

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass
Vote: 4 - 0 - 1
Yeas: Kruse, Prozanski, Walker, Burdick
Nays: 0
Exc.: Beyer
Prepared By: Matt Kalmanson, Counsel
Meeting Dates: 1/23

WHAT THE MEASURE DOES: Provides that a court does not have jurisdiction to review an order of the Workers Compensation Board (“Board”) if the party seeking review fails to serve the petition for review on all adverse parties within the time limit for filing the petition. Clarifies that the Board has jurisdiction to enter a settlement order even if a petition for review is pending before the Court of Appeals. Allows the court to dismiss the petition if the parties settle the case.

ISSUES DISCUSSED:

- Intent of previous amendments to ORS 656.236
- Court interpretation of service requirements
- Other statutes that make timely service jurisdictional
- Board’s interpretation of its jurisdiction to consider settlements
- Other statutes that grant courts jurisdiction to hear settlements when appeal is pending

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: A party who wishes to appeal an order of the Board must file a petition for review with the Court of Appeals within the statutory time-period and serve all adverse parties. ORS 656.298 provides that a court may not review a petition that was not filed on time. The statute also states that a court must dismiss a petition that was not served on all adverse parties. However, the Court of Appeals has held that the statute does not require dismissal for *untimely* service. SB 268 clarifies that a court must dismiss a petition if the party seeking review fails to serve the petition within the time period for filing the petition – usually 30 days. In addition, ORS 656.236 requires the Board to review settlements of disputed matters. The current statute is unclear whether the Board can review a settlement after a petition has been filed with a court. The current practice is for the Court of Appeals to dismiss a case before the Board can consider the settlement, and if the Board does not approve the settlement, the petitioner must ask the Court of Appeals to reinstate the judicial review. SB 268 expressly allows the Board to review settlements while a petition for review is pending.