

Chapter 657

2009 EDITION

Unemployment Insurance

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GENERALLY

657.005 Short title. This chapter shall be known and may be cited as the Employment Department Law. [Amended by 1959 c.583 §14; 1993 c.344 §2]

657.007 Conflict with state law. For purposes of this chapter, if any provision of state law conflicts with any provision of this chapter, this chapter shall control. [2009 c.115 §2]

DEFINITIONS

657.010 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 the individual’s 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 Director of the Employment Department may, by regulation, prescribe.

(5) “Contribution” or “contributions” means the taxes, as defined in subsection (13) of this section, that are the money payments required by this chapter, or voluntary payments permitted, to be made to the Unemployment Compensation Trust Fund.

(6) “Educational institution,” including an institution of higher education as defined in subsection (9) of this section, means an institution:

(a) In which participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher;

(b) That is accredited, registered, approved, licensed or issued a permit to operate as a school by the Department of Education or other government agency, or that offers

courses for credit that are transferable to an approved, registered or accredited school;

(c) In which the course or courses of study or training that it offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation; and

(d) In which the course or courses of study or training are offered on a regular and continuing basis.

(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) “Hospital” means an organization that has been licensed, certified or approved by the Oregon Health Authority as a hospital.

(9) “Institution of higher education” means an educational institution that:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor’s or higher degree, or provides a program that is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution.

(10) “Internal Revenue Code” means the federal Internal Revenue Code, as amended and in effect on May 1, 2009.

(11) “Nonprofit employing unit” means an organization, or group of organizations, described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(12) “State” includes, in addition to the states of the United States of America, the District of Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be considered a state on and after the day on which the United States Secretary of Labor first approves the Virgin Islands’ law under section 3304(a) of the Federal Unemployment Tax Act as amended by Public Law 94-566.

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

(14) “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.

(15) “Week” means any period of seven consecutive calendar days ending at midnight, as the director may, by regulation, prescribe. The director may by regulation prescribe that a “week” shall be “in,” “within,” or “during” the calendar quarter that includes the greater part of such week. [Amended by 1959 c.642 §1; 1961 c.252 §1; 1963 c.13 §1; 1969 c.597 §174; 1971 c.463 §1; 1977 c.241 §1; 1983 c.528 §1; 1993 c.344 §3; 2005 c.218 §3; 2007 c.614 §16; 2008 c.45 §17; 2009 c.5 §27; 2009 c.595 §1042; 2009 c.909 §30]

Note: The amendments to 657.010 by section 30, chapter 909, Oregon Laws 2009, apply to tax years beginning on or after January 1, 2009. See section 45, chapter 909, Oregon Laws 2009.

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. “Employee” does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity. [Amended by 1999 c.734 §1]

657.020 Employing unit. (1) As used in this chapter, unless the context requires otherwise, “employing unit” means:

(a) Any individual or type of organization, including any partnership, association, limited liability company, limited liability partnership, 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 had in its employ one or more individuals performing services for it within this state.

(b) This state, including every state officer, board, commission, department, institution, branch and agency of the state government.

(c) Any people’s utility district.

(d) Any political subdivision.

(e) Any Indian tribe or subdivision, subsidiary or business enterprise wholly owned by an Indian tribe.

(2) All individuals performing services within this state for any employing unit that 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; 1973 c.715 §1; 1977 c.295 §1; 1995 c.93 §37; 1997 c.646 §14; 2001 c.572 §1]

657.025 Employer. (1) As used in this chapter, unless the context requires otherwise, “employer” means any employing unit which employs one or more individuals in an employment subject to this chapter in each of 18 separate weeks during any calendar year, or in which the employing unit’s total payroll during any calendar quarter amounts to \$1,000 or more.

(2) Whenever any helper, assistant or employee of an employer engages any other person in the work that the helper, assistant or employee is doing for the employer, with the employer’s actual, constructive or implied knowledge, the employer shall, for all purposes of this chapter, be deemed the employer of the other person, whether the other person is paid by the helper, assistant or employee or by the employer. All persons employed by an employer in all of the employer’s 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; 1971 c.463 §2; 1973 c.300 §1; 1975 c.257 §1; 1981 c.77 §1; 2007 c.46 §1]

657.030 Employment generally; educational, hospital, nursing, student service exclusions. (1) As used in this chapter, unless the context requires otherwise, and subject to ORS 657.035, 657.040 and 657.045 to 657.094, or any other section which excludes services from the term “employment,” “employment” means service for an employer, including service in interstate commerce, within or outside of the United States, performed for remuneration or under any contract of hire, written or oral, express or implied.

(2) Notwithstanding any other provisions of this chapter, “employment” shall include service:

(a) Which is subject to the tax imposed by the Federal Unemployment Tax Act; or

(b) Which is required to be covered under this chapter as a condition for employers to receive a full tax credit against the tax imposed by the Federal Unemployment Tax Act.

(3) Notwithstanding subsections (1) and (2) of this section, “employment” does not include:

(a) Service performed in the employ of a school, college or university, if such service

is performed by a student who is enrolled and is regularly attending classes at such school, college or university, or by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployment insurance.

(b) Service performed in the employ of a hospital, if such service is performed by a patient of such hospital.

(c) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled in a nurses' training school chartered or approved pursuant to the laws of this state.

(d) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such program has been approved by the Director of the Employment Department, and such institution has so certified to the employer, except that this paragraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(e) Service performed by a full-time student in the employ of an organized camp described in section 3306(c)(20) of the Internal Revenue Code:

(A) If such camp:

(i) Did not operate for more than seven months in the calendar year and did not operate more than seven months in the preceding calendar year; or

(ii) Had average gross receipts for any six months in the preceding calendar year which were not more than 33-1/3 percent of its average gross receipts for the other six months in the preceding calendar year; and

(B) If such full-time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year.

(4) As used in subsection (3)(e) of this section, an individual shall be treated as a full-time student for any period:

(a) During which the individual is enrolled as a full-time student at an educational institution; or

(b) Which is between academic years or terms if:

(A) The individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term; and

(B) There is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in subparagraph

(A) of this paragraph. [Amended by 1959 c.405 §2; 1971 c.463 §5; 1975 c.257 §2; 1981 c.77 §2; 1987 c.263 §1]

657.035 Employment; effect of place of performance of service. (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, and such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada, and

(A) The base of operations is in this state, or if there is no base of operations, then the place from which the 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 employment subject to this chapter if taxes are not required and paid with respect to such services under an unemployment insurance 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 taxes are required and paid under an unemployment insurance law of any other state or of the federal government, are employment subject to this chapter if the Director of the Employment Department approves the election of the employer for whom such services are performed that the entire service of such individual shall be employment subject to this chapter. Such an election may be canceled by the employer by filing a written notice with the director between January 1 and January 15 of any year stating the desire of the employer to cancel such election or at any time by submitting to the director satisfactory proof that the

services designated in such election are covered by an unemployment insurance law of another state or of the federal government.

(4) Service is 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.

(5) Employment shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands), in the employ of an American employer (other than service which is "employment" under the provisions of subsection (1) of this section or the parallel provisions of another state's law), if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States, but

(A) The employer is an individual who is a resident of this state; or

(B) The employer is a corporation which is organized under the laws of this state; or

(C) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) None of the criteria of paragraphs (a) and (b) of this subsection is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(6) An "American employer" for purposes of this section means a person who is:

(a) An individual who is a resident of the United States; or

(b) A partnership if two-thirds or more of the partners are residents of the United States; or

(c) A trust, if all of the trustees are residents of the United States; or

(d) A corporation organized under the laws of the United States or of any state.

(7) For the purposes of this section the term United States includes the states, the District of Columbia, and the Commonwealth of Puerto Rico. [Amended by 1971 c.463 §6; 1973 c.300 §2; 1977 c.295 §2]

657.040 Employment; when service for pay excluded; independent contractors.

(1) 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 Director of the Employment Department that the individual is an independent contractor, as that term is defined in ORS 670.600.

(2) A finding that an individual performed services for an employing unit and earned less than the minimum amount necessary to qualify for benefits under ORS 657.150 based on earnings from that employing unit may not be considered in determining whether the service is employment under subsection (1) of this section. [Amended by 1967 c.303 §1; 1981 c.895 §1; 1985 c.225 §1; 1989 c.762 §6; 2005 c.533 §4]

657.042 [1981 c.895 §3; 1983 c.579 §1; repealed by 1989 c.762 §8 and 1989 c.870 §14]

657.043 Employment; golf course caddy service excluded; exceptions.

"Employment" does not include service performed by a person as a caddy at a golf course in an established program for the training and supervision of caddies under the direction of a person who is an employee of the golf course. However, the provisions of this section do not apply to services performed for:

(1) A nonprofit employing unit;

(2) This state;

(3) A political subdivision of this state; or

(4) An Indian tribe. [1993 c.494 §4; 2001 c.572 §2; 2005 c.218 §8]

657.044 Employment; service by partners and corporate officers and directors who are family members excluded; exceptions.

(1) As used in this chapter, "employment" does not include service performed for:

(a) A corporation by corporate officers who are directors of the corporation, who have a substantial ownership interest in the corporation and who are members of the same family if the corporation elects not to provide coverage for those individuals. The election shall be in writing and shall be effective on the first day of the current calendar quarter or of the calendar quarter preceding the calendar quarter in which the request was submitted.

(b) A limited liability company by a member, including members who are managers, as defined in ORS 63.001.

(c) A limited liability partnership by a partner as described in ORS chapter 67.

(2) The provisions of this section do not apply to service performed for:

(a) A nonprofit employing unit;

- (b) This state;
- (c) A political subdivision of this state;
- or
- (d) An Indian tribe.

(3) As used in this section, “members of the same family” means persons who are members of a family as parents, stepparents, grandparents, spouses, sons-in-law, daughters-in-law, brothers, sisters, children, stepchildren, adopted children or grandchildren. [1995 c.220 §2; 1997 c.646 §15; 1999 c.59 §195; 2001 c.572 §3; 2003 c.792 §1; 2005 c.218 §9; 2009 c.79 §1]

657.045 Employment; agricultural labor excluded; exceptions. (1)

“Employment” does not include agricultural labor unless such labor is performed after December 31, 1977, for an employing unit who:

(a) During any calendar quarter in the current calendar year or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor; or

(b) On each of 20 days during the current calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor for some portion of the day (whether or not at the same moment of time) 10 or more individuals.

(2) Notwithstanding subsection (1)(a) and (b) of this section, “employment” does not include services performed before January 1, 1993, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a) (15) (H) of the Immigration and Nationality Act.

(3) “Agricultural labor” does not include services performed for the state or a political subdivision but does include 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 any commodity defined as an agricultural commodity in section 15(g) of

the Federal Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways not owned or operated for profit used exclusively for supplying and storing water for farming purposes.

(d) In the employ of the operator or group of operators of a farm or farms (or a cooperative organization of which such operator or operators are members) 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, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator or group of operators produced more than one-half of the commodity, as measured by volume, weight or other customary means, with respect to which such service is performed.

(4) Subsection (3)(d) of this section does not apply to service performed in connection with:

(a) Commercial canning, commercial freezing or brining of cherries;

(b) Any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(c) Any activity enumerated in subsection (3)(d) of this section when performed for an employer also engaged in any activity enumerated in paragraph (a) or (b) of this subsection.

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

(6) For the purpose of this section, service in connection with the raising of forestry-type seedlings is agricultural labor when performed in a nursery.

(7)(a) For purposes of this chapter, and for services performed after December 31, 1977, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader if:

(A) Such crew leader holds a valid certificate of registration under the federal Migrant and Seasonal Agricultural Worker Protection Act; or

(B) Substantially all the members of such crew operate or maintain mechanized equipment which is provided by such crew leader; and

(C) Such individual is not an employee of such other persons under the usual common law rules applicable in determining the employer-employee relationship.

(b) Any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (a) of this subsection shall be an employee of such other person and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on behalf of the crew leader or on behalf of such other person, for agricultural labor performed for such other person.

(c) For purposes of this subsection, the term "crew leader" means an individual who:

(A) Furnishes individuals to perform agricultural labor for any other person;

(B) Pays, either on behalf of the crew leader or on behalf of such other person, the individuals so furnished by the crew leader for the agricultural labor performed by them; and

(C) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person. [Amended by 1955 c.655 §3; 1957 c.395 §1; 1971 c.463 §7; 1973 c.260 §1; 1977 c.446 §1; 1987 c.263 §2; 1989 c.631 §1; 1993 c.18 §141]

657.047 Employment; transportation of logs, poles and piling and lessor of for-hire carriers excluded; exceptions. (1) As used in this chapter, "employment" does not include:

(a) Transportation by motor vehicle of logs, poles and piling by any person who both furnishes and maintains the vehicle used in such transportation; or

(b) Transportation performed by motor vehicle for a for-hire carrier by any person that leases their equipment to a for-hire carrier and that personally operates, furnishes and maintains the equipment and provides service thereto.

(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.

(3) As used in this section "for-hire carrier" has the meaning given that term in ORS 825.005.

(4) The provisions of subsections (1) and (2) of this section do not apply to services performed for:

- (a) A nonprofit employing unit;
 - (b) This state;
 - (c) A political subdivision of this state;
- or

(d) An Indian tribe. [1963 c.469 §2; 1987 c.891 §3; 1995 c.306 §39; 2001 c.572 §4; 2005 c.218 §10]

657.048 Employment; language translators or interpreters excluded; exceptions. (1) "Employment" does not include services performed by language translators or interpreters that are provided for others through an agent or broker.

(2) The provisions of this section do not apply to services performed for:

- (a) A nonprofit employing unit;
 - (b) This state;
 - (c) A political subdivision of this state;
- or

(d) An Indian tribe. [1997 c.294 §2; 2001 c.572 §5; 2005 c.218 §11]

657.050 Employment; domestic service, child care service and certain service not in course of employer's trade excluded; exceptions. (1) As used in this chapter, "employment" does not include:

(a) Domestic service performed in a private home, local college club or local chapter of a college fraternity or sorority, unless the domestic service is performed for an employing unit that paid to individuals employed in the domestic service cash remuneration of \$1,000 or more in a calendar quarter in the current calendar year or the preceding calendar year.

(b) Child care service provided through the Department of Human Services to an individual who is the recipient of public assistance.

(c) Service not in the course of the employer's trade or business or that does not promote or advance the trade or business of the employer unless the service is performed in each of 18 weeks in a calendar year or total payroll for the service is \$1,000 or more during any calendar quarter.

(d) Child care service provided in the home of the child care provider by the provider.

(2) The provisions of subsection (1)(b) and (d) of this section do not apply to services performed for:

- (a) A nonprofit employing unit;
 - (b) This state;
 - (c) A political subdivision of this state;
- or

(d) An Indian tribe. [Amended by 1959 c.405 §3; 1975 c.156 §1; 1977 c.446 §2; 1993 c.444 §1; 1995 c.139 §1; 1997 c.58 §1; 2001 c.572 §6; 2005 c.218 §12; 2007 c.46 §2]

657.053 Employment; certain service on fishing boat excluded. (1) As used in this section:

(a) "Fish" includes fish or other forms of aquatic animal life.

(b) "Boat" includes one or, in the case of a fishing operation, more than one boat.

(2) "Employment" does not include service performed by an individual on a boat engaged in catching fish under an arrangement with the owner or operator of the boat when, under the arrangement:

(a) The individual does not receive any cash remuneration other than as provided in paragraph (c) of this subsection;

(b) Any cash remuneration does not exceed \$100;

(c) The individual receives a share of the boat's catch of fish or a share of the proceeds from the sale of that catch; and

(d) The amount of the individual's share depends on the amount of the boat's catch of fish, but only if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, is normally made up of fewer than 10 individuals. [1999 c.651 §2]

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:

(a) Services performed as an officer or member of the crew of a vessel not an American vessel; or

(b) Services performed by an individual not a United States citizen 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 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. [1961 c.349 §2; 1971 c.463 §8]

657.060 Employment; family service and foster care excluded. (1) "Employment" does not include service performed by a person in the employ of a son, daughter, or spouse, and service performed by a child under the age of 18 in the employ of the father or mother.

(2) "Employment" does not include service performed as foster care parents certified by the Department of Human Services or approved by a licensed child caring facility. [Amended by 1975 c.334 §1; 1987 c.857 §1]

Note: Section 2, chapter 857, Oregon Laws 1987, provides:

Sec. 2. If the United States Secretary of Labor serves notice that the provisions of ORS 657.060, as amended by section 1 of this Act, fail to meet the requirements of the Social Security Act or the Federal Unemployment Tax Act, then ORS 657.060 (2) shall no longer be of any force or effect. [1987 c.857 §2]

657.065 Employment; governmental service excluded; exceptions. (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 insurance 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 Director of the Employment Department from the fund in accordance with ORS 657.510.

(2) "Employment" does not include services that are performed in the employ of the state, any political subdivision or instrumentality of the state or an Indian tribe:

(a) As an elected public official.

(b) In a position that, under or pursuant to laws of this state or tribal laws, is designated as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(c) As an employee serving on a temporary basis in case of fire, storm, earthquake, flood or similar emergency.

(d) As a member of a legislative body or a member of the judiciary.

(e) By an inmate of a custodial or penal institution when such services are performed for the custodial or penal institution in which the inmate is confined.

(f) As a member of the Oregon Army National Guard or Oregon Air National Guard.

(3) The provisions of ORS 657.425 permitting election of coverage for services that do not constitute "employment" do not apply to services performed as an elected public or tribal official.

(4) Notwithstanding the provisions of ORS 657.025, "employer" means any state government, political subdivision or Indian tribe employing unit. [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; 1969 c.275 §1; 1971 c.463 §9; 1973 c.715 §2; 1975 c.156 §2; 1977 c.446 §3; 2001 c.572 §7]

657.067 Employment; community work and training programs excluded; work study, work experience and work incentive programs excluded; exceptions. (1) As used in this chapter, "employment" does not include service performed or participation by applicants, recipients, beneficiaries, participants, trainees or volunteers:

(a) In a community work and training program, as defined in ORS 411.855.

(b) In an unemployment work-relief or work-training program when the program is within the meaning of section 3309(b)(5) of the Federal Unemployment Tax Act, as amended.

(c) In the Work Incentive Program, Title IV of the Social Security Act (United States Public Law 90-248), as amended.

(d) In an AmeriCorps service program under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(2) The exclusions stated in subsection (1)(b) and (c) of this section do not apply to services performed by an individual participating in a program that, by federal law or regulation, requires unemployment insurance coverage to be provided to the individual. [1961 c.631 §6; 1965 c.291 §4; 1967 c.130 §9; 1975 c.107 §2; 1977 c.294 §2; 1979 c.267 §1; 1985 c.565 §87; 1987 c.857 §3; 2005 c.372 §1]

657.070 [Repealed by 1971 c.463 §20]

657.072 Employment; certain nonprofit services excluded. "Employment" does not include service performed for a nonprofit employing unit by an individual receiving

rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market. [1971 c.463 §4; 1973 c.118 §1; 1977 c.446 §4; 1999 c.59 §196; 2005 c.218 §1]

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).

657.078 Employment; stringer, correspondent and photographer services for media excluded. "Employment" does not include services performed by an individual as a stringer, correspondent or photographer, for print or broadcast media, who submits information, stories or pictures by the piece or at a flat rate to newspapers, special publications, television or radio if the individual is free from direction and control over the means and manner of providing the services. However, this section does not apply to services performed for a nonprofit employing unit for this state, for a political subdivision of this state or for an Indian tribe. [2005 c.533 §9; 2007 c.71 §208]

Note: 657.078 was added to and made a part of ORS chapter 657 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

657.080 Employment; news delivery service excluded. "Employment" does not include service performed by an individual:

(1) In the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(2) In the delivery or distribution of newspapers whose remuneration primarily consists of the difference between the amount the individual pays or is obligated to pay for the newspapers and the amount the individual receives or is entitled to receive on distribution or resale thereof. [Amended by 1975 c.257 §3]

657.085 Employment; service by certain agents, brokers, producers and salespersons excluded. "Employment" does not include service performed by any person as a newspaper advertising salesperson, real estate broker, principal real estate broker, insurance producer or securities salesperson or agent to the extent that the person is compensated by commission. [Amended by 1965 c.131 §1; 1979 c.521 §2; 2001 c.300 §55; 2003 c.364 §53]

657.087 Employment; service by individuals soliciting contracts for home improvements and consumer goods sales excluded. “Employment” does not include service performed:

(1) By individuals soliciting contracts for home improvements including roofing, siding and alterations of private homes to the extent that the remuneration consists of commissions, or a share of the profit realized on each contract; or

(2) By individuals to the extent that the compensation consists of commissions, overrides or a share of the profit realized on orders solicited or sales resulting from the in-person solicitation of orders for and making sales of consumer goods in the home. [1961 c.320 §2; 1977 c.101 §1]

657.090 Employment; petroleum products distributors excluded. “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 the individual or partnership pays or is obligated to pay for the petroleum products and the amount the individual or partnership 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]

657.091 Employment; food product demonstrators excluded. “Employment” does not include service performed by individuals who, on a temporary, part-time basis, demonstrate or give away samples of food products, as part of an advertising or sales promotion for the product, in stores that sell food at retail and who are not otherwise directly employed by the manufacturer, distributor or retailer. [1987 c.891 §2]

657.092 Employment; nonprofit organization employees and contestants excluded. (1) “Employment” does not include service performed by an individual as a director, designer, performer, musician, technical crew member, house or business person, contestant, beauty queen or member of a court for or on behalf of a nonprofit organization in connection with a symphony, opera, play, pageant, festival, rodeo or similar event operated by such organization when the remuneration for such service consists solely of a gratuity, prize, scholarship or reimbursement of expenses.

(2) As used in this section:

(a) “Contestant” means a person competing in a competition in a pageant, festival, rodeo or similar event.

(b) “Gratuity” means a voluntary return for a service and does not include commissions or other amounts paid pursuant to an agreement reached at the time the individual agrees to perform a service for the organization.

(c) “Nonprofit organization” means an organization or group of organizations described in sections 501(c)(3) to 501(c)(10) of the Internal Revenue Code which is exempt from income tax under section 501(a) of the Internal Revenue Code.

(d) “Prize” means a reward received for winning a competition in a pageant, festival, rodeo or similar event.

(e) “Reimbursement for expenses” means a payment made in lieu of salary to compensate an individual for transportation costs to the location of the service and return, and ordinary living expenses while in the vicinity of the event in which the individual is participating.

(f) “Scholarship” means a grant provided for the purpose of paying part of the tuition or other costs of attending an educational institution or institution of higher education and payable to the institution of the individual’s choice. [1981 c.636 §2; 1983 c.508 §15; 2007 c.71 §209]

657.093 Employment; certain services provided in exchange for ski passes excluded. (1) As used in this chapter, “employment” does not include service provided in conjunction with skiing activities or events for a nonprofit employing unit by a person who receives no remuneration other than ski passes for the service provided.

(2) The provisions of subsection (1) of this section apply only to the extent permitted by 26 U.S.C. 3306(c)(10)(A). [2008 c.32 §5]

Note: 657.093 was added to and made a part of ORS chapter 657 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

657.094 Employment; down-river boating activities excluded. “Employment” does not include service performed by an individual in connection with the transportation of the public for recreational down-river boating activities on the waters of this state pursuant to a federal permit when the person furnishes the equipment necessary for the activity. As used in this section, “recreational down-river boating activities” means those boating activities for the purpose of recreational fishing, swimming or sightseeing utilizing a float craft with oars or paddles as the primary source of power. [1981 c.444 §3]

657.095 Payroll. (1) As used in this chapter, unless the context requires otherwise, “payroll” means all wages paid to employees in any employment subject to this

chapter. However, for payroll tax purposes pursuant to this chapter, “wages” excludes remuneration received by an employee from each employer in any calendar year that is in excess of an amount obtained by multiplying the average annual wage for the second preceding calendar year by 0.80 and rounding the result to the nearest multiple of \$100. The average annual wage shall be determined by dividing the total wages paid by subject employers during the year by the average monthly employment reported by subject employers for the year. However, a payroll, as calculated pursuant to this section, may not in any year be less than the amount in effect during the preceding calendar year.

(2) The remuneration paid by an employer located in this state for work performed in other states by an employee who works part of the time in a calendar year in this and other states shall be included in payroll when the work in the other states is covered by unemployment insurance laws. The Director of the Employment Department shall prescribe the manner of providing proof of the payment of payroll taxes on the wages of an employee earned while working in other states. [Amended by 1955 c.655 §6; 1959 c.606 §1; 1965 c.205 §1; 1971 c.463 §10; 1973 c.300 §3; 1973 c.810 §1; 1975 c.354 §1; 1983 c.508 §2; 1995 c.79 §331; 2005 c.183 §4]

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, including any entity organized pursuant to ORS 190.003 to 190.620. [1957 c.682 §5; 1977 c.446 §5]

657.100 Unemployment; rules. (1) An individual is deemed “unemployed” in any week during which the individual performs no services and with respect to which no remuneration for services performed is paid or payable to the individual, or in any week of less than full-time work if the remuneration paid or payable to the individual for services performed during the week is less than the individual’s weekly benefit amount.

(2) For the purposes of ORS 657.155 (1), an individual who performs full-time services in any week for an employing unit is not unemployed even though remuneration is neither paid nor payable to the individual for the services performed; however, nothing in this subsection shall prevent an individual from meeting the definition of “unemployed” as used in this section solely by reason of the individual’s performance of volunteer services without remuneration for a charitable institution or a governmental entity.

(3) The Director of the Employment Department shall prescribe rules as the director

deems necessary with respect to the various types of unemployment. [Amended by 1981 c.77 §3]

657.105 Wages; generally. (1) As used in this chapter, unless the context requires otherwise, and subject to ORS 657.115 to 657.140, “wages” means all remuneration for employment, including the cash value, as determined by the Director of the Employment Department under the regulations of the director, of all remuneration paid in any medium other than cash.

(2) Notwithstanding the provisions of subsection (1) of this section, noncash remuneration paid for services performed in agricultural labor or domestic service shall not be considered remuneration or wages for any purpose under this chapter. [Amended by 1975 c.257 §4; 1977 c.446 §6]

657.110 [Repealed by 1973 c.300 §15]

657.115 Wages; exclusion of fringe benefits. (1) “Wages” does not include the amount of any payment made to, or on behalf of, an individual or any of the individual’s dependents on account of:

(a) Retirement.

(b) Sickness or accident disability under a workers’ compensation law.

(c) Medical or hospitalization expenses in connection with sickness or accident disability.

(d) Death.

(e) Dependent care assistance furnished pursuant to a program that meets the requirements of section 129(d) of the Internal Revenue Code, to the extent the assistance does not exceed the earned income limitation in section 129(b) of the Internal Revenue Code.

(2) For purposes of this section, “payment made” includes amounts paid by an employing unit for insurance or annuities or into a fund.

(3) This section does not apply unless the payment is made under a plan or system established by an employing unit which makes provision generally:

(a) For individuals performing service for it or for such individuals generally and their dependents; or

(b) For a class or classes of such individuals or for a class or classes of such individuals and their dependents. [Amended by 1981 c.77 §4; 1983 c.508 §3; 1991 c.803 §1; 2005 c.283 §1; 2007 c.614 §17]

657.117 Wages; inclusion of federal taxes and tips. “Wages” as used in ORS 657.105 includes:

(1) The amount of any tax imposed upon an employee and paid by an employer pursu-

ant to sections 3121(a)(6) and 3306(b)(6) of the Internal Revenue Code.

(2) Tips reported by the employer pursuant to section 3306 of the Internal Revenue Code. [Amended by 1981 c.77 §9; 1983 c.508 §4; 1985 c.507 §2; 2007 c.614 §18]

657.120 Wages; exclusion of retirement benefits. “Wages” does not include the amount of any payment made by an employing unit on behalf of an individual performing service for it for insurance or annuities, or into a fund, to provide for any such payment, on account of retirement. [Amended by 1981 c.77 §5]

657.125 Wages; exclusion of 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, 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. [Amended by 1981 c.77 §6]

657.130 Wages; exclusion of payments from certain trusts and annuities. “Wages” does not include the amount of any payment made by an employing unit to, or on behalf of, an individual performing service for it, or the individual’s beneficiary:

(1) From or to a trust exempt from tax under section 401(a) of the United States 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 401(a) of the United States Code. [Amended by 1973 c.300 §4; 1981 c.77 §7]

657.135 Wages; exclusion of payments to persons over 65. “Wages” does not include the amount of any payment, other than vacation or sick pay, made to an individual after the month in which the individual attains the age of 65 years, if the individual did not work for the employing unit in the period for which such payment is made. [Amended by 1981 c.77 §8]

657.140 Wages; exclusion of assistance to individuals under community work and training program. 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 participation in a community work and training program, as defined in ORS 411.855. [1961 c.631 §7; 1965 c.291 §5; 1967 c.130 §10]

BENEFITS AND CLAIMS

(Income Tax Consequences of Benefits)

657.144 Notice to individual of effect of filing claim for benefits. An individual filing a new claim for benefits under this chapter shall, at the time the claim is filed with the Employment Department, be advised that:

(1) Benefits are subject to federal and state income tax;

(2) Federal and state law may require that a recipient of benefits make quarterly estimated tax payments during the tax year in which the benefits are received;

(3) Federal and state law may impose penalties on a recipient of benefits for the failure to timely make estimated tax payments; and

(4) A recipient of benefits may elect under ORS 657.146 to have amounts withheld from the recipient’s payment of benefits for federal and state income tax purposes at the amount specified in:

(a) The federal Internal Revenue Code for the voluntary withholding of unemployment benefits for federal income tax purposes; and

(b) ORS 657.146 for the voluntary withholding of unemployment benefits for state income tax purposes. [1995 c.556 §54; 1997 c.133 §1]

657.145 [1977 c.447 §2; repealed by 1983 c.508 §14]

657.146 Withholding from benefits for tax purposes; rules. (1) A claimant may elect to have an amount withheld from benefits otherwise payable to the claimant.

(2) An election made under this section shall be on such form and in such manner as prescribed by the Employment Department.

(3) A claimant making an election under this section may terminate the election at any time.

(4) The amount to be withheld by the Employment Department from a payment of benefits to a claimant making the election under this section shall be the total of:

(a) The amount determined under the rules of the federal Internal Revenue Code relating to the voluntary withholding of amounts from unemployment benefits, for federal income tax purposes; and

(b) An amount equal to six percent of the payment to which the claimant would be entitled but for the election made under this section, for state income tax purposes.

(5) Amounts withheld by the Employment Department pursuant to an election made under this section shall remain in the Unemployment Compensation Trust Fund established under ORS 657.805. Those amounts

allocable to federal income tax withholding shall be transferred by the Employment Department to the federal Internal Revenue Service in the time and manner provided by federal law and those amounts allocable to state income tax withholding shall be transferred to the Department of Revenue in the time and manner provided by the Department of Revenue by rule. [1995 c.556 §55; 1997 c.133 §2]

657.148 Compliance with federal requirements for collection and payment of federal taxes. For purposes of ORS 657.144 and 657.146, the Employment Department shall follow the procedures and regulations adopted by the United States Department of Labor and the federal Internal Revenue Service that relate to the collection and payment of federal income tax withholding amounts on benefits paid to individuals under this chapter. [1995 c.556 §56; 1997 c.133 §3]

(Generally)

657.150 Amount of benefits; length of employment and wages necessary to qualify for benefits; rules. (1) An individual shall be paid benefits for weeks during the benefit year in an amount which is to be determined by taking into account the individual's work in subject employment in the base year as provided in this section.

(2)(a) To qualify for benefits an individual must have:

(A) Worked in subject employment in the base year with total base year wages of \$1,000 or more and have total base year wages equal to or in excess of one and one-half times the wages in the highest quarter of the base year; and

(B) Have earned wages in subject employment equal to six times the individual's weekly benefit amount in employment for service performed subsequent to the beginning of a preceding benefit year if benefits were paid to the individual for any week in the preceding benefit year.

(b) If the individual does not meet the requirements of paragraph (a)(A) of this subsection, the individual may qualify for benefits if the individual has worked a minimum of 500 hours in employment subject to this chapter during the base year.

(3) If the wages paid to an individual are not based upon a fixed period of time or if 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, the individual's wages shall be allocated in accordance with rules prescribed by the Director of the Employment Department. Such rules shall, insofar as possible, produce results the same as those which would exist if the individual had been paid wages at regular

intervals. The director may adopt rules to attribute hours of work to an individual if the individual is not paid on an hourly basis or if the employer does not report the number of hours worked.

(4) An eligible individual's weekly benefit amount shall be 1.25 percent of the total wages paid in the individual's base year. However, such amount shall not be less than the minimum, nor more than the maximum weekly benefit amount.

(a) The minimum weekly benefit amount shall be 15 percent (0.1500) of the state average weekly covered wage for the preceding calendar year, effective for any benefit year commencing on and after the week which includes July 4, 1975, and the week that includes each July 4 thereafter.

(b) The maximum weekly benefit amount shall be:

(A) Fifty-five percent (0.5500) of the state average weekly covered wage for calendar year 1979, effective for any benefit year commencing with and after the week which includes July 4, 1980, and through any benefit year commencing with the week which includes June 27, 1981.

(B) Fifty-five percent (0.5500) of the state average weekly covered wage for calendar year 1980, effective for any benefit year commencing with and after the week which includes July 4, 1981, through any benefit year commencing with the week which includes September 27, 1981.

(C) Fifty-eight percent (0.5800) of the state average weekly covered wage for calendar year 1980, effective for any benefit year commencing with and after the week which includes October 4, 1981, through any benefit year commencing with the week which includes June 27, 1982.

(D) Sixty percent (0.6000) of the state average weekly covered wage for calendar year 1981, effective for any benefit year commencing with and after the week which includes July 4, 1982, through any benefit year commencing with the week which includes June 27, 1983.

(E) Sixty-four percent (0.6400) of the state average covered weekly wage for the preceding calendar year, effective for any benefit year commencing with and after the week which includes July 4, 1983, and the week which includes each July 4 thereafter.

(c) All weekly benefit amounts, if not a multiple of \$1, shall be computed to the next lower multiple of \$1.

(d) For the purposes of this subsection, the state average weekly covered wage means an amount determined by the Employment Department by dividing the total

wages paid by subject employers during the year by 52 times the average monthly employment reported by subject employers for the year.

(5) Benefits paid to an eligible individual in a benefit year shall not exceed 26 times the individual's weekly benefit amount, or one-third of the base year's wages paid, 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 unemployed individual who has employment in any week shall have the individual's weekly benefit amount reduced by the amount of earnings paid or payable that exceeds whichever is the greater of the following amounts:

(a) Ten times the minimum hourly wage established by the laws of this state; or

(b) One-third of the individual's weekly benefit amount.

(7) Payment which has been, is or will be paid to an individual for a holiday or vacation shall be considered as earnings in the determination of the amount of benefits payable with respect to the week in which the holiday or vacation falls in the same manner as provided in subsection (6) of this section. However, if payment for the holiday or vacation is paid more than 45 days prior to the holiday or vacation or is delayed more than 45 days following the end of the week in which the holiday or vacation falls, the provisions of this section do not apply and previously reduced benefits shall be adjusted accordingly.

(8) Payment which has been, or will be made to an individual as a member of a reserve component of the Armed Forces of the United States, including the organized militia of the State of Oregon, for the performance of inactive duty training shall not be considered as earnings in the determination of the amount of benefits payable. [1955 c.655 §15; 1957 c.699 §1; 1959 c.567 §1; 1961 c.211 §1; 1963 c.441 §1; 1967 c.434 §1; 1969 c.569 §1; 1971 c.463 §13; 1971 c.521 §1; 1973 c.146 §1; 1973 c.535 §1; 1975 c.661 §2; 1977 c.670 §1; 1981 c.77 §10; 1981 c.751 §1; 1983 c.51 §1; 1987 c.257 §1; 1989 c.897 §1; 1995 c.104 §1; 1995 c.105 §4; 1995 c.153 §1]

657.152 Adjusting benefits to even dollar amounts. Notwithstanding any other provision of this chapter to the contrary, any amount of unemployment compensation payable to any individual for any week if not an even dollar amount, shall be rounded to the next lower full dollar amount. [1983 c.51 §4]

657.155 Benefit eligibility conditions; rules. (1) An unemployed individual shall be eligible to receive benefits with respect to any week only if the Director of the Employment Department finds that:

(a) The individual has registered for work at and thereafter has continued to report at an employment office in accordance with such rules as the director may prescribe. However, the director may, by rule, 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 the director finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this chapter; provided, that no such rule conflicts with ORS 657.255.

(b) The individual has made a claim for benefits with respect to such week in accordance with ORS 657.260.

(c) The individual is able to work, is available for work, and is actively seeking and unable to obtain suitable work. No individual participating in a community work and training program, as defined in ORS 411.855, shall, solely by reason thereof, be unavailable for work within the meaning of this section.

(d) The individual has been unemployed for a waiting period of one week, unless the Governor has waived the required waiting period as provided in ORS 401.186.

(e) The individual is not disqualified from benefits or ineligible for benefits under any other section of this chapter.

(f) The individual is qualified for benefits under ORS 657.150.

(2) An individual who leaves the normal labor market area of the individual for the major portion of any week is presumed to be unavailable for work within the meaning of this section. This presumption may be overcome if the individual establishes to the satisfaction of the director that the individual has conducted a bona fide search for work and has been reasonably accessible to suitable work in the labor market area in which the individual spent the major portion of the week to which the presumption applies.

(3) The director shall either promptly allow credit or pay benefits for any week for which benefits are claimed or promptly give notice of denial thereof in the manner provided in ORS 657.267 and 657.268. [Amended by 1955 c.655 §7; 1961 c.631 §8; 1967 c.130 §11; 1973 c.398 §1; 1977 c.295 §3; 1979 c.521 §1; 1993 c.778 §11; 2008 c.23 §3]

Note: Section 4, chapter 23, Oregon Laws 2008, provides:

Sec. 4. Sections 1 and 2 [401.186] of this 2008 Act and the amendments to ORS 657.155 by section 3 of this 2008 Act become operative when federal law permits without penalty a waiver under section 2 of this 2008 Act of the one-week waiting period required by ORS 657.155. [2008 c.23 §4]

657.156 Reemployment service assistance; eligibility; rules. (1) The Employment Department shall:

(a) Identify eligible individuals who are likely to exhaust benefits payable under ORS 657.150 and who will need reemployment service assistance to make a successful transition to new employment; and

(b) Refer individuals identified under paragraph (a) of this subsection for any reemployment services available under state or federal law. Such services may include job search assistance, job placement services, counseling, testing, providing occupational and labor market information, assessment and referrals to employers.

(2) An eligible unemployed individual shall be eligible to receive benefits with respect to any week only if the individual participates in reemployment services including but not limited to job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the Director of the Employment Department, unless the director determines that:

(a) The individual has completed such services; or

(b) There is justifiable cause for the individual's failure to participate in such services.

(3) In adopting rules to carry out the provisions of this section, the director, insofar as practicable, shall comply with rules and policies of the United States Department of Labor. [1995 c.193 §2]

Note: 657.156 was added to and made a part of ORS chapter 657 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

657.157 [1989 c.897 §3; repealed by 1995 c.104 §2]

657.158 Self-employment assistance; eligibility; amounts payable; rules. (1) As used in this section:

(a) "Regular benefits" means benefits payable to an individual under this chapter, including benefits payable to federal civilian employees and to ex-servicemembers under 5 U.S.C. chapter 85, but not including additional benefits or extended benefits payable under ORS 657.321 to 657.329 or 657.331 to 657.334.

(b) "Self-employment assistance activities" means activities approved by the Director of the Employment Department in which individuals, identified under ORS 657.156 as likely to exhaust benefits, participate for the purpose of enabling those individuals to establish a business and become self-employed. "Self-employment assistance activities" includes, but is not limited to, en-

trepreneurial training, business counseling and technical assistance.

(c) "Self-employment assistance allowance" means an amount, payable in lieu of regular benefits under this chapter, to an individual participating in self-employment assistance activities in accordance with this section. Self-employment assistance allowance amounts shall be paid from the Unemployment Compensation Benefit Fund.

(2) The weekly amount of the self-employment assistance allowance payable to an individual is equal to the weekly regular benefit amount. The sum of the self-employed assistance allowance paid under this section and the regular benefits paid under this chapter with respect to any benefit year shall not exceed the maximum benefit amount payable under ORS 657.150 (5) with respect to that benefit year.

(3) The self-employment assistance allowance shall be payable to an individual at the same intervals and on the same terms and conditions as regular benefits under this chapter except that:

(a) The provisions of this chapter regarding being available for work, actively seeking work and refusing to accept suitable work are not applicable to such an individual.

(b) The provisions of ORS 657.150 (6) relating to remuneration for services performed are not applicable to income earned from self-employment by such an individual.

(c) An individual participating in self-employment assistance activities shall be considered to be unemployed under ORS 657.100.

(d) An individual who fails to participate in self-employment assistance activities or who fails actively to engage on a full-time basis in establishing a business and becoming self-employed is ineligible to receive the self-employment assistance allowance for each week in which such failure occurs.

(4) The number of individuals receiving the self-employment assistance allowance at any time shall not exceed five percent of the number of individuals receiving regular benefits.

(5) The self-employment assistance allowance shall be charged to employers in the manner provided in this chapter for the charging of regular benefits.

(6) In adopting rules to carry out the provisions of this section, the director, insofar as practicable, shall comply with rules and policies of the United States Department of Labor.

(7) The provisions of this section apply to weeks beginning after the date of enactment of federal law authorizing this section or the

date of any required plan adopted by the United States Department of Labor, whichever date is later. The authority under this section terminates at the end of the week preceding the date when federal law no longer authorizes this section, unless that date is on a Saturday in which case the authority terminates on that date. [1995 c.193 §3]

Note: 657.158 was added to and made a part of ORS chapter 657 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

657.159 Claimants required to submit job qualifications to Oregon State Employment Service; use of information; referring claimant to available jobs. (1) To satisfy the registration requirements of ORS 657.155 (1), an unemployed individual who submits a claim for benefits, at the request of the Director of the Employment Department or an authorized representative of the director, shall submit to the Oregon State Employment Service information regarding the individual's job qualifications, training and experience as the director or an authorized representative of the director deems necessary to carry out job placement and counseling services for the individual.

(2) Information submitted by an individual pursuant to the provisions of subsection (1) of this section shall be promptly used by the Oregon State Employment Service for matching against available job openings retained in Employment Department records. The results shall be made available to department placement personnel who will refer the claimant to any available, suitable job opening for which the individual qualifies, provided the referral is not in conflict with federal or state law.

(3) In determining the amount and type of information an individual must submit to satisfy the requirements of subsection (1) of this section, the director or an authorized representative of the director shall consider, among other factors, the individual's employer affiliation, the anticipated and actual duration of the individual's period of employment, union membership and union hiring practices, state and local labor market conditions and information from past or prospective employers of the individual.

(4) When this chapter requires individuals or employers to furnish information in writing or require a signed document or signature, the director may waive those requirements to implement the Employment Department Information Network project. [1979 c.149 §2; 1993 c.778 §20]

657.160 [Amended by 1959 c.643 §1; 1961 c.209 §1; 1965 c.213 §1; 1967 c.230 §1; 1969 c.75 §1; repealed by 1973 c.398 §3]

657.165 Waiting period eligibility, condition, limitation. No week shall be counted as a week of unemployment for the purposes of ORS 657.155 (1)(d):

(1) Unless it occurs within the benefit year that includes the week for which the unemployed individual claims payment of benefits.

(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, 657.155 to 657.176, 657.184, 657.186, 657.200 to 657.213 and 657.221, except for the requirements of ORS 657.155 (1)(d). [Amended by 1959 c.642 §2; 1975 c.257 §5; 1981 c.46 §1; 1983 c.508 §5]

657.167 Amount and time period for payment of benefits to educational institution employees. (1) Benefits based on service in an instructional, research or principal administrative capacity for an educational institution or institution of higher education shall be payable to an individual in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter, except that benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or, when an agreement provides instead for a similar period between two regular terms whether or not successive or during a period of paid sabbatical leave provided for in the individual's contract and if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any institution in the second of such academic years or terms. All services by an individual for an institution shall be deemed in instructional, research or principal administrative capacity if at least 50 percent of the individual's time is spent in such activities.

(2) With respect to any services described in subsection (1) of this section, compensation payable on the basis of such services shall be denied to any individual for any week that commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform such services or any services described in ORS 657.221 (1) in the period immediately following such vacation period or holiday recess.

(3) With respect to any services described in subsection (1) of this section, benefits

based on such services shall be denied as specified in subsections (1) and (2) of this section to any individual who performed such service in an institution while in the employ of an education service district established by ORS chapter 334, providing 50 percent or more of the individual's time is spent in instructional, research or principal administrative capacity in such institution.

(4) The provisions of subsections (1), (2) and (3) of this section apply only to service performed for:

(a) An educational institution or institution of higher education operated by a non-profit employing unit;

(b) This state;

(c) A political subdivision of this state; or

(d) An Indian tribe. [1971 c.463 §12; 1975 c.284 §1; 1977 c.241 §2; 1981 c.60 §1; 1983 c.528 §2; 1985 c.226 §2; 1985 c.748 §1; 2001 c.572 §8; 2005 c.218 §4]

657.170 Extending base year; limitation. (1) If the Director of the Employment Department finds that during the base year of the individual any individual has been incapable of work during the greater part of any calendar quarter, such base year shall be extended a calendar quarter. Except as provided in subsection (2) of this section, no such extension of an individual's base year shall exceed four calendar quarters.

(2) If the director finds that during and prior to the individual's base year the individual has had a period of temporary total disability caused by illness or injury and has received compensation under ORS chapter 656 for a period of temporary total disability during the greater part of any calendar quarter, the individual's base year shall be extended as many calendar quarters as necessary to establish a valid claim, up to a maximum of four calendar quarters prior to the quarter in which the illness or injury occurred, if the individual:

(a) Files a claim for benefits not later than the fourth calendar week of unemployment following whichever is the latest of the following dates:

(A) The date the individual is released to return to work by the attending physician, as defined in ORS chapter 656, or a nurse practitioner authorized to provide compensable medical services under ORS 656.245; or

(B) The date of mailing of a notice of claim closure pursuant to ORS chapter 656; and

(b) Files such a claim within the three-year period immediately following the commencement of such period of illness or injury.

(3) 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 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; 1989 c.235 §1; 1995 c.105 §5; 1999 c.313 §14; 2003 c.811 §§19,20; 2005 c.218 §§5,6; 2007 c.365 §10]

657.173 Alternate base year; rules.

(1)(a) Notwithstanding ORS 657.010 (1), in the case of an individual who is not eligible for benefits under ORS 657.150 (2) using the definition in ORS 657.010 (1), "base year" means the last four completed calendar quarters preceding the benefit year.

(b) Notwithstanding paragraph (a) of this subsection, a determination of eligibility under ORS 657.150 (2) may not be made using paragraph (a) of this subsection if the individual qualifies or would qualify for regular benefits under the unemployment law of another governmental jurisdiction using that jurisdiction's standard base year.

(c) Work and earnings in a calendar quarter that is included in a claim determined to be eligible using the base year as defined in paragraph (a) of this subsection cannot be included in the base year of a subsequent claim unless the subsequent claim's base year is extended under ORS 657.170 to include the calendar quarter.

(2)(a) Except as provided in paragraph (b) of this subsection, the definition of "base year" that applies for the purposes of determining an individual's eligibility for benefits under ORS 657.150 applies for all purposes under this chapter related to that individual's claim.

(b) When making a finding under ORS 657.170 (1), "base year" has the meaning given that term in ORS 657.010 (1).

(3) The Director of the Employment Department shall adopt rules necessary to carry out the provisions of this section. [2009 c.71 §2]

Note: 657.173 was added to and made a part of ORS chapter 657 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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

657.176 Grounds and procedure for disqualification; exceptions; rules. (1) An authorized representative designated by the Director of the Employment Department shall promptly examine each claim to determine whether an individual is subject to disqualification as a result of a separation, termination, leaving, resignation, or disciplinary suspension from work or as a result of failure to apply for or accept work and shall

promptly enter a director's decision if required by ORS 657.267. The authorized representative may address issues raised by information before the authorized representative, including but not limited to the nature of the separation, notwithstanding the way the parties characterize those issues.

(2) An individual shall be disqualified from the receipt of benefits until the individual has performed service in employment subject to this chapter or the equivalent law of another state or Canada or as defined in ORS 657.030 (2) or as an employee of the federal government, for which remuneration is received that equals or exceeds four times the individual's weekly benefit amount subsequent to the week in which the act causing the disqualification occurred, if the authorized representative designated by the director finds that the individual:

(a) Has been discharged for misconduct connected with work;

(b) Has been suspended from work for misconduct connected with work;

(c) Voluntarily left work without good cause;

(d) Failed without good cause to apply for available suitable work when referred by the employment office or the director;

(e) Failed without good cause to accept suitable work when offered;

(f) Has been discharged or suspended for being absent or tardy in reporting to work and the absence or tardiness occurred as a result of the unlawful use of any drug unless the person was participating in a recognized drug rehabilitation program at the time of the absence or tardiness, or is so participating within 10 days after the date of the discharge or suspension, and the person provides to the Employment Department documentation of program participation. As used in this paragraph, "unlawful use" does not include the use of a drug taken under the supervision of a licensed health care professional and in accordance with the prescribed directions for consumption, or other uses authorized by the laws of this state;

(g) Has been discharged or suspended for being absent or tardy in reporting to work and the absence or tardiness occurred as the result of the use of alcohol on a second or any subsequent occasion within a period of 12 months unless the person was participating in a recognized alcohol rehabilitation program at the time of the absence or tardiness, or is so participating within 10 days after the date of the discharge or suspension, and the person provides to the department documentation of program participation; or

(h) Has committed a disqualifying act described in subsection (9) or (10) of this section.

(3) If the authorized representative designated by the director finds that an individual was discharged for misconduct because of the individual's commission of a felony or theft in connection with the individual's work, all benefit rights based on wages earned prior to the date of the discharge shall be canceled if the individual's employer notifies the director of the discharge within 10 days following issuance of the notice provided for in ORS 657.265 or 30 days following issuance of the notice provided for in ORS 657.266, and:

(a) The individual has admitted commission of the felony or theft to an authorized representative of the director;

(b) The individual has signed a written admission of the felony or theft and the written admission has been presented to an authorized representative of the director; or

(c) The felony or theft has resulted in a conviction by a court of competent jurisdiction.

(4) An individual disqualified under subsection (2) of this section shall have the individual's maximum benefit amount reduced by eight times the individual's weekly benefit amount. However, in no event shall the individual's maximum benefit amount be reduced to less than the individual's weekly benefit amount unless the individual has previously received benefits during the individual's benefit year.

(5) An individual may not be disqualified from receiving benefits under subsection (2)(c) or (e) of this section or under ORS 657.200 if the individual ceases work or fails to accept work when a collective bargaining agreement between the individual's bargaining unit and the individual's employer is in effect and the employer unilaterally modifies the amount of wages payable under the agreement, in breach of the agreement.

(6) For purposes of applying subsection (2) of this section, when an individual has notified an employer that the individual will leave work on a specific date and it is determined that:

(a) The separation would be for reasons that constitute good cause;

(b) The individual voluntarily left work without good cause prior to the date of the impending good cause voluntary leaving date; and

(c) The actual voluntary leaving of work occurred no more than 15 days prior to the planned date of voluntary leaving, then the separation from work shall be adjudicated as if the actual voluntary leaving had

not occurred and the planned voluntary leaving had occurred. However, the individual shall be ineligible for benefits for the period including the week in which the actual voluntary leaving occurred through the week prior to the week of the planned good cause voluntary leaving date.

(7) For purposes of applying subsection (2) of this section, when an employer has notified an individual that the individual will be discharged on a specific date and it is determined that:

(a) The discharge would not be for reasons that constitute misconduct connected with the work;

(b) The individual voluntarily left work without good cause prior to the date of the impending discharge; and

(c) The voluntary leaving of work occurred no more than 15 days prior to the date of the impending discharge,

then the separation from work shall be adjudicated as if the voluntary leaving had not occurred and the discharge had occurred. However, the individual shall be ineligible for benefits for the period including the week in which the voluntary leaving occurred through the week prior to the week in which the individual would have been discharged.

(8) For purposes of applying subsection (2) of this section, when an individual has notified an employer that the individual will leave work on a specific date and it is determined that:

(a) The voluntary leaving would be for reasons that do not constitute good cause;

(b) The employer discharged the individual, but not for misconduct connected with work, prior to the date of the planned voluntary leaving; and

(c) The actual discharge occurred no more than 15 days prior to the planned voluntary leaving,

then the separation from work shall be adjudicated as if the discharge had not occurred and the planned voluntary leaving had occurred. However, the individual shall be eligible for benefits for the period including the week in which the actual discharge occurred through the week prior to the week of the planned voluntary leaving date.

(9)(a) For the purposes of subsection (2) of this section, an individual is considered to have committed a disqualifying act when the individual:

(A) Fails to comply with the terms and conditions of a reasonable written policy established by the employer or through collective bargaining, which may include blanket, random, periodic and probable cause testing,

that governs the use, sale, possession or effects of drugs or alcohol in the workplace;

(B) Fails or refuses to take a drug or alcohol test as required by the employer's reasonable written policy;

(C) Refuses to cooperate with or subverts or attempts to subvert a drug or alcohol testing process in any employment-related test required by the employer's reasonable written policy, including but not limited to:

(i) Refusal or failure to complete proper documentation that authorizes the test;

(ii) Refusal or failure to sign a chain of custody form;

(iii) Presentation of false identification;

(iv) Placement of an adulterant in the individual's specimen for testing, when the adulterant is identified by a testing facility; or

(v) Interference with the accuracy of the test results by conduct that includes dilution or adulteration of a test specimen;

(D) Is under the influence of intoxicants while performing services for the employer;

(E) Possesses a drug unlawfully or in violation of the employer's reasonable written policy during work;

(F) Tests positive for alcohol or an unlawful drug in connection with employment; or

(G) Refuses to enter into or violates the terms of a last chance agreement with the employer.

(b)(A) Except as provided in subparagraph (B) of this paragraph, an individual is not considered to have committed a disqualifying act under this subsection if the individual, on the date of separation or within 10 days after the date of separation, is participating in a recognized drug or alcohol rehabilitation program and provides documentation of participation in the program to the department.

(B) This paragraph does not apply to an individual who has refused to enter into or has violated the terms of a last chance agreement with the employer.

(c) It is no defense or excuse under this section that the individual's separation resulted from alcohol use, marijuana use, unlawful drug use, alcoholism or drug addiction.

(d) The department shall adopt rules to carry out the provisions of this subsection.

(10) For the purposes of subsection (2) of this section, an individual is considered to have committed a disqualifying act when the individual voluntarily leaves work, fails to apply for available suitable work when re-

ferred by the employment office or the director or fails to accept suitable work when offered:

(a) Because the employer has or introduces a reasonable written drug-free workplace policy that is consistent with subsection (9)(a)(A) of this section;

(b) Because the employer requires the employee to consent to present or future drug or alcohol tests under a reasonable written policy that is consistent with subsection (9)(a)(A) of this section;

(c) To avoid taking a drug or alcohol test under a reasonable written policy that is consistent with subsection (9)(a)(A) of this section; or

(d) To avoid meeting the requirements of a last chance agreement.

(11) An individual may not be disqualified from receiving benefits under subsection (2)(c) of this section and shall be deemed laid off if the individual:

(a) Works under a collective bargaining agreement;

(b) Elects to be laid off when the employer has decided to lay off employees; and

(c) Is placed on the referral list under the collective bargaining agreement.

(12) An individual may not be disqualified from receiving benefits under subsection (2)(c), (d) or (e) of this section or be considered unavailable for purposes of ORS 657.155 if:

(a) The individual or a member of the individual's immediate family is a victim of domestic violence, stalking or sexual assault, or the individual believes that the individual or a member of the individual's immediate family could become a victim of domestic violence, stalking or sexual assault; and

(b) The individual leaves work, fails to apply for available suitable work or fails to accept suitable work when offered in order to protect the individual or a member of the individual's immediate family from domestic violence, stalking or sexual assault that the individual reasonably believes will occur as a result of the individual's continued employment or acceptance of work.

(13) For purposes of this section:

(a) "Adulterant" means a substance that does not occur naturally in urine, or that occurs naturally in urine but not at the concentrations detected. "Adulterant" includes but is not limited to glutaraldehyde, nitrite concentrations above physiological levels, hypochlorite or soap.

(b) "Drug" means a controlled substance as defined in ORS 475.005.

(c) "Last chance agreement" means a reasonable agreement:

(A) Between an employer and an employee who has violated the employer's reasonable written policy, has engaged in drug or alcohol use connected with work or has admitted to alcohol abuse, marijuana use or unlawful drug use; and

(B) That permits the employee to return to work under conditions that may require the employee to:

(i) Abstain from alcohol use, marijuana use and unlawful drug use; and

(ii) Attend and comply with the requirements of a rehabilitation or education program acceptable to the employer.

(d) An individual is "under the influence of intoxicants" when the level of alcohol, marijuana or unlawful drugs present in the individual's body exceeds the amount prescribed in a collective bargaining agreement, or the amount prescribed in the employer's reasonable written policy if there is no applicable collective bargaining agreement provision. [1955 c.655 §9 (enacted in lieu of 657.175, 657.180 and 657.185); 1957 c.699 §2; 1959 c.643 §2; 1973 c.398 §2; 1977 c.295 §4; 1979 c.267 §2; 1981 c.5 §2; 1981 c.751 §2; 1982 s.s.1 c.2 §6; 1983 c.190 §1; 1983 c.409 §1; 1983 c.508 §6; 1993 c.778 §12; 1995 c.105 §6; 1995 c.178 §1; 1997 c.249 §201; 1997 c.740 §1; 1999 c.256 §1; 1999 c.1067 §1; 2001 c.144 §1; 2003 c.792 §2; 2005 c.278 §1; 2007 c.324 §1; 2009 c.115 §3]

657.178 [1959 c.643 §4; repealed by 1973 c.398 §3]

657.179 Eligibility of individuals participating in certain federally approved training.

(1) Notwithstanding provisions of this chapter relating to being available for work, actively seeking work or refusing to accept work, an unemployed individual otherwise eligible for unemployment insurance benefits shall not be denied benefits because the individual is in training approved under Section 236 (a)(1) of the Trade Act of 1974; nor shall such individual be denied benefits by reason of leaving work to enter such training if the work left is not suitable work.

(2) As used in this section "suitable work" means work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974). Such work must pay wages which equal or exceed 80 percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974. [1982 s.s.1 c.30 §7]

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

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

657.182 [1961 c.207 §1; 1971 c.743 §404; repealed by 1973 c.398 §3]

657.184 Benefits payable for service by aliens. Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted to the United States for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act. [1977 c.241 §5; 1987 c.124 §1; 1991 c.685 §9]

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

657.186 Benefits payable for service by athletes. Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week of unemployment which commences during the period between two successive sport seasons if the individual performed such services in the first season and there is reasonable assurance that the individual will perform such services in the subsequent season. [1977 c.241 §6]

657.190 Suitable work; factors to consider. In determining whether any work is suitable for an individual, the Director of the Employment Department shall consider, among other factors, the degree of risk involved to the health, safety and morals of the individual, the physical fitness and prior training, experience and prior earnings of the individual, the length of unemployment and prospects for securing local work in the customary occupation of the individual and the distance of the available work from the residence of the individual. [Amended by 2001 c.657 §2; 2009 c.21 §55]

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 3304(a)(5) of the Internal Revenue Code. [Amended by 1973 c.300 §5; 2007 c.614 §19]

657.200 Labor dispute disqualification; exceptions. (1) An individual is disqualified for benefits for any week with respect to which the Director of the Employment Department finds that the unemployment of the individual is due to a labor dispute that is in active progress at the factory, establishment or other premises at which the individual is or was last employed or at which the individual claims employment rights by union agreement or otherwise.

(2) When an employer operates two or more premises in the conduct of 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 director that the individual:

(a) Is unemployed due to a lockout, as defined in ORS 662.205, at the factory, establishment or other premises at which the individual was last employed; or

(b)(A) Is not participating in or financing or directly interested in the labor dispute that caused the unemployment of the individual; 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.

(4) An individual who meets all other applicable benefit eligibility requirements of this chapter is not disqualified from receipt of benefits by this section if:

(a) The individual was laid off from the employer prior to commencement of the labor dispute, did not work for the employer more than seven days during the 21 calendar days immediately prior to the commencement of the labor dispute and meets the requirements of subsection (3)(b)(A) of this section; or

(b) During the labor dispute, the individual's job or position is filled by the employer hiring a permanent replacement and the following conditions are met:

(A) The individual subsequently unilaterally abandons the labor dispute and affirmatively seeks reemployment with the employer; and

(B) The individual meets the requirements of subsection (3)(b)(A) of this section.

(5) An individual who maintains membership in a labor union or who continues to pay labor union dues does not violate the provisions of subsection (3)(b)(A) of this section, for the purpose of subsection (4) of this section. [Amended by 1985 c.133 §1; 1989 c.1095 §1; 2007 c.600 §1]

657.205 Deduction of retirement pay; exceptions. (1) Subject to the provisions of subsections (2) to (5) of this section, an individual is disqualified for benefits for any week with respect to which the individual is receiving, will receive, or has received a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment based on the previous work of the individual, if payment is received under a plan maintained or contributed to by a base year employer of the individual.

(2) In determining disqualification for any week under subsection (1) of this section, if the remuneration and payments referred to in 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 or weeks. Except as provided in subsection (3) of this section, such payments made in a lump sum upon separation or in weekly or other installments shall be considered as payments with respect to weeks following separation without regard to the existence or lack thereof of an employee-employer relationship during the weeks such pay is allocated pursuant to rules of the Director of the Employment Department.

(3) An individual is not disqualified for benefits and the director may not reduce benefits under this section to an individual who:

(a) If otherwise eligible, is entitled to benefits for any week;

(b) Is a dislocated worker who has been terminated as a result of any permanent closure of or any substantial layoff at a plant, facility or enterprise; and

(c) Elects to receive a payment referred to in subsection (1) of this section in a lump sum.

(4) If payments referred to in subsection (1) of this section are being received by an individual under the federal Social Security Act, the director shall take into account the individual's contribution and make no reduction in the weekly benefit amount.

(5) 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. [Amended by 1955 c.655 §13; 1957 c.699 §4; 1963 c.468 §1; 1969 c.569 §2; 1973 c.380 §1; 1975 c.661 §1; 1977 c.294 §3; 1979 c.185 §1; 1981 c.62 §1; 1983 c.157 §1; 1985 c.432 §1; 1987 c.270 §1; 2001 c.663 §1]

657.210 Disqualification in other jurisdictions. An individual is disqualified for benefits for any week with respect to which or a part of which the individual has received, will receive or is claiming unemployment benefits under an unemployment insurance law of another state, the United States or any other governmental jurisdiction. However, if the appropriate agency of such other state, the United States or any other governmental jurisdiction finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply. [Amended by 1979 c.267 §3]

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 willfully making a false statement or misrepresentation, or willfully failing to report a material fact, to obtain any benefits under this chapter, in addition to any penalties imposed by the court, such person shall:

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

(b) Be ineligible for benefits after such conviction until the person has reimbursed the fund for the full amount 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; 1973 c.300 §6]

657.215 Disqualification for misrepresentation. An individual is disqualified for benefits for a period not to exceed 52 weeks whenever the Director of the Employment Department finds that the individual has willfully made a false statement or misrepresentation, or willfully failed to report a material fact, to obtain any benefits under this chapter. The length of the period of disqualification and the time when the period begins shall be determined by the director in the discretion of the director, according to the circumstances in each case. During each

week of disqualification so imposed, an individual must meet all the eligibility requirements of this chapter. Any disqualification imposed under this section may be applied to any week claimed but remaining unpaid on the date of the disqualifying decision under this section but not to exceed five years from the date of the decision. The director may cancel the disqualification wholly or in part as the director deems proper and equitable. [Amended by 1977 c.295 §5; 2007 c.87 §1]

657.220 [Repealed by 1955 c.655 §25]

657.221 Ineligibility for benefits of certain educational institution personnel.

(1) Benefits based on services performed in other than an instructional, research or principal administrative capacity for an educational institution or institution of higher education shall be payable to an individual in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter. However:

(a) Benefits shall not be paid on the basis of such services for any week of unemployment that commences during a period between two successive academic years or terms if the individual performs such services in the first academic year or term and there is a reasonable assurance that the individual will perform any such services in the second academic year or term for any institution; except that

(b) If benefits are denied to an individual for any week under paragraph (a) of this subsection and such individual was not offered an opportunity to perform such services for the institution for the second of such academic years or terms, such individual shall be entitled, if otherwise eligible, to payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of paragraph (a) of this subsection.

(2) With respect to the application of this section, the following shall apply:

(a) An employee who terminates an employee-employer relationship by electing not to accept an offer of work for a subsequent academic year or term, other than by reason of labor negotiations or a labor dispute in progress, shall be deemed to have voluntarily left work. The effective date of such leaving shall be the date the individual notifies the institution of the election not to accept the offer of work for the subsequent period, except that if such individual continues to work under the terms of a previously existing contract or agreement, the effective date of leaving shall be the last day worked for the institution.

(b) In the event the institution does not extend to the individual an offer of work or provide a reasonable assurance the individual is expected to return to work for the institution following the period between the academic years or terms, the separation from work shall be considered an involuntary leaving or layoff.

(3) With respect to any services described in subsection (1) of this section, compensation payable on the basis of such services shall be denied to any individual for any week that commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform such services or any services described in ORS 657.167 (1) in the period immediately following such vacation period or holiday recess.

(4) With respect to any services described in subsection (1) of this section, benefits based on such services shall be denied as specified in subsections (1) and (3) of this section to any individual who performed such services in an institution while in the employ of an education service district established by ORS chapter 334, providing 50 percent or more of the individual's time is in the performance of services in such institution.

(5) The provisions of subsections (1), (3) and (4) of this section shall only apply to service performed for an educational institution or institution of higher education operated by:

- (a) A nonprofit employing unit;
- (b) This state;
- (c) A political subdivision; or

(d) An Indian tribe. [1973 c.715 §6; 1975 c.284 §2; 1977 c.241 §3; 1981 c.60 §2; 1983 c.343 §1; 1983 c.528 §3; 1983 c.538 §1; 1985 c.226 §3; 1985 c.748 §2; 2001 c.572 §9; 2005 c.218 §13]

657.222 [1983 c.528 §8; repealed by 2009 c.11 §83]

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; rules. (1) Benefits shall be payable from the fund and shall be paid through employment offices, in accordance with such regulations as the Director of the Employment Department 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 director 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; rules. (1) Claims for benefits shall be filed in accordance with such regulations as the Director of the Employment Department may prescribe.

(2) Each employer shall post and maintain printed statements concerning such regulations or such other matters as the director may by regulation prescribe in places readily accessible to individuals in the employer's service and shall make available to each such individual copies of printed statements or materials relating to claims for benefits as the director may by regulation prescribe. The printed statement shall include notice to the workers in plain language of the potential disqualification from receipt of benefits for voluntarily leaving work or being discharged. Such printed statements shall be supplied by the director to each employer without cost to the employer.

(3) The director shall make available to claimants, a printed statement that it is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has testified at an unemployment compensation hearing or other hearing conducted pursuant to this chapter.

(4) Every person making a claim shall certify that the person has not, during the week with respect to which benefits are claimed, received or earned wages or compensation for any employment, whether subject to this chapter or not, otherwise than as specified in the claim. [Amended by 1973 c.300 §7; 1983 c.409 §2; 1985 c.404 §4]

657.265 Notice of claim filing to employing units. When a claimant files an initial claim or an additional claim, the Employment Department promptly shall give written notice of the claim filing to the claimant's most recent employing unit. If the claimant did not receive or will not receive remuneration from qualifying employment, as described in ORS 657.176, in an amount greater than or equal to four times the claimant's weekly benefit amount from the claimant's most recent employing unit, the Employment Department shall notify the claimant's next previous employing unit or

units until the Employment Department has notified all of the claimant's former employing units that, in the aggregate, have paid or will pay the claimant remuneration from qualifying employment, as described in ORS 657.176, in an amount that is equal to or exceeds four times the claimant's weekly benefit amount. [Amended by 1961 c.252 §3; 1965 c.210 §1; 1967 c.435 §3; 1969 c.597 §177; 1971 c.77 §1; 1975 c.257 §6; 1977 c.295 §6; 1981 c.77 §11; 1981 c.751 §3; 1983 c.395 §1; 1983 c.508 §7; 1983 c.522 §1; 1993 c.778 §4; 2009 c.115 §4]

657.266 Initial determination of eligibility and amount of benefits; notice to affected parties; cancellation of determination; determination becomes final when hearing not requested. (1) An authorized representative shall promptly examine each new claim for benefits and, on the basis of information available, determine the total amount of wages paid to the claimant during the base year and whether or not such amount is sufficient to qualify the claimant 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. The initial determination under this section shall be applicable to all weeks of the benefit year respecting which the claim was filed; however, such determination may be amended with respect to any week or weeks of the benefit year.

(2) The Director of the Employment Department shall promptly give notice of an initial determination under this section to the claimant and to any employers that have paid wages to the claimant during the base year. Initial notice to a base-year employer shall include notice of the potential charges to the employer's account under ORS 657.471.

(3) The director shall promptly give notice of an amended determination under this section to the claimant and to all employers that have paid wages to the claimant during the base year and that are affected by the amended determination.

(4) An initial or amended determination may be canceled by the claimant at any time even though final, providing no disqualification has been assessed, no appeal of a disqualification or denial has been requested by the claimant nor benefits paid on such claim.

(5) Unless the claimant or a base-year employer files a request for hearing on the initial or amended determination with the director, the determination shall become final and the Employment Department shall pay or deny benefits in accordance with the determination, unless otherwise provided by law. The request for hearing must be filed not later than 10 days after the delivery of

the initial or amended determination unless the Employment Department mails the determination, in which case the request for hearing must be filed not later than 10 days after the date the determination is mailed to the last-known address of the claimant and the base-year employer. [1993 c.778 §6; 2001 c.101 §1]

657.267 Allowing or denying claim; notice of denial; amended decision; appeal. (1) An authorized representative shall promptly examine each claim for waiting week credit or for benefits and, on the basis of the facts available, make a decision to allow or deny the claim. Information furnished by the claimant, the employer or the employer's agents on forms provided by the Employment Department pursuant to the authorized representative's examination shall be accompanied by a signed statement that such information is true and correct to the best of the individual's knowledge. Notice of the decision need not be given to the claimant if the claim is allowed but, if the claim is denied, written notice shall be given to the claimant. If the claim is denied, the written notice shall include a statement of the reasons for denial, and if the claim is denied under any provision of ORS 657.176, the notice also shall set forth the specific material facts obtained from the employer and used by the authorized representative to support the reasons of the denial. The written notice shall state the reasons for the decision.

(2) If the claim is denied under any provision of ORS 657.176, written notice of such decision shall be given to the employing unit which, in the opinion of the Director of the Employment Department, is most directly involved with the facts and circumstances relating to the disqualification.

(3) Notice of a decision that was wholly or partially based on information filed with the director in writing within 10 days after the notice provided for in ORS 657.265 shall be given to any employing unit that has so filed such information.

(4) If a decision to allow payment made pursuant to this section does not require notice, that decision may be amended by an authorized representative. The amendment shall be made by written notice which provides for a right of appeal pursuant to ORS 657.269. The amendment must be issued within one year of the original decision to allow payment, except in cases of alleged willful misrepresentation or fraud. A decision requiring notice, made pursuant to this section, may be amended unless it has become a final decision under ORS 657.269. [1993 c.778 §7; 1997 c.59 §1]

657.268 Filing information on issues not previously decided; claim reexamination; notice of reasons for decision. When a base-year employer files information in writing with the Director of the Employment Department within 10 days of its knowledge of an occurrence raising any issue not previously decided based upon specific investigation, an authorized representative shall promptly reexamine the subject claim for waiting week credit or for benefits. On the basis of the facts available, the authorized representative shall promptly make a decision. Written notice stating the reasons for the decision shall be given to both the claimant and the base-year employer that has filed such information. [1993 c.778 §8]

657.269 Decision becomes final without request for hearing. Unless the claimant or one of the employing units entitled to notice under ORS 657.267 or 657.268 within 20 days after delivery of such notice or, if mailed, within 20 days after the same was mailed to the party's last-known address, files with the Director of the Employment Department a request for hearing upon the decision, it shall be final and benefits shall be paid or denied in accordance therewith, unless otherwise provided by law. If the decision is to allow benefits, the director shall pay such benefits regardless of any pending hearing on the claim. [1993 c.778 §9]

657.270 Hearing; application for review; dismissal of request for hearing. (1) When a request for hearing upon the claim has been filed, as provided in ORS 657.266 to 657.269, an administrative law judge from the Office of Administrative Hearings established under ORS 183.605 shall be assigned to conduct such hearing. The Director of the Employment Department shall notify the parties, in plain language, of their right, upon their request, to receive copies of all documents and records in the possession of the Employment Department relevant to the decision of the authorized representative, including any statements of the claimant, employer or employer's agents.

(2) When the hearing is conducted by telephone, the director shall provide to all parties copies of all documents and records in the possession of the director that will be introduced at the hearing as exhibits, including any statements of the claimant, employer or employer's agents, and all jurisdictional documents, at least seven days prior to the hearing. A party may request that the hearing be continued in order to receive copies of and respond to documentary evidence introduced at the hearing and not provided to the party prior to the hearing.

(3)(a) When the claimant or the employer is unrepresented at the hearing, the admin-

administrative law judge shall explain the issues involved in the hearing and the matters that the unrepresented claimant or the employer must either prove or disprove. The administrative law judge shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the administrative law judge in the case.

(b) As used in this subsection, “unrepresented” means the claimant or the employer is not represented by an attorney, paralegal worker, legal assistant, union representative or person otherwise qualified by experience or training.

(4) After the administrative law judge has given all parties reasonable opportunity for a fair hearing, the administrative law judge shall promptly affirm, modify or set aside the decision of the authorized representative with respect to the claim. The administrative law judge promptly shall notify all parties entitled to notice of the decision of the authorized representative, as set forth in ORS 657.266 to 657.269, of the administrative law judge’s decision, including a dismissal of the request for hearing as provided in subsection (7) of this section, and reasons therefor. The administrative law judge may address issues raised by evidence in the record, including but not limited to the nature of the separation and continued claims filed subsequent to issuance of a decision under ORS 657.267, notwithstanding the scope of the issues raised by the parties or the arguments in a party’s request for hearing.

(5) Following issuance of a written decision by an administrative law judge, any party may file a request to reopen the hearing. The administrative law judge’s decision whether to grant the request to reopen the hearing shall be in writing and shall be mailed to the parties. The administrative law judge may reopen the hearing if:

(a) Any party that is requesting the reopening failed to appear at the hearing;

(b) The party files the request within 20 days after the issuance of the written decision by the administrative law judge; and

(c) The cause of the failure to appear was beyond the control of the requesting party.

(6) Except as provided in subsection (7) of this section, unless the director or any other party to the hearing, within 20 days after the delivery of the notice under subsection (4) of this section, or if mailed, within 20 days after the notice was mailed to the party’s last-known address, files with the Employment Appeals Board an application for review, the decision of the administrative law judge shall be final.

(7)(a) The administrative law judge may dismiss a request for hearing under subsection (1) of this section when:

(A) The request for hearing is withdrawn by the requesting party;

(B) In response to a request by the administrative law judge or the administrative law judge’s designee, the requesting party fails to provide, in a timely manner, the information necessary to allow the matter to be scheduled for hearing;

(C) The requesting party fails to appear at the time of the hearing;

(D) The issues are resolved by cancellation or amendment of the decision that is the subject of the hearing request;

(E) The requesting party fails to file the request for hearing within the time allowed by statute or rule and fails to show good cause for the delay;

(F) The request for hearing is filed prior to the date of the written decision or written determination that is the subject of the request; or

(G) The request for hearing is made by a person who is not entitled to a hearing or is not the authorized representative of a party who is entitled to a hearing.

(b) A dismissal by the administrative law judge under this subsection is final unless the party whose request for hearing has been dismissed files, within 20 days after the dismissal notice was mailed to the party’s last-known address, an application for review as provided under this chapter. [Amended by 1965 c.210 §2; 1969 c.597 §178; 1973 c.300 §8; 1981 c.77 §12; 1983 c.395 §2; 1985 c.404 §1; 1993 c.778 §13; 1999 c.849 §122; 1999 c.1067 §§3,5; 2003 c.75 §49; 2003 c.197 §5; 2009 c.10 §1]

657.273 Restriction on use of findings, orders and judgments in other proceedings. Notwithstanding ORS 43.130 and 43.160, the decisions, findings, conclusions, final orders and judgments that arise out of hearings under ORS 657.270, review proceedings under ORS 657.275 and judicial review proceedings under ORS 657.282:

(1) May not be used for the purpose of claim preclusion or issue preclusion in any other action or proceeding except an administrative or civil action or proceeding under this chapter; and

(2) Are not admissible as evidence in any other civil action or proceeding other than civil actions or proceedings under this chapter or in determination of eligibility for public assistance or supplemental nutrition assistance under ORS 412.001 to 412.161 and ORS chapter 411. [1995 c.105 §3; 1997 c.581 §42; 2009 c.599 §23]

Note: 657.273 was added to and made a part of ORS chapter 657 by legislative action but was not added

to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

657.275 Review by Employment Appeals Board. (1) If the Director of the Employment Department or any interested party files with the Employment Appeals Board a timely application for review, the board shall promptly affirm, modify or set aside the decision of the administrative law judge. The board shall promptly notify the claimant and any other interested party of its decision. If the board finds that additional evidence is required to reach a decision, it may remand the matter to the administrative law judge to conduct a hearing to obtain additional evidence in the matter. The board shall promptly notify the claimant and any other interested party of such action. The administrative law judge may either make a new decision based on the additional and original evidence or forward the additional evidence to the board for a decision. If the administrative law judge issues a new decision, it shall be subject to review in accordance with the provisions of ORS 657.270 (6).

(2) The board shall perform de novo review on the record. The board may address issues raised by evidence in the record, including but not limited to the nature of a separation, notwithstanding the scope of the issues raised by the parties, the arguments set forth in a party's application for review or the parties' written or oral arguments. The board may enter its own findings and conclusions or may adopt the findings and conclusions of the administrative law judge, or any part thereof. When there is evidence in the record both to make more probable and less probable the existence of any basic fact or inference, the board need not explain its decision to believe or rely on such evidence unless the administrative law judge has made an explicit credibility determination regarding the source of such facts or evidence. The board is not required to give any weight to implied credibility findings. The decision of the board shall become the final order unless a petition for judicial review is filed in accordance with ORS 657.282. [Amended by 1959 c.583 §18; 1965 c.210 §3; 1983 c.522 §2; 1985 c.404 §2; 1991 c.328 §1; 1993 c.344 §23; 1999 c.849 §125; 1999 c.1067 §7; 2003 c.75 §101; 2009 c.10 §2]

657.280 General procedure and records concerning disputed claims. (1) The manner in which disputed claims shall be presented and the reports thereon required from the claimant and from the employers shall be in accordance with the regulations prescribed by the Director of the Employment Department.

(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 re-

corded but need not be transcribed unless the disputed claim is appealed further. [Amended by 1983 c.522 §3; 1999 c.849 §§127,128; 2003 c.75 §50]

657.282 Judicial review of decisions under ORS 657.275. Judicial review of decisions under ORS 657.275 shall be as provided for review of orders in contested cases in ORS chapter 183, except that the petition shall be filed within 30 days after the order is served. The Director of the Employment Department may file petition for judicial review in accordance with this section from decisions of the Employment Appeals Board. [1971 c.734 §94; 1983 c.522 §4]

657.285 [Amended by 1959 c.583 §19; repealed by 1971 c.734 §21]

657.290 Continuous jurisdiction of director; reconsideration of previous decisions. (1) The Director of the Employment Department, upon motion of the director or upon application of any party to a claim for benefits, may at any time reconsider any final decision under this chapter. Reconsideration may occur when there is evidence of:

- (a) Errors of computation;
- (b) Clerical errors;
- (c) Misinformation provided a party by the Employment Department;
- (d) Facts not previously known to the department; or
- (e) Errors caused by misapplication of law by the department.

(2) Such reconsideration shall be accomplished by the director or any employee the director may designate for the purpose, in accordance with such regulations as the director 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, 657.266 to 657.269 and 657.270 to 657.282.

(3) The Employment 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 Employment Appeals Board. Such reconsideration shall be accomplished by the Employment Appeals Board or special referee designated for the purpose and may include the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law. Such new decision shall be subject to judicial review in accordance with ORS 657.282. [Amended by 1959

c.583 §20; 1961 c.252 §4; 1965 c.210 §4; 1975 c.257 §7; 1983 c.522 §5; 1985 c.565 §88; 1993 c.778 §10]

657.295 Witness fees; disputed claim expenses; counsel; fees. (1) Witnesses other than parties subpoenaed pursuant to ORS 657.265, 657.266 to 657.269, 657.270 to 657.280 or 657.290 shall be allowed fees at a rate fixed by the Director of the Employment Department. Such fees and all expenses of proceedings before the director or the Employment 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 director or representatives of the director.

(2) Notwithstanding any other law, a person in any proceeding before the director or Employment Appeals Board may be represented by counsel or other agent authorized by such person. No such counsel or agent representing an individual who is claiming benefits shall charge or receive for such services more than an amount approved by the director. As used in this subsection, "person" has the meaning defined in ORS 174.100 and also includes this state and all political subdivisions therein. [Amended by 1959 c.583 §21; 1969 c.161 §1; 1983 c.147 §1; 1993 c.778 §14]

657.300 False statements or failure to report material fact by employer. No employer or employer's agent shall intentionally and willfully make or cause to be made false statements or willfully fail to report a material fact regarding the claim of a claimant or regarding a claimant or claimant's eligibility for benefits under this chapter. [Amended by 1983 c.395 §3; 1985 c.748 §3]

657.305 [Amended by 1955 c.655 §16; repealed by 1971 c.743 §432]

657.306 Combining decision on claim for benefits with decision on recovery of benefits. The Director of the Employment Department or an authorized representative designated by the director may combine a decision under ORS 657.266, 657.267 or 657.268 with a decision under ORS 657.310 or 657.315. [2005 c.182 §2]

657.310 Recovery or deduction of benefits paid because of misrepresentation by recipient; penalty. (1) If the Director of the Employment Department decides that an individual received any benefits under this chapter to which the individual is not entitled because the individual, regardless of the individual's knowledge or intent, made or caused to be made a false statement or misrepresentation of a material fact, or failed to

disclose a material fact, the individual is liable:

(a) To repay the amount of the benefits to the director for the Unemployment Compensation Trust Fund; or

(b) To have the amount of the benefits deducted from any future benefits otherwise payable to the individual under this chapter.

(2) In addition to the liability described in subsection (1) of this section, an individual who has been disqualified for benefits under ORS 657.215 is liable for a penalty in an amount equal to 15 percent of the amount of benefits the individual received but to which the individual was not entitled.

(3) A decision of the director under this section does not authorize the recovery of the amount of any benefits paid to an individual until the decision is final and the decision specifies:

(a) That the individual, by reason of the false statement, misrepresentation or nondisclosure, is liable to repay the amount to the Unemployment Compensation Trust Fund;

(b) The nature of the false statement, misrepresentation or nondisclosure; and

(c) The week or weeks for which the benefits were paid.

(4) Any amount subject to recovery and any penalty due under this section may be collected by the director in a civil action against the individual brought in the name of the director. Judgment rendered shall bear interest at the rate provided in subsection (5) of this section. The amount collected, not including interest or the penalty, shall be paid into the Unemployment Compensation Trust Fund.

(5) Interest on any amount liable to be repaid under this section shall be paid and collected at the same time repayment of benefits is made by the individual to the Unemployment Compensation Trust Fund, at the rate of one percent per month beginning on the first day of the month following 60 days after the finality of the administrative decision establishing the overpayment. In computing interest under this subsection, a fraction of a month is counted as a full month.

(6) Deductions from unemployment insurance benefits shall be applied solely to the amount of the benefits liable to be repaid under this section. All other payments shall be applied first to court costs, then to penalties, then to interest, then to the amount liable to be repaid.

(7) Interest and penalties collected under this section shall be paid into the Employment Department Special Fraud Control Fund in accordance with the provisions of

ORS 657.400. [Amended by 1963 c.14 §1; 1997 c.372 §1; 2005 c.182 §3; 2007 c.87 §2]

657.315 Recovery or deduction of benefits paid erroneously. (1) If the Director of the Employment Department decides that an individual has been paid benefits to which the individual is not entitled because of an error not due to the individual providing a false statement or misrepresentation of a material fact or not disclosing a material fact, or because an initial decision to pay benefits is subsequently reversed by a decision finding the individual is not eligible for the benefits, the individual is liable to have the amount deducted from any future benefits otherwise payable to the individual under this chapter for any week or weeks within 52 weeks following the week in which the decision establishing the erroneous payment became final.

(2) A decision of the director under this section does not authorize the recovery of the amount of any benefits paid to an individual until the decision is final and the decision specifies that the individual is liable to have the amount deducted from any future benefits otherwise payable under this chapter for any week or weeks within 52 weeks following the week in which the decision establishing the erroneous payment became final.

(3) Amounts paid to an individual in excess of the maximum benefits allowable pursuant to this chapter may be recovered in a civil action brought in the name of the director for such purpose. [Amended by 1971 c.77 §2; 1975 c.284 §3; 1977 c.400 §6; 1993 c.778 §18; 2005 c.182 §4]

657.317 Waiving recovery of benefits; effect of finding of noncompliance with federal law. (1) The Director of the Employment Department shall waive recovery of benefits under ORS 657.315 if the director finds that the benefits are recoverable due to a change in federal or state law, the application of which has caused the disqualification of benefits previously paid.

(2) If the United States Secretary of Labor serves notice that the provisions of subsection (1) of this section fail to meet the requirements of the Social Security Act or the Federal Unemployment Tax Act then subsection (1) of this section shall no longer be of any force or effect.

(3) The director may waive establishment and recovery of overpaid benefits when no decision has been issued under ORS 657.310 or 657.315 and the amount of the overpayment is less than one-half of the maximum weekly benefit amount in effect at the time the overpayment is discovered. [1983 c.528 §§6,7; 1995 c.105 §7]

657.320 Cancellation of unrecoverable benefits. (1) If any amount paid to an individual as benefits, for which the individual has been found liable under the provisions of ORS 657.310 to repay or to have deducted from benefits payable, has neither been repaid nor so deducted within a period of three years following the date the decision establishing the overpayment became final, and is equal to or is less than the state maximum weekly benefit amount or determined by the Director of the Employment Department to be uncollectible, the overpayment together with the record of the overpayment and the resulting shortage, shall be canceled, and the overpayment, excluding any amount chargeable to reimbursable employers, shall be permanently charged to the fund. However, the overpayment may not be canceled if the debt is being recovered by payments or deductions that were received within the last three months nor if repayment of the overpayment is required under ORS 657.213.

(2) If an amount paid to an individual as benefits, for which the individual has been found liable under the provisions of ORS 657.315 (1) to have deducted from benefits payable, has neither been repaid nor so deducted from benefits otherwise payable to the individual for any week or weeks within 52 weeks following the week in which the decision establishing the overpayment became final, the overpayment together with the record of the overpayment and the resulting shortage, shall be canceled and the overpayment, excluding any amount chargeable to reimbursable employers, shall be permanently charged to the fund.

(3) When in the judgment of the director the best interests of the Employment Department are served in an effort to settle accounts, the director may waive, reduce or compromise any part or all of the interest or penalty charged pursuant to ORS 657.310. The director may determine that the amount of interest or penalty due and unpaid is uncollectible, and write the amount off. In making the determination that interest or a penalty is uncollectible, the director shall consider, among other factors:

(a) The administrative costs of continued collection efforts in relation to the amount due;

(b) The accessibility of the debtor for effective collection actions; and

(c) The debtor's financial condition and ability to pay the amount due, both current and projected. [Amended by 1977 c.294 §5; 1983 c.146 §1; 1997 c.372 §3; 2007 c.87 §3]

(Extended Benefits)

657.321 Definitions for ORS 657.321 to 657.329. As used in ORS 657.321 to 657.329 unless the context requires otherwise:

(1) “Eligibility period” of an individual means the period consisting of the weeks in the individual’s benefit year that begin in an extended benefit period and, if the benefit year ends within the extended benefit period, any subsequent weeks that begin in the extended benefit period.

(2) “Exhaustee” means an individual who, with respect to any week of unemployment in the individual’s eligibility period:

(a) Has received prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents’ allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in the current benefit year that includes such week (provided that an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages or employment that were not considered in the original monetary determination in the current benefit year, the individual may subsequently be determined to be entitled to added regular benefits); or

(b)(A) The individual’s benefit year having expired prior to such week, has no, or insufficient, wages and employment to establish a new benefit year that would include such week;

(B) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(C) Has not received and is not seeking, or the appropriate agency has finally determined that the individual is not entitled to receive, unemployment benefits under the unemployment compensation law of Canada.

(3)(a) “Extended benefit period” means a period that:

(A) Begins with the third week after a week for which there is a state “on” indicator; and

(B) Ends with the third week after the first week for which there is a state “off” indicator or the 13th consecutive week of such period, whichever occurs later.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, no extended benefit period may begin by reason of a state “on” indicator before the 14th week follow-

ing the end of a prior extended benefit period that was in effect with respect to this state.

(c) There is a state “on” indicator for any week for which the Director of the Employment Department determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted):

(A) Equaled or exceeded five percent and equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years;

(B) Equaled or exceeded six percent; or

(C) With respect to benefits for weeks of unemployment beginning after March 6, 1993:

(i) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds 6.5 percent; and

(ii) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in sub-subparagraph (i) of this subparagraph, equals or exceeds 110 percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(d) There is a state “off” indicator for any week for which the director determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, none of the options specified in subsection (3)(c) of this section results in an “on” indicator.

(4) “Extended benefits” means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in the individual’s eligibility period.

(5) “High unemployment period” means any period during which an extended benefit period would be in effect if subsection (3)(c)(C)(i) of this section were applied by substituting “eight percent” for “6.5 percent.”

(6) “Rate of insured unemployment,” for the purpose of subsection (3)(c) and (d) of this section, means the percentage derived by dividing:

(a) The average weekly number of regular continued weeks of unemployment claimed by individuals in this state with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters before the end of such 13-week period.

(7) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(8) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code. [1971 c.2 §2; 1974 c.46 §1; 1977 c.228 §1; 1979 c.267 §4; 1982 s.s.1 c.30 §1; 1993 c.200 §3; 2003 c.14 §401; 2007 c.71 §210; 2007 c.614 §20; 2009 c.115 §§5,6,7]

Note 1: The amendments to 657.321 by section 7, chapter 115, Oregon Laws 2009, apply to weeks, as defined in 657.010 (15), beginning on or after May 30, 2010. See section 10 (4), chapter 115, Oregon Laws 2009. The amendments to 657.321 by section 5, chapter 115, Oregon Laws 2009, apply to weeks, as defined in 657.010 (15), beginning on or after February 22, 2009, and ending on or before December 26, 2009. See section 10 (2), chapter 115, Oregon Laws 2009. The text that applies to weeks beginning on or after February 22, 2009, and ending on or before December 26, 2009, is set forth for the user's convenience.

657.321. As used in ORS 657.321 to 657.329 unless the context requires otherwise:

(1) "Eligibility period" of an individual means the period consisting of:

(a) The weeks in the individual's benefit year that begin in an extended benefit period and any subsequent weeks that begin in the extended benefit period; or

(b) Any week that begins:

(A) After the date the individual exhausts all rights to Emergency Unemployment Compensation; and

(B) During an extended benefit period that began on or before the date described in subparagraph (A) of this paragraph.

(2) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) Has received prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in the current benefit year that includes such week (provided that an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages or employment that were not considered in the original monetary determination in the current benefit year, the individual may subsequently be determined to be entitled to added regular benefits); or

(b)(A) The individual's benefit year having expired prior to such week, has no, or insufficient, wages and

employment to establish a new benefit year that would include such week;

(B) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(C) Has not received and is not seeking, or the appropriate agency has finally determined that the individual is not entitled to receive, unemployment benefits under the unemployment compensation law of Canada.

(3)(a) "Extended benefit period" means a period that:

(A) Begins with the third week after a week for which there is a state "on" indicator; and

(B) Ends with the third week after the first week for which there is a state "off" indicator or the 13th consecutive week of such period, whichever occurs later.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period that was in effect with respect to this state.

(c) There is a state "on" indicator for any week for which the Director of the Employment Department determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted):

(A) Equalled or exceeded five percent and equalled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years;

(B) Equalled or exceeded six percent; or

(C) With respect to benefits for weeks of unemployment beginning after March 6, 1993:

(i) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds 6.5 percent; and

(ii) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in sub-subparagraph (i) of this subparagraph, equals or exceeds 110 percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(d) There is a state "off" indicator for any week for which the director determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, none of the options specified in subsection (3)(c) of this section results in an "on" indicator.

(4) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in the individual's eligibility period.

(5) "High unemployment period" means any period during which an extended benefit period would be in effect if subsection (3)(c)(C)(i) of this section were applied by substituting "eight percent" for "6.5 percent."

(6) "Rate of insured unemployment," for the purpose of subsection (3)(c) and (d) of this section, means the percentage derived by dividing:

(a) The average weekly number of regular continued weeks of unemployment claimed by individuals in this state with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters before the end of such 13-week period.

(7) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(8) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code.

Note 2: The amendments to 657.321 by section 6, chapter 115, Oregon Laws 2009, apply to weeks, as defined in 657.010 (15), beginning on or after December 27, 2009, and ending on or before May 29, 2010. See section 10 (3), chapter 115, Oregon Laws 2009. The text that applies to weeks beginning on or after December 27, 2009, and ending on or before May 29, 2010, including amendments by section 5, chapter 115, Oregon Laws 2009, is set forth for the user's convenience.

657.321. As used in ORS 657.321 to 657.329 unless the context requires otherwise:

(1) "Eligibility period" of an individual means the period consisting of:

(a) The weeks in the individual's benefit year that begin in an extended benefit period and any subsequent weeks that begin in the extended benefit period; or

(b) Any week that begins:

(A) After the date the individual exhausts all rights to Emergency Unemployment Compensation; and

(B) During an extended benefit period that began on or before the date described in subparagraph (A) of this paragraph, provided the individual received extended benefits for one or more weeks of unemployment during the period from February 22, 2009, through December 26, 2009.

(2) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) Has received prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in the current benefit year that includes such week (provided that an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages or employment that were not considered in the original monetary determination in the current benefit year, the individual may subsequently be determined to be entitled to added regular benefits); or

(b)(A) The individual's benefit year having expired prior to such week, has no, or insufficient, wages and employment to establish a new benefit year that would include such week;

(B) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(C) Has not received and is not seeking, or the appropriate agency has finally determined that the in-

dividual is not entitled to receive, unemployment benefits under the unemployment compensation law of Canada.

(3)(a) "Extended benefit period" means a period that:

(A) Begins with the third week after a week for which there is a state "on" indicator; and

(B) Ends with the third week after the first week for which there is a state "off" indicator or the 13th consecutive week of such period, whichever occurs later.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period that was in effect with respect to this state.

(c) There is a state "on" indicator for any week for which the Director of the Employment Department determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted):

(A) Equalled or exceeded five percent and equalled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years;

(B) Equalled or exceeded six percent; or

(C) With respect to benefits for weeks of unemployment beginning after March 6, 1993:

(i) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds 6.5 percent; and

(ii) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in sub-subparagraph (i) of this subparagraph, equals or exceeds 110 percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(d) There is a state "off" indicator for any week for which the director determines in accordance with regulations of the United States Secretary of Labor that for the period consisting of such week and the immediately preceding 12 weeks, none of the options specified in subsection (3)(c) of this section results in an "on" indicator.

(4) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in the individual's eligibility period.

(5) "High unemployment period" means any period during which an extended benefit period would be in effect if subsection (3)(c)(C)(i) of this section were applied by substituting "eight percent" for "6.5 percent."

(6) "Rate of insured unemployment," for the purpose of subsection (3)(c) and (d) of this section, means the percentage derived by dividing:

(a) The average weekly number of regular continued weeks of unemployment claimed by individuals in this state with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters before the end of such 13-week period.

(7) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(8) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code.

657.323 ORS 657.321 to 657.329 supersede inconsistent provisions of this chapter. The provisions of this chapter relating to the payment of regular benefits shall apply to claims for and the payment of extended benefits, except when the result would be inconsistent with the provisions of ORS 657.321 to 657.329. [1971 c.2 §3]

657.325 Extended benefits; eligibility; amount. (1) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the Director of the Employment Department finds that with respect to such week the individual:

(a) Is an exhaustee;

(b) Has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(c) Has been paid wages by an employer or employers subject to the provisions of this chapter during the base period of the individual's applicable benefit year in an amount equal to or in excess of 40 times the individual's applicable weekly benefit amount.

(2) The weekly extended benefit amount payable to an individual for a week of total unemployment in the individual's eligibility period shall be an amount equal to the weekly benefit amount payable to the individual during the applicable benefit year.

(3) The maximum extended benefit amount payable to any eligible individual with respect to the applicable benefit year shall be:

(a) 50 percent of the total amount of regular benefits which were payable to the individual under this chapter in the applicable benefit year; or

(b) With respect to weeks beginning in a high unemployment period, 80 percent of the total amount of regular benefits which were payable to the individual under this chapter in the applicable benefit year.

(4) Notwithstanding subsection (1) of this section, extended benefits shall not be payable to any individual for any week pursuant to an interstate claim filed in any other state under the interstate benefit payment plan if

an extended benefit period is not in effect for such week in such other state.

(5) The provisions of subsection (4) of this section shall not apply with respect to the first two weeks for which extended benefits would otherwise be payable to an individual pursuant to an interstate claim filed under the interstate benefit payment plan.

(6) Notwithstanding the provisions of subsections (1) to (5) and (12) of this section, an individual shall be ineligible for payment of extended benefits for any week of unemployment in the individual's eligibility period if the director finds that during such week:

(a) The individual failed to accept any offer of suitable work or failed to apply for any suitable work, as defined under subsection (8) of this section, to which the individual was referred by the director; or

(b) The individual failed to actively engage in seeking work as prescribed under subsection (10) of this section.

(7) Any individual who has been found ineligible for extended benefits by reason of the provisions in subsection (6) of this section shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until the individual has been employed in each of four subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than four times the extended weekly benefit amount.

(8)(a) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities, provided, however:

(A) That the gross average weekly remuneration payable for the work must exceed the sum of the individual's weekly benefit amount and the amount, if any, of supplemental unemployment benefits, as defined in section 501(c)(17)(D) of the Internal Revenue Code, payable to such individual for such week; and

(B) The work must pay wages which equal or exceed the higher of the state or local minimum wage or the minimum wage provided by section 6 (a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption;

(b) No individual shall be denied extended benefits for failure to accept an offer of or referral to any job which meets the definition of suitability as described herein if:

(A) The position was not offered to such individual in writing or was not listed with the Employment Department; or

(B) Such failure could not result in a denial of benefits under the definition of suit-

able work for regular benefit claimants pursuant to ORS 657.190 to the extent that the criteria of suitability are not inconsistent with the provisions of this section; or

(C) The individual furnishes satisfactory evidence to the director that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in ORS 657.190 without regard to the definition specified in this subsection.

(9) Notwithstanding the provisions of subsection (8) of this section to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by section 3304(a)(5) of the Internal Revenue Code and as set forth in ORS 657.195.

(10) For the purposes of subsection (6)(b) of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during such week; and

(b) The individual furnishes tangible evidence of engaging in such effort during such week.

(11) The Employment Department shall refer any claimant entitled to extended benefits to any suitable work which meets the criteria prescribed in subsection (8) of this section.

(12) An individual shall not be eligible to receive extended benefits under this section if the individual has been disqualified for regular or extended benefits under ORS 657.176 (2) unless the individual has satisfied the disqualification as provided in ORS 657.176 (2).

(13) Subsections (6) to (11) of this section shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. [1971 c.2 §4; 1981 c.46 §2; 1981 c.564 §1; 1982 s.s.1 c.30 §2; 1983 c.508 §8; 1993 c.200 §4; 2007 c.614 §21]

657.326 Adjustment of extended benefits to be received when benefit year ends within extended benefit period. Notwithstanding any other provisions of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below

zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount. [1982 s.s.1 c.30 §5]

657.327 Notice of effectiveness of extended benefits; employers not to be charged for extended benefits. (1) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the Director of the Employment Department shall make an appropriate public announcement.

(2) No employer's account shall be charged for extended benefits paid to an unemployed individual pursuant to the provisions of ORS 657.321 to 657.329. [1971 c.2 §5; 1982 s.s.1 c.30 §3]

657.329 Applicability of ORS 657.321 to 657.329. ORS 657.321 to 657.329 shall apply to individuals meeting the requirements thereof for the week ending January 16, 1971, and any week thereafter. [1971 c.2 §6]

657.330 [1969 c.156 §2; 1971 c.82 §1; renumbered 657.337 in 1989]

(Additional Benefits)

657.331 "Additional benefits" and "additional benefit period" defined. (1) As used in ORS 657.331 to 657.334:

(a) "Additional benefits" means benefits totally financed by the state and payable under this chapter to exhaustees by reason of conditions of high unemployment.

(b) "Additional benefit period" means a period not within an extended benefit period that:

(A) Begins with the third week after a week for which there is a state additional benefits "on" indicator; and

(B)(i) Ends with the second week after the first week for which there is a state "on" indicator as defined in ORS 657.321 (3)(c); or

(ii) If there is no "on" indicator, ends with the third week after the first week for which there is a state additional benefits "off" indicator or the seventh consecutive week of such period, whichever occurs later.

(2) Notwithstanding the provisions of subsection (1)(b) of this section, no additional benefit period may begin by reason of a state additional benefit "on" indicator before the eighth week following the end of a prior additional benefit period which was in effect with respect to this state.

(3) There is a state additional benefit "on" indicator for any week for which the

Director of the Employment Department determines that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) equaled or exceeded 4.5 percent.

(4) There is a state additional benefits “off” indicator for any week for which the director determines that, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) was less than 4.5 percent.

(5) For purposes of this section, “rate of insured unemployment” has the same meaning as provided in ORS 657.321 (6). [1983 c.818 §§4,5; 1985 c.194 §2; 2003 c.14 §402; 2007 c.71 §211]

657.332 Eligibility for benefits; maximum amount. During an additional benefit period an individual who has exhausted regular benefits pursuant to this chapter with respect to a week which begins subsequent to August 9, 1983, and who continues to otherwise meet the eligibility requirements for regular benefits under the provisions of this chapter, and who is not eligible for any other unemployment benefits, including benefits provided for by any federal law extending benefits beyond those provided for as regular benefits or extended benefits, may receive additional benefits for weeks subsequent to August 9, 1983, in an amount equal to the weekly benefit amount of the individual’s most recent regular unemployment benefit claim subject to the provisions of this chapter. The maximum additional benefits an individual may receive under ORS 657.331 to 657.334 is 25 percent of the most recent regular unemployment benefit claim. [1983 c.818 §6]

657.333 Charging employer’s account for benefits; reimbursing employer payments. An employer’s account may not be charged for additional benefits paid to an unemployed individual under ORS 657.331 to 657.334. However, nothing in this section shall be construed to relieve the state, reimbursing political subdivisions, reimbursing nonprofit employers or reimbursing Indian tribes from paying into the Unemployment Compensation Trust Fund an amount equal to the additional benefits paid to an unemployed individual under ORS 657.331 to 657.334. [1983 c.818 §7; 2001 c.572 §10; 2003 c.14 §403]

657.334 Limitation on period for which benefits paid. Additional benefits may be paid under the provisions of ORS 657.331 to 657.334 only with respect to weeks not within an extended benefit period, and not within a period covered by any federal law allowing the filing of new claims extending benefits beyond those provided for as regular

or extended benefits. [1983 c.818 §8; 1985 c.194 §1; 1987 c.126 §1; 1989 c.818 §1]

(Emergency Benefits)

Note: Sections 8 and 9, chapter 857, Oregon Laws 2009, provide:

Sec. 8. (1) As used in this section:

(a) “Emergency benefit period” means a period beginning October 4, 2009, and ending on January 2, 2010.

(b) “Oregon emergency benefits” means unemployment benefits totally financed by the state and payable under ORS chapter 657 to individuals described in subsection (2) of this section during an emergency benefit period.

(c) “Regular benefits” has the meaning given that term in ORS 657.321.

(2) During an emergency benefit period, an individual may receive Oregon emergency benefits in an amount equal to the weekly benefit amount of the individual’s most recent regular unemployment benefit claim subject to the provisions of ORS chapter 657 if:

(a) The individual has exhausted regular benefits under ORS chapter 657;

(b) The individual is not eligible for any other unemployment benefits, including benefits provided under any federal law extending benefits beyond those provided for as regular benefits;

(c) The individual’s benefit year expired on or after May 1, 2007; and

(d) The individual otherwise continues to meet the eligibility requirements for regular benefits under ORS chapter 657.

(3) The maximum Oregon emergency benefits an individual may receive under this section is 50 percent of the individual’s most recent regular Oregon unemployment benefit claim.

(4) The Employment Department may not charge an employer’s account for benefits paid to an unemployed individual under this section. However, nothing in this section may be construed to relieve the state, reimbursing political subdivisions, reimbursing nonprofit employers or reimbursing Indian tribes from paying into the Unemployment Compensation Trust Fund an amount equal to the Oregon emergency benefits paid to an unemployed individual under this section.

(5) The provisions of this section apply only for weeks beginning October 4, 2009, and ending January 2, 2010. [2009 c.857 §8]

Sec. 9. Notwithstanding section 8 of this 2009 Act, the Director of the Employment Department may immediately stop payments of Oregon emergency benefits when the director determines that the total amount of payments made pursuant to section 8 of this 2009 Act would exceed \$30 million if paid for the succeeding calendar week. [2009 c.857 §9]

Note: Sections 8 and 9, chapter 857, Oregon Laws 2009, are repealed January 2, 2012. See section 10, chapter 857, Oregon Laws 2009.

DISLOCATED WORKER PROGRAM

657.335 Definitions for ORS 657.335 to 657.360. As used in ORS 657.335 to 657.360:

(1) “Eligible dislocated workers” means individuals who are not disqualified from benefits under ORS 657.176 and who:

(a) Have been terminated or laid off or who have received a notice of termination or layoff, are eligible for or have exhausted

their entitlement to unemployment compensation and are unlikely to return to their previous industry or occupation;

(b) Have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility or enterprise;

(c) Are long term unemployed and have limited opportunities for employment or re-employment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age;

(d) Were self-employed, including farmers and ranchers, and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters;

(e) Returned to service in the Oregon National Guard or the military reserve forces of the United States following active duty service;

(f) Have separated from a declining industry; or

(g) Have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at their place of employment.

(2) "Career and technical training" means training or retraining and basic education, including literacy skills, designed to prepare individuals for gainful employment in recognized or new occupations or to prepare individuals to become self-employed. The term does not include programs of instruction for an individual, including transfer credit programs of instruction given at community colleges, that are primarily intended to lead toward a baccalaureate or higher degree or training that has for its purpose the preparation of individuals for employment in occupations that require a baccalaureate or higher degree from institutions of higher education unless approved by the Director of the Employment Department. [1969 c.156 §3; 1971 c.82 §2; 1991 c.685 §4; 1993 c.129 §1; 2005 c.174 §3; 2009 c.94 §23; 2009 c.115 §8]

657.337 [Formerly 657.330; 1991 c.685 §5; 1993 c.624 §2; 1993 c.765 §12; 1995 c.495 §1; 1997 c.61 §9; 2001 c.684 §29; 2001 c.866 §1; 2003 c.536 §2; 2005 c.174 §1; 2009 c.94 §24; repealed by 2009 c.115 §11]

657.340 Eligibility for benefits. (1) Dislocated workers approved for career and technical training may not be denied unemployment insurance benefits solely because they are attending career and technical training, nor shall such individual be denied benefits by reason of leaving work to enter such training if the work left was part-time or temporary or paid less than 80 percent of

the individual's average weekly wage during the base year.

(2) Notwithstanding provisions of this chapter relating to availability for work, actively seeking work or refusal to accept suitable work, dislocated workers approved for career and technical training and otherwise eligible for benefits are not ineligible for such benefits or waiting week credit because of attendance in career and technical training.

(3)(a) Eligible dislocated workers who file valid unemployment compensation claims, upon exhaustion of regular benefits, are eligible for supplemental benefits from 1 to 26 times the individual's most recent weekly benefit amount based upon the amount needed to continue or complete approved career and technical training.

(b) Supplemental benefits shall be paid under the same terms and conditions as regular benefits under this chapter, except that the Director of the Employment Department may extend the benefit year of an individual attending an approved career and technical training program a sufficient number of weeks to allow the individual to complete the training program.

(c) Supplemental benefits may be paid only when the eligible dislocated worker is not eligible to receive extended benefits as provided in ORS 657.321 to 657.329 or additional benefits as provided in ORS 657.331 to 657.334.

(4) The receipt of supplemental benefits is conditioned upon the individual's demonstrating satisfactory progress and attendance in career and technical training. [1969 c.156 §§5,6; 1971 c.82 §3; 1991 c.685 §6; 1993 c.624 §1; 1995 c.495 §2; 1997 c.56 §1; 2001 c.866 §2; 2005 c.174 §2; 2009 c.94 §25; 2009 c.115 §9]

657.342 [1991 c.685 §12; repealed by 2009 c.115 §11]

657.345 Approval of programs by director. (1) Individuals who are identified as dislocated workers under the federal Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), and implementing regulations, and who attend training programs identified under the Act shall be considered to be in approved career and technical training. The training shall be for occupations or skills for which there are or are expected to be reasonable employment opportunities in the area or in another area to which the individual is willing to relocate or which relate to the development of a self-employment enterprise for which there is reasonable opportunity for success.

(2) In approving career and technical training for eligible dislocated workers who do not attend training programs identified in subsection (1) of this section, the Director of the Employment Department shall require:

(a) That the career and technical training relates to an occupation or skill for which there are, or are expected to be, reasonable employment opportunities in this state or relates to the development of a self-employment enterprise for which there is a reasonable opportunity for success.

(b) That the individual has the qualifications and aptitudes to successfully complete such career and technical training. [1969 c.156 §7; 1971 c.82 §4; 1983 c.9 §1; 1991 c.685 §7; 2001 c.684 §30; 2009 c.94 §26]

657.350 Rules for administering training program. The Director of the Employment Department, in consultation with the Department of Community Colleges and Workforce Development, shall promulgate rules as necessary for the administration of ORS 657.335 to 657.360, including but not limited to procedures for approval, undertaking periodic reviews for continued approval, or for disapproval of career and technical training for an individual. [1969 c.156 §8; 1971 c.82 §5; 1991 c.685 §8; 1997 c.61 §11; 2001 c.684 §31; 2009 c.94 §27]

657.355 Denial of benefits to trainees subject to review. Notice, hearing, and review of a decision to approve or disapprove an application of an individual or to deny continued approval of an individual's participation under ORS 657.335 to 657.360 shall be subject to the provisions of ORS 657.265, 657.266 to 657.269 and 657.270 to 657.282. [1969 c.156 §9; 1975 c.257 §8; 1993 c.778 §15]

657.357 Apprenticeship program participants eligible for benefits; conditions. Notwithstanding the requirements or restrictions of ORS 657.335 to 657.360 or the provisions of this chapter relating to availability for work, actively seeking work or refusal to accept suitable work, an unemployed individual participating in an apprenticeship program who is otherwise eligible for unemployment insurance benefits shall not be ineligible for such benefits or waiting week credit solely by reason of attending a program of related instruction established in accordance with ORS 660.157 when such attendance does not exceed five weeks during the benefit year of the individual and when such attendance is required as a condition of the individual's continued employment and shall be considered to be in a program of instruction with the approval of the Director of the Employment Department if the individual:

(1) Provides the director with a copy of that individual's effective apprenticeship agreement approved in accordance with the requirements of ORS 660.002 to 660.210; and

(2) Establishes to the satisfaction of the director that the training is scheduled by a

work-related entity other than the claimant. [1989 c.818 §3; 1999 c.124 §1]

657.360 When employer charged for benefits. Except for benefits paid pursuant to ORS 657.357, no employer's account shall be charged for benefits paid to an unemployed individual during the period such individual is enrolled in and attending such program of instruction. [1969 c.156 §4; 1971 c.82 §6; 1989 c.818 §4]

ECONOMICALLY DISTRESSED WORKER TRAINING

Note: Sections 1 to 7, chapter 857, Oregon Laws 2009, provide:

Sec. 1. For purposes of sections 2 to 7 of this 2009 Act:

(1)(a) "Economically distressed worker training" means:

(A) Training and education that provide occupation-specific skills required in high-demand occupations, as determined by the Director of the Employment Department; or

(B) Retraining and basic education, including literacy skills, that are designed to prepare an individual, within a reasonable period not to exceed two years, for gainful employment or self-employment that is likely to become full-time employment paying at least 110 percent of the minimum wage established under ORS 653.025.

(b) "Economically distressed worker training" does not include programs of instruction that are primarily intended to lead to a baccalaureate or higher degree, or training that prepares individuals for employment in occupations that require a baccalaureate or higher degree, unless approved by the director.

(2) "Eligible economically distressed workers" means individuals who:

(a) Are unemployed as described in ORS 657.100;

(b) Are eligible for benefits under ORS 657.150, unless otherwise disqualified under ORS chapter 657;

(c) Are not disqualified from benefits under any provision of ORS 657.176; and

(d) Have been employed in work paying less than 110 percent of the minimum wage established under ORS 653.025 during their entire base year. [2009 c.857 §1]

Sec. 2. (1)(a) Eligible economically distressed workers enrolled or participating in economically distressed worker training may not be denied unemployment insurance benefits solely because they are attending training.

(b) Eligible economically distressed workers approved for economically distressed worker training may not be denied unemployment insurance benefits for refusing to accept work if the work offered:

(A) Is part-time or temporary or interferes with the eligible economically distressed worker's training schedule; and

(B) Pays less than 110 percent of the minimum wage established under ORS 653.025.

(2) Notwithstanding any provision of ORS chapter 657 relating to availability for work or actively seeking work, eligible economically distressed workers who are enrolled or participating in economically distressed worker training and who are otherwise eligible for unemployment insurance benefits are not ineligible for benefits or waiting week credit because of attendance in the training. [2009 c.857 §2]

Sec. 3. The Director of the Employment Department, in consultation with the Department of Commu-

nity Colleges and Workforce Development, shall adopt rules necessary for the administration of sections 1 and 2 of this 2009 Act, including procedures for approval, periodic review for continued approval, or disapproval of economically distressed worker training for eligible economically distressed workers. The director shall ensure that all programs for eligible economically distressed workers provide integrated and appropriate training and education. [2009 c.857 §3]

Sec. 4. A base year employer's account may not be charged for benefits for economically distressed worker training paid under sections 1 and 2 of this 2009 Act. However, nothing in this section may be construed to relieve the state, reimbursing political subdivisions, reimbursing nonprofit employers or reimbursing Indian tribes from paying into the Unemployment Compensation Trust Fund an amount equal to the benefits for economically distressed worker training paid under sections 1 and 2 of this 2009 Act. [2009 c.857 §4]

Sec. 5. Sections 1 and 2 of this 2009 Act apply to claims for benefits filed on or after November 1, 2009. [2009 c.857 §5]

Sec. 6. Not later than March 1, 2011, the Director of the Employment Department shall submit to the Legislative Assembly a report on the operation of economically distressed worker training through January 31, 2011. [2009 c.857 §6]

Sec. 7. The total costs of benefits paid pursuant to section 2 of this 2009 Act may not exceed \$9.2 million. [2009 c.857 §7]

Note: Sections 1 to 7, chapter 857, Oregon Laws 2009, are repealed January 2, 2012. See section 10, chapter 857, Oregon Laws 2009.

SHARED WORK PLANS

657.370 Definitions for ORS 657.370 to 657.390. As used in ORS 657.370 to 657.390, unless the context requires otherwise:

(1) "Affected employee" means an individual who was continuously employed as a member of the affected group, by the shared work employer, for six months on a full-time basis or for one year on a part-time basis, immediately preceding the submission by the employer of the shared work plan.

(2) "Affected group" means three or more employees designated by the employer to participate in a shared work plan.

(3) "Approved shared work plan" or "approved plan" means an employer's shared work plan that meets the requirements of ORS 657.375.

(4) "Normal weekly hours of work" means the number of hours in a week that the employee normally would work for the shared work employer or 40 hours, whichever is less.

(5) "Shared work employer" means an employer with a shared work plan in effect.

(6) "Shared work plan" or "plan" means an employer's voluntary, written plan for reducing unemployment, under which a specified group of employees shares the work remaining after their normal weekly hours of work are reduced. [1982 s.s.1 c.2 §8; 2007 c.71 §212]

657.375 Plan applications; approval by director. (1) An employer wishing to participate in the shared work unemployment benefit program shall submit a signed, written shared work plan to the Director of the Employment Department for approval. The director shall give written approval of a shared work plan only if it:

(a) Specifies the employees in the affected group.

(b) Applies to only one affected group.

(c) Includes a certified statement by the employer that each individual specified in the affected group is an affected employee.

(d) Includes a certified statement by the employer that for the duration of the plan the reduction in the normal weekly hours of work of the employees in the affected group is instead of layoffs which otherwise would result in at least as large a reduction in the total normal weekly hours of work.

(e) Specifies an expiration date which is no more than one year from the date the employer submits the plan for approval.

(f) Specifies the manner in which the employer will treat fringe benefits of the employees in the affected group.

(g) Is approved in writing by the collective bargaining agent for each collective bargaining agreement which covers any employee in the affected group.

(2) The director shall establish the beginning and ending dates of an approved shared work plan.

(3) The director shall approve or disapprove the plan within 15 days of its receipt. The director shall notify the employer of the reasons for disapproval of a shared work plan within 10 days of such determination. Determinations of the director shall be final and are not subject to review by any court or other administrative body.

(4) Disapproval of a plan may be reconsidered upon application of the employer or at the discretion of the director. Approval of a shared work plan may be revoked by the director when it is established that such approval was based, in whole or in part, upon information contained therein which is either false or substantially misleading. [1982 s.s.1 c.2 §9; 1993 c.778 §21]

657.380 Eligibility of employees; benefit limitation. (1) Notwithstanding any other provision of this chapter, for the purposes of ORS 657.370 to 657.390, an individual is unemployed and eligible to receive shared work benefits with respect to any week if, in addition to meeting all other eligibility requirements of this chapter, except as specifically excepted in subsection (4) of this section, the

Director of the Employment Department finds:

(a) During the week the individual is employed as a member of an affected group in an approved plan which was approved prior to the week and is in effect for the week.

(b) During the week the individual's normal weekly hours of work were reduced, in accordance with an approved plan, at least 20 percent but not more than 40 percent, with a corresponding reduction in wages.

(2) Shared work benefits shall not be paid to an eligible individual for more than 52 weeks under an approved plan or modification thereof.

(3) The total amount of regular benefits and shared work benefits paid to an individual in a benefit year shall not exceed the total for the benefit year as provided in ORS 657.150 (5).

(4) An otherwise eligible individual shall not be denied benefits under this section because of the application of any provision of this chapter relating to availability for work, active search for work or refusal to apply for or accept work from other than the individual's shared work employer. [1982 s.s.1 c.2 §10; 2009 c.377 §1]

657.385 Method of paying benefits; amount; disqualification; applicability of law to shared work plans; rules. (1) An individual who is eligible for shared work benefits under ORS 657.370 to 657.390 shall be paid, with respect to any week of unemployment, a weekly shared work unemployment insurance benefit amount. Such amount shall be equal to the individual's regular weekly benefit amount multiplied by the nearest full percentage of reduction of the individual's regular weekly hours of work, as set forth in the employer's plan. The benefit payment under ORS 657.370 to 657.390, if not a multiple of one dollar, shall be rounded to the nearest dollar, and an even one-half dollar shall be rounded to the next higher multiple of one dollar.

(2) The provisions of ORS 657.150 (6) shall not apply to earnings from the shared work employer of an individual eligible for payments under ORS 657.370 to 657.390 unless the resulting payment would be less than the regular benefit payment for which the individual would otherwise be eligible under ORS 657.150 (6) without regard to shared work unemployment insurance benefits.

(3) An individual shall be disqualified for benefits payable under ORS 657.370 to 657.390 for any week in which paid work is performed for the shared work employer in

excess of the reduced hours as set forth in the approved plan.

(4) Except as otherwise provided by or inconsistent with ORS 657.370 to 657.390, all provisions of this chapter and the rules of the Director of the Employment Department apply to ORS 657.370 to 657.390. The director may adopt such rules as is deemed necessary to make distinctions and requirements to carry out the purposes of ORS 657.370 to 657.390. [1982 s.s.1 c.2 §11; 1983 c.51 §2; 2003 c.14 §404]

657.390 Reimbursement to Unemployment Compensation Trust Fund of shared work benefits paid; use of benefit charges. (1) Any employer who participates in an approved shared work plan after December 31, 1993, shall pay into the Unemployment Compensation Trust Fund an amount equivalent to all shared work benefits paid to employees of the employer under such plan during any rating period for which the employer's benefit ratio, expressed as a percentage rounded to the nearest 0.1 percent, is in excess of the employer's tax rate for such rating period.

(2) All reimbursement obligations arising under this section are in addition to and separate from any other obligation imposed under this chapter. At the end of each calendar quarter, the Director of the Employment Department shall determine the amount of reimbursement due to the fund from each employer participant in a shared work plan and shall bill each employer for such amount. The reimbursement shall be subject to the same interest, penalty and collection provisions as any other reimbursement of unemployment insurance contributions provided for under this chapter.

(3) Notwithstanding ORS 657.471 or any other provision to the contrary, no benefit charges which are reimbursable under this section shall be included in an employer's benefit charges for any purpose in any rating period. [1982 s.s.1 c.2 §12; 1993 c.778 §2]

RECOVERY OF BENEFITS OBTAINED BY FRAUD

657.392 Benefits subject to recovery as lien on real or personal property. (1) If an individual is liable to repay benefits under ORS 657.310, the amount liable to be repaid, interest and penalties due shall be a lien in favor of the Director of the Employment Department upon all property, whether real or personal, belonging to such individual.

(2) The lien shall be perfected and attach:

(a) To real and personal property located within the county, upon the recording of a warrant, as provided in ORS 657.396, with the clerk of the county in which the property is located.

(b) To personal property wherever located within the state, upon:

(A) The recording of a warrant, as provided in ORS 657.396, with the clerk of any county; and

(B) The filing of a copy of the warrant with the Secretary of State as provided in ORS 657.394.

(3) 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. [1997 c.372 §5]

657.394 Filing of lien statement or warrant. (1) Any warrant attaching the lien under ORS 657.392 may also be filed in the office of the Secretary of State. Filing in the office of the Secretary of State shall have no effect until a copy of the statement of lien or the warrant has been recorded with the county clerk.

(2) When a copy of the statement of lien or the warrant is filed with the Secretary of State in compliance with subsection (1) of this section, such filing shall have the same effect with respect to personal property as if the copy of the statement of lien or the warrant had been duly recorded with the county clerk in each county of this state.

(3) A copy of the statement of lien or the warrant 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 79.0501 for the filing and indexing of financing statements. [1997 c.372 §6; 2001 c.445 §178]

657.396 Alternative to civil collection action; procedure. (1) In any case in which the Director of the Employment Department may bring a civil action for the collection of amounts liable to be repaid under ORS 657.310, interest on those amounts or penalties, the director may instead:

(a) Assess a collection charge of \$5 if the amount liable to be repaid, the interest then due or the penalty exceeds \$10.

(b) Issue a warrant under official seal directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the individual found within that county, for the payment of the amount liable to be repaid with the added interest, penalty, collection charge and the sheriff's cost of executing the warrant, and to return the warrant to the director and pay to the director the money collected by virtue of the warrant by a time to be specified in the warrant, but not less than 60 days from the date of the warrant.

(2) The sheriff shall, within five days after the receipt of the warrant, record with

the clerk of the county a copy of the warrant, and thereupon the clerk shall enter in the County Clerk Lien Record the name of the individual mentioned in the warrant and the amount liable to be repaid, interest, penalty and collection charge for which the warrant is issued and the date when the copy is recorded. Thereupon the amount of the warrant so recorded shall become a lien upon the title to and interest in property of the individual against whom it is issued in the same manner as a judgment that creates a judgment lien under ORS chapter 18. The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon the judgment of a court of record, and shall be entitled to the same fees for services in executing the warrant, to be added to and collected as a part of the warrant liability.

(3) In the discretion of the director, a warrant of like terms, force and effect may be issued and directed to any agent authorized by the director to collect amounts liable to be repaid and in the execution of the warrant the agent shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of the agent's duty.

(4) If a warrant is returned not satisfied in full, the director has the same remedies to enforce the claim for amounts due, interest and penalty against the individual as if the director had recovered judgment against the individual for the amount liable to be repaid, interest and penalty.

(5) Interest upon the amounts liable to be repaid and the penalty as set forth in the warrant shall be paid and collected at the rate prescribed in ORS 657.310. [1997 c.372 §7; 2003 c.576 §216; 2007 c.87 §4]

657.398 Release, compromise or satisfaction of lien. Any lien provided for in ORS 657.392 and 657.394 may be released, compromised or satisfied by the Director of the Employment Department, 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. [1997 c.372 §8]

657.400 Employment Department Special Fraud Control Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Employment Department Special Fraud Control Fund. The Employment Department Special Fraud Control Fund shall consist of moneys collected or received by the Employment Department as follows:

(a) All interest and penalties collected under ORS 657.310.

(b) All gifts to, interest on or profits earned by the Employment Department Special Fraud Control Fund.

(2) The moneys in the Employment Department Special Fraud Control Fund are continuously appropriated only to the Employment Department and may not be transferred or otherwise made available to any other state agency.

(3) All amounts in the Employment Department Special Fraud Control Fund are to be used for administrative costs associated with the prevention, discovery and collection of unemployment benefit overpayments, as included in the biennial budget of the Employment Department and approved by the Legislative Assembly. [1997 c.372 §9; 2007 c.87 §5]

CONTRIBUTIONS BY EMPLOYERS; COVERAGE; RATE

657.405 “Computation date” defined for ORS 657.430 to 657.463 and 657.471 to 657.485. As used in ORS 657.430 to 657.463 and 657.471 to 657.485, “computation date” means the June 30 preceding the calendar year for which tax rates are to be effective. [Amended by 1955 c.655 §17; 1957 c.699 §5; 1961 c.252 §2; 1973 c.300 §9; 1975 c.257 §9]

657.410 Minimum wage for employee without fixed wage. For the purpose of determining the contribution of an employer, if a worker is not employed at a fixed wage, after a fair hearing, the Director of the Employment Department may establish a minimum wage at which such worker shall be carried on the payroll of the employer.

657.415 When employer ceases to be subject to this chapter. (1) No employer subject to this chapter shall cease to be subject except upon a written application and after a finding by the Director of the Employment Department that the employer did not, during and since the preceding calendar year, have sufficient employment or payroll to qualify as an employer as defined in this chapter.

(2) The employer shall cease to be subject effective with the first day of the calendar quarter in which the written application was filed. Such exemption shall continue until the employer again qualifies as an employer as defined in this chapter. [Amended by 1955 c.655 §18; 1981 c.77 §13]

657.419 [2001 c.185 §2; repealed by 2007 c.48 §1]

657.420 [Repealed by 1981 c.5 §3]

657.425 Election of coverage for services that do not constitute employment as defined in this chapter. (1) Any employing unit, for which individuals perform services that are not employment subject to this

chapter, may file with the Director of the Employment Department a written election that all such excluded services are employment for all the purposes of this chapter.

(2) Notwithstanding subsection (1) of this section:

(a) A nonprofit employing unit, a state agency, a political subdivision or an Indian tribe may file a written election that all otherwise excluded services performed by individuals within the same grade, class or occupation or at a specific establishment or geographic area are employment subject to this chapter.

(b) An employing unit for which services are performed that are subject to the Federal Unemployment Tax Act may file a written election with the director that such services are employment for all purposes of this chapter.

(3) Elections filed pursuant to subsections (1) and (2) of this section are not effective unless approved by the director. Upon approval of the election by the director, the services are employment subject to this chapter effective the first day of the calendar quarter in which the election was filed, or a later date when so specified in the election. Such election shall continue in effect until canceled but shall be for not less than two completed calendar years.

(4) An employing unit may cancel its election as of January 1 of any calendar year that is subsequent to two calendar years, only if such employing unit has filed, at least 30 days prior to such January 1, a written notice with the director of its intention to cancel such election. Upon timely notice of intention to cancel the election, such services shall cease to be employment subject to this chapter.

(5) The director may cancel the election of any employing unit and such elected services shall cease to be employment subject to this chapter at any time while such employing unit is in default in payment of taxes or other amounts due under this chapter. [Amended by 1971 c.463 §14; 1973 c.715 §3; 1981 c.5 §4; 2001 c.572 §11; 2005 c.218 §14]

657.430 Tax rates based on experience. Subject to ORS 657.480 and the conditions and exceptions contained in this chapter, the Director of the Employment Department shall, for each calendar year, determine the tax rates applicable to each employer on the basis of the actual experience of the employing enterprises of the employer with respect to benefits paid to unemployed individuals on account of wages for services performed in the employ of the employer during the base years of the unemployed individuals. [Amended by 1973 c.300 §10; 2005 c.35 §1]

657.435 Base rate for first year. For each calendar year, an employer's tax rate shall be that rate assigned in this section to the applicable schedule I through VIII of Table A, ORS 657.462 in effect for such calendar year unless and until there have been 12 consecutive months immediately preceding the computation date, except as otherwise provided, throughout which the employer's account has been chargeable with benefits.

Schedule of Table A,
ORS 657.462

I
II
III
IV
V
VI
VII
VIII

Tax Rate
Assigned

2.0%
2.1%
2.4%
2.6%
2.9%
3.1%
3.2%
3.3%

[Amended by 1955 c.655 §5; 1973 c.300 §11; 1977 c.538 §1a; 1989 c.609 §2; 2005 c.183 §5]

657.439 Wage Security Program funding. (1) Notwithstanding the tax rate imposed by ORS 657.462 and notwithstanding ORS 657.463, for wages paid during the first calendar quarter of each odd-numbered year, the tax rate paid by each employer subject to those provisions of law shall be determined in accordance with schedule I C, II C, III C, IV C, V C, VI C, VII C or VIII C, whichever schedule is determined pursuant to ORS 657.459 and 657.462 to be in effect for the year. The schedules are adopted as follows:

Fund Adequacy Percentage Ratio I C
200% and Over

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
0.38%	0.00% but less than 10.00%
0.48%	10.00% but less than 15.00%
0.58%	15.00% but less than 20.00%
0.68%	20.00% but less than 25.00%
0.78%	25.00% but less than 30.00%
0.88%	30.00% but less than 35.00%
0.98%	35.00% but less than 40.00%
1.08%	40.00% but less than 45.00%
1.18%	45.00% but less than 50.00%
1.28%	50.00% but less than 55.00%
1.38%	55.00% but less than 60.00%
1.48%	60.00% but less than 65.00%
1.58%	65.00% but less than 69.00%
1.68%	69.00% but less than 73.00%
1.78%	73.00% but less than 77.00%
1.88%	77.00% but less than 80.00%
1.98%	80.00% but less than 83.00%
2.08%	83.00% but less than 86.00%
2.18%	86.00% but less than 89.00%
2.28%	89.00% but less than 91.00%
2.38%	91.00% but less than 93.00%
2.48%	93.00% but less than 95.00%
2.58%	95.00% but less than 96.00%
2.68%	96.00% but less than 96.90%
2.78%	96.90% but less than 97.70%
2.88%	97.70% but less than 98.40%

2.98%	98.40% but less than 98.90%
3.08%	98.90% but less than 99.30%
3.28%	99.30% but less than 99.54%
3.48%	99.54% but less than 99.63%
3.68%	99.63% but less than 99.71%
3.88%	99.71% but less than 99.78%
4.08%	99.78% but less than 99.84%
4.28%	99.84% but less than 99.89%
4.48%	99.89% but less than 99.93%
4.68%	99.93% but less than 99.96%
4.88%	99.96% but less than 99.98%
5.08%	99.98% but less than 99.99%
5.40%	99.99% to 100%

Fund Adequacy Percentage Ratio II C
190.00% but less than 200%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
0.58%	0.00% but less than 10.00%
0.68%	10.00% but less than 15.00%
0.78%	15.00% but less than 20.00%
0.88%	20.00% but less than 25.00%
0.98%	25.00% but less than 30.00%
1.08%	30.00% but less than 35.00%
1.18%	35.00% but less than 40.00%
1.28%	40.00% but less than 44.00%
1.38%	44.00% but less than 48.00%
1.48%	48.00% but less than 52.00%
1.58%	52.00% but less than 56.00%
1.68%	56.00% but less than 60.00%
1.78%	60.00% but less than 64.00%
1.88%	64.00% but less than 68.00%
1.98%	68.00% but less than 72.00%
2.08%	72.00% but less than 76.00%
2.18%	76.00% but less than 79.00%
2.28%	79.00% but less than 82.00%
2.38%	82.00% but less than 85.00%
2.48%	85.00% but less than 88.00%
2.58%	88.00% but less than 90.00%
2.68%	90.00% but less than 92.00%
2.78%	92.00% but less than 93.50%
2.88%	93.50% but less than 94.90%
2.98%	94.90% but less than 96.20%
3.08%	96.20% but less than 97.40%
3.28%	97.40% but less than 98.54%
3.48%	98.54% but less than 99.54%
3.68%	99.54% but less than 99.63%
3.88%	99.63% but less than 99.71%
4.08%	99.71% but less than 99.78%
4.28%	99.78% but less than 99.84%
4.48%	99.84% but less than 99.89%
4.68%	99.89% but less than 99.93%
4.88%	99.93% but less than 99.96%
5.08%	99.96% but less than 99.98%
5.40%	99.98% to 100%

Fund Adequacy Percentage Ratio III C
170.00% but less than 190%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
0.78%	0.00% but less than 10.00%
0.88%	10.00% but less than 15.00%
0.98%	15.00% but less than 20.00%
1.08%	20.00% but less than 24.00%
1.18%	24.00% but less than 28.00%
1.28%	28.00% but less than 32.00%
1.38%	32.00% but less than 36.00%
1.48%	36.00% but less than 40.00%
1.58%	40.00% but less than 44.00%

1.68%	44.00% but less than 48.00%
1.78%	48.00% but less than 52.00%
1.88%	52.00% but less than 56.00%
1.98%	56.00% but less than 60.00%
2.08%	60.00% but less than 64.00%
2.18%	64.00% but less than 68.00%
2.28%	68.00% but less than 72.00%
2.38%	72.00% but less than 76.00%
2.48%	76.00% but less than 80.00%
2.58%	80.00% but less than 84.00%
2.68%	84.00% but less than 87.00%
2.78%	87.00% but less than 90.00%
2.88%	90.00% but less than 93.00%
2.98%	93.00% but less than 95.00%
3.08%	95.00% but less than 97.00%
3.28%	97.00% but less than 98.20%
3.48%	98.20% but less than 99.00%
3.68%	99.00% but less than 99.43%
3.88%	99.43% but less than 99.63%
4.08%	99.63% but less than 99.72%
4.28%	99.72% but less than 99.79%
4.48%	99.79% but less than 99.85%
4.68%	99.85% but less than 99.90%
4.88%	99.90% but less than 99.94%
5.08%	99.94% but less than 99.97%
5.40%	99.97% to 100%

Fund Adequacy Percentage Ratio IV C
145.00% but less than 170%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
1.08%	0.00% but less than 10.00%
1.18%	10.00% but less than 15.00%
1.28%	15.00% but less than 20.00%
1.38%	20.00% but less than 24.00%
1.48%	24.00% but less than 28.00%
1.58%	28.00% but less than 32.00%
1.68%	32.00% but less than 36.00%
1.78%	36.00% but less than 40.00%
1.88%	40.00% but less than 44.00%
1.98%	44.00% but less than 48.00%
2.08%	48.00% but less than 52.00%
2.18%	52.00% but less than 56.00%
2.28%	56.00% but less than 60.00%
2.38%	60.00% but less than 64.00%
2.48%	64.00% but less than 68.00%
2.58%	68.00% but less than 72.00%
2.68%	72.00% but less than 76.00%
2.78%	76.00% but less than 80.00%
2.88%	80.00% but less than 84.00%
2.98%	84.00% but less than 88.00%
3.08%	88.00% but less than 92.00%
3.18%	92.00% but less than 95.00%
3.28%	95.00% but less than 97.00%
3.48%	97.00% but less than 98.20%
3.68%	98.20% but less than 99.00%
3.88%	99.00% but less than 99.40%
4.08%	99.40% but less than 99.60%
4.28%	99.60% but less than 99.70%
4.48%	99.70% but less than 99.78%
4.68%	99.78% but less than 99.85%
4.88%	99.85% but less than 99.91%
5.08%	99.91% but less than 99.96%
5.40%	99.96% to 100.00%

Fund Adequacy Percentage Ratio V C
125.00% but less than 145%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
1.38%	0.00% but less than 10.00%
1.48%	10.00% but less than 15.00%
1.58%	15.00% but less than 20.00%
1.68%	20.00% but less than 24.00%
1.78%	24.00% but less than 28.00%
1.88%	28.00% but less than 32.00%
1.98%	32.00% but less than 36.00%
2.08%	36.00% but less than 40.00%
2.18%	40.00% but less than 44.00%
2.28%	44.00% but less than 48.00%
2.38%	48.00% but less than 52.00%
2.48%	52.00% but less than 56.00%
2.58%	56.00% but less than 60.00%
2.68%	60.00% but less than 64.00%
2.78%	64.00% but less than 68.00%
2.88%	68.00% but less than 72.00%
2.98%	72.00% but less than 76.00%
3.08%	76.00% but less than 80.00%
3.18%	80.00% but less than 84.00%
3.28%	84.00% but less than 88.00%
3.38%	88.00% but less than 92.00%
3.48%	92.00% but less than 95.00%
3.58%	95.00% but less than 97.00%
3.68%	97.00% but less than 98.20%
3.78%	98.20% but less than 99.00%
3.88%	99.00% but less than 99.40%
4.08%	99.40% but less than 99.60%
4.28%	99.60% but less than 99.70%
4.48%	99.70% but less than 99.78%
4.68%	99.78% but less than 99.85%
4.88%	99.85% but less than 99.91%
5.08%	99.91% but less than 99.96%
5.40%	99.96% to 100.00%

Fund Adequacy Percentage Ratio VI C
110.00% but less than 125%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
1.68%	0.00% but less than 10.00%
1.78%	10.00% but less than 15.00%
1.88%	15.00% but less than 20.00%
1.98%	20.00% but less than 25.00%
2.08%	25.00% but less than 30.00%
2.18%	30.00% but less than 35.00%
2.28%	35.00% but less than 40.00%
2.38%	40.00% but less than 44.00%
2.48%	44.00% but less than 48.00%
2.58%	48.00% but less than 52.00%
2.68%	52.00% but less than 56.00%
2.78%	56.00% but less than 60.00%
2.88%	60.00% but less than 64.00%
2.98%	64.00% but less than 68.00%
3.08%	68.00% but less than 72.00%
3.18%	72.00% but less than 76.00%
3.28%	76.00% but less than 80.00%
3.38%	80.00% but less than 84.00%
3.48%	84.00% but less than 88.00%
3.58%	88.00% but less than 92.00%
3.68%	92.00% but less than 95.00%
3.78%	95.00% but less than 97.00%
3.88%	97.00% but less than 98.20%
4.08%	98.20% but less than 99.00%
4.28%	99.00% but less than 99.50%
4.48%	99.50% but less than 99.70%
4.68%	99.70% but less than 99.79%
4.88%	99.79% but less than 99.87%
5.08%	99.87% but less than 99.94%
5.40%	99.94% to 100.00%

Fund Adequacy Percentage Ratio VII C
100.00% but less than 110%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
1.88%	0.00% but less than 10.00%
1.98%	10.00% but less than 15.00%
2.08%	15.00% but less than 20.00%
2.18%	20.00% but less than 25.00%
2.28%	25.00% but less than 30.00%
2.38%	30.00% but less than 35.00%
2.48%	35.00% but less than 40.00%
2.58%	40.00% but less than 45.00%
2.68%	45.00% but less than 50.00%
2.78%	50.00% but less than 55.00%
2.88%	55.00% but less than 60.00%
2.98%	60.00% but less than 64.00%
3.08%	64.00% but less than 68.00%
3.18%	68.00% but less than 72.00%
3.28%	72.00% but less than 76.00%
3.38%	76.00% but less than 80.00%
3.48%	80.00% but less than 84.00%
3.58%	84.00% but less than 88.00%
3.68%	88.00% but less than 92.00%
3.78%	92.00% but less than 95.00%
3.88%	95.00% but less than 97.00%
4.08%	97.00% but less than 98.20%
4.28%	98.20% but less than 99.00%
4.48%	99.00% but less than 99.50%
4.68%	99.50% but less than 99.70%
4.88%	99.70% but less than 99.84%
5.08%	99.84% but less than 99.93%
5.40%	99.93% to 100.00%

Fund Adequacy Percentage Ratio VIII C
Under 100%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
2.08%	0.00% but less than 10.00%
2.18%	10.00% but less than 15.00%
2.28%	15.00% but less than 20.00%
2.38%	20.00% but less than 25.00%
2.48%	25.00% but less than 30.00%
2.58%	30.00% but less than 35.00%
2.68%	35.00% but less than 40.00%
2.78%	40.00% but less than 45.00%
2.88%	45.00% but less than 50.00%
2.98%	50.00% but less than 55.00%
3.08%	55.00% but less than 60.00%
3.18%	60.00% but less than 65.00%
3.28%	65.00% but less than 70.00%
3.38%	70.00% but less than 75.00%
3.48%	75.00% but less than 80.00%
3.58%	80.00% but less than 84.00%
3.68%	84.00% but less than 88.00%
3.78%	88.00% but less than 92.00%
3.88%	92.00% but less than 95.00%
4.08%	95.00% but less than 97.00%
4.28%	97.00% but less than 98.20%
4.48%	98.20% but less than 99.00%
4.68%	99.00% but less than 99.50%
4.88%	99.50% but less than 99.80%
5.08%	99.80% but less than 99.92%
5.40%	99.92% to 100.00%

(2) Notwithstanding the tax rate imposed by ORS 657.462, each employer subject to

this chapter, other than employers whose assigned tax rate is 5.4 percent, shall pay to the Employment Department, for the first calendar quarter of each odd-numbered year, an amount equal to:

(a) Three one-hundredths of a percent of wages subject to tax under this chapter for that calendar quarter. All such moneys shall be paid and collected in the same manner and at the same time as unemployment compensation taxes under this chapter, unless the Director of the Employment Department prescribes otherwise. After deduction of the actual shared costs of the department in collecting the amounts under this paragraph, all such moneys shall be paid into the Wage Security Fund. Except as provided in paragraph (b) of this subsection, moneys due pursuant to this section but not received by the department for payment to the Wage Security Fund by June 30 of each odd-numbered year shall be paid into the Unemployment Compensation Trust Fund; and

(b) Nine one-hundredths of a percent of wages subject to tax under this chapter for that calendar quarter. All such moneys shall be paid and collected in the same manner and at the same time as unemployment compensation taxes under this chapter, unless the director prescribes otherwise. After deduction of the actual shared costs of the department in collecting the amounts under this paragraph, all such moneys shall be paid into the Supplemental Employment Department Administration Fund. [1985 c.409 §2; 1989 c.554 §1; 1995 c.213 §1; 2001 c.885 §1; 2005 c.183 §6]

Note: 657.439 was added to and made a part of ORS chapter 657 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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 [1955 c.655 §20; 1957 c.699 §6; 1959 c.606 §2; repealed by 1967 c.434 §2]

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

657.457 Penalty when employer fails to file contribution reports and pay contributions when due; notice of failure; waiver; rules. (1) For each year after December 31, 1993, an employer shall pay a penalty equal to one percent of the employer's taxable payroll in the preceding calendar year if the employer has failed prior to September 1 to:

(a) File all tax reports as required by the Director of the Employment Department; or

(b) Pay all taxes due.

(2)(a) On or before June 30, the director shall send a written notice to each employer that has failed to file all required tax reports or pay all taxes due, warning the employer

about the penalty provided in subsection (1) of this section.

(b) On or before October 20, the director shall assess the penalty provided in subsection (1) of this section and send written notification thereof to the employer's last known address.

(c) An employer that is assessed a penalty under this section may submit a written request that the penalty be waived. Such request must be filed with the director on or before November 10 following the penalty assessment and contain the specific reasons for the failure to file the required reports or payments prior to September 1.

(d) The director may waive the penalty for good cause if the employer has filed the required reports and payments.

(3)(a) If the request for waiver of the penalty is denied, the director shall so notify the employer in writing. The decision denying the request shall become final, unless within 20 days from the date the decision is sent to the employer's last known address, the employer files a request for a hearing. The request for a hearing must be in writing and state the reasons therefor.

(b) Hearings, decisions and reconsiderations under this section shall be conducted in accordance with rules adopted by the director.

(c) Judicial review of an order assessing a penalty under this section shall be as provided for review of orders in contested cases under ORS chapter 183, except that the petition shall be filed within 20 days after the issuance of the order of the director or a designated representative.

(4) The penalty provided in subsection (1) of this section shall be collected in accordance with the provisions of ORS 657.515, and any amounts collected pursuant to this subsection shall be paid to the Employment Department Special Administrative Fund in accordance with the provisions of ORS 657.830 (3). [1957 c.699 §8(1),(2); 1967 c.435 §4; 1977 c.538 §2; 1993 c.778 §19; 1995 c.173 §2]

657.458 Definitions for employer tax rate computations. As used in this chapter unless the context requires otherwise:

(1) "Adjusted average weekly check amount" means the average weekly check amount in a calendar year plus one-half of the increase in the maximum weekly benefit amount plus one-half of the increase in the minimum weekly benefit amount from the week including July 4 immediately preceding such calendar year to the week including July 4 immediately following such calendar year.

(2) "Average monthly employment" means the total number of persons employed in each month for 12 consecutive months, as reported by employers subject to the tax under this chapter, divided by 12.

(3) "Average weekly check amount" means the gross amount of benefit payments, excluding extended benefits, made during a 12 consecutive month period, divided by the number of such weekly payments made to all individuals receiving benefits under this chapter during that period. The number and amount of payments made under section 11, chapter 2, Oregon Laws 1982 (first special session), shall be excluded from the computation under this subsection.

(4) "High benefit cost period" means the 12 consecutive month period in the last 10 completed calendar years in which the benefit cost rate was the highest. The benefit cost rate is determined by dividing the amount of benefits paid attributable to employers subject to the tax, during any 12 consecutive months within the 10-year period by total wages, as defined in ORS 657.105, reported by all employers subject to the tax for the four consecutive calendar quarters that include the quarter in which the 12 consecutive month period ended. All benefits paid from the Unemployment Compensation Trust Fund attributable to employers subject to the tax, including but not limited to the Oregon share of extended benefits and any special state additional benefits, shall be included in the amount of benefits under this subsection. [1969 c.157 §2 (657.458 and 657.459 enacted in lieu of 657.461); 1971 c.463 §15; 1977 c.538 §3; 1983 c.508 §9; 2007 c.71 §213]

657.459 Computation of Fund Adequacy Percentage Ratio. (1) For the purpose of computing employer tax rates, the Director of the Employment Department, or the director's authorized representative, shall compute a "Fund Adequacy Percentage Ratio." This computation shall be made in September of each year and shall be the ratio of the amount in the Unemployment Compensation Trust Fund, as of August 31 preceding the computation, to a calculated amount of benefits that would be paid during the following calendar year if high unemployment were to occur. The calculated amount of benefits shall be determined as follows:

(a) Average monthly employment in the calendar year preceding the calculation shall be divided by the average monthly employment in the high benefit cost period with the resulting quotient carried to the fourth decimal place.

(b) The adjusted average weekly check amount for the calendar year preceding the calculation shall be divided by the average

weekly check amount in the high benefit cost period with the resulting quotient carried to the fourth decimal place.

(c) The amount of benefits paid during the high benefit cost period and attributable to employers subject to the tax shall be multiplied by the quotient determined in paragraph (a) of this subsection. The resulting product shall be multiplied by the quotient determined in paragraph (b) of this subsection. All benefits paid from the Unemployment Compensation Trust Fund attributable to employers subject to the tax, including but not limited to the Oregon share of extended benefits and any special state additional benefits, shall be included in the amount of benefits under this subsection.

(2) The amount in the Unemployment Compensation Trust Fund, as of August 31 preceding the computation, shall be divided by the final product determined in subsection (1)(c) of this section. The quotient obtained shall be expressed as a percentage and is the "Fund Adequacy Percentage Ratio" used to determine the applicable schedule of Table A of ORS 657.462 to be in effect for the succeeding calendar year.

(3) Notwithstanding the provisions of subsection (2) of this section, if the product obtained by multiplying 3.0 times the average monthly employment in the calendar year preceding the calculation times the adjusted average weekly check amount for the calendar year preceding the computation exceeds the amount determined in subsection (1)(c) of this section, such product shall be used in lieu of the amount determined in subsection (1)(c) of this section in the Trust Fund Adequacy Ratio calculation in subsection (2) of this section.

(4) Products obtained in subsections (1) and (3) of this section shall be rounded to the nearest dollar. [1969 c.157 §3 (657.458 and 657.459 enacted in lieu of 657.461); 1971 c.463 §16; 1975 c.354 §2; 1977 c.538 §4; 1983 c.508 §10; 2005 c.22 §462; 2005 c.183 §7]

657.460 [Repealed by 1959 c.606 §4]

657.461 [1967 c.434 §5 (enacted in lieu of 657.464) repealed by 1969 c.157 §1 (657.458 and 657.459 enacted in lieu of 657.461)]

657.462 Computation of benefit ratio; grouping employers within cumulative taxable payroll percentage limits; assignment of rates. (1) The Director of the Employment Department or the director's authorized representative shall, for each calendar year, 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 the employer's record in the 12 calendar quarters by the total of the employer's 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 the employer's record for the consecutive calendar quarters by the total of the employer's 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 Employment Department 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) The taxable payroll for the four calendar quarters immediately preceding the computation date; and

(c) A cumulative total consisting of the sum of the employer's taxable payroll and the taxable payroll of all other preceding employers 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 the grouping results in the taxable payroll of an employer falling in two groups, the 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 Adequacy Percentage Ratios set forth in Table A.

TABLE A

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

Fund Adequacy Percentage Ratio I 200% and Over		Fund Adequacy Percentage Ratio III 170.00% but less than 190%	
Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)	Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
0.5%	0.00% but less than 10.00%	0.9%	0.00% but less than 10.00%
0.6%	10.00% but less than 15.00%	1.0%	10.00% but less than 15.00%
0.7%	15.00% but less than 20.00%	1.1%	15.00% but less than 20.00%
0.8%	20.00% but less than 25.00%	1.2%	20.00% but less than 24.00%
0.9%	25.00% but less than 30.00%	1.3%	24.00% but less than 28.00%
1.0%	30.00% but less than 35.00%	1.4%	28.00% but less than 32.00%
1.1%	35.00% but less than 40.00%	1.5%	32.00% but less than 36.00%
1.2%	40.00% but less than 45.00%	1.6%	36.00% but less than 40.00%
1.3%	45.00% but less than 50.00%	1.7%	40.00% but less than 44.00%
1.4%	50.00% but less than 55.00%	1.8%	44.00% but less than 48.00%
1.5%	55.00% but less than 60.00%	1.9%	48.00% but less than 52.00%
1.6%	60.00% but less than 65.00%	2.0%	52.00% but less than 56.00%
1.7%	65.00% but less than 69.00%	2.1%	56.00% but less than 60.00%
1.8%	69.00% but less than 73.00%	2.2%	60.00% but less than 64.00%
1.9%	73.00% but less than 77.00%	2.3%	64.00% but less than 68.00%
2.0%	77.00% but less than 80.00%	2.4%	68.00% but less than 72.00%
2.1%	80.00% but less than 83.00%	2.5%	72.00% but less than 76.00%
2.2%	83.00% but less than 86.00%	2.6%	76.00% but less than 80.00%
2.3%	86.00% but less than 89.00%	2.7%	80.00% but less than 84.00%
2.4%	89.00% but less than 91.00%	2.8%	84.00% but less than 87.00%
2.5%	91.00% but less than 93.00%	2.9%	87.00% but less than 90.00%
2.6%	93.00% but less than 95.00%	3.0%	90.00% but less than 93.00%
2.7%	95.00% but less than 96.00%	3.1%	93.00% but less than 95.00%
2.8%	96.00% but less than 96.90%	3.2%	95.00% but less than 97.00%
2.9%	96.90% but less than 97.70%	3.4%	97.00% but less than 98.20%
3.0%	97.70% but less than 98.40%	3.6%	98.20% but less than 99.00%
3.1%	98.40% but less than 98.90%	3.8%	99.00% but less than 99.43%
3.2%	98.90% but less than 99.30%	4.0%	99.43% but less than 99.63%
3.4%	99.30% but less than 99.54%	4.2%	99.63% but less than 99.72%
3.6%	99.54% but less than 99.63%	4.4%	99.72% but less than 99.79%
3.8%	99.63% but less than 99.71%	4.6%	99.79% but less than 99.85%
4.0%	99.71% but less than 99.78%	4.8%	99.85% but less than 99.90%
4.2%	99.78% but less than 99.84%	5.0%	99.90% but less than 99.94%
4.4%	99.84% but less than 99.89%	5.2%	99.94% but less than 99.97%
4.6%	99.89% but less than 99.93%	5.4%	99.97% to 100.00%
4.8%	99.93% but less than 99.96%		
5.0%	99.96% but less than 99.98%		
5.2%	99.98% but less than 99.99%		
5.4%	99.99% to 100.00%		
Fund Adequacy Percentage Ratio II 190.00% but less than 200%		Fund Adequacy Percentage Ratio III 170.00% but less than 190%	
Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)	Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
0.7%	0.00% but less than 10.00%	0.9%	0.00% but less than 10.00%
0.8%	10.00% but less than 15.00%	1.0%	10.00% but less than 15.00%
0.9%	15.00% but less than 20.00%	1.1%	15.00% but less than 20.00%
1.0%	20.00% but less than 25.00%	1.2%	20.00% but less than 24.00%
1.1%	25.00% but less than 30.00%	1.3%	24.00% but less than 28.00%
1.2%	30.00% but less than 35.00%	1.4%	28.00% but less than 32.00%
1.3%	35.00% but less than 40.00%	1.5%	32.00% but less than 36.00%
1.4%	40.00% but less than 44.00%	1.6%	36.00% but less than 40.00%
1.5%	44.00% but less than 48.00%	1.7%	40.00% but less than 44.00%
1.6%	48.00% but less than 52.00%	1.8%	44.00% but less than 48.00%
1.7%	52.00% but less than 56.00%	1.9%	48.00% but less than 52.00%
1.8%	56.00% but less than 60.00%	2.0%	52.00% but less than 56.00%
1.9%	60.00% but less than 64.00%	2.1%	56.00% but less than 60.00%
		2.2%	60.00% but less than 64.00%
		2.3%	64.00% but less than 68.00%
		2.4%	68.00% but less than 72.00%
		2.5%	72.00% but less than 76.00%
		2.6%	76.00% but less than 80.00%
		2.7%	80.00% but less than 84.00%
		2.8%	84.00% but less than 87.00%
		2.9%	87.00% but less than 90.00%
		3.0%	90.00% but less than 93.00%
		3.1%	93.00% but less than 95.00%
		3.2%	95.00% but less than 97.00%
		3.4%	97.00% but less than 98.20%
		3.6%	98.20% but less than 99.00%
		3.8%	99.00% but less than 99.43%
		4.0%	99.43% but less than 99.63%
		4.2%	99.63% but less than 99.72%
		4.4%	99.72% but less than 99.79%
		4.6%	99.79% but less than 99.85%
		4.8%	99.85% but less than 99.90%
		5.0%	99.90% but less than 99.94%
		5.2%	99.94% but less than 99.97%
		5.4%	99.97% to 100.00%

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2.6%	35.00% but less than 40.00%
2.7%	40.00% but less than 45.00%
2.8%	45.00% but less than 50.00%
2.9%	50.00% but less than 55.00%
3.0%	55.00% but less than 60.00%
3.1%	60.00% but less than 64.00%
3.2%	64.00% but less than 68.00%
3.3%	68.00% but less than 72.00%
3.4%	72.00% but less than 76.00%
3.5%	76.00% but less than 80.00%
3.6%	80.00% but less than 84.00%
3.7%	84.00% but less than 88.00%
3.8%	88.00% but less than 92.00%
3.9%	92.00% but less than 95.00%
4.0%	95.00% but less than 97.00%
4.2%	97.00% but less than 98.20%
4.4%	98.20% but less than 99.00%
4.6%	99.00% but less than 99.50%
4.8%	99.50% but less than 99.70%
5.0%	99.70% but less than 99.84%
5.2%	99.84% but less than 99.93%
5.4%	99.93% to 100.00%

Fund Adequacy Percentage Ratio VIII
Under 100%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
2.2%	0.00% but less than 10.00%
2.3%	10.00% but less than 15.00%
2.4%	15.00% but less than 20.00%
2.5%	20.00% but less than 25.00%
2.6%	25.00% but less than 30.00%
2.7%	30.00% but less than 35.00%
2.8%	35.00% but less than 40.00%
2.9%	40.00% but less than 45.00%
3.0%	45.00% but less than 50.00%
3.1%	50.00% but less than 55.00%
3.2%	55.00% but less than 60.00%
3.3%	60.00% but less than 65.00%
3.4%	65.00% but less than 70.00%
3.5%	70.00% but less than 75.00%
3.6%	75.00% but less than 80.00%
3.7%	80.00% but less than 84.00%
3.8%	84.00% but less than 88.00%
3.9%	88.00% but less than 92.00%
4.0%	92.00% but less than 95.00%
4.2%	95.00% but less than 97.00%
4.4%	97.00% but less than 98.20%
4.6%	98.20% but less than 99.00%
4.8%	99.00% but less than 99.50%
5.0%	99.50% but less than 99.80%
5.2%	99.80% but less than 99.92%
5.4%	99.92% to 100.00%

[1963 c.302 §2; 1967 c.434 §3; 1973 c.810 §2; 1975 c.354 §3; 1981 c.751 §4; 1983 c.818 §1; 1995 c.173 §1; 2001 c.885 §2; 2005 c.183 §8]

657.463 Tax rate schedules. (1) Notwithstanding the tax rate imposed by ORS 657.462 and subject to the tax rate imposed by ORS 657.439, for wages paid during a calendar quarter, the tax rate paid by each employer subject to ORS 657.435 and 657.462 shall be determined in accordance with

schedule I B, II B, III B, IV B, V B, VI B, VII B or VIII B, whichever schedule is determined pursuant to ORS 657.459 and 657.462 to be in effect for the year. The schedules are adopted as follows:

Fund Adequacy Percentage Ratio I B
200% and Over

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
0.41%	0.00% but less than 10.00%
0.51%	10.00% but less than 15.00%
0.61%	15.00% but less than 20.00%
0.71%	20.00% but less than 25.00%
0.81%	25.00% but less than 30.00%
0.91%	30.00% but less than 35.00%
1.01%	35.00% but less than 40.00%
1.11%	40.00% but less than 45.00%
1.21%	45.00% but less than 50.00%
1.31%	50.00% but less than 55.00%
1.41%	55.00% but less than 60.00%
1.51%	60.00% but less than 65.00%
1.61%	65.00% but less than 69.00%
1.71%	69.00% but less than 73.00%
1.81%	73.00% but less than 77.00%
1.91%	77.00% but less than 80.00%
2.01%	80.00% but less than 83.00%
2.11%	83.00% but less than 86.00%
2.21%	86.00% but less than 89.00%
2.31%	89.00% but less than 91.00%
2.41%	91.00% but less than 93.00%
2.51%	93.00% but less than 95.00%
2.61%	95.00% but less than 96.00%
2.71%	96.00% but less than 96.90%
2.81%	96.90% but less than 97.70%
2.91%	97.70% but less than 98.40%
3.01%	98.40% but less than 98.90%
3.11%	98.90% but less than 99.30%
3.31%	99.30% but less than 99.54%
3.51%	99.54% but less than 99.63%
3.71%	99.63% but less than 99.71%
3.91%	99.71% but less than 99.78%
4.11%	99.78% but less than 99.84%
4.31%	99.84% but less than 99.89%
4.51%	99.89% but less than 99.93%
4.71%	99.93% but less than 99.96%
4.91%	99.96% but less than 99.98%
5.11%	99.98% but less than 99.99%
5.40%	99.99% to 100%

Fund Adequacy Percentage Ratio II B
190.00% but less than 200%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
0.61%	0.00% but less than 10.00%
0.71%	10.00% but less than 15.00%
0.81%	15.00% but less than 20.00%
0.91%	20.00% but less than 25.00%
1.01%	25.00% but less than 30.00%
1.11%	30.00% but less than 35.00%
1.21%	35.00% but less than 40.00%
1.31%	40.00% but less than 44.00%
1.41%	44.00% but less than 48.00%
1.51%	48.00% but less than 52.00%
1.61%	52.00% but less than 56.00%
1.71%	56.00% but less than 60.00%
1.81%	60.00% but less than 64.00%
1.91%	64.00% but less than 68.00%
2.01%	68.00% but less than 72.00%
2.11%	72.00% but less than 76.00%

UNEMPLOYMENT INSURANCE

657.463

2.21%	76.00%	but less than	79.00%
2.31%	79.00%	but less than	82.00%
2.41%	82.00%	but less than	85.00%
2.51%	85.00%	but less than	88.00%
2.61%	88.00%	but less than	90.00%
2.71%	90.00%	but less than	92.00%
2.81%	92.00%	but less than	93.50%
2.91%	93.50%	but less than	94.90%
3.01%	94.90%	but less than	96.20%
3.11%	96.20%	but less than	97.40%
3.31%	97.40%	but less than	98.54%
3.51%	98.54%	but less than	99.54%
3.71%	99.54%	but less than	99.63%
3.91%	99.63%	but less than	99.71%
4.11%	99.71%	but less than	99.78%
4.31%	99.78%	but less than	99.84%
4.51%	99.84%	but less than	99.89%
4.71%	99.89%	but less than	99.93%
4.91%	99.93%	but less than	99.96%
5.11%	99.96%	but less than	99.98%
5.40%			99.98% to 100%

Fund Adequacy Percentage Ratio III B 170.00% but less than 190%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)		
0.81%	0.00%	but less than	10.00%
0.91%	10.00%	but less than	15.00%
1.01%	15.00%	but less than	20.00%
1.11%	20.00%	but less than	24.00%
1.21%	24.00%	but less than	28.00%
1.31%	28.00%	but less than	32.00%
1.41%	32.00%	but less than	36.00%
1.51%	36.00%	but less than	40.00%
1.61%	40.00%	but less than	44.00%
1.71%	44.00%	but less than	48.00%
1.81%	48.00%	but less than	52.00%
1.91%	52.00%	but less than	56.00%
2.01%	56.00%	but less than	60.00%
2.11%	60.00%	but less than	64.00%
2.21%	64.00%	but less than	68.00%
2.31%	68.00%	but less than	72.00%
2.41%	72.00%	but less than	76.00%
2.51%	76.00%	but less than	80.00%
2.61%	80.00%	but less than	84.00%
2.71%	84.00%	but less than	87.00%
2.81%	87.00%	but less than	90.00%
2.91%	90.00%	but less than	93.00%
3.01%	93.00%	but less than	95.00%
3.11%	95.00%	but less than	97.00%
3.31%	97.00%	but less than	98.20%
3.51%	98.20%	but less than	99.00%
3.71%	99.00%	but less than	99.43%
3.91%	99.43%	but less than	99.63%
4.11%	99.63%	but less than	99.72%
4.31%	99.72%	but less than	99.79%
4.51%	99.79%	but less than	99.85%
4.71%	99.85%	but less than	99.90%
4.91%	99.90%	but less than	99.94%
5.11%	99.94%	but less than	99.97%
5.40%			99.97% to 100%

Fund Adequacy Percentage Ratio IV B 145.00% but less than 170%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)		
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1.11%	0.00%	but less than	10.00%
1.21%	10.00%	but less than	15.00%
1.31%	15.00%	but less than	20.00%
1.41%	20.00%	but less than	24.00%
1.51%	24.00%	but less than	28.00%
1.61%	28.00%	but less than	32.00%
1.71%	32.00%	but less than	36.00%
1.81%	36.00%	but less than	40.00%
1.91%	40.00%	but less than	44.00%
2.01%	44.00%	but less than	48.00%
2.11%	48.00%	but less than	52.00%
2.21%	52.00%	but less than	56.00%
2.31%	56.00%	but less than	60.00%
2.41%	60.00%	but less than	64.00%
2.51%	64.00%	but less than	68.00%
2.61%	68.00%	but less than	72.00%
2.71%	72.00%	but less than	76.00%
2.81%	76.00%	but less than	80.00%
2.91%	80.00%	but less than	84.00%
3.01%	84.00%	but less than	88.00%
3.11%	88.00%	but less than	92.00%
3.21%	92.00%	but less than	95.00%
3.31%	95.00%	but less than	97.00%
3.51%	97.00%	but less than	98.20%
3.71%	98.20%	but less than	99.00%
3.91%	99.00%	but less than	99.40%
4.11%	99.40%	but less than	99.60%
4.31%	99.60%	but less than	99.70%
4.51%	99.70%	but less than	99.78%
4.71%	99.78%	but less than	99.85%
4.91%	99.85%	but less than	99.91%
5.11%	99.91%	but less than	99.96%
5.40%			99.96% to 100.00%

Fund Adequacy Percentage Ratio V B 125.00% but less than 145%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)		
1.41%	0.00%	but less than	10.00%
1.51%	10.00%	but less than	15.00%
1.61%	15.00%	but less than	20.00%
1.71%	20.00%	but less than	24.00%
1.81%	24.00%	but less than	28.00%
1.91%	28.00%	but less than	32.00%
2.01%	32.00%	but less than	36.00%
2.11%	36.00%	but less than	40.00%
2.21%	40.00%	but less than	44.00%
2.31%	44.00%	but less than	48.00%
2.41%	48.00%	but less than	52.00%
2.51%	52.00%	but less than	56.00%
2.61%	56.00%	but less than	60.00%
2.71%	60.00%	but less than	64.00%
2.81%	64.00%	but less than	68.00%
2.91%	68.00%	but less than	72.00%
3.01%	72.00%	but less than	76.00%
3.11%	76.00%	but less than	80.00%
3.21%	80.00%	but less than	84.00%
3.31%	84.00%	but less than	88.00%
3.41%	88.00%	but less than	92.00%
3.51%	92.00%	but less than	95.00%
3.61%	95.00%	but less than	97.00%
3.71%	97.00%	but less than	98.20%
3.81%	98.20%	but less than	99.00%
3.91%	99.00%	but less than	99.40%
4.11%	99.40%	but less than	99.60%
4.31%	99.60%	but less than	99.70%
4.51%	99.70%	but less than	99.78%
4.71%	99.78%	but less than	99.85%
4.91%	99.85%	but less than	99.91%
5.11%	99.91%	but less than	99.96%
5.40%			99.96% to 100.00%

Fund Adequacy Percentage Ratio VI B
110.00% but less than 125%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
1.71%	0.00% but less than 10.00%
1.81%	10.00% but less than 15.00%
1.91%	15.00% but less than 20.00%
2.01%	20.00% but less than 25.00%
2.11%	25.00% but less than 30.00%
2.21%	30.00% but less than 35.00%
2.31%	35.00% but less than 40.00%
2.41%	40.00% but less than 44.00%
2.51%	44.00% but less than 48.00%
2.61%	48.00% but less than 52.00%
2.71%	52.00% but less than 56.00%
2.81%	56.00% but less than 60.00%
2.91%	60.00% but less than 64.00%
3.01%	64.00% but less than 68.00%
3.11%	68.00% but less than 72.00%
3.21%	72.00% but less than 76.00%
3.31%	76.00% but less than 80.00%
3.41%	80.00% but less than 84.00%
3.51%	84.00% but less than 88.00%
3.61%	88.00% but less than 92.00%
3.71%	92.00% but less than 95.00%
3.81%	95.00% but less than 97.00%
3.91%	97.00% but less than 98.20%
4.11%	98.20% but less than 99.00%
4.31%	99.00% but less than 99.50%
4.51%	99.50% but less than 99.70%
4.71%	99.70% but less than 99.79%
4.91%	99.79% but less than 99.87%
5.11%	99.87% but less than 99.94%
5.40%	99.94% to 100.00%

Fund Adequacy Percentage Ratio VII B
100.00% but less than 110%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
1.91%	0.00% but less than 10.00%
2.01%	10.00% but less than 15.00%
2.11%	15.00% but less than 20.00%
2.21%	20.00% but less than 25.00%
2.31%	25.00% but less than 30.00%
2.41%	30.00% but less than 35.00%
2.51%	35.00% but less than 40.00%
2.61%	40.00% but less than 45.00%
2.71%	45.00% but less than 50.00%
2.81%	50.00% but less than 55.00%
2.91%	55.00% but less than 60.00%
3.01%	60.00% but less than 64.00%
3.11%	64.00% but less than 68.00%
3.21%	68.00% but less than 72.00%
3.31%	72.00% but less than 76.00%
3.41%	76.00% but less than 80.00%
3.51%	80.00% but less than 84.00%
3.61%	84.00% but less than 88.00%
3.71%	88.00% but less than 92.00%
3.81%	92.00% but less than 95.00%
3.91%	95.00% but less than 97.00%
4.11%	97.00% but less than 98.20%
4.31%	98.20% but less than 99.00%
4.51%	99.00% but less than 99.50%
4.71%	99.50% but less than 99.70%
4.91%	99.70% but less than 99.84%
5.11%	99.84% but less than 99.93%
5.40%	99.93% to 100.00%

Fund Adequacy Percentage Ratio VIII B
Under 100%

Tax Rate	Cumulative Taxable Payroll Limits (Percentage of Total Taxable Payroll)
2.11%	0.00% but less than 10.00%
2.21%	10.00% but less than 15.00%
2.31%	15.00% but less than 20.00%
2.41%	20.00% but less than 25.00%
2.51%	25.00% but less than 30.00%
2.61%	30.00% but less than 35.00%
2.71%	35.00% but less than 40.00%
2.81%	40.00% but less than 45.00%
2.91%	45.00% but less than 50.00%
3.01%	50.00% but less than 55.00%
3.11%	55.00% but less than 60.00%
3.21%	60.00% but less than 65.00%
3.31%	65.00% but less than 70.00%
3.41%	70.00% but less than 75.00%
3.51%	75.00% but less than 80.00%
3.61%	80.00% but less than 84.00%
3.71%	84.00% but less than 88.00%
3.81%	88.00% but less than 92.00%
3.91%	92.00% but less than 95.00%
4.11%	95.00% but less than 97.00%
4.31%	97.00% but less than 98.20%
4.51%	98.20% but less than 99.00%
4.71%	99.00% but less than 99.50%
4.91%	99.50% but less than 99.80%
5.11%	99.80% but less than 99.92%
5.40%	99.92% to 100.00%

(2) Notwithstanding the tax rate imposed by ORS 657.462, each employer subject to this chapter, other than employers whose assigned tax rate is 5.4 percent, shall pay to the Employment Department for each calendar quarter an amount equal to nine one-hundredths of a percent of wages subject to tax under this chapter for that calendar quarter. All such moneys shall be paid and collected in the same manner and at the same time as unemployment compensation taxes under this chapter, unless the Director of the Employment Department prescribes otherwise. After deduction of the actual shared costs of the Employment Department in collecting the amounts under this subsection, all such moneys shall be paid into the Supplemental Employment Department Administration Fund. [2005 c.183 §2]

657.464 [1963 c.302 §3; repealed by 1967 c.434 §4 (657.461 enacted in lieu of 657.464)]

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 Amounts included in fund adequacy percentage ratio computations. Notwithstanding the payment of regular and extended unemployment insurance benefits to employees of employing units which reimburse the fund in lieu of taxes from moneys in the Unemployment Compensation Trust

Fund, such moneys shall be included with the balance in the Unemployment Compensation Trust Fund in any computation of a fund adequacy percentage ratio under this chapter as though said moneys had been reimbursed to the fund as provided in ORS 657.505. Should advance payments made by reimbursing employers exceed the amount of benefit payments, the excess amount shall be excluded from the fund balance. [1965 c.359 §3; subsection (2) enacted as 1967 c.435 §12; 1971 c.463 §17; 1977 c.538 §5]

657.468 [1971 c.56 §2; repealed by 1975 c.354 §4]

657.470 [Repealed by 1963 c.302 §4]

657.471 Manner of charging benefits to employer; request for relief from charges.

(1) Subject to the provisions of subsections (2) to (7) and (10) of this section, benefits paid to an eligible individual shall be charged to each of the individual's 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) With the exception of a political subdivision electing to pay taxes under ORS 657.509, an employer's account shall not be charged with benefits paid an unemployed individual in excess of one-third of the base year wages paid that individual while in the employ of such employer.

(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 shall not be charged to an employer of the individual for the immediate period of unemployment when:

(a) The individual left work of the employer voluntarily for good cause not attributable to the employer; or

(b) The employer discharged the individual because the individual was unable to satisfy a job prerequisite required by law or administrative rule.

(6) If it is determined under the provisions of subsection (3), (4) or (5) of this section that benefits paid to an individual shall not be charged to an employer, such employer's account shall not be charged for any benefits paid for any subsequent period or periods of unemployment during that in-

dividual's affected benefit year or during any benefit year beginning within 52 weeks subsequent to the affected benefit year.

(7) If a base-year employer, not otherwise eligible for relief of charges for benefits under this section, receives notification of an initial valid determination of a claim filed by an individual who:

(a) Left work of such employer voluntarily and not attributable to the employer, such employer may request relief of charges within 30 days of the date the notice provided for in ORS 657.266 is mailed or delivered to the employer. The request must advise the Director of the Employment Department in writing the date of such leaving and that such leaving was voluntary and not attributable to the employer and the reason therefor. Upon receipt of such notice from the employer the director shall investigate the separation and if the resulting determination, which shall be made by the director, establishes that the leaving was voluntary and not attributable to the employer, that employer's account shall not be charged with benefits during that individual's benefit year. If the individual was reemployed by such employer prior to the filing of the initial valid claim, the employer shall not receive relief of the employer's account under this subsection;

(b) Was disqualified for the individual's most recent separation from such employer by the director's decision that found the individual has been discharged for misconduct connected with the work, that employer may request relief of charges within 30 days of the date the notice provided for in ORS 657.266 is mailed or delivered to the employer. Upon receipt of such request from the employer, the director shall examine department records and if the requirements of this subsection have been met shall grant the relief of charges to that employer for benefits paid to the individual during the benefit year; or

(c) Was discharged for reasons that would be disqualifying under ORS 657.176 (2)(a), (b), (f), (g) or (h), the employer may request relief of charges within 30 days of the date the notice provided for in ORS 657.266 is mailed or delivered to the employer. The request must specify the date of the discharge and the reasons why the employer believes the discharge was for reasons that would be disqualifying under ORS 657.176 (2)(a), (b), (f), (g) or (h). Upon receipt of the request from the employer, the director shall review the information provided by the employer and determine whether the employer is entitled to relief of charges for benefits paid to the individual during the benefit year. If the director determines that

the employer is entitled to such relief of charges, the director shall grant the relief.

(8) The determination of the director under subsection (7)(a) and (c) of this section shall be final in all cases unless an application for hearing is filed within 20 days after delivery of such decision, or, if mailed, within 20 days after the same was mailed to the employer's last-known address. When a request for hearing has been timely filed, an administrative law judge shall be assigned to conduct a hearing. After the administrative law judge has afforded all parties an opportunity for a fair hearing, the administrative law judge shall affirm or reverse the decision and promptly notify all parties entitled to notice of the decision and the reasons therefor. Decisions of the administrative law judge under this subsection become final and may be judicially reviewed as provided in ORS 657.684 to the extent applicable.

(9) If the director finds that an employer or any employee, officer or agent of an employer, in submitting facts under subsection (7) or (8) of this section willfully makes a false statement or representation or willfully fails to report a material fact concerning the termination of an individual's employment, the director shall make a determination thereon charging the employer's reserve account not less than two nor more than 10 times the weekly benefit amount of the claimant or claimants, as the case may be. The director shall give notice to the employer of the determination under this subsection and such decision of the director shall become final unless an application for hearing is filed in accordance with subsection (8) of this section.

(10) Benefits paid to an individual shall not be charged to a base-year employer if:

(a) The employer furnished part-time work to the individual during the base year;

(b) The individual has become eligible for benefits because of loss of employment with one or more other employers;

(c) The employer has continued to furnish part-time work to the individual in substantially the same amount as during the individual's base year; and

(d) The employer requests relief of charges within 30 days of the date the notice provided for in ORS 657.266 is mailed or delivered to the employer. [Formerly 657.466; 1967 c.435 §5; 1973 c.300 §12; 1975 c.257 §10; 1977 c.294 §6; 1983 c.518 §1; 1993 c.778 §22; 1995 c.79 §332; 1995 c.683 §1; 1997 c.59 §2; 1999 c.416 §1; 1999 c.849 §130; 1999 c.970 §1; 2003 c.75 §102; 2003 c.792 §3]

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

657.473 Statement of benefits charged to employer's account. Employers subject to this chapter may be furnished, upon written request, a statement of benefits charged to their accounts at such times and in such form as may be determined by the Director of the Employment Department. Nothing in this section shall in any way be construed as to relieve an employer's account from benefit charges nor to grant any appeal therefrom. [1967 c.435 §2]

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 Director of the Employment Department, 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 director may authorize, all in the same manner as though such agent were the employer of such workers.

(2) The director 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 director, 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 obligations to comply with the terms of this chapter, except to the extent that such obligations are discharged by such agent.

657.477 Related corporations as common paymaster; treatment of compensation for services. For purposes of this chapter, if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual, and shall not be considered to have paid as remunera-

tion to such individual amounts actually disbursed to such individual by another of such corporations. [1979 c.255 §2]

657.480 Effect of transfer of trade or business; partial transfer; penalties; rules. (1) If an employer transfers its trade or business or a portion of its trade or business to another employer, the portion of unemployment experience attributable to the transferred trade or business shall be transferred to the acquiring employer.

(2)(a) If a person is not an employer when the person acquires a trade or business or a portion of a trade or business of an employer, the unemployment experience of the acquired trade or business shall be transferred to the person unless the Director of the Employment Department finds that the person acquired the trade or business solely or primarily for the purpose of obtaining a lower tax rate.

(b) The person described in paragraph (a) of this subsection is not entitled to a tax rate of less than the tax rate assigned under ORS 657.435 unless and until the person, based upon the person's unemployment experience and the unemployment experience of the trade or business transferred, has throughout the 12 consecutive months preceding the computation date had its account chargeable with benefits.

(c) If the director finds that a person acquired a trade or business solely or primarily for the purpose of obtaining a lower tax rate, the director shall deny a transfer of unemployment experience. In determining whether a person acquired a trade or business solely or primarily for the purpose of obtaining a lower tax rate, the director shall use objective factors that may include:

(A) The cost of acquiring the trade or business;

(B) Whether the person continued the business activities of the transferred trade or business;

(C) How long the person continued the business activities of the transferred trade or business; or

(D) Whether a substantial number of new employees were hired for the performance of duties unrelated to the business activities of the trade or business that were conducted before the transfer.

(3)(a) A person may not engage in activity to transfer or acquire, or to attempt to transfer or acquire, a trade or business or any portion of a trade or business solely or primarily for the purpose of obtaining a lower tax rate. If a person knowingly engages in activity to transfer or acquire, or to attempt to transfer or acquire, a trade or business or any portion of a trade or busi-

ness solely or primarily for the purpose of obtaining a lower tax rate, the director shall assign the person the highest tax rate designated under this chapter for the rate year during which the activity occurred and for the next three rate years. However, if the person is already subject to the highest tax rate for a year, or if the amount of increase in the person's tax rate would be less than two percentage points for the year, the director shall impose an additional penalty tax rate of two percentage points added to the calculated tax rate.

(b) A person may not advise another person to engage in activity to transfer or acquire, or to attempt to transfer or acquire, a trade or business or any portion of a trade or business solely or primarily for the purpose of obtaining a lower tax rate. In addition to any other penalty provided by law, the director may assess a civil penalty not to exceed \$10,000 against a person that knowingly advises another person to engage in activity to transfer or acquire, or to attempt to transfer or acquire, a trade or business or any portion of a trade or business solely or primarily for the purpose of obtaining a lower tax rate. The director shall deposit all sums collected as civil penalties under this paragraph into the Employment Department Special Administrative Fund. An assessment under this paragraph is final unless within 20 days after the mailing of the notice of assessment the person files an application for a hearing under ORS 657.683.

(c) As used in this subsection, "knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the law.

(4) The director shall adopt necessary rules and procedures regarding the transfer of unemployment experience for purposes of establishing employer tax rates under this chapter to ensure that higher tax rates are not avoided through the transfer or acquisition of a trade or business or a portion of a trade or business. In adopting rules under this section, the director shall consider and strive to meet the minimum requirements in any guidance or regulations issued by the United States Department of Labor. [Amended by 1977 c.538 §6; 1999 c.513 §1; 2005 c.35 §2]

657.485 Notice of rate; request for hearing; procedure for redetermination.

(1) An employer, when notified that the employer has been determined an employer subject to this chapter, shall also be notified of the tax rate for the employer as determined pursuant to this chapter. Such tax rate shall become conclusive and binding upon the employer unless within 20 days after the mailing of the notice to the last-known address of the employer as shown on

the records of the Director of the Employment Department, or in the absence of mailing, within 20 days after the delivery of such notice, the employer files a request for hearing with the director, setting forth the reason therefor.

(2) An employer whose rate has been determined in accordance with the provisions of ORS 657.462, shall be notified of the tax rate for the employer not later than November 15 of the year preceding the calendar year for which the rate is applicable. An employer whose account is open according to the Employment Department records as of November 15 but whose tax rate was not determined under ORS 657.462 shall be notified of the tax rate for the following calendar year by November 15 or as soon as possible thereafter. Such tax rate shall become conclusive and binding upon the employer unless, within 20 days after the mailing of the notice to the last-known address of the employer as shown by the records of the director or, in the absence of mailing, within 20 days after the delivery of such notice, the employer files a written application for review and redetermination with the director, setting forth the reasons therefor.

(3) If a valid application is filed within the time provided in subsection (2) of this section, an authorized representative of the director shall review the determination and notify the employer in writing thereof. If the review results in a change in either the employer's tax rate or information included on the original tax rate notice, an amended notice shall be provided the employer.

(4) The decision of the authorized representative reflecting the result of the review provided for in subsection (3) of this section shall become final and conclusive and binding upon the employer unless the employer, within 20 days after delivery of the notice, or if mailed, within 20 days after the same was mailed to the last-known address of the employer, files a request for hearing with the director. The request shall be in writing and shall state that the decision of the authorized representative is incorrect and the reasons therefor.

(5) When a valid request for hearing has been filed, as provided in subsections (1) and (4) of this section, a hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605 unless a hearing has previously been afforded the employer on the same grounds as set forth in the request. The administrative law judge shall give notice of the time and place of hearing to the director or authorized representative of the director and shall also give notice to the employer by mail directed to

the last-known address of record with the director. Hearings under this subsection shall be conducted in accordance with this chapter. The filing of a request for hearing with respect to a disputed tax rate shall not affect the right of the director or authorized representative of the director to perfect any liens provided by this chapter.

(6) After hearing, the administrative law judge shall enter findings of fact and decision either affirming or modifying the tax rate notice. The employer and the director shall be promptly notified of the decision of the administrative law judge. All testimony at any hearing held before an administrative law judge under this section shall be recorded but need not be transcribed unless a petition for judicial review from the decision of the administrative law judge is filed in the manner and within the time prescribed in ORS 657.487.

(7) A decision of the administrative law judge is final on the date of notification or the mailing thereof to the director and to the employer at the last-known address of record with the director, and shall become conclusive and binding upon the employer and the director unless a petition for judicial review is filed in the manner and within the time prescribed in ORS 657.487.

(8) No employer shall have any standing, in any proceeding involving tax rate or tax liability, to contest the chargeability to the account of the employer of any benefits paid in accordance with a determination, redetermination or decision pursuant to ORS 657.265, 657.266 to 657.269 and 657.270 to 657.290, 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 the employer or for a predecessor employer and only in the event that the employer or the predecessor 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 director or authorized representative of the director shall be prima facie correct and the burden shall be upon the protesting employer to prove it is incorrect. [Amended by 1959 c.583 §22; 1965 c.210 §5; 1971 c.734 §95; 1977 c.538 §7; 1993 c.778 §16; 1999 c.849 §§132,133; 2003 c.75 §51]

657.487 Judicial review of decisions under ORS 657.485. Judicial review of decisions or orders under ORS 657.485 shall be as provided for review of orders in contested cases in ORS chapter 183, except that the petition shall be filed within 20 days after the order is final. The Director of the Employment Department may file petition for

judicial review in accordance with this section from decisions of the administrative law judge. [1971 c.734 §97; 1977 c.538 §8; 1999 c.849 §135; 2003 c.75 §103]

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

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

COLLECTION OF TAXES

657.504 Applicability of noncharging provisions. (1) The noncharging provisions of this chapter, including but not limited to ORS 657.327, 657.360, 657.471 and 657.770, do not apply to employers making reimbursement payments or payments in lieu of taxes in accordance with ORS 657.505.

(2) The noncharging provisions of this chapter apply to taxpaying Indian tribes, except that, notwithstanding ORS 657.327, one-half of extended benefits applicable to an Indian tribe paying taxes under ORS 657.505 shall be charged to the Indian tribe. [1973 c.118 §4; subsection (2) of 2005 Edition enacted as 2005 c.181 §2]

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

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

(3) Taxes 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 3304 of the Federal Unemployment Tax Act.

(4) All taxes shall be paid to and collected by the Director of the Employment Department at such times and in such manner as the director may prescribe and upon collection, shall be deposited in the Unemployment Compensation Trust Fund.

(5) In lieu of taxes required of all other employers subject to this chapter, the state shall pay into the fund an amount equivalent to the amount of all regular benefits and all extended benefits paid out to claimants who during the applicable base year were paid wages by the state. Payments required under this section shall be payable from the General Fund of the state, except that if a

claimant was paid wages by the state during the base year from a special or administrative fund provided for by law, the payment into the fund shall be made from such special or administrative fund with the approval of the Oregon Department of Administrative Services.

(6) Any political subdivision subject to this chapter shall, in lieu of taxes required of other employers subject to this chapter, pay into the fund an amount equivalent to the amount of all regular benefits and all extended benefits paid out to claimants who during the applicable base year were paid wages by the political subdivision.

(7)(a) Any nonprofit employing unit or any Indian tribe subject to or electing coverage under this chapter shall pay taxes under the provisions of ORS 657.475 and 657.480. However:

(A) Such nonprofit employing unit may elect to make reimbursement payments into the Unemployment Compensation Trust Fund in an amount equivalent to the amount of regular benefits and one-half of extended benefits paid out to claimants who during the applicable base period were paid wages by such nonprofit employing unit. Such reimbursement payments shall be deemed to be taxes for all purposes of this chapter.

(B) Such Indian tribe may elect to make reimbursement payments into the Unemployment Compensation Trust Fund in an amount equivalent to the amount of regular benefits and all extended benefits paid out to claimants who during the applicable base period were paid wages by the Indian tribe. Such reimbursement payments shall be deemed to be taxes for all purposes of this chapter.

(b) A nonprofit employing unit or an Indian tribe may elect to make reimbursement payments by filing with the director a written notice to this effect within the 30-day period following the close of the calendar quarter in which the nonprofit employing unit or Indian tribe became an employer, or may make a timely election within 30 days after the director finds the nonprofit employing unit or Indian tribe in default with respect to payment of taxes if the director has not found the default to be due to an intent to postpone or avoid either payment of taxes due the Unemployment Compensation Trust Fund or the election to make reimbursement payments pursuant to this paragraph. A nonprofit employing unit or an Indian tribe failing to submit a timely notice of election of reimbursement shall be liable for taxes on any wages paid for services performed for such nonprofit employing unit or Indian tribe for two calendar years. Such nonprofit employing unit or Indian tribe will remain lia-

ble for taxes for any calendar year thereafter unless a written notice of election of reimbursement is filed with the director by January 31 of such calendar year. The director shall for good cause extend the period within which a notice of election of reimbursement must be filed for an additional 30 days.

(c) Elections of reimbursement shall continue until canceled but shall be for a period of not less than two calendar years. Any nonprofit employing unit or Indian tribe may cancel such election, and pay taxes as any other employer, by filing with the director a written notice of its intention to cancel such election by January 31 of the year in which the cancellation is to be effective. The director may for good cause extend the period within which a notice of cancellation may be filed for an additional 30 days. Once a cancellation is effective the nonprofit employing unit or Indian tribe must pay taxes for two calendar years before it is again eligible for election of reimbursement. An employer whose election of reimbursement has been canceled shall thereafter be liable for taxes at the rate assigned an employer in accordance with ORS 657.435 until such employer is eligible for a rate based on the experience of the employer in accordance with the provisions of ORS 657.475 and 657.480.

(d) Each nonprofit employing unit that elects to reimburse the fund shall, within 30 days after the effective date of its election, either execute and file with the director a surety bond or deposit with the director money, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or other security as approved by the director. The amount of the bond or deposit shall be two percent of the nonprofit employing unit's total wages paid for employment covered by this chapter for the four calendar quarters immediately preceding the effective date of the election. If the nonprofit employing unit did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the director. The amount of the bond or deposit shall not exceed the amount of taxes the nonprofit employing unit would have been assessed at the maximum tax rate for the same period had not the nonprofit employing unit elected to make reimbursement payments. However, no surety bond or deposit shall be required of an institution of higher education, unless in the discretion of the director the director determines that a surety bond or deposit shall be required of such an institution.

(A) Any bond or letter of credit deposited under this paragraph shall be in force for a period of not less than two calendar years

and shall be renewed with the approval of the director, at such times as the director may prescribe, but not less frequently than at two year intervals as long as the nonprofit employing unit continues to be liable for reimbursement payments. The director shall require adjustments to be made in a previously filed bond or letter of credit as the director deems appropriate. If the bond or letter of credit is to be increased, the bond or letter of credit shall be filed by the nonprofit employing unit within 30 days of the date notice of the required adjustment was mailed or otherwise delivered to it. Failure by any nonprofit employing unit covered by such bond or letter of credit to pay the full amount of reimbursements when due, together with any applicable interest and penalties, shall render the surety liable on said bond or the issuer liable on the letter of credit to the extent of the amount thereof including interest and penalties assessed pursuant to this chapter.

(B) Any deposit of money or security in accordance with this paragraph shall be retained by the director. Money shall be deposited in the Employment Tax Guarantee Fund. When liability under the election is terminated the deposit shall be returned to the nonprofit employing unit, less any deductions as hereinafter provided. The director may transfer moneys from the Employment Tax Guarantee Fund or sell securities deposited as necessary to satisfy any due and unpaid reimbursements and any applicable interest and penalties. The director shall require the nonprofit employing unit within 30 days following transfer of a money deposit or sale of securities to deposit sufficient additional money or securities to restore the original deposit in full. The director may, at any time, review the adequacy of the deposit made by any nonprofit employing unit. If, as a result of such review, the director determines that an adjustment is necessary, the director shall require the nonprofit employing unit to make an additional deposit within 30 days of written notice of the determination or shall return to it such portion of the deposit as the director no longer considers necessary, whichever action is appropriate.

(C) If any nonprofit employing unit fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, as provided in this section, the director may terminate such nonprofit employing unit's election to make reimbursement payments. The director may extend for good cause the applicable filing, deposit or adjustment period by not more than 30 days. A nonprofit employing unit having its election terminated under this section shall

pay taxes for a period of two calendar years before it is again eligible for election to reimburse.

(8)(a) At the end of each calendar quarter, or at the end of any other period as prescribed by the director, the director shall determine the amount of payments in lieu of taxes or reimbursement payments required, under subsections (5), (6) and (7) of this section, and shall bill each employer for such amount. If a claimant during a base year was employed by an employer liable for payments in lieu of taxes or reimbursement payments and other employers subject to the tax rate provisions of this chapter, the amount to be paid into the fund by employers liable for payments in lieu of taxes or reimbursement payments shall be an amount that is 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.

(b) In determining the amount of payments in lieu of taxes or reimbursement payments, benefits paid for any reason shall be included if such benefits or any portion thereof were paid as a result of wages earned in the employ of an employer required to make reimbursing payments or payments in lieu of taxes. Such benefits paid include but are not limited to payments made as a result of a determination or payments erroneously or incorrectly paid or paid as a result of a determination of eligibility that is subsequently reversed. Any benefit payments described in this paragraph that are subsequently recovered by the Employment Department will be credited on a pro rata basis to the account of the employer that reimbursed the fund for such benefits.

(c) Payment of any bill rendered under paragraph (a) of this subsection shall be made not later than the last day of the month immediately following the month in which such bill was mailed to the last-known address of the employer or was otherwise delivered to it. The director may assess a nonprofit employing unit or an Indian tribe for past due taxes and such assessment shall be subject to the same interest, penalties, enforcement, appeal and any other provisions of this chapter that apply to taxes assessed pursuant to ORS 657.681.

(d) If a nonprofit employing unit is delinquent in making reimbursement payments as required under this section, the director may terminate the nonprofit employing unit's election and the nonprofit employing unit must pay taxes for two calendar years before it is again eligible for election of reimbursement. Any employer whose election is terminated under provisions of this subsection shall remain liable for reimbursement pay-

ments for any benefits paid based on wages received prior to the effective date of termination of the election.

(e)(A) If an Indian tribe fails to make reimbursement payments as required under this section, including assessments of interest and penalties, within 90 days of receipt of the delinquency or bill, the director shall terminate the Indian tribe's election and the Indian tribe must pay taxes for two calendar years before it is again eligible for election of reimbursement. Any employer whose election is terminated under the provisions of this subsection remains liable for reimbursement payments for any benefits paid based on wages received before the effective date of termination of the election.

(B) Services performed for an Indian tribe may not be treated as employment for purposes of this chapter if, after all collection activities considered necessary by the director have been exhausted, the Indian tribe or any unit of the Indian tribe fails to make required payments, including contributions, reimbursement payments and assessments of interest and penalties.

(C) Services performed for an Indian tribe that has lost coverage under subparagraph (B) of this paragraph may be treated as employment for purposes of this chapter if the Indian tribe makes all required payments, including contributions, reimbursement payments and assessments of interest and penalties.

(D) For purposes of this section, an Indian tribe and any units of the Indian tribe that separately elect coverage are jointly and severally liable for all required payments, including contributions, reimbursement payments and assessments of interest and penalties.

(E) The director shall notify the United States Internal Revenue Service and the United States Department of Labor if an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of receipt of a final notice of assessment.

(9) Notwithstanding the provisions of subsections (5), (6), (7) and (8) of this section, each employing unit that is required to make payments in lieu of taxes or has elected to make reimbursement payments may request permission to make advance or budget payments in accordance with rules adopted by the director.

(10) Two or more employers that have become liable for payments in lieu of taxes or reimbursement payments, in accordance with the provisions of subsections (5), (6) and (7) of this section, may file a joint application to the director for the establishment of

a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each application shall identify and authorize a group representative to act as the group's agent for the purpose of this subsection. Upon the approval of the director of the application, the director shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the director receives the application and shall notify the group's agent of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the director or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group. The director shall prescribe such rules as the director deems necessary with respect to application for establishment, maintenance and termination of group accounts. This subsection shall not be construed to make such agent the employer of such workers, or relieve any employer of the obligations of the employer to comply with the terms of this chapter, except to the extent that such obligations are discharged by such agent as provided thereunder. [Amended by 1957 c.682 §6; 1971 c.463 §18; 1973 c.118 §2; 1977 c.446 §7; 1989 c.329 §4; 1989 c.609 §3; 1991 c.67 §161; 1991 c.331 §96; 1997 c.631 §516; 2001 c.572 §12; 2003 c.401 §1; 2005 c.218 §15]

657.506 [1965 c.392 §2; 1977 c.538 §9; 1983 c.545 §1; 2001 c.572 §13; 2005 c.218 §17; repealed by 2009 c.74 §1]

657.507 Employer's security for payment of contributions. (1) If upon satisfactory evidence the Director of the Employment Department finds it necessary for the protection of the Unemployment Compensation Trust Fund, the director 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 director, a sum equal to the contributions due the director upon the employer's payroll or estimated payroll covering a period of three calendar quarters.

(2) The director may, at the discretion of the director and in lieu of such deposit, accept a bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in a form acceptable to the director to secure payment of contributions to become due the fund. The deposit or posting of the bond or letter of credit shall not relieve the employer from making contribu-

tions to the fund based on the payroll of the employer as provided by this chapter. The director may, at the discretion of the director, at any time apply such deposit or bond or letter of credit or part thereof to the delinquencies or indebtedness of the employer arising under any provision of this chapter.

(3) Any deposit, letter of credit or bond shall be deemed for all purposes to become the sole property of the Director of the Employment Department and shall be deposited in the Employment Tax Guarantee Fund and held for the sole benefit of the Unemployment Compensation Trust Fund and the Employment Department Special Administrative Fund, subject only to subsection (4) of this section. The deposit, letter of credit or bond shall be prior to all other liens, claims or encumbrances and shall be exempt from any process, attachment, garnishment or execution whatsoever and shall be for the sole benefit of the Unemployment Compensation Trust Fund and the Employment Department Special Administrative Fund except as provided in subsection (4) of this section.

(4) If an employer ceases to be an employer subject to this chapter, the Director of the Employment Department shall, upon receipt of all payments due the fund based on the employer's payroll, refund to the employer all deposits remaining to the employer's credit and shall cancel any bond or letter of credit given under this section. Such sums as are on deposit in the Employment Tax Guarantee Fund or bonds held for the benefit of the Unemployment Compensation Trust Fund shall first be applied to any indebtedness or deficiencies due from the employer to the Unemployment Compensation Trust Fund and the Employment Department Special Administrative Fund under any provisions of this chapter before any return is made to the employer. The employer shall have no interest in such deposit, letter of credit or bond prior to full compliance with this section and all provisions of this chapter. [1959 c.598 §7; 1967 c.435 §6; 1991 c.331 §97; 1997 c.631 §517; 1999 c.59 §197]

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 the employer engages in business shall, upon the commencement of a suit by the Director of the Employment Department for that purpose, enjoin the employer from further employing individuals 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 director, 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 days from the service of the notice. [1959 c.598 §8; 1967 c.435 §7; 1983 c.508 §11]

657.509 Taxes from political subdivisions and people's utility districts; election; effect of canceling election; applicability of noncharging provisions. (1) Instead of the amount to be paid into the fund under provisions of ORS 657.505 (6), a political subdivision may elect to pay taxes in accordance with the provisions of ORS 657.430 and 657.480. The election shall be on forms prescribed by the Director of the Employment Department and must be filed within the 30-day period following the close of the calendar quarter in which the political subdivision became an employer. An employer failing to submit a timely notice of election under this section shall be liable under provisions of ORS 657.505 (6) for a minimum of two calendar years. Thereafter such employer may file a written election to pay taxes. Such election must be filed by January 31 of the calendar year for which the election is to be effective. The director may for good cause extend the period within which an election must be filed for an additional 30 days.

(2) An election shall continue until canceled but shall be for a period of not less than two calendar years. An employer may cancel such election by filing with the director a written notice of its intention to cancel by January 31 of the year in which the cancellation is to be effective. The director may for good cause extend the period within which a notice of cancellation may be filed for an additional 30 days. Once a cancellation is effective, the political subdivision must pay amounts in accordance with ORS 657.505 (6) for two calendar years before it is again eligible to elect payment under this section.

(3) All noncharging provisions of this chapter shall apply to political subdivisions electing to pay taxes under this section, except that with respect to ORS 657.327, one-half of extended benefits applicable to a political subdivision paying taxes under this section shall be charged to the political subdivision.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, any political subdivision may elect to pay taxes or cancel a tax election effective January 1, 1978, if such election or notice of cancellation is filed by January 31, 1978. The director may for good cause extend the period for filing an election for an additional 30 days. [1973 c.715 §5; 1975 c.156 §3; 1977 c.446 §8; 1989 c.609 §4]

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 Director of the Employment Department determines that such contributions, interest, fines or penalties, or any portion thereof were collected erroneously, the director 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 the employer or, if such adjustment cannot be made, the director shall refund said amount, without interest, from the Unemployment Compensation Trust Fund or from the Employment Department Special Administrative Fund, as applicable; provided that the director 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 the director refund any such payment from the fund except that the director 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 Employment Department Special Administrative Fund. For like cause and within the same period, adjustment or refund from the Unemployment Compensation Trust Fund and the Employment Department Special Administrative Fund, as appropriate, may be so made on the director's own initiative. Refunds of contributions pursuant to ORS 657.065 (1) shall be refunded by the director from the fund without application. When refunds of contributions are made pursuant to ORS 657.065 (1), refunds of fines, penalties and interest, if any, shall be made from the Employment Department Special Administrative Fund without application. [Amended by 1965 c.359 §4]

Note: Pursuant to 173.160, Legislative Counsel has not substituted specific ORS references for the words "this 1965 Act" in 657.510. The sections for which substitution otherwise would be made may be determined by referring to the 1965 Comparative Section Table located in Volume 20 of ORS.

657.511 [1973 c.810 §5; repealed by 1977 c.538 §14]

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

657.513 Political subdivision contribution payments from Local Government Employer Benefit Trust Fund. (1) A political subdivision required to make payments into the Unemployment Compensation Trust Fund under ORS 657.505 may request the Director of the Employment Department to pay on behalf of the political subdivision

such amounts as the political subdivision is required to pay into the fund. The employer may request the director to pay on its behalf such amounts as the political subdivision is required to pay into the fund. This request must be filed with the director by January 31 of any year in order to be effective July 1 of that year.

(2) A request shall continue until canceled but shall be for a period of not less than two years. A political subdivision may cancel its request by filing a written notice of its intention to cancel with the director by January 31 of the year in which the cancellation is to be effective. A cancellation shall be effective only on June 30 of a year. The political subdivision shall be responsible for paying into the Unemployment Compensation Trust Fund any amounts paid out to claimants after the effective date of a cancellation and attributable to base period wages paid by the political subdivision during a period it was subject to the provisions of ORS 293.701, 294.725 to 294.755, 657.505 or this section.

(3) The director may for good cause extend the period within which a request or cancellation of a request must be filed for an additional 30 days.

(4) The director shall pay into the Unemployment Compensation Trust Fund from the Local Government Employer Benefit Trust Fund such amounts of benefits that are paid to claimants during the period the political subdivision is a participant in the Local Government Employer Benefit Trust Fund created by ORS 294.730. Benefits paid to claimants during a period when the political subdivision is not a participant shall be reimbursed directly to the Unemployment Compensation Trust Fund by the political subdivision. [1977 c.491 §2; 1989 c.135 §6; 1995 c.79 §333]

657.515 Delinquent taxes; interest; civil penalties; collection by civil action; settlement. (1) If an employer defaults with respect to any payment required to be made by the employer to the Unemployment Compensation Trust Fund, the taxes at any time due, together with interest thereon and penalties, shall be collected by the Director of the Employment Department in a civil action against such employer brought in the name of the director 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 taxes collected shall be paid into the Unemployment Compensation Trust Fund. The amount of interest, penalties and

finest collected pursuant to this subsection shall be paid to the Employment Department Special Administrative Fund in accordance with the provisions of ORS 657.830 (3).

(2) Interest upon the amount due from an employer shall be paid and shall be collected, at the same time payment of taxes is required to be made by such employer to the Unemployment Compensation Trust Fund at the rate of one and one-half percent per month from the date prescribed for the payment to the Unemployment Compensation Trust Fund. In computing such interest, a fraction of a month shall be counted as a full month.

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

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

(5) If any part of any deficiency is due to fraud with intent to avoid payment of taxes 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 Employment Department Special Administrative Fund pursuant to this section and ORS 657.822.

(6) Civil actions brought in the name of the director under this section to collect taxes, 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 director 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 director may agree to accept any amount the director finds reasonable under the circumstances, as consideration for the settlement of the full amount of taxes, interest or penalties due. Whenever such an agreement is made a

written record signed by the director shall be maintained in the files of the director. 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 personal representative setting forth the complete financial responsibility of the taxpayer or the taxpayer's estate, and containing a full disclosure of all matters bearing upon the ability of the taxpayer or 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 director 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 director 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 taxes due from such employer until the principal amount of taxes 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; 1977 c.538 §10; 1981 c.29 §1]

657.516 Liability of certain officers, members, partners and employees for amounts in default. (1) In the case of default by an employer, as provided in ORS 657.515, a person described in subsection (2) of this section who, as an officer, member, partner or employee, is under a duty to perform the actions required by employers under this chapter shall be personally liable for amounts due under this chapter. More than one person may be jointly and severally liable under this section.

(2) This section shall apply only to a person who is one or more of the following:

(a) An officer or employee of a corporation;

(b) A member or employee of a limited liability company; or

(c) A partner in or employee of a limited liability partnership.

(3) If the Director of the Employment Department determines that an amount is due under this section, the director shall issue a notice of assessment to the person liable under this section mailed to the person's

last-known address of record with the director.

(4) If the director has reason to believe that the person liable under this section is insolvent, the director may issue a jeopardy assessment as provided by ORS 657.681 (4).

(5) Amounts assessed under this section may be reviewed in the manner provided by ORS 657.681 (5). [2009 c.79 §3]

657.517 Authority of director to compromise or adjust debts or overpayments; determination of uncollectible amounts.

(1) When in the judgment of the Director of the Employment Department the best interests of the Employment Department are served, the director may:

(a) Waive, reduce or compromise any tax balance of \$10 or less;

(b) Retain any tax overpayment of \$10 or less; or

(c) Waive, reduce or compromise any part or all of the tax interest and tax penalties provided by this chapter.

(2) The director may determine that the amount of tax, interest and penalty due and unpaid on a delinquent tax account is uncollectible, and write such amount off, if:

(a) The delinquent amount has been reduced to the status of a lien or judgment under the provisions of this chapter and such lien or judgment has expired; or

(b) The taxpayer no longer has an active business in Oregon and has not had an active business within the three most recently completed calendar years, and there is little or no likelihood of recovering the amount due.

(3) In making the determination that an account is uncollectible, the director shall consider, among other factors:

(a) The administrative costs of continued collection efforts in relation to the amount due;

(b) The accessibility of the taxpayer for effective collection actions; and

(c) The taxpayer's financial condition and ability to pay the amount due, both current and projected.

(4) A record shall be made showing the reasons for waiving, reducing, compromising or writing off amounts under this section. Such record shall be retained for a period of seven years from the date the account was written off. [1969 c.57 §2; 1981 c.5 §5; 1983 c.54 §1]

657.520 Claims for contribution 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 Director of the Employment De-

partment 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 Director of the Employment Department 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 workers of any employer subject to this chapter, in a sum equal to the amount at any time due from such employer to the director on account of labor performed thereon by the workers of such employer, together with interest and penalties.

657.530 Lien on property used in connection with employment on which contributions are due. The Director of the Employment Department 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 workers 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 assert such liens, the Director of the Employment Department shall, within 60 days after the employer is in default, as provided in ORS 657.515 (3), 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 director. 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 director 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 director may, within one year from the filing of the statement, commence foreclosure proceedings as provided in ORS 87.110 and 87.115 (1973 Replacement Part). [Amended by 1987 c.158 §127]

657.540 Lien on 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 ORS 657.515 (3), the amount of contributions, interest and penalties due shall be a lien in favor of the Director of the Employment Department upon all property, whether real or personal, belonging to such employer.

(2) The lien shall be perfected and attach:

(a) To real and personal property located within the county, upon the recording of a warrant, as provided in ORS 657.642, with the clerk of the county in which the property is located.

(b) To personal property wherever located within the state, upon:

(A) The recording of a warrant, as provided in ORS 657.642, with the clerk of any county; and

(B) The filing of a copy of the warrant with the Secretary of State as provided in ORS 657.542.

(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 state and county tax liens 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; 1991 c.277 §1]

657.542 Filing liens and warrants with Secretary of State.

(1) A copy of any statement of lien filed as provided in ORS 657.535 or any warrant attaching the lien of ORS 657.540 may also be filed in the office of the Secretary of State. Filing in the office of the Secretary of State shall have no effect until a copy of the statement of lien or a warrant has been recorded with a county clerk.

(2) When a copy of the statement of lien or the warrant is filed with the Secretary of State in compliance with subsection (1) of this section, such filing shall have the same effect with respect to personal property as if the copy of the statement of lien or the warrant had been duly recorded with the county clerk in each county of this state.

(3) A copy of the statement of lien or the warrant 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 79.0501 for the filing and indexing of financing statements. [1959 c.598 §9; 1961 c.726 §425; 1991 c.277 §2; 2001 c.445 §179]

657.545 Release of ORS 657.540 lien by filing security. (1) The employer against whose property a lien has been filed under ORS 657.540 may cause the property to be released by filing with the county clerk of the county wherein such lien is recorded a bond or an irrevocable letter of credit 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 or in the case of a letter of credit issued by an insured institution, as defined in ORS 706.008, to be approved by the circuit judge of the district in which said lien is filed, or, in the event of the absence of the circuit judge from the county in which said lien is filed, then by the county judge of said county, running to the Director of the Employment Department and conditioned for the payment of all damages, costs, charges and disbursements that may be recovered by the director 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 or letter of credit 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 or letter of credit shall be made in the lien docket containing the original record of statement of claim.

(3) If the director establishes the validity of the lien by a suit to foreclose the same, the director is entitled to judgment against the sureties upon said bond or against the issuer of the letter of credit. [Amended by 1991 c.331 §98; 1997 c.631 §518; 2003 c.576 §532]

657.550 [Amended by 1959 c.598 §2; repealed by 1963 c.354 §1 (657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of 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 rules, 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 or person liable under

ORS 657.516 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 or person liable under ORS 657.516 may waive this limitation period or may consent to its extension.

(3) An action or suit may not 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 or person liable under ORS 657.516 who is out of the state or concealed therein, such action or suit may be commenced within three years after the return of the employer or person into the state, or the time of the concealment of the employer or person has ended. [1963 c.354 §5 (657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of 657.472, 657.512, 657.550 and 657.672); 2003 c.14 §405; 2009 c.79 §4]

657.555 Authority 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 Director of the Employment Department, 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; prevailing party in civil action to recover costs. (1) Remedies given to the Director of the Employment Department under this chapter for the collection of contributions, interest and penalties shall be cumulative and no action taken by the director or the duly authorized representative of the director, 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.

(2) In any civil action brought under this section, the prevailing party is entitled to recover from the opposing party or parties reasonable costs and attorney fees to be fixed by the court upon entry of a final order or judgment in favor of the prevailing party in a court hearing, trial or on appeal. [1959 c.598 §5; 1991 c.607 §1; 2003 c.576 §533]

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

657.565 Unlawful practices of employer. (1) No employer or agent of any employer shall willfully refuse or fail to pay a contribution to the fund or to furnish any report, audit or information duly required by the Director of the Employment Department under this chapter.

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

657.570 [1989 c.901 §5; repealed by 1999 c.461 §1 (657.571 enacted in lieu of 657.570)]

657.571 Quarterly or annual tax report; form; filing with Department of Revenue. (1) Every employing unit shall make and file a quarterly report of taxes due under this chapter upon a combined quarterly tax report form prescribed by the Department of Revenue. The report shall be filed with the Department of Revenue at the times and in the manner provided by ORS 316.168 and 316.171.

(2) The report of taxes due under this chapter may be filed annually, in the time, form and manner prescribed by the Department of Revenue, if:

(a) The employment that is the subject of the report of taxes due under this chapter consists exclusively of domestic service in a private home, local college club or local chapter of a college fraternity or sorority; and

(b) In any calendar quarter, total domestic service cash remuneration is \$1,000 or more. [1999 c.461 §2 (enacted in lieu of 657.570); 2003 c.112 §1]

657.575 Repayment of default by nonprofit employing unit; conditions. (1) Notwithstanding any other provision of this chapter, when a nonprofit employing unit is found by the Director of the Employment Department to be in default with respect to payment of taxes required by this chapter, the nonprofit employing unit may elect to satisfy the deficiency together with any interest and penalties thereon, by making reimbursement payments into the Unemployment Compensation Trust Fund in an amount equivalent to the amount of regular benefits and one-half of extended benefits paid out to claimants who, during the period of noncompliance with this chapter, were paid wages by such nonprofit employing unit. However, the election to make re-

imbursement payments may not be made if the director finds that any part of the deficiency is due to an intent to postpone or avoid either payment of taxes due the Unemployment Compensation Trust Fund or the election to make reimbursement payments pursuant to ORS 657.505 (8).

(2) Reimbursement payments made pursuant to this section shall be deemed to satisfy any deficiency, together with any interest and penalties thereon. If a nonprofit employing unit elects to make reimbursement payments under this section, any payments previously made to satisfy that deficiency shall be credited to the reimbursement payments for which the nonprofit employing unit is liable. If all liabilities for benefit payments to claimants are met, any payments in excess of the reimbursement payments required, together with any interest and penalties thereon, shall be refunded to the nonprofit employing unit. [1989 c.329 §2; 2005 c.218 §18]

EMPLOYMENT DEPARTMENT; ADMINISTRATION GENERALLY

657.601 Employment Department. There is established an Employment Department. The department shall:

(1) Administer the unemployment insurance laws of this state to support Oregonians during periods of unemployment;

(2) Provide for the operation of a statewide employment service, including the establishment and maintenance of a system of public employment offices to promote employment of Oregonians;

(3) Provide oversight, operation and management of a statewide comprehensive labor market and occupational supply and demand information system to assist in the development of a diversified, multiskilled workforce; and

(4) Provide child care advocacy, coordination of child care policy and planning, technical assistance to child care providers and certification of child care facilities to assist the employment of Oregonians and insure the health and well-being of the future workforce. [1969 c.597 §176; 1993 c.344 §4(1); part renumbered 657A.010 in 1993; 1995 c.278 §57]

657.605 [Repealed by 1959 c.583 §24]

657.606 [1959 c.583 §2; repealed by 1969 c.597 §281]

657.608 Director; term; duties; compensation. (1) The Employment Department shall be under the supervision and control of a director appointed by the Governor. The term of office of the Director of the Employment Department is four years, but the director may be removed at any time during a term at the pleasure of the Governor. The appointment of the director is subject to

confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(2) The director is responsible for providing for programs to deliver to the public services assigned to the department and for undertaking long-range planning necessary for the effective delivery of those services.

(3) The director shall receive such salary as may be provided by law or, if not so provided, as may be fixed by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred in the performance of official duties. Such compensation shall be paid out of the Unemployment Compensation Administration Fund or the Child Care Fund, as appropriate. [1959 c.583 §3; 1969 c.597 §179; 1969 c.695 §13; 1983 c.522 §6; 1983 c.740 §246; 1993 c.344 §5]

657.610 Director; powers and duties generally; rules. The Director of the Employment Department may:

(1) For purposes of administration and control, and with the approval of the Governor, organize and reorganize the department in whatever manner the director considers appropriate to carry out the duties, functions and powers of the department.

(2) Appoint all subordinate officers and employees of the department, whether classified or unclassified, and prescribe their duties and compensation, subject to applicable provisions of the State Personnel Relations Law.

(3) Delegate to departmental officers and employees such responsibility and authority as the director determines necessary.

(4)(a) Determine all questions of general policy for this chapter and ORS chapter 657A;

(b) Adopt rules for this chapter and ORS chapter 657A; and

(c) Administer and enforce this chapter and ORS chapter 657A.

(5) Sue and be sued in the name of the director, and shall have a seal bearing the name of the Employment Department.

(6) Adopt proper rules to regulate the mode and manner of all investigations.

(7) 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 investigating and deciding claims.

(8) Enter into contracts relating to the federal Workforce Investment Act deemed necessary by the director to fulfill the mission of the department. The director may enter into contracts with other states or governments, public bodies or persons to provide or receive services. Contracts entered into by the director shall be executed

in the name of the state, by and through the Employment Department. [Amended by 1959 c.583 §23; 1969 c.597 §180; 1983 c.522 §7; 1993 c.344 §6; 1999 c.849 §§137,138; 2001 c.684 §§32,33; 2003 c.75 §52; 2003 c.199 §§1,2]

657.615 Investigations and recommendations to legislature. The Director of the Employment Department may:

(1) Carry on investigations of the operation of unemployment insurance 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 insurance.

657.620 Determination of adequate fund reserve; modification of benefits and eligibility regulations in case of emergency. (1) The Director of the Employment Department 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 director 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 the director considers necessary to maintain the reserves of the fund.

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

657.625 Publication of rules, reports and information on Employment Department law. (1) The Director of the Employment Department shall cause to be printed in proper form for distribution the 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 director shall publish in suitable form information concerning the rights of

employees under this chapter and such other information concerning this chapter and the regulations pursuant thereto as the director considers suitable and proper, and require every employer to post such publications at the place of employment of the employer. [Amended by 1975 c.605 §31]

657.630 Quasi-judicial powers in administrative hearings. The Director of the Employment Department may act in the director's own behalf or by any of the duly authorized agents or assistants of the director in the following:

- (1) To hold sessions at any place within the state.
- (2) To administer oaths.
- (3) To issue and serve by the director's representative, or by any sheriff, subpoenas for the attendance of witnesses and the production of papers, contracts, books, accounts, documents and testimony. The director may require the attendance and testimony of employers, their officers and representatives before any hearing of the director 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; 1985 c.404 §5; 1999 c.849 §§140,141; 2003 c.75 §53]

657.635 Circuit court to enforce obedience to subpoenas. The circuit court for any county or the judge thereof, on application of the Director of the Employment Department or any of the assistants of the director, 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 director or any of the assistants of the director, 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 director. Upon request of the Director of the Employment Department, the Attorney General or, under the direction of the Attorney General, 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 director in the official capacity of the director. [Amended by 1971 c.418 §19]

657.642 Supplementary remedies for collection of taxes, interest and penalties; use of warrants; execution by sheriff. (1) In any case in which the Director of the Employment Department may bring a civil action for the collection of taxes, interest and penalties under this chapter, the director may instead:

(a) Assess a collection charge of \$5 if the sum of the tax, penalty and interest then due exceeds \$10.

(b) Issue a warrant under official seal directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the employer found within that county, for the payment of the amount of the tax with the added penalties, interest, collection charge and the sheriff's cost of executing the warrant, and to return such warrant to the director and pay to the director the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant.

(2) The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the county a copy thereof, and thereupon the clerk shall enter in the County Clerk Lien Record the name of the employer mentioned in the warrant, and the amount of the tax, interest, penalties and collection charge for which the warrant is issued and the date when such copy is recorded. Thereupon the amount of the warrant so recorded shall become a lien upon the title to and interest in property of the employer against whom it is issued in the same manner as a judgment that creates a judgment lien under ORS chapter 18. The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon the judgment of a court of record, and shall be entitled to the same fees for services in executing the warrant, to be added to and collected as a part of the warrant liability.

(3) In the discretion of the director, a warrant of like terms, force and effect may be issued and directed to any agent authorized by the director to collect taxes and in the execution thereof the agent shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) If a warrant is returned not satisfied in full, the director shall have the same remedies to enforce the claim for taxes, interest and penalties against the employer as if the director had recovered judgment against the employer for the amount of the taxes, interest and penalties.

(5) Interest upon the taxes due as set forth in the warrant shall be paid and collected at the rate prescribed in ORS 657.515 (2). [1971 c.128 §2; 1983 c.696 §25; 2003 c.576 §217]

657.645 [Repealed by 1959 c.583 §24]

657.646 Use of warrant to collect amount of judgment. In any case in which a judgment is rendered in favor of the Employment Department for amounts due under this chapter, the Director of the Employment Department may issue a warrant to collect the amount of the judgment. [2005 c.336 §2]

657.650 [Amended by 1983 c. 522 §8; repealed by 1993 c.344 §11]

657.652 Certificate as evidence in proceeding. In any action, suit or proceeding brought by or against the Director of the Employment Department a certificate attested to by the director or the authorized representative of the director 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 director or the authorized representative of the director 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 (657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of 657.472, 657.512, 657.550 and 657.672)]

657.655 Certified copies of records as evidence. If the original of any record, file, order, proceeding, decision, award or other document on file with the Employment Department is competent and admissible in evidence, a certified copy thereof furnished by the Director of the Employment Department under the seal of the department shall be received in evidence before the Employment Appeals Board or any deputy or officer thereof and in all courts. [Amended by 1959 c.583 §16; 1969 c.597 §184]

657.657 Acquisition of land and offices.

(1) Subject to the approval of the Director of the Oregon Department of Administrative Services, the Director of the Employment Department 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 Director of the Employment Department. The Director of the Employment Department, with the approval of the Oregon Department of Administrative Services, may acquire by purchase office space for the central offices of the Employment Department 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 Director of the Employment Department 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 director without further payment therefor by the United States. [1957 c.609 §5; 1959 c.597 §1; 1961 c.490 §5; 1969 c.597 §185]

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 Director of the Employment Department for the administration of this chapter.

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

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

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

657.662 [1959 c.598 §6; 1961 c.252 §5; 1967 c.435 §8; repealed by 1981 c.77 §14 (657.663 enacted in lieu of 657.662)]

657.663 Penalty for failure by employer to file reports; amount; collection procedure; review of penalty. (1) If an employer fails to file a required quarterly tax report or quarterly detail of employees' wages and hours of work by the 10th day of the second month following the end of the calendar quarter, the Director of the Employment Department, for the first such failure, shall send to the employer at the employer's last-known address a written notice warning the employer that a subsequent failure to file a required report could result in the imposition of a late filing penalty. If an employer, without good cause, fails to file a required report within the three-year pe-

riod immediately following a written warning, the employer may be assessed a late filing penalty in addition to other amounts due. The penalty shall be 0.0002 of the taxable wage base in effect for the year against which the penalty is being assessed for each employee listed each quarter on the late filed reports. However, the minimum penalty for any calendar quarter shall not be less than 0.0025 nor the maximum penalty more than 0.05 of the taxable wage base in effect for the year.

(2) The penalty per employee shall be rounded to the nearest dollar. The minimum penalty shall be rounded to the nearest five-dollar interval and the maximum penalty shall be rounded to the nearest \$100 interval.

(3) Notwithstanding the provisions of subsection (1) of this section, an employer who has no payroll during a calendar quarter shall not be assessed a penalty for the first quarter in which that employer's report is filed late. Thereafter, the director may assess a \$5 penalty when such employer's reports continue to be filed late.

(4) The penalty assessed under this section shall be final unless, within 20 days from the date of mailing of the assessment to the last-known address of the employer, the employer requests the penalty be deleted. The request must be in writing and state the reason why the report was filed late. If the director determines the employer had good cause for filing the report late, the penalty shall be deleted. If it is determined there was not good cause for filing the report late, the request for deletion shall be denied.

(5) A decision denying the request shall become final, unless within 20 days from the date of mailing the decision to the last-known address of the employer, the employer files a request for hearing. The request for a hearing must be in writing and state the reasons therefor. Judicial review shall be as provided for review of orders in contested cases in ORS chapter 183, except that the petition shall be filed within 20 days after the issuance of the order of the director or a designated representative. [1981 c.77 §15 (enacted in lieu of 657.662); 1983 c.508 §12; 1985 c.147 §1; 1995 c.153 §2; 1999 c.849 §§143,144; 2003 c.75 §54]

657.665 Confidentiality of information.

(1) Except as provided in subsections (2) to (4) of this section, all information in the records of the Employment Department pertaining to the administration of the unemployment insurance, employment service and labor market information programs:

(a) Is confidential and for the exclusive use and information of the Director of the Employment Department in administering the unemployment insurance, employment

service and labor market information programs in Oregon.

(b) May not be used in any court action or in any proceeding pending in the court unless the director or the state is a party to the action or proceeding or unless the proceeding concerns the establishment, enforcement or modification of a support obligation and support services are being provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

(c) Is exempt from disclosure under ORS 192.410 to 192.505.

(2) The Employment Department shall disclose information:

(a) To any claimant or legal representative, at a hearing before an administrative law judge, to the extent necessary for the proper presentation of an unemployment insurance claim.

(b) Upon request to the United States Secretary of Labor. The Employment Department shall disclose the information in a form and containing the information that the United States Secretary of Labor may require. The information disclosed is confidential and may not be used for any other purpose.

(c) Pursuant to section 303(a)(7) of the Social Security Act, upon request to any agency of the United States charged with the administration of public works or assistance through public employment. Under this paragraph, the Employment Department shall disclose the name, address, ordinary occupation and employment status of each recipient of unemployment insurance benefits and a statement of the recipient's right to further benefits under this chapter. The information disclosed is confidential and may not be used for any other purpose.

(d) Pursuant to section 303(c)(1) of the Social Security Act, to the Railroad Retirement Board. Under this paragraph, the Employment Department shall disclose unemployment insurance records. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the board.

(e) Pursuant to section 303(d) of the Social Security Act, upon request to officers and employees of the United States Department of Agriculture and to officers or employees of any state Supplemental Nutrition Assistance Program agency for the purpose of determining an individual's eligibility for or the amount of supplemental nutrition assistance. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information

under this paragraph shall be paid by the United States Department of Agriculture.

(f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act, to state or local child support enforcement agencies enforcing child support obligations under Title IV-D of the Social Security Act for the purposes of establishing child support obligations, locating individuals owing child support obligations and collecting child support obligations from those individuals. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the child support enforcement agency.

(g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to agencies participating in the income and eligibility verification system for the purpose of verifying an individual's eligibility for benefits, or the amount of benefits, under unemployment insurance, temporary assistance for needy families, Medicaid, the Supplemental Nutrition Assistance Program, Supplemental Security Income, child support enforcement or Social Security programs. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting agency.

(h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the Federal Unemployment Tax Act, to the United States Department of Health and Human Services National Directory of New Hires. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Health and Human Services.

(i) Pursuant to section 303(i) of the Social Security Act, to officers and employees of the United States Department of Housing and Urban Development and to representatives of a public housing agency for the purpose of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the United States Department of Housing and Urban Development. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Department of Housing and Urban Development or the public housing agency.

(j) Pursuant to regulations of the United States Secretary of Health and Human Services issued under section 3304(a)(16)(A) of the Federal Unemployment Tax Act, and except as required by section 303 of the Social

Security Act, to the state, a political subdivision or a federally recognized Indian tribe that has signed an agreement with the Department of Human Services to administer Part A of Title IV of the Social Security Act for the purpose of determining an individual's eligibility for assistance, or the amount of assistance, under a program funded under Part A of Title IV of the Social Security Act. The information disclosed is confidential and may not be used for any other purpose.

(k) Upon request, to the United States Attorney's Office. Under this paragraph, the Employment Department may disclose an individual's employment and wage information in response to a federal grand jury subpoena or for the purpose of collecting civil and criminal judgments, including restitution and special assessment fees. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the United States Attorney's Office.

(3) The Employment Department may disclose information secured from employing units:

(a) To agencies of this state, federal agencies and local government agencies to the extent necessary to properly carry out governmental planning, performance measurement, program analysis, socioeconomic analysis and policy analysis functions performed under applicable law. The information disclosed is confidential and may not be disclosed by the agencies in any manner that would identify individuals, claimants, employees or employing units. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the agency requesting the information.

(b) As part of a geographic information system. Points on a map may be used to represent economic data, including the location, employment size class and industrial classification of businesses in Oregon. Information presented as part of a geographic information system may not give specific details regarding a business's address, actual employment or proprietary information. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

(c) In accordance with ORS 657.673.

(4) The Employment Department may:

(a) Disclose information to public employees in the performance of their duties under state or federal laws relating to the payment of unemployment insurance bene-

fits, the provision of employment services and the provision of labor market information.

(b) At the discretion of the Director of the Employment Department and subject to an interagency agreement, disclose information to public officials in the performance of their official duties administering or enforcing laws within their authority and to the agents or contractors of public officials. The public official shall agree to assume responsibility for misuse of the information by the official's agent or contractor.

(c) Disclose information pursuant to an informed consent, received from an employer or claimant, to disclose the information.

(d) Disclose information to partners under the federal Workforce Investment Act of 1998 for the purpose of administering state workforce programs under the Act. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the requesting partner.

(e) Disclose the names and addresses of employing units to the Bureau of Labor and Industries for the purpose of disseminating information to employing units. The names and addresses disclosed are confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(f) Disclose information to the Commissioner of the Bureau of Labor and Industries for the purpose of performing duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be used for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the bureau.

(g) Disclose information required under ORS 657.660 (3) and (4) to the Public Employees Retirement System for the purpose of determining the eligibility of members of the retirement system for disability retirement allowances under ORS chapter 238. The information disclosed is confidential and may not be used for any other purpose. The costs of disclosing information under this paragraph shall be paid by the Public Employees Retirement System.

(h) Disclose to the Oregon Business Development Commission information required by the commission in performing its duty under ORS 285A.050 to verify changes in employment levels following direct employer participation in Oregon Business Development Department programs or indirect participation through municipalities under ORS 285B.410 to 285B.482. The information disclosed to the commission may include an employer's employment level, total subject wages payroll and whole hours worked. The information disclosed is confidential and may not be used for any other purpose. The commission may not disclose the information in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duty under ORS 285A.050. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(i) Disclose information to the Department of Revenue for the purpose of performing its duties under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Revenue in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the department. The Department of Revenue may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Revenue.

(j) Disclose information to the Department of Consumer and Business Services for the purpose of performing its duties under ORS chapters 654 and 656. The information disclosed may include the name, address, number of employees and industrial classification code of an employer and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Consumer and Business Services in any manner that would identify an employing unit or employee except to the extent necessary to carry out the department's duties under ORS chapters 654 and 656, including administrative hearings and court proceedings in which the Department of Consumer and Business Services is

a party. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Consumer and Business Services.

(k) Disclose information to the Construction Contractors Board for the purpose of performing its duties under ORS chapter 701. The information disclosed to the board may include the names and addresses of employers and status of their compliance with this chapter. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the board.

(L) Disclose information to the State Fire Marshal to assist the State Fire Marshal in carrying out duties under ORS 453.307 to 453.414. The information disclosed may include the name, address, telephone number and industrial classification code of an employer. The information disclosed is confidential and may not be disclosed by the State Fire Marshal in any manner that would identify an employing unit except to the extent necessary to carry out duties under ORS 453.307 to 453.414. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the office of the State Fire Marshal.

(m) Disclose information to the Oregon Student Assistance Commission for the purpose of performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education Act of 1965. The information disclosed may include the names and addresses of employers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the commission in any manner that would identify an employing unit or employee except to the extent necessary to carry out the commission's duties under ORS chapter 348 or Title IV of the Higher Education Act of 1965. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the commission.

(n) Disclose information to the Department of Transportation to assist the Department of Transportation in carrying out the duties of the Department of Transportation relating to collection of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.666, 184.670 to 184.733 and 805.263, ORS chapter 319 and the Oregon Vehicle Code. The information disclosed may include the names and addresses of employ-

ers and employees and payroll data of employers and employees. The information disclosed is confidential and may not be disclosed by the Department of Transportation in any manner that would identify an employing unit or employee except to the extent necessary to carry out the Department of Transportation's duties relating to collection of delinquent and liquidated debts or in auditing or reviewing any report or return required or permitted to be filed under the revenue and tax laws administered by the Department of Transportation. The Department of Transportation may not disclose any information received to any private collection agency or for any other purpose. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the Department of Transportation.

(o) Disclose to any person establishment level information secured pursuant to this chapter from federal, state and local government employing units. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

(p) Disclose to any person the industrial classification code assigned to an employing unit. If the information disclosed under this paragraph is not prepared for the use of the Employment Department, the costs of disclosing the information shall be paid by the party requesting the information.

(5) Any officer appointed by or any employee of the Director of the Employment Department who discloses confidential information, except with the authority of the director, pursuant to rules or as otherwise required by law, may be disqualified from holding any appointment or employment with the Employment Department.

(6) Any person or any officer or employee of an entity to whom information is disclosed by the Employment Department under this section who divulges or uses the information for any purpose other than that specified in the provision of law or agreement authorizing the use or disclosure may be disqualified from performing any service under contract or disqualified from holding any appointment or employment with the state agency that engaged or employed that person, officer or employee. The Employment Department may immediately cancel or modify any information sharing agreement with an entity when a person or an officer or employee of that entity discloses confidential information, other than as specified in law or agreement. [Amended by 1969 c.450 §1; 1977 c.162 §1; 1977 c.797 §9;

1979 c.145 §1; 1979 c.267 §5a; 1981 c.705 §7; 1985 c.565 §89; 1985 c.661 §1; 1985 c.761 §24; 1989 c.519 §2; 1989 c.818 §5; 1989 c.870 §8; 1991 c.374 §2; 1993 c.18 §142; 1997 c.200 §1; 1997 c.249 §202; 1999 c.401 §3; 1999 c.849 §146; 2001 c.104 §251; 2003 c.75 §104; 2003 c.773 §§54.54a; 2003 c.794 §311; 2007 c.89 §1; 2007 c.576 §2; 2009 c.599 §24; 2009 c.830 §150]

657.670 [Amended by 1981 c.77 §16; 2005 c.618 §6; repealed by 2007 c.89 §2]

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

657.673 Disclosure of wage information to consumer reporting agency; conditions. (1) As used in this section:

(a) "Wage information" means the amount of wages as reported to the Employment Department by each employer as earned by a particular individual during the period, not to exceed 15 recorded quarters preceding the quarter in which the request for disclosure is made, and the name and address of each employer.

(b) "Consumer reporting agency" means a consumer reporting agency as defined in the federal Fair Credit Reporting Act, 15 U.S.C. 1681a.

(2) The Employment Department shall disclose by electronic means wage information to consumer reporting agencies for the purpose of verifying information provided by an individual in connection with a specific credit transaction if all of the following conditions are met:

(a) The individual to whom the information pertains provides written consent to the disclosure before the information is released to the consumer reporting agency and the consent form discloses the following information:

(A) The consent is voluntary and not required by law;

(B) Refusal to consent to disclosure of wage information shall not be a basis for the denial of credit;

(C) If consent is granted, the individual's wage information will be released;

(D) The release shall be only for the specific transaction identified in the consent form;

(E) Wage information reported to the state by the individual's employers will be accessed;

(F) The wage information disclosed will come from state government files; and

(G) All of the parties that may receive the information released;

(b) The consumer reporting agency agrees to comply with all applicable federal and state credit reporting laws, regulations and rules, including, but not limited to, the federal Fair Credit Reporting Act, 15 U.S.C.

1681 et seq., and the regulations promulgated thereunder;

(c) The disclosure is for a purpose authorized by, and occurs in a manner permitted by, the United States Department of Labor;

(d) The consumer reporting agency agrees to comply with the audit standards, security standards, technological requirements and all other terms and conditions, including any net worth and liability insurance requirements, that the Employment Department deems necessary and establishes to safeguard the confidentiality of the wage information released under this section or to otherwise serve the public interest;

(e) Prior to the release of any wage information, the consumer reporting agency pays all development and other start-up costs incurred by the state in connection with implementing systems and procedures for electronic disclosure of wage information;

(f) The consumer reporting agency pays a transaction fee in an amount established by the Employment Department to offset the department's costs of ongoing support for electronic disclosure of wage information to that consumer reporting agency, including the costs associated with revising incomplete or inaccurate wage records performed for the sole purpose of the specific credit transaction; and

(g) The Employment Department does not bear any liability for:

(A) The improper release of information by the consumer reporting agency; or

(B) The accuracy of wage records reported by employers to the department. [1999 c.401 §2]

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

657.676 Reconsideration of determinations; conditions; rules; hearing and review. (1) Upon motion of the Director of the Employment Department or upon application of an interested employer, the director may reconsider a determination of employer subjectivity, tax rate or tax assessment, irrespective of whether the determination has become final. The director may reconsider a determination when there is evidence of:

(a) Computation errors;

(b) Clerical errors;

(c) Misinformation provided to a party by the Employment Department;

(d) Facts not previously known to the department; or

(e) Errors caused by misapplication of law by the department.

(2) The reconsideration shall be accomplished by the director or any employee the director may designate for the purpose, in accordance with rules adopted by the director. The director or designated employee may make a new determination, which is subject to hearing, review and appeal in accordance with ORS 657.485 and 657.679 to 657.684. [1977 c.538 §13; 2007 c.88 §1]

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

657.679 Determination that employing unit or employment is subject to this chapter; notice; application for hearing. A determination of the Director of the Employment Department or the authorized representative of the director:

(1) As to whether an employing unit is an employer subject to this chapter, or

(2) That services performed by an individual for an employer liable for reimbursement payments in lieu of taxes is employment 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 director unless within such time the employing unit files an application with the director for a hearing with respect thereto as provided in ORS 657.683. [1963 c.354 §2 (657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of 657.472, 657.512, 657.550 and 657.672); 1975 c.156 §4; 1977 c.538 §11]

657.680 [Repealed by 1959 c.376 §4]

657.681 Computation and assessment 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 Director of the Employment Department or 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 the employer's last-known address of record with the director. 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 director for the purpose of determining the amount of contribution due under this chapter, the director or authorized representative may make an estimate based upon any information 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 to

the employer shall be mailed to the employer's last-known address of record with the director.

(3) If the director or 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, the director or authorized representative may compute the amount required to be paid upon the basis of facts contained in the report or upon the basis of any information obtainable and may make an assessment of the amount of the deficiency. Written notice of such deficiency assessment to the employer shall be mailed to the employer's last-known address of record with the director.

(4) If the director or authorized representative has reason to believe that an employer or person liable under ORS 657.516 is insolvent, or that the collection of any contributions will be jeopardized by delaying collection, the director or authorized representative 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 or person liable under ORS 657.516 on any action to enforce collection commenced prior to the due date. The director or authorized representative may, in levying the assessment, demand a bond or deposit of such security as is necessary to ensure collection of the amount of such assessment. Written notice of the assessment to the employer or person liable under ORS 657.516 shall be mailed to the employer's or person's last-known address of record with the director.

(5) All assessments provided for in this section shall finally fix the amount of contributions due and payable unless the employer or person liable under ORS 657.516 shall within 20 days after the mailing of the notice of assessment apply to the director for a hearing, or unless the director or authorized representative on the motion of the director or authorized representative reviews the same prior to a decision of the administrative law judge thereon pursuant to hearing. An employer or person liable under ORS 657.516 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 director 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 657.663. [1963 c.354 §3 (657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of 657.472, 657.512, 657.550 and 657.672); 1981 c.563 §1; 1999 c.849 §148; 2003 c.75 §105; 2009 c.79 §5]

657.682 Assessments against reorganized business entity. (1) As used in this section, "reorganized business entity" means a business entity that, while operating substantially the same business as the employer, has been converted to a different form of business entity from that of the employer or has changed ownership from that of the employer, except that a business entity is not a "reorganized business entity" solely because of a transfer of assets or because of a transfer of an interest of an investor who has no right to manage the business entity, including, but not limited to, the interest of:

- (a) A person that is solely a minority shareholder in a corporation;
- (b) A member of a manager-managed limited liability company; and
- (c) A limited partner of a limited partnership that does not participate in the control of the business of the limited partnership.

(2) For any amounts owed by an employer for contributions or interest assessed under ORS 657.681 or for taxes, interest or penalties that may be collected under ORS 657.642, the Director of the Employment Department may transfer those amounts to and assess those amounts against a reorganized business entity.

(3) For the purposes of this section, factors the director may consider when determining if a business entity is operating substantially the same business as the employer include, but are not limited to, whether the business entity:

- (a) Operates from the same physical location as did the employer owing the debt.
- (b) Provides the same services or manufactures the same products as did the employer owing the debt.
- (c) Has one or more of the same:
 - (A) Corporate directors or officers as did the employer owing the debt.
 - (B) Owners or holders of a direct or indirect interest in the employer as did the employer owing the debt.

(4) A reorganized business entity against which an amount is assessed under this section may appeal the assessment by filing with the director an application for hearing under ORS 657.683 within 20 days after the mailing of a written notice of the assessment to the last-known address of the reorganized

business entity of record with the director. [2005 c.214 §2]

Note: 657.682 was added to and made a part of ORS chapter 657 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

657.683 Hearings on actions under ORS 657.480, 657.679, 657.681 and 657.682; decision of administrative law judge; amendment of decision. (1) An application for hearing under ORS 657.480, 657.679, 657.681 or 657.682 shall be in writing and shall state that a determination or assessment of the Director of the Employment Department or authorized representative is unjust or incorrect and that the employing unit requests a hearing. The application shall set forth the objections of the employing unit to the determination or assessment and the amount of contributions, if any, that the applicant admits to be due to the Employment Department. An application for a hearing to review an assessment made under ORS 657.681 (4) that was accompanied by a demand for a bond or deposit is not valid unless the bond or deposit is filed with the application in a form acceptable to the director or authorized representative.

(2) If a valid application for hearing is filed within the time provided by ORS 657.480, 657.679, 657.681 or 657.682, an administrative law judge 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 administrative law judge shall give notice of the time and place of the hearing to the director or 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 director.

(3) Hearings under ORS 657.480, 657.679, 657.681 or 657.682 shall be conducted in accordance with this chapter. The filing of an application for hearing with respect to a disputed assessment does not affect the right of the director or authorized representative to perfect any liens provided by this chapter.

(4) All testimony at any hearing held under ORS 657.480, 657.679, 657.681 or 657.682 shall be recorded but need not be transcribed unless a petition for judicial review from the decision of the administrative law judge is filed in the manner and within the time prescribed. At any hearing held as provided in ORS 657.480, 657.679, 657.681 or 657.682, the determination or assessment of the director or 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 administrative law judge shall enter the findings of fact and

decision, either affirming, modifying, or setting aside the determination or assessment of the director or authorized representative and in the case of an assessment, the administrative law judge may increase or decrease the amount of the assessment. The employing unit and the director shall be promptly notified of the decision of the administrative law judge.

(5) A decision of the administrative law judge becomes final on the date of notification or the mailing of the decision to the director and to the employing unit at the last-known address of record with the director unless, within the time specified in ORS 183.480 (2), the administrative law judge on the administrative law judge's own motion reviews the decision and issues an amended decision in which case the amended decision becomes the final decision. [1963 c.354 §4 (657.552, 657.652, 657.679, 657.681 and 657.683 enacted in lieu of 657.472, 657.512, 647.550 and 567.672); 1967 c.435 §9; 1971 c.734 §98; 1999 c.849 §§150,151; 2003 c.75 §55; 2005 c.214 §3; 2007 c.49 §1]

657.684 Judicial review of decisions under ORS 657.683. Judicial review of decisions under ORS 657.683 shall be as provided for review of orders in contested cases in ORS chapter 183, except that the petition shall be filed within 20 days after the order is final. The Director of the Employment Department may file petition for judicial review in accordance with this section from decision of the administrative law judge. When judicial review is upon an assessment or assessments made pursuant to ORS 657.681 and the court determines the assessment or assessments are valid, judgment shall be given in favor of the director for the amount due as determined by the court. [1971 c.734 §100; 1999 c.849 §153; 2003 c.75 §106]

657.685 Employment Appeals Board; confirmation; quorum; meetings; duties; staffing; rules. (1) The Employment Appeals Board hereby is created within the Employment Department.

(2) The Employment Appeals Board consists of three members who shall be appointed by and serve at the pleasure of the Governor. Except for pro tempore appointments, appointments of members are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. In the selection of the members of the Employment 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 Employment Appeals Board to serve as its chairperson with duties and powers necessary for the performance of the function of such office as the Governor determines. In

the event of an absence or as required by the workload, the chairperson may appoint, with the approval of the Governor, pro tempore members to serve for a period not to exceed 90 days.

(3) A majority of the Employment Appeals Board constitutes a quorum.

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

(5) The director shall provide the Employment Appeals Board with such staff as is required by the workload, subject to budgetary limitations.

(6) The Employment Department shall adopt procedural rules proposed by the Employment Appeals Board necessary for the discharge of the board's duties. Such rules need not conform to common law or statutory rules of evidence and other technical rules of procedure. [1959 c.583 §12; 1969 c.597 §186; 1973 c.792 §30; 1975 c.426 §1; 1983 c.522 §9; 1987 c.894 §10; 1993 c.344 §22]

657.690 Employment Appeals Board powers. The Employment Appeals Board has the power:

(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 Employment Appeals Board may require the attendance and testimony of claimants or employers, their officers and representatives before any hearing or review before the Employment Appeals Board without payment or tender or witness fees on account of such attendance. [1959 c.583 §13; 1993 c.344 §24]

657.695 Employment Department Advisory Council; members; compensation and expenses. (1) To assist the Director of the Employment Department in the effective development of policies and programs with respect to unemployment insurance 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 within the Employment Department to be known as the Employment Department Advisory Council.

(2) The members of the council shall be appointed by the Governor and shall be composed of men and women representing employers and employees in equal numbers, and representatives of the public who shall elect their chairperson. The director shall serve as an ex officio member of the council.

(3) The members of the council shall be appointed for a term of two years and are entitled to compensation and expenses as provided in ORS 292.495. Members of the council or other committees appointed pursuant to this section and ORS 657.700 shall be reimbursed from the Unemployment Compensation Administration Fund. [Formerly 657.675; 1969 c.314 §70; 1969 c.597 §188; 1997 c.57 §1]

657.700 Special councils for program development. The Director of the Employment Department may also appoint committees, and industrial or other special councils, to perform appropriate services in connection with the development of unemployment insurance 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 Director of the Employment Department 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 person well qualified by technical training and experience in the functions to be performed. [Amended by 1959 c.583 §17; 1969 c.597 §189; 1993 c.344 §10]

657.710 Free public employment offices; contracts relating to workforce investment system; public agencies to provide information on job vacancies. (1) The Director of the Employment Department shall establish and maintain such free public employment offices, including such branch or affiliate offices, as may be necessary for the proper administration of this chapter and for participation in Oregon's workforce investment system.

(2) The director may enter into such contracts or memoranda of understanding with designated workforce investment system partners, including but not limited to other states and governments, government entities, state agencies, units of local government, intergovernmental entities, community colleges and persons, as appropriate to administer the workforce investment system.

(3) The director may enter into contracts or memoranda of understanding to share confidential information as authorized under federal law and regulations for purposes of a national performance accounting system, including receiving and making available wage records to the extent the wage records are required by another state to carry out that state's workforce investment system performance plan.

(4) 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.

(5) Each contracting agency shall provide to the director timely information pertinent to all existing job vacancies over which the contracting agency exercises employment control and for which there will be open recruitment. Such information shall be made available to the public by the director. As used in this subsection, "contracting agency" has the meaning given that term in ORS 279A.010. [Amended by 1969 c.597 §190; 1983 c.339 §1; 2001 c.684 §34; 2003 c.794 §312]

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 Director of the Employment Department is designated and constituted the agency of this state for the purpose of the Wagner-Peyser Act. The director 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 director 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 director may enter into agreements with the Railroad Retirement Board or any other agency of the United States charged with the administration of an unemployment insurance 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 Director of the Employment Department may divide the state into such number of employment districts as the director finds necessary and maintain a district office in each of said districts.

INFORMATION SYSTEMS

657.730 Labor market information system; rules. (1) As used in this section, unless the context requires otherwise:

(a) "Labor market analysis" means the measurement and evaluation of economic forces as they relate to the employment process in the local labor market area. Variables affecting labor market relationships include, but are not limited to, such factors as labor force changes and characteristics, population changes and characteristics, occupational and industrial structure and development, technological developments, shifts in consumer demand, volume and extent of unionization and trade disputes, recruitment practices, wage levels, conditions of employment and training opportunities.

(b) "Labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the United States Department of Labor in defining such areas or similar criteria established by the Director of the Employment Department. The area generally takes the name of its community. The boundaries depend primarily on economic and geographic factors. The State of Oregon is divided into labor market areas, which usually include a county or group of contiguous counties.

(c) "Labor market information" means the body of information generated from measurement and evaluation of the socioeconomic factors and variables influencing the employment process in the state and specific labor market areas. These socioeconomic factors and variables affect labor demand and supply relationships and include:

(A) Labor force information, which includes but is not limited to employment, unemployment, labor force participation, labor turnover and mobility, average hours and earnings and changes and characteristics of the population and labor force within specific labor market areas and the state;

(B) Occupational information, which includes but is not limited to occupational supply and demand estimates and projections, characteristics of occupations, wage levels, job duties, training and education requirements, conditions of employment, unionization, retirement practices and training opportunities;

(C) Economic information, which includes but is not limited to number of business starts and stops by industry and labor

market area, information on employment growth and decline by industry and labor market area, employer establishment data and number of union disputes and strikes by industry and labor market area; and

(D) Program information, which includes but is not limited to program participant or student information gathered in cooperation with other state and local agencies along with related labor market information to evaluate the effectiveness, efficiency and impact of state and local employment, training, education and job creation efforts in support of planning, management, implementation and evaluation.

(2) The Director of the Employment Department shall have the following duties:

(a) Oversight, operation and management of a statewide comprehensive labor market and occupational supply and demand information system, including development of a five-year employment forecast for state and labor market areas.

(b) Preparation of local labor market information packages for the state's regional workforce committees, including special studies and job impact analyses in support of state and local employment, training, education and job creation programs, especially activities that prevent job loss, reduce unemployment and create jobs.

(c) Coordination with other appropriate agencies to improve employment estimates by enhancing data on corporate officers, improving business establishment listings, expanding samples for employment estimates and developing business entry or exit analysis relevant to the generation of occupational and economic forecasts.

(d) Production of long-term and occupational employment forecasts in cooperation with other appropriate agencies.

(e) Coordination with other state agencies to study ways to standardize federal and state multiagency administrative records, such as unemployment insurance information and other information to produce employment, training, education and economic analysis needed to improve labor market information products and services.

(f) Production of labor market information and economic analysis needed to facilitate the efficient and effective matching of the supply and demand of labor critical to an effective labor exchange in Oregon. Information collected will be coordinated with other public agencies through cooperative data collection efforts for statistical analysis, research or studies including, but not limited to, agricultural labor supply and demand, high performance organizations, targeted in-

dustries programs, and industrial improvement and expansion.

(g) Administration of other appropriate labor market information activities.

(3) To implement this section, the director shall have authority to:

(a) Establish rules and procedures to recover reasonable costs incurred in producing and providing:

(A) Labor market information products developed by the Employment Department in the ordinary course of business when the request results in costs over and above the ordinary costs of production including, but not limited to, special publication runs, photocopying or supplying the copy in some other medium; and

(B) Special labor market information products in response to individual requests that incur costs beyond the ordinary costs of doing business including, but not limited to, computer time, staff costs, preparation and distribution of surveys, electronic scanning, and special data collection, formatting and analysis. The director may enter into agreements with other public agencies to provide special labor market information products in a quid pro quo arrangement.

(b) Receive federal set aside funds from federal programs that are authorized to fund state and local labor market information and are required to use such information in support of their programs.

(c) Enter into agreements for statistical analysis, research or evaluation studies of privately and publicly funded employment, training, education and economic development programs. [1993 c.38 §2; 1997 c.652 §38]

657.732 Interagency Shared Information System; limitation on new information; rules. (1) As used in this section, "participating state agency or organization" means:

(a) The Employment Department;

(b) Divisions and offices within the Department of Human Services that have been approved by the Director of the Employment Department, in consultation with the Education and Workforce Policy Advisor, to participate in the Interagency Shared Information System;

(c) The Department of Education;

(d) The Oregon University System;

(e) The Department of Community Colleges and Workforce Development; and

(f) Other state agencies, other governmental entities or private organizations that have applied to be participating state agencies or organizations and have been approved by the Director of the Employment Department,

in consultation with the Education and Workforce Policy Advisor, to participate in the Interagency Shared Information System.

(2) There is established the Interagency Shared Information System. The purpose of the system is to collect, analyze and share information for the development of statistical and demographic data to facilitate the creation of strategies for the purpose of improving the education, training and employment programs related to enhancing Oregon's workforce system. The system shall share aggregate information with a participating state agency or organization to allow the agency or organization to develop policy, evaluate policy and plan and measure performance for the purpose of improving the education, training and employment programs related to enhancing Oregon's workforce system.

(3) The Director of the Employment Department shall administer and, in consultation with the Education and Workforce Policy Advisor, shall oversee the development of the Interagency Shared Information System. Participating state agencies or organizations shall enter into an interagency or other applicable agreement with the Director of the Employment Department, as administrator of the system, that:

(a) Establishes protocols for the collection and sharing of data in the system;

(b) Establishes safeguards for protecting the confidentiality of data in the system;

(c) Includes provisions regarding informed consent for sharing information obtained from individuals; and

(d) Provides for the sharing of costs for designing and maintaining the system.

(4) Every participating state agency or organization shall provide information to the Interagency Shared Information System. Information shall be provided in a format that encodes identifying data, including the client's Social Security number, using a formula unique to the participating state agency or organization that shall not be disclosed to the system.

(5) In disclosing Social Security numbers to the Interagency Shared Information System under subsection (4) of this section, every participating state agency or organization shall comply with any state and federal laws that govern the collection and use of Social Security numbers by a participating state agency or organization and any additional requirements specified by the director, in consultation with the Education and Workforce Policy Advisor, that are included in the agreement entered into under subsection (3) of this section.

(6) The information in the Interagency Shared Information System is not a public record for purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information submitted to the system and the information received from the system is a public record, and the custodian of such information is the participating state agency or organization that submits or receives the information. If the participating state agency or organization receiving the information is not a public body, as defined in ORS 192.410, the Employment Department shall keep a copy of the system information sent to that entity and shall be the custodian of that copy for purposes of ORS 192.410 to 192.505. As custodian, the Employment Department shall limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed. The department shall refer all other requests for disclosure of system information to the public body that is the custodian of the information.

(7) The Employment Department may charge a reasonable fee pursuant to ORS 192.440 for the disclosure of reports to individuals or state agencies, governmental entities or private organizations that submit data to the system and are not participating state agencies or organizations.

(8) If a participating state agency or organization prepares or acquires a record that is confidential under federal or state law, including ORS 192.502 (2), the participating state agency or organization does not violate state confidentiality laws by providing the information described in this section to the Interagency Shared Information System. Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Department of Community Colleges and Workforce Development and the Employment Department are authorized to provide information to the Interagency Shared Information System.

(9) Notwithstanding the provisions of ORS 192.410 to 192.505, a participating state agency or organization shall not allow public access to information received from the Interagency Shared Information System that identifies a particular individual unless required by law. Any participating state agency or organization shall limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed.

(10) Any individual who, without proper authority, discloses confidential information under this section may be disqualified from holding any appointment or employment with the State of Oregon. The Employment Department shall adopt by rule procedures to prevent disclosure of confidential information submitted to the Interagency Shared Information System.

(11) Notwithstanding subsection (4) of this section, participating state agencies or organizations may not provide new information to the Interagency Shared Information System after December 31, 2003. Information in the system on and after January 1, 2004, may be accessed by participating state agencies or organizations in accordance with this section, applicable rules adopted by the Director of the Employment Department and any agreements entered into under subsection (3) of this section. [Formerly 329.965; 2003 c.238 §1; 2003 c.794 §313]

657.734 Performance Reporting Information System; rules. (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 192.410.

(b) "System participant" means:

(A) Mandatory partners under the federal Workforce Investment Act of 1998 (enacted as P.L. 105-220 and codified as 29 U.S.C. 2801 et seq.) and other one-stop system partners, which may include public bodies and private organizations; and

(B) Public bodies and private organizations that have been approved by the Director of the Employment Department, in consultation with the Education and Workforce Policy Advisor, to participate in the Performance Reporting Information System.

(2) There is established the Performance Reporting Information System for the purpose of collecting, analyzing and sharing statistical and demographic data for the development and reporting of workforce system performance measures.

(3) The Performance Reporting Information System is intended to share the data described in subsection (2) of this section, by agreement, with all system participants. The Performance Reporting Information System may not contain data submitted exclusively for use in the Interagency Shared Information System.

(4) The Director of the Employment Department shall administer and, in consultation with the Education and Workforce Policy Advisor, oversee the development of the Performance Reporting Information System. System participants shall be designated as participants in the system by rule of the Employment Department, in consultation

with the Education and Workforce Policy Advisor. A system participant shall enter into an interagency or other applicable agreement with the director that:

- (a) Establishes protocols for the collection and sharing of data in the system;
- (b) Establishes safeguards for protecting the confidentiality of data in the system;
- (c) Includes provisions regarding informed consent for sharing information obtained from individuals; and
- (d) Provides for the sharing of costs for developing and maintaining the system.

(5)(a) All individual record information in the Performance Reporting Information System is confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to 192.505. As administrator of the system, the director may view all data or individual record information in the system. System participants may not allow public access to information received from the system that identifies a particular individual unless required by law. System participants shall limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed.

(b) System participants shall provide information in a format that encodes identifying data, including the client's Social Security number, using a formula unique to the system participant. In disclosing Social Security numbers to the system, system participants shall comply with any state and federal laws that govern the collection and use of Social Security numbers by the system participant and any additional requirements specified by the director, in consultation with the Education and Workforce Policy Advisor, that are included in the agreement entered into under subsection (4) of this section.

(6) The information in the Performance Reporting Information System is not a public record for purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information submitted to the system and the information received from the system is a public record, and the custodian of such information is the system participant that submits or receives the information. If the system participant receiving the information is not a public body, the department shall keep a copy of the system information sent to that system participant and shall be the custodian of that copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure of, or refuse to disclose, aggregate or summary

level information when a small number of aggregated records or some other factor creates a reasonable risk that the identity of individuals may be discovered or disclosed. The department shall refer all other requests for disclosure of system information to the public body that is the custodian of the information.

(7) The department may charge a reasonable fee under ORS 192.440 for the disclosure of reports containing only aggregate data to individuals, public bodies or private organizations.

(8) If a system participant prepares or acquires a record that is confidential under federal or state law, including ORS 192.502 (2), the system participant does not violate state confidentiality laws by providing the information described in this section to the Performance Reporting Information System. Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Department of Community Colleges and Workforce Development and the Employment Department are authorized to provide information to the system.

(9) Any individual who, without proper authority, discloses confidential information under this section may be disqualified from holding any appointment or employment with the State of Oregon. The department shall adopt by rule procedures to prevent disclosure of confidential information submitted to the Performance Reporting Information System. [2001 c.524 §3; 2003 c.238 §2; 2003 c.794 §314]

657.736 Occupational Program Planning System. The Occupational Program Planning System is established within the Employment Department as the state's official occupational information system. The Director of the Employment Department shall exercise oversight and have control of the operation and management of the system. The system shall provide:

(1) Projections of employment by occupation and by openings.

(2) Estimates of the number of unemployed by occupation.

(3) Estimates of supply of workers by occupation from education, employment and job training programs.

(4) Statistical and narrative occupational demand and supply analyses.

(5) Information on occupational employment patterns by industry.

(6) Occupational characteristics information.

(7) Administration of other appropriate labor market information activities. [Formerly 329.955]

**RECIPROCAL AND
COOPERATION AGREEMENTS**

657.755 Cooperation with federal agencies administering unemployment insurance laws. The Director of the Employment Department 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 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 Employment Department is authorized to cooperate with or enter into agreements with appropriate agencies of the federal government whereby:

(a) The Director of the Employment Department 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 director 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 director 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 Director of the Employment Department 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 insurance 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 director 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 ORS 657.035 (2) or under similar provisions in the unemployment insurance 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 insurance 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 taxes for out-of-state work. Whenever the unemployment insurance laws of other states provide for inclusion of out-of-state payment of wages in computing wages paid in like manner as provided in ORS 657.095 (2), the Director of the Employment Department may enter into agreements with those empowered to administer the unemployment insurance laws of such other states for the purpose of:

(1) Waiving the further collection of payroll taxes in all the states when the aggregate amount of said wages is in excess of "payroll" as defined in ORS 657.095 (1); and

(2) Securing uniformity for payroll reporting on such out-of-state work. [Amended by 1955 c.655 §24; 1973 c.300 §13; 1973 c.810 §3]

657.770 Reciprocal agreements concerning wages used as basis for benefits.

(1) The Director of the Employment Department 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 gov-

ernment, shall be deemed to be wages for insured work for the purpose of determining benefits under this chapter. 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 director 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. However, 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.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, the director shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with wages and employment covered under the unemployment insurance laws of other states that are approved by the United States Secretary of Labor in consultation with the state unemployment insurance agencies as reasonably calculated to ensure the prompt and full payment of compensation in such situations and that include provisions for:

(a) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment insurance laws; and

(b) Avoiding the duplicate use of wages and employment by reason of such combining. [Amended by 1957 c.699 §11; 1971 c.463 §19; 2005 c.22 §463]

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 Director of the Employment Department to enforce the liability for unemployment insurance contributions imposed by the State of Oregon, and 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 Employment Department 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 director, may employ a special assistant under ORS 180.140 (5) 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; 1983 c.740 §247]

657.780 Agreements with governmental agencies to withhold benefits for child support obligations; rules. (1) As used in this section, "appropriate agency" means an agency authorized to enforce child support obligations pursuant to a plan approved under part D of title IV of the Social Security Act.

(2) Notwithstanding ORS 657.855, the Director of the Employment Department may enter into agreements with the appropriate agency of this state whereby child support obligations which are being enforced pursuant to a plan approved under section 454 of the Social Security Act and owed by an individual who is eligible for unemployment compensation may be met, in whole or in part, by withholding from the unemployment

compensation due the individual the amount specified by the individual to the appropriate agency to be withheld or the amount determined pursuant to an agreement with the individual submitted to the appropriate agency or any amount otherwise required to be withheld pursuant to ORS 25.378 and 25.414 and forwarding of the amount so withheld to the appropriate agency.

(3) Any amount deducted and withheld under subsection (2) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation.

(4) This section shall apply only if appropriate arrangements have been made for reimbursement, by the appropriate agency or agencies involved, for the administrative costs incurred by the Employment Department under this section.

(5) The director shall prescribe such rules as are deemed necessary with respect to implementation and administration of procedures to comply with the provisions of this section. [1982 s.s.1 c.30 §9; 1991 c.115 §1; 1993 c.798 §49]

FUNDS

657.783 Supplemental Employment Department Administration Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Supplemental Employment Department Administration Fund. The Supplemental Employment Department Administration Fund shall consist of moneys collected or received by the Employment Department pursuant to section 3, chapter 449, Oregon Laws 1987, and ORS 657.439 and 657.463.

(2) Except as provided in subsection (3) of this section, all income earned on moneys in the Supplemental Employment Department Administration Fund invested by the State Treasurer shall accrue to the fund. Any balance in the fund shall not lapse at any time. All moneys in the fund are appropriated continuously to the department for the payment of expenses of administration of this chapter for which federal funding has been reduced, eliminated or otherwise is not available, and which has been authorized in the legislatively approved budget of the department.

(3) As determined on June 30 of each odd-numbered year, moneys in the Supplemental Employment Department Administration Fund that are in excess of 150 percent of the amount collected pursuant to ORS 657.463 (2) for the first quarter of the previous even-numbered year shall be transferred to the Unemployment Compensation Trust Fund. The transfer required by this subsection

shall be made by December 31 of the odd-numbered year. [1987 c.449 §2; 1995 c.37 §2; 2005 c.183 §§3,18]

657.785 Agreement for Interstate Reciprocal Overpayment Recovery Arrangement. (1) The Director of the Employment Department may enter into an agreement or agreements with any other state's employment security agency, or group thereof, including the Interstate Reciprocal Overpayment Recovery Arrangement, for the mutual and reciprocal recovery of overpaid unemployment compensation benefits. Notwithstanding any other provision of this chapter, the director may withhold from benefits otherwise due amounts necessary to recover overpaid benefits on behalf of other states with which the director has entered into such mutual and reciprocal agreements.

(2) For purposes of this section, "states" includes the District of Columbia, Puerto Rico and the Virgin Islands. [1995 c.105 §2]

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 the discretion of the Governor 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 Director of the Employment Department shall notify the Governor whenever the director 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 en-

tered 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 Director of the Employment Department for the purpose of this chapter.

657.812 Use of moneys credited to Unemployment Trust Fund by Secretary of the Treasury. (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 under such appropriation at any time to an amount which does not exceed, at any such time, the amount by which the aggregate of the amounts transferred to the account of such state pursuant to section 903 of the Social Security Act, as amended, exceeds the aggregate amount of the amounts used by the state for administration and charged against the amounts transferred to the account of such state.

(2) For purposes of this section, amounts obligated for administrative purposes pursuant to an appropriation shall be chargeable against transferred amounts at the exact time the obligation is entered into. The appropriation, obligation, expenditure or other disposition of money appropriated under this section shall be accounted for in accordance with standards established by the United States Secretary of Labor.

(3) Money appropriated as provided in this section for the payment of expenses of administration shall be requisitioned as needed for the payment of obligations incurred upon such appropriation, and upon

requisition shall be deposited in the Unemployment Compensation Administration Fund from which such payments shall be made. Money so deposited shall, until expended, remain a part of the Unemployment Compensation Trust Fund and, if not expended, shall be returned promptly to the account of this state in the Unemployment Trust Fund.

(4) Notwithstanding any other provision of this chapter, money credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, and which has been or will be appropriated for administrative expenses of the Employment Department shall, for the purposes of the computation of fund adequacy percentage ratio, be deemed a part of the Unemployment Compensation Trust Fund. [1957 c.609 §7; 1959 c.604 §1; 1969 c.703 §1; 1973 c.24 §1; 1983 c.508 §13; 1991 c.685 §10]

657.813 Use of moneys made available under Social Security Act for administrative expenses. Notwithstanding ORS 657.812, the Employment Department may accept funds made available to this state under section 903 of the Social Security Act, as amended, for payment of administrative expenses relating to the unemployment insurance program. [1999 c.970 §2]

Note: 657.813 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 657 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

657.815 Unemployment Compensation Benefit Fund. (1) There is created, separate and distinct from the General Fund, the Unemployment Compensation Benefit Fund. Such fund shall consist of all amounts withdrawn from the Federal Unemployment Trust Fund, upon requisition of the Director of the Employment Department, 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 insurance 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.

(4) The Unemployment Compensation Benefit Fund shall be held and administered by the State Treasurer in the same manner

as provided in ORS 657.830 (1). Interest earned on the fund shall be credited to the fund. [Amended by 1957 c.609 §2; 1959 c.604 §2; 1995 c.37 §3]

657.820 Unemployment Compensation Administration Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Unemployment Compensation Administration Fund, to consist of all moneys received by the state or the Director of the Employment Department 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 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 director for expenditures consistent with this section. Interest earned on the fund shall be credited to the fund.

(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, §49(c) as amended) shall be paid into the Unemployment Compensation Administration Fund and said moneys hereby are appropriated and made available to the director 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; 1995 c.37 §4]

657.822 Employment Department Special Administrative Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Employment Department Special Administrative Fund. The Employment Department Special

Administrative Fund shall consist of moneys collected or received by the Employment Department as follows:

(a) All interest collected under ORS 657.515.

(b) All fines and penalties collected pursuant to this chapter, except as provided in ORS 657.400.

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

(2) The moneys in the Employment Department Special Administrative Fund are continuously appropriated to the department, and may not be transferred or otherwise made available to any other state agency, to pay the expenses of the Secretary of State incurred in performing the audit of the department and such other expenses as may be included in the biennial budget of the department and approved by the Legislative Assembly for payment from the fund. On July 1 of every odd-numbered year, any amounts in the Employment Department Special Administrative Fund that have not been appropriated in the biennial budget of the department approved by the Legislative Assembly shall be transferred to the Unemployment Compensation Trust Fund. [1965 c.359 §2; 1967 c.335 §58; 1969 c.597 §191; 1983 c.740 §248; 1993 c.344 §7; 1993 c.778 §23; 1995 c.37 §5; 2005 c.22 §464; 2005 c.183 §16; 2007 c.87 §§6,7]

657.823 Employment Tax Guarantee Fund. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Employment Tax Guarantee Fund. The Employment Tax Guarantee Fund shall consist of:

(a) Money deposits received under ORS 657.505 or 657.507; and

(b) Proceeds of bonds posted under ORS 657.505 or 657.507.

(2) Interest earned on the Employment Tax Guarantee Fund shall be credited to the Employment Department Special Administrative Fund. [1967 c.435 §14; 1995 c.37 §6; 2003 c.401 §2]

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 for the Unemployment Compensation Administration Fund under title III of the Social Security Act or 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 Director of the Employment Department 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. [Amended by 1969 c.703 §2]

657.830 State Treasurer as custodian of funds. (1) The State Treasurer shall be the custodian of the Unemployment Compensation Trust Fund and the Unemployment Compensation Benefit Fund.

(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 Employment Department 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 administrator from the Unemployment Compensation Trust Fund or the Employment Department Special Administrative Fund, as appropriate. [Amended by 1965 c.359 §8; 1967 c.435 §10; 1981 c.189 §3; 1995 c.37 §1]

657.835 [1981 c.895 §4; repealed by 1995 c.37 §10]

657.840 Federal Advance Interest Repayment Fund; assessment of tax; applicability. (1) On the first day of the third month of a calendar quarter the Director of the Employment Department shall:

(a) Estimate the interest payable, accrued through the end of the calendar quarter, on

federal advances obtained under the provisions of ORS 657.807;

(b) Estimate the amount of federal advance interest repayment tax receipts expected to be collected during the quarter for any preceding calendar quarter in which such tax was assessed;

(c) Add the amount in the Federal Advance Interest Repayment Fund on the last day of the immediately preceding calendar quarter to the estimate in paragraph (b) of this subsection; and

(d) Subtract the sum obtained in paragraph (c) of this subsection from the estimate in paragraph (a) of this subsection.

(2) If the remainder obtained in subsection (1)(d) of this section is more than zero, each employer subject to this chapter shall be assessed a federal advance interest repayment tax. Such tax shall be a percentage of the regular unemployment tax payable under this chapter for the calendar quarter. The percentage shall be determined by dividing the remainder in subsection (1)(d) of this section by the estimated amount of unemployment tax due and payable on wages paid during the quarter. The percentage shall be rounded up to the next full percent.

(3) The tax assessed under this section shall be collected in such manner as the director may prescribe. Interest and penalties applicable to the regular unemployment insurance tax shall be applicable to this tax.

(4) There is hereby created a Federal Advance Interest Repayment Fund as a separate fund in the State Treasury. Such fund shall consist of all moneys received pursuant to this section and interest earnings accruing to the fund and shall be used only for the payment of interest accruing and payable on advances received under ORS 657.807, except that if at the end of any calendar quarter, all advances and interest have been repaid, any remaining balance in the fund may be transferred to the Unemployment Compensation Trust Fund.

(5) This section does not apply to public and nonprofit employers or Indian tribes making reimbursement payments as provided in ORS 657.505 and 657.513. [1983 c.52 §2; 2001 c.572 §14]

657.845 [1991 c.685 §2; 1995 c.37 §8; 2005 c.183 §11; repealed by 2005 c.183 §13]

MISCELLANEOUS PROVISIONS

657.855 Benefits not assignable; waiver of rights invalid. (1) Except as provided in this section, benefits due under this chapter may not be assigned, pledged, encumbered, released or commuted and shall, except as otherwise provided in this chapter, 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 the individual's rights under this chapter is valid.

(2) The exemption from execution or other process granted under this section applies to only 75 percent of benefits payable under this chapter if the execution or other process is issued for a child support obligation or an order or notice entered pursuant to ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C and the child support obligation or the order or notice is being enforced pursuant to a plan approved under Title IV-D of the Social Security Act. [Amended by 1982 s.s.1 c.30 §10; 1989 c.520 §3; 1991 c.115 §2; 1999 c.745 §6; 2003 c.572 §20]

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

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 this chapter ceases. (1) 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.

(2) If the provisions of the Act of October 20, 1976, P.L. 94-566 (26 U.S.C. 3306) requiring benefit coverage for service performed in agricultural labor as provided in ORS 657.045 (1)(a) and (b) and (7) and 657.105 (2) become inoperative by Act of Congress or by decision of the United States Supreme Court, payments of contributions and payment of benefits pursuant to the statutes cited in this subsection shall cease. [Amended by 1977 c.446 §9]

657.875 Extending period for appeal in certain claim and contribution matters. The period within which an interested party may request a hearing or file with the Employment Appeals Board an application for review as provided in ORS 657.266 to 657.269, 657.270, 657.471, 657.480, 657.485, 657.679, 657.681 and 657.682 may be extended, upon a showing of good cause therefor, a reasonable time under the circumstances of each particular case. [1973 c.300 §14; 1975 c.257 §11; 1993 c.778 §17; 2005 c.214 §4; 2007 c.49 §2]

657.880 Health care coverage for unemployed individuals; deduction of benefits. In order to provide health care coverage for eligible unemployed individuals, the Employment Department, upon approval and funding by the Emergency Board, is authorized:

(1) To deduct an amount from unemployment compensation otherwise payable to an individual and to use the amount so deducted to pay for health care coverage if the individual voluntarily elects to have such deduction made, and such deduction is made under a program which meets applicable federal requirements and has been approved in accordance with the provisions of this section and ORS 657.885.

(2) To certify to the Oregon Health Authority those unemployed individuals eligible to receive health care coverage pursuant to criteria established by or pursuant to federal law in order to receive federal funds for obtaining such coverage.

(3) To enter into contracts with other appropriate federal or state agencies. [1983 c.753 §2; 2001 c.900 §259; 2009 c.595 §1043]

657.885 "Health care coverage" defined. For purposes of this section and ORS 657.880, the term "health care coverage" means coverage under:

(1) Health insurance policies issued by qualified insurers and health care service contractors;

(2) Contracts entered into by and between the State of Oregon and qualified insurers and health care service contractors; and

(3) The medical assistance program administered by the Oregon Health Authority. [1983 c.753 §3; 1991 c.66 §29; 2001 c.900 §260; 2009 c.595 §1044]

657.890 [1989 c.369 §2; repealed by 1995 c.105 §9]

657.895 Unemployment compensation programs under federal authority. Notwithstanding any other provision of this chapter, the Employment Department, at the direction of the Governor, may take appropriate action to expedite and provide for the implementation of an unemployment compensation program not provided for in this chapter, if the program is authorized by the United States Secretary of Labor and if the director determines that the program will be beneficial to the state and its people through the receipt of additional federal money for unemployment compensation purposes. The Employment Department shall notify interested parties if action is taken under this section. [1993 c.200 §2]

657.925 [1995 c.561 §12; 1995 c.816 §27; 2001 c.657 §1; 2001 c.781 §1a; repealed by 2009 c.21 §56]

PENALTIES

657.990 Penalties. (1) Violation of ORS 657.295 is punishable for each offense 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) Violation of ORS 657.480 (3)(a) or (b) is a Class C felony.

(4) In addition to any penalties otherwise prescribed in this chapter, violation of ORS 657.495, 657.565, 657.660 (2) or any other provision of this chapter is a misdemeanor and 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 employer of an offending agent is a corporation, the president, secretary and the treasurer, or officers exercising corresponding functions, are 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.

(5) Subject to ORS 153.022, willful violation of this chapter or of any order issued or rule adopted under this chapter, 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 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 the violation continues is considered a separate offense.

(6) Circuit courts and justice courts have concurrent jurisdiction of any offense under this section. [Amended by 1971 c.743 §405; 1999 c.1051 §322; 2005 c.35 §3]