accident, disease or infection arising out of and in the course of his employment, or death resulting proximately therefrom as provided in ORS chapter 656.

(5) "Trainee" or "client" means an occupationally handicapped person who is participating in a special training or evaluation program of the Vocational Rehabilitation Division or the Commission for the Blind in which the trainee is enrolled, and who shall be considered sui juris for the purposes of ORS 655.405 to 655.460.

(6) "Division" means the Vocational Rehabilitation Division or the Commission for the Blind.

[1971 c.581 §1; 1973 c.429 §1]

**655.615 Payment of benefits to injured, occupationally handicapped trainees.** (1) All clients participating in a work evaluation or

work experience program of the division are considered as workmen subject to ORS 656.001 to 656.794 for purposes of this section.

(2) The division shall submit a written statement to the State Accident Insurance Fund that includes a description of the work to be performed by such clients.

(3) Upon receiving the written statement, the fund may fix assumed wage rates for the clients enrolled in the work evaluation or work experience program, without regard to ORS chapter 652, ORS 653.010 to 653.545 or 653.991, which may be used only for purposes of computations under ORS 656.001 to 656.794.

(4) The division shall furnish the fund with a list of the names of those enrolled in its work evaluation or work experience program and shall notify the fund of any changes therein. Only those clients whose names appear on such list prior to their personal injury by accident are entitled to the benefits of ORS 656.001 to 656.794 and they are entitled to such benefits if injured as provided in ORS 656.156 and 656.202 while performing any duties arising out of and in the course of their participation in the work evaluation or work experience program, provided the duties being performed are among those:

(a) Described on the application by the division; and

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

(5) The filing of claims for benefits under this section is the exclusive remedy of a trainee or his beneficiary for injuries compensable under ORS 656.001 to 656.794 against the state, its political subdivisions, its officers and employees, or the person who provides on-the-job training or job evaluation services for the injured client, regardless of negligence except that the exclusive remedy provisions shall not apply in the case of suits brought under the provisions of ORS 656.576 to 656.597 against third parties.

[1971 c.581 §2]

**655.990** [Amended by 1965 c.285 §86; 1967 c.359 §698; renumbered as part of 652.990]

**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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 1, 1973.

Thomas G. Clifford  
Legislative Counsel