

Senate Bill 305

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Oregon Injured Workers Retraining Grant Program within Oregon Student Assistance Commission. Establishes Oregon Injured Workers Retraining Fund. Appropriates moneys in fund continuously to commission. Requires determination of surplus in Industrial Accident Fund to be made during annual audit. Requires annual transfer of 50 percent of surplus into Oregon Injured Workers Retraining Fund. Authorizes Oregon Student Assistance Commission to make retraining grants from Oregon Injured Workers Retraining Fund.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to retraining grants for injured workers; creating new provisions; amending ORS
3 348.505, 656.526, 656.634 and 656.772; appropriating money; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) To promote adequate retraining for qualified injured workers so that a**
6 **qualified injured worker may find productive employment in a job that is within the worker's**
7 **physical capacities and that pays wages at least equal to the wages currently being paid for**
8 **the employment that was the worker's regular employment at the time of injury, the Oregon**
9 **Injured Workers Retraining Grant Program is established within the Oregon Student As-**
10 **sistance Commission.**

11 **(2) In addition to any other form of student financial aid authorized by law, the com-**
12 **mission shall award, to the extent funds are made available, an Oregon Injured Workers**
13 **Retraining Grant that provides funds for payment of program costs and living expenses to**
14 **any qualified injured worker who:**

15 **(a) Has received benefits from the Industrial Accident Fund for a disabling work-related**
16 **injury;**

17 **(b) Has had a worsening of the worker's work-related condition but is excluded from vo-**
18 **cational assistance under ORS 656.278 or has received vocational benefits under ORS 656.340**
19 **but has been unable to obtain employment in an occupation that pays wages at least equal**
20 **to the wages currently being paid for the employment that was the worker's regular em-**
21 **ployment at the time of injury;**

22 **(c) Commences full-time study in a vocational or educational program that upon com-**
23 **pletion will qualify the worker for employment that is within the worker's physical capacities**
24 **and that pays wages at least equal to the wages currently being paid for the employment that**
25 **was the worker's regular employment at the time of injury; and**

26 **(d) Establishes financial need for assistance in completing a qualified vocational or edu-**
27 **cational program in accordance with rules adopted by the commission.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) Any qualified injured worker receiving an Oregon Injured Workers Retraining Grant
2 under subsection (1) of this section must use the grant for the purpose of study or training
3 in an eligible program in Oregon, as defined by rule of the commission.

4 (4) The commission may not award an Oregon Injured Workers Retraining Grant to an
5 injured worker who is enrolled in a course of study required for and leading to a degree in
6 theology, divinity or religious education.

7 (5) Each Oregon Injured Workers Retraining Grant shall be renewed yearly provided that
8 the recipient has maintained satisfactory progress toward a first associate or a
9 baccalaureate degree or toward completion of an eligible training program as determined by
10 the Oregon Student Assistance Commission.

11 (6) Notwithstanding subsection (5) of this section, no Oregon Injured Workers Retraining
12 Grant shall be renewed after a qualified injured worker has reached the number of credit
13 hours required to graduate with a baccalaureate degree at the institution the student is at-
14 tending.

15 **SECTION 2.** (1) There is established an Oregon Injured Workers Retraining Grant Pro-
16 gram Advisory Committee that shall consist of nine members to advise the Oregon Student
17 Assistance Commission about, and to propose rules for, eligibility, standards and procedures
18 for retraining grants made by the Oregon Injured Workers Retraining Grant Program es-
19 tablished by section 1 of this 2005 Act. Members of the advisory committee shall be appointed
20 by and serve at the pleasure of the Governor.

21 (2) The advisory committee shall consist of:

22 (a) Four injured workers who have received benefits from the Industrial Accident Fund
23 and vocational retraining as the result of a work-related injury;

24 (b) A person qualified to serve as an attending physician as provided in ORS 656.005
25 (12)(b)(A);

26 (c) Two vocational rehabilitation counselors; and

27 (d) Two persons experienced in providing workforce retraining services.

28 (3) Members of the advisory committee are not entitled to compensation, but may be
29 reimbursed from the funds available to the commission for the purposes of this section and
30 section 1 of this 2005 Act for actual and necessary travel and other expenses incurred by
31 them in the performance of their official duties in the manner and the amount provided in
32 ORS 292.495.

33 **SECTION 3.** The Oregon Injured Workers Retraining Fund is established separate and
34 distinct from the General Fund. Moneys credited to the fund are continuously appropriated
35 to the Oregon Student Assistance Commission for the purposes of investment, as provided
36 by ORS 293.701 to 293.820, and for carrying out the provisions of sections 1 and 2 of this 2005
37 Act. Interest earned by the fund shall be credited to the fund.

38 **SECTION 4.** Sections 1 to 3 of this 2005 Act are added to and made a part of ORS 348.505
39 to 348.695.

40 **SECTION 5.** ORS 348.505 is amended to read:

41 348.505. As used in ORS 348.393 to 348.399 and 348.505 to 348.695:

42 (1) "Commission" means the Oregon Student Assistance Commission.

43 (2) "Financial aid" includes loans, grants, scholarships, work opportunities and other forms of
44 financial aid to assist students in completing their post-high-school education **or vocational re-**
45 **training.**

1 **SECTION 6.** ORS 656.634 is amended to read:

2 656.634. (1) The Industrial Accident Fund is a trust fund exclusively for the uses and purposes
3 declared in this chapter, except that this provision shall not be deemed to amend or impair the force
4 or effect of any law of this state specifically authorizing the investment of moneys from the fund.

5 (2) Subject to the right of the State of Oregon to direct legislatively the disposition of any sur-
6 plus in excess of reserves and surplus deemed actuarially necessary according to recognized insur-
7 ance principles, and necessary in addition thereto to assure continued fiscal soundness of the State
8 Accident Insurance Fund Corporation both for current operations and for future capital needs, the
9 State of Oregon declares that it has no proprietary interest in the Industrial Accident Fund or in
10 the contributions made to the fund by the state prior to June 4, 1929. The state disclaims any right
11 to reclaim those contributions and waives any right of reclamation it may have had in that fund.

12 **(3) The surplus in excess of reserves and surplus deemed actuarially necessary in ac-**
13 **cordance with subsection (2) of this section shall be determined annually as part of the audit**
14 **conducted by the Secretary of State in accordance with ORS 656.772.**

15 **SECTION 7.** ORS 656.772 is amended to read:

16 656.772. (1)(a) The Secretary of State shall conduct an annual audit of the State Accident In-
17 surance Fund Corporation and the Industrial Accident Fund pursuant to ORS 297.210. As part of this
18 audit, the Secretary of State shall contract with a firm qualified to perform an independent actuarial
19 review.

20 (b) The firm conducting the review required by paragraph (a) of this subsection shall be familiar
21 with the accounting standards applicable to the reserves under review, shall meet all appropriate
22 standards of practice established by the Casualty Actuarial Society, shall employ a staff that in-
23 cludes no fewer than three people who have attained fellowship in the Casualty Actuarial Society
24 and shall maintain limits of errors and omission insurance as prescribed by the Secretary of State.

25 (c) The Secretary of State shall determine the scope of the review required by paragraph (a) of
26 this subsection, which shall include, but is not limited to:

27 (A) A review of the sources and uses of the moneys in the Industrial Accident Fund;

28 (B) A reconciliation of changes in actuarial assumptions and reserve values from the prior year;

29 (C) An examination of the development of claim reserve inadequacies or redundancies over time;

30 (D) An assessment of the future financial viability of the Industrial Accident Fund; *[and]*

31 **(E) A determination of the surplus in the Industrial Accident Fund that is in excess of:**

32 **(i) Reserves and surplus deemed actuarially necessary according to recognized insurance**
33 **principles; and**

34 **(ii) Additional funds necessary to ensure continued fiscal soundness of the State Accident**
35 **Insurance Fund Corporation both for current operations and for future capital needs; and**

36 *[(E)]* **(F)** An evaluation of losses and loss adjustment expense reserves discounted by a rate de-
37 termined by the Director of the Department of Consumer and Business Services that is consistent
38 with discount rates generally applied by insurers authorized to underwrite workers' compensation
39 insurance in Oregon.

40 (d) The State Accident Insurance Fund Corporation shall cooperate with the actuarial firm in
41 all respects and shall permit the firm full access to all information the firm deems necessary for a
42 true and complete review. Information provided to the actuarial firm conducting the annual review
43 is subject to the same limitations on public inspections as required for the records of the State Ac-
44 cident Insurance Fund Corporation.

45 (e) The audit required by paragraph (a) of this subsection shall be conducted using both gener-

1 ally accepted accounting principles and the statutory accounting principles published by the Na-
2 tional Association of Insurance Commissioners.

3 (f) The cost of the audit required by paragraph (a) of this subsection shall be paid by the State
4 Accident Insurance Fund Corporation.

5 (2) The Secretary of State shall issue an annual report to the Governor, the President of the
6 Senate and the Speaker of the House of Representatives on the results of the audit and review. The
7 audit and the report of the review performed by the independent actuarial firm shall be available
8 for public inspection, in accordance with the Secretary of State's established rules and procedures
9 governing public disclosure of audit documents.

10 **SECTION 8.** ORS 656.526 is amended to read:

11 656.526. (1) [*Periodically, the State Accident Insurance Fund Corporation shall determine the total*
12 *liability existing against the Industrial Accident Fund*] **Within 30 days of the completion of the**
13 **annual audit of the State Accident Insurance Fund and the determination of the surplus in**
14 **the Industrial Accident Fund that is required to be made by ORS 656.772, the State Accident**
15 **Insurance Fund Corporation shall transfer 50 percent of any surplus identified into the**
16 **Oregon Injured Workers Retraining Fund established by section 3 of this 2005 Act.**

17 (2) If, after the determination of surplus required by [*subsection (1) of this section*] **ORS 656.772**
18 **and the transfer required by subsection (1) of this section,** the State Accident Insurance Fund
19 Corporation finds **that** the Industrial Accident Fund[, *aside from the reserves deemed actuarially*
20 *necessary according to recognized insurance principles,*] contains a surplus, the State Accident In-
21 surance Fund Corporation in its discretion may, after providing for any payments to the state, taxes
22 or other dispositions of surplus provided by law, declare a dividend to be paid to, or credited to the
23 accounts of, employers who were insured by the State Accident Insurance Fund Corporation during
24 all or part of the period for which the dividend is declared. Any dividend so declared shall give due
25 consideration to the solvency of the Industrial Accident Fund, not be unfairly discriminatory and
26 not be promised in advance of such declaration.

27 (3) An employer in default when the dividend is declared shall not be eligible to receive payment
28 or the credit provided by subsection (2) of this section.

29 **SECTION 9.** **The annual audit of the Industrial Accident Fund required by ORS 656.772**
30 **to determine the surplus available for distribution and the first distribution of moneys from**
31 **the Industrial Accident Fund to the Oregon Injured Workers Retraining Fund shall be made**
32 **by July 1, 2006.**

33 **SECTION 10.** **The State Accident Insurance Fund Corporation may not declare or pay a**
34 **dividend to employers insured by the corporation until the first transfer of surplus to the**
35 **Oregon Injured Workers Retraining Fund required by ORS 656.526 has been made.**

36 **SECTION 11.** **This 2005 Act being necessary for the immediate preservation of the public**
37 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
38 **on its passage.**

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