

2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3362 **STATUS:** Original
SUBJECT: Directs Home Care Commission to elect workers' compensation coverage for certain home care workers and allows termination of temporary total disability benefits of home care workers under certain conditions
GOVERNMENT UNIT AFFECTED: Department of Human Services, Home Care Commission
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DATE: April 23, 2007

	<u>2007-2009</u>	<u>2009-2011</u>
EXPENDITURES: See Comments		

EFFECTIVE DATE: January 1, 2008

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This measure (also see SB 158A) would require Home Care Commission (HCC) to elect workers' compensation coverage on behalf of clients of the Department of Human Services (DHS) if the home care worker is paid by the state on behalf of the client. The measure also requires previously injured home care workers who have been released by a physician or nurse practitioner to return to modified employment with any DHS in-home client. A home care worker, however, may refuse to return to modified employment if he/she meets certain statutorily defined criteria (e.g., the work site is more than 50 miles one way from where the worker was injured).

Ballot Measure 99, passed by voters in 2000, created the HCC as a constitutional entity to serve as the employer of record for purposes of Home Care Worker (HCW) collective bargaining. Home care workers provide long-term care services to eligible persons through the DHS Medicaid long-term care program and Oregon Project Independence. DHS reports that there are approximately 11,500 subject home care workers. HCW are not state employees.

Currently, a workers compensation insurance benefit is included as part of the HCW/DHS collective bargaining agreement. According to DHS, workers compensation insurance is a prerequisite in order to obtain health insurance coverage for home care workers. DHS caseworkers have clients complete a form electing workers' compensation coverage for their HCW. Under this measure the workers' compensation coverage would become a legal mandate upon HCC and therefore no longer subject to collective bargaining.

Both the 2007-09 Governor's recommended budget and the Co-Chairs of the Joint Committee on Ways and Means budget assume that workers' compensation benefits are part the of the HCW collective bargaining agreement for the 2007-09 biennium. Therefore, there is no direct fiscal impact in the 2007-09 biennium.

The 2009-11 biennium, however, is less certain because the collective bargaining for the HCW may or may not included an optional health insurance benefit, which again requires that workers' compensation

insurance also be provided. If a health insurance benefit were not part of the collective bargaining agreement, workers' compensation would, under the provision of this measure, still need to be offered. This would increase the cost above what otherwise may be incurred.

Section 2(4)(e) of this measure could result lower future workers' compensation premium costs for DHS due to the termination of temporary disability benefits. The amount of such savings is indeterminate given the ability of a worker to refuse modified employment under the statutorily defined exceptions, all of which would apply.

DHS has in place a third party contract to administer HCW workers' compensation issues. This measure may allow the contractor to meet all provisions of the current contract, which expires on June 30, 2009. A new contract may need to account for increased placement costs for workers who are released to return to modified employment, but who are unable to return to their original employer. The amount of any such increase is indeterminate at this time.